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2 IN THE SUPREME COURT OF THE STATE OF NEVADA

3 Supreme Court No. \_\_\_\_\_  
4 District Court Case No. A-18-77276

Electronically Filed  
Oct 11 2021 11:50 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

5 VENETIAN CASINO RESORT, LLC, a Nevada limited liability company,  
6 LAS VEGAS SANDS, LLC, a Nevada limited liability company,  
7 Petitioners,

8 v.

9 EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND  
10 FOR THE COUNTY OF CLARK, AND THE HONORABLE KATHLEEN  
11 DELANEY in her capacity as District Judge,  
12 Respondent,  
13 JOYCE SEKERA, an individual,  
14 Real Party in Interest

15 **APPENDIX TO PETITIONERS' EMERGENCY PETITION FOR WRIT OF**  
16 **MANDAMUS AND/OR WRIT OF PROHIBITION UNDER NRAP RULES**  
17 **21(a)(6) AND 27(e) AND ALTERNATIVE EMERGENCY MOTION TO STAY**  
18 **UNDER NRAP RULES 8 AND 27(e)**

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28

Petitioners, VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC, by and through their counsel of record, Royal & Miles LLP, hereby submit is Appendix in compliance with Nevada Rule of Appellate Procedure 30.

**INDEX/TABLE OF CONTENTS**

<b>Tab</b>	<b>Document/Exhibit Description</b>	<b>Bate Number</b>	<b><u>Vol.</u></b>
<b>1</b>	Complaint (filed April 14, 2018), Case A772761	VEN 001-004	1
<b>2</b>	Venetian Security Narrative Report, No. 1611V-0680	VEN 005-006	1
<b>3</b>	Acknowledgment of First Aid Assistance & Advice to Seek Medical Care, No. 1611V-0680	VEN 007	1
<b>4</b>	Venetian Security Scene Photos	VEN 008-014	1
<b>5</b>	Transcript of Joyce Sekera Deposition (taken March 14, 2019)	VEN 015-032	1
<b>6</b>	First Amended Complaint (filed June 28, 2019)	VEN 038-41	1
<b>7</b>	Plaintiff's Request for Production of Documents and Materials to Defendant (served August 16, 2018)	VEN 042-049	1
<b>8</b>	Fifth Supplement to Defendants' 16.1 List of Witnesses and Production of Documents For Early Case Conference (served January 4, 2019)	VEN 050-053	1
<b>9</b>	Defendants' Motion for Protective Order (filed February 1, 2019)	VEN 054-083	1
<b>10</b>	Declaration of Peter Goldstein, Esq. (Dated February 13, 2019)	VEN 084-085	1
<b>11</b>	Defendants' Reply to Plaintiff's Opposition to Motion for Protective Order (filed March 5, 2019)	VEN 086-139	1

<b>12</b>	Sekera's Reply to Defendant Venetian Casino Resort, LLC's Opposition to Sekera's Motion for Terminating Sanctions, in the matter of Smith v. Venetian, case no. A-17-753362-C (filed March 12, 2019)	VEN 140 -185	1
<b>13</b>	Recorder's Transcript of Hearing [On] Defendant's Motion for Protective Order (March 13, 2019)	VEN 186 -200	1
<b>14</b>	Discovery Commissioner's Report and Recommendation (filed April 4, 2019)	VEN 201 -206	1
<b>15</b>	Transcript of Hearing on Objection to Discovery Commissioner's Report (May 14, 2019)	VEN 207 -235	1
		VEN 236 -266	2
<b>16</b>	Order (filed July 31, 2019)	VEN 267 - 270	2
<b>17</b>	Motion for Leave to File Motion for Reconsideration on Order Reversing Discovery Commissioner's Report and Recommendation and Motion to Stay Order Until Hearing On Reconsideration or, Alternatively, Motion to Stay All Proceedings Pending Application for Writ of Mandamus On Order Shortening Time (filed August 12, 2019)	VEN 271 - 488	2
<b>18</b>	Findings of Fact, Conclusions of Law and Order Granting Petitioners' Motion for Partial Summary Judgment on Mode of Operation Theory of Liability (filed July 23, 2019)	VEN 449 - 452	2
<b>19</b>	Order Granting in Part and Denying in Part Sekera's Motion to Extend Discovery Deadlines and Continue Trial (Second Request) on Order Shortening Time (filed August 28, 2019)	VEN 453 - 455	2
<b>20</b>	Transcript of Hearing on Motion for Leave to File Motion for Reconsideration (September 17, 2019)	VEN 456 - 470	2
		VEN 471 - 483	3

<b>21</b>	Court Minutes, Discovery Commissioner (September 18, 2019)	VEN 484 - 485	3
<b>22</b>	Privacy Policy, The Venetian Resort Las Vegas (July 7, 2019), <a href="https://www.venetian.com/policy.html">https://www.venetian.com/policy.html</a>	VEN 486 - 495	3
<b>23</b>	Order Regarding Plaintiff's Motion for Terminating Sanctions for Willful Suppression of Evidence Pursuant to Rule 37; and Defendant's Related Motion(s) to Strike	VEN 496 - 498	3
<b>24</b>	Defendants' Initial 16.1 List of Witnesses and Production of Documents for Early Case Conference (July 6, 2018)	VEN 499 - 508	3
<b>25</b>	Documents Related to Termination of Gary Shulman	VEN 509 - 514	3
<b>26</b>	Notice of Taking Deposition (Gary Shulman) (April 1, 2019)	VEN 515 - 517	3
<b>27</b>	Appendix to Petitioners' Emergency Petition for Writ of Mandamus and/or Writ of Prohibition Under NRAP Rules 21(a)(6) and Emergency Motion Staying Execution, Volume 1, 2 & 3, filed September 27, 2019	VEN 518 - 532	3
<b>28</b>	Appendix to Petitioners' Reply Brief, Volume 4, filed October 28, 2019	VEN 533 - 537	3
<b>29</b>	Petitioners' Emergency Petition for Writ of Mandamus and/or Writ of Prohibition Under NRAP Rules 21(a)(6) and 27(e), filed September 27, 2019	VEN 538 - 606	3
<b>30</b>	Emergency Motion Under NRAP 8 Staying Execution of Order Directing Petitioners to Disclose Private, Protected Information of Guests Not Involved in Underlying Lawsuit, filed September 27, 2019	VEN 607 - 625	3
<b>31</b>	Order Directing Answer and Imposing Temporary Stay, filed October 1, 2019	VEN 626 - 627	3



<b>32</b>	Joyce Sekera's Motion for Extending Briefing, filed October 8, 2019	VEN 628 - 631	3
<b>33</b>	Joyce Sekera's Opposition to Appellants' Emergency Motion for Stay Under NRAP 27(e), filed October 8, 2019	VEN 632 - 648	3
<b>34</b>	Joyce Sekera's Answering Brief, filed October 11, 2019	VEN 649 - 701	3
<b>35</b>	Reply to Joyce Sekera's Opposition to Petitioners' Emergency Under NRAP 27(e), filed October 15, 2019	VEN 702 - 710	4
<b>36</b>	Order Granting Stay, filed October 17, 2019	VEN 711 - 712	4
<b>37</b>	Petitioners' Reply Brief, filed October 28, 2019	VEN 713 - 749	4
<b>38</b>	Defendants' Motion for Protective Order as to Plaintiff's Request for Production of Incident Reports from May 1999 to Present, Motion to Compel Information and Documents of Prior Incident Reports Provided to Plaintiff Expert Thomas Jennings and Identified in His May 30, 2019 Rebuttal Report and for Leave to Retake the Jennings Deposition to Address the 196 Prior Claims Referenced in His Report at Plaintiff's Expense, filed August 5, 2019	VEN 750 - 936	4
<b>39</b>	Notice of Hearing on Defendants' Motion for Protective Order as to Plaintiff's Request for Production of Incident Reports from May 1999 to Present, Motion to Compel Information and Documents of Prior Incident Reports Provided to Plaintiff Expert Thomas Jennings and Identified in His May 30, 2019 Rebuttal Report and for Leave to Retake the Jennings Deposition to Address the 196 Prior Claims Referenced in His Report at Plaintiff's Expense, filed August 5, 2019	VEN 937	4

<b>40</b>	Plaintiff's Motion to Compel Testimony and Documents, filed August 5, 2019	VEN 938 - 1005	5
<b>41</b>	Notice of Hearing on Plaintiff's Motion to Compel Testimony and Documents, filed August 5, 2019	VEN 1006	5
<b>42</b>	Opposition to Plaintiff's Motion to Compel Testimony and Documents and Countermotion to Strike False Accusations Levied by Plaintiff in "I. Introduction" and "Legal Argument" Section "III.D." With Appropriate Sanctions, filed August 14, 2019	VEN 1007 - 1175	5
		VEN 1176 - 1410	6
		VEN 1411 - 1486	7
<b>43</b>	Plaintiff's Opposition to Defendants' Motion for a Protective Order and Opposition to Defendants' Motion to Compel, filed August 30, 2019	VEN 1487 - 1644	7
		VEN 1645 - 1719	8
<b>44</b>	Reply to Plaintiff's Opposition to Defendants' Motion for a Protective Order and Reply to Plaintiff's Opposition to Defendants' Motion to Compel, filed September 10, 2019	VEN 1720 - 1879	8
		VEN 1880 - 1896	9
<b>45</b>	Reply to Plaintiff's Opposition to Defendants' Countermotion to Strike False Accusations Levied by Plaintiff in "I. Introduction" and "Legal Argument" Section "III.D." With Appropriate Sanctions and Opposition to Plaintiff's Countermotion for Rule 11 Sanctions, filed September 11, 2019	VEN 1897 - 1917	9
<b>46</b>	Plaintiff's Reply in Support of Countermotion for Rule 11 Sanctions, filed September 12, 2019	VEN 1918 - 1921	9
<b>47</b>	Hearing Transcript of Proceedings re: All Pending Motions, dated September 18, 2019	VEN 1922 - 1964	9
<b>48</b>	Discovery Commissioner's Report and Recommendation, filed December 2, 2019	VEN 1965 - 1975	9

<b>49</b>	Defendants' Limited Objection to Discovery Commissioner's Report and Recommendation dated December 2, 2019, filed December 16, 2019	VEN 1976 - 2114	9
		VEN 2115 - 2222	10
<b>50</b>	Plaintiff's Objection to Discovery Commissioner's Report and Recommendation dated December 2, 2019, filed December 16, 2019	VEN 2223 - 2349	10
		VEN 2350 - 2391	11
<b>51</b>	Defendants' Opposition to Plaintiff's Objection to Discovery Commissioner's Report and Recommendation dated December 2, 2019, filed December 23, 2019	VEN 2392 - 2584	11
		VEN 2585 - 2595	12
<b>52</b>	Plaintiff's Response to Defendant's Limited Objection to Discovery Commissioner's Report and Recommendation dated December 2, 2019, filed December 23, 2019	VEN 2596 - 2602	12
<b>53</b>	Order for Hearing, filed January 2, 2020	VEN 2603 - 2615	12
<b>54</b>	Court Minutes re: Objection to Discovery Commissioner's Report, January 21, 2020	VEN 2616	12
<b>55</b>	Hearing Transcript re: Objection to Discovery Commissioner's Report, January 21, 2020	VEN 2617 - 2660	12
<b>56</b>	Order on Objection to Discovery Commissioner's Report, filed March 13, 2020	VEN 2661 - 2664	12
<b>57</b>	Venetian Casino Resort, LLC et al's Motion for Writ of Mandate and/or Prohibition, filed September 27, 2019	VEN 2665 - 2733	12
<b>58</b>	Notice of Transfer to Court of Appeals, filed September 27, 2019	VEN 2734	12
<b>59</b>	Order Directing Answer and Imposing Temporary Stay, filed October 1, 2019 (No. 79689-COA)	VEN 2735 - 2736	12

<b>60</b>	Joyce Sekera's Opposition to Appellants' Emergency Motion for Stay Under NRAP 27(e), filed October 8, 2019 (No. 79689-COA)	VEN 2737 - 2753	12
<b>61</b>	Joyce Sekera's Answering Brief, filed October 11, 2019 (No. 79689-COA)	VEN 2754 - 2806	12
<b>62</b>	Reply to Joyce Sekera's Opposition to Petitioners' Emergency [Motion] Under NRAP 27(e), filed October 15, 2019 (No. 79689-COA)	VEN 2807 - 2815	12
<b>63</b>	Order Granting Stay, filed October 17, 2019 (No. 79689-COA)	VEN 2816 - 2817	12
<b>64</b>	Petitioners' Reply Brief, filed October 28, 2019 (No. 79689-COA)	VEN 2818 - 2854	13
<b>65</b>	Venetian Casino Resort, LLC et al's Motion for Writ of Mandate and/or Prohibition, filed March 17, 2020 (No. 80816-COA)	VEN 2855 - 2905	13
<b>66</b>	Venetian Casino Resort, LLC et al's Emergency Motion for Stay, filed March 17, 2020 (No. 80816-COA)	VEN 2906 - 2925	13
<b>67</b>	Opposition to Petitioners' Emergency Motion for Relief Under NRAP 27(e), filed March 24, 2020 (No. 80816-COA)	VEN 2926 - 2938	13
<b>68</b>	Reply to Joyce Sekera's Opposition to Petitioners' Emergency Motion for Relief Under NRAP 27(e), filed March 25, 2020 (No. 80816-COA)	VEN 2939 - 2945	13
<b>69</b>	Order Directing Answer and Granting Stay, filed March 27, 2020 (No. 80816-COA)	VEN 2946 - 2947	13
<b>70</b>	Answer to Petition for Writ of Mandamus or Prohibition, filed April 24, 2020 (No. 80816-COA)	VEN 2948 - 2973	13
<b>71</b>	Petitioner's Reply Brief, Filed May 15, 2020 (No. 80816-COA)	VEN 2914 - 3006	13

<b>72</b>	Real Party In Interest's Motion to Hold Decision in Abeyance, filed May 22, 2020 (No. 80816-COA)	VEN 3007 - 3011	13
<b>73</b>	<i>Venetian Casino Resort, LLC et al v. The Eighth Judicial District Court et al</i> , No. 79689-COA, 136 Nev. Adv. Opinion 26, filed May 14, 2020	VEN 3012 - 3025	13
<b>74</b>	Writ of Mandamus, filed May 21, 2020 (No. 79689-COA)	VEN 3026 - 3028	13
<b>75</b>	Petition for Rehearing, filed June 15, 2020 (No. 79689-COA)	VEN 3029 - 3058	13
<b>76</b>	Order Denying Rehearing, filed June 19, 2020 (No. 79689-COA)	VEN 3059	14
<b>77</b>	Order Granting Petition for Writ of Mandamus, filed June 19, 2020 (No. 80816-COA)	VEN 3060 - 3063	14
<b>78</b>	Writ of Mandamus, filed June 30, 2020 (No. 80816-COA)	VEN 3064 - 3067	14
<b>79</b>	Real Party In Interest's Petition for Review, filed August 4, 2020 (No. 80816)	VEN 3068 - 3097	14
<b>80</b>	Order Directing Answer to Petition for Review, filed September 11, 2020 (No. 80816)	VEN 3098 - 3099	14
<b>81</b>	Answer to Real Party In Interest's Petition for Review, filed October 9, 2020 (No. 79687)	VEN 3100 - 3127	14
<b>82</b>	Answer to Real Party In Interest's Petition for Review, filed October 9, 2020 (No. 80816)	VEN 3128 - 3155	14
<b>83</b>	Order Denying Petition for Review, filed October 23, 2020 (No. 79689)	VEN 3156 - 3157	14
<b>84</b>	Order Denying Petition for Review, filed October 23, 2020 (No. 80816)	VEN 3158 - 3159	14
<b>85</b>	Notice in Lieu of Remittitur, filed October 23, 2020 (No. 79689)	VEN 3160	14
<b>86</b>	Notice in Lieu of Remittitur, filed October 23, 2020 (No. 80816)	VEN 3161	14

<b>87</b>	Plaintiff's Motion to Place on Calendar, filed April 30, 2021	VEN 3162 - 3189	14
<b>88</b>	Exhibits Part I to Plaintiff's Motion to Place on Calendar, filed April 30, 2021 (Exhibit 4-Part 1, consisting of prior incident reports at issue, omitted)	VEN 3190 - 3208	14
<b>89</b>	Exhibits Part II to Plaintiff's Motion to Place on Calendar, filed April 30, 2021 (Exhibit 4-Part 2, consisting of prior incident reports at issue, omitted)	VEN 3209 - 3292	14
<b>90</b>	Opposition to Plaintiff's Motion to Place on Calendar, filed May 14, 2021	VEN 3293 - 3464	15
<b>91</b>	Reply in Support of Plaintiff's Motion to Place on Calendar, filed May 25, 2021	VEN 3465 - 3498	15
<b>92</b>	Court Minutes from June 1, 2021 Hearing on Plaintiff's Motion to Place on Calendar	VEN 3499 - 3502	15
<b>93</b>	Transcript of June 1, 2021 Hearing	VEN 3503 - 3524	15
		VEN 3525 - 3547	16
<b>94</b>	Letter to Dept. 25 enclosing Defendant's competing Order, dated June 25, 2021	VEN 3548 - 3557	16
<b>95</b>	Order of Clarification from June 1, 2021 Hearing, filed September 7, 2021	VEN 3558 - 3572	16

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1 The Appendix shall be contained in 16 separate volumes in accordance with  
2 NRAP 30(c)(3) (2013), each volume containing no more than 250 pages.

3  
4 DATED this 7<sup>th</sup> day of October, 2021.

5 ROYAL & MILES LLP

6  
7 By: 

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of the law firm of Royal & Miles LLP,  
3 attorney's for Petitioners, VENETIAN CASINO RESORT, LLC and LAS VEGAS  
4 SANDS, LLC, and that on the 7<sup>th</sup> day of October, 2021, I served true and correct  
5 copy of the foregoing **APPENDIX TO PETITIONERS' EMERGENCY**  
6 **PETITION FOR WRIT OF MANDAMUS AND/OR WRIT OF PROHIBITION**  
7 **UNDER NRAP RULES 21(a)(6) AND 27(e) AND ALTERNATIVE**  
8 **EMERGENCY MOTION TO STAY UNDER NRAP RULES 8 AND 27(e)**, by  
9 electronically filed with the Clerk of the Court by using ECF service which will  
10 provide copies to all counsel of record registered to the receive CM/ECF notification  
11 and by delivering the same via U.S. Mail addressed to the following:  
12

13 William T. Sykes, Esq.

*Via US Mail ONLY:*

14 Geordan G. Logan, Esq.

Honorable Kathleen Delaney

15 CLAGGETT & SYKES LAW FIRM

Eighth Jud. District Court, Dept. 25

16 4101 Meadows Lane, Suite 100

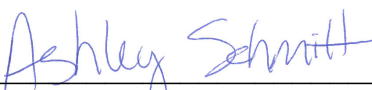
200 Lewis Avenue

17 Las Vegas, NV 89107

Las Vegas, NV 89155

18 *Attorneys for Real Party in Interest*

*Respondent*

19  
20 

21 An employee of Royal & Miles LLP  
22  
23  
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*Steven D. Grierson*

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10 Attorneys for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

11	JOYCE SEKERA, an Individual,	)	CASE NO.: A-18-772761-C
12		)	DEPT. NO.: Department 24
13	Plaintiff,	)	
14		)	
15	v.	)	
16		)	
17	VENTIAN CASINO RESORT, LLC,	)	
18	d/b/a THE VENETIAN LAS VEGAS,	)	
19	a Nevada Limited Liability Company;	)	
20	LAS VEGAS SANDS, LLC d/b/a THE	)	
21	VENETIAN LAS VEGAS, a Nevada	)	
22	Limited Liability Company; YET	)	
23	UNKNOWN EMPLOYEE; DOES I	)	
24	through X, inclusive,	)	
25		)	
26	Defendants.	)	
27		)	

**COMPLAINT**

Plaintiff, by and through her undersigned attorneys, complains of Defendants as follows:

**GENERAL ALLEGATIONS**

**I**

Plaintiff is a resident of the State of Nevada. The incident which gives rise to this cause of action occurred within the State of Nevada.

II

Defendants, VENETIAN CASINO RESORT, LLC d/b/a THE VENETIAN LAS VEGAS (hereinafter VENETIAN), LAS VEGAS SANDS, LLC d/b/a THE VENETIAN LAS VEGAS (hereinafter VENETIAN), are, upon information and belief, Nevada Limited Liability Companies duly licensed and doing business within the State of Nevada.

III

1. The true names of DOES I through V, their citizenship and capacities; whether individual, corporate, associates, partnership or otherwise, are unknown to Plaintiff who therefore sues these Defendants by such fictitious names. Plaintiff is informed and believes, and therefore alleges, that each of the Defendants, designated as DOES I through V, are or may be, legally responsible for the events referred to in this action, and caused damages to the Plaintiff, as herein alleged, and Plaintiff will ask leave of this Court to amend the Complaint to insert the true names and capacities of such Defendants, when the same have been ascertained, and to join them in this action, together with the proper charges and allegations.

2. DOES I through V are employers of Defendants who may be liable for Defendants negligence pursuant to NRS 41.130, which states:

Whenever any person shall suffer personal injury by wrongful act, neglect or default of another, the person causing the injury shall be liable to the person injured for damages; and where the person causing such injury is employed by another person or corporation responsible for his conduct, such person or corporation so responsible shall be liable to the person injured for damages.

IV

On or about November 4, 2016 at approximately 1:00 p.m. Defendants negligently and carelessly permitted a pedestrian walkway to be unreasonably dangerous in that they allowed liquid on the floor causing the Plaintiff to slip and fall. Defendant had actual and/or constructive notice of

1 the condition which caused the fall. Pursuant to the mode of operation doctrine Defendant was on  
2 continuous notice of the presence of liquid on its floors.

3  
4 **V**

5 At the aforementioned place and time, Plaintiff was walking through the VENETIAN when  
6 her foot came into contact with a liquid substance on the floor causing her to slip and fall. The  
7 liquid on the floor coupled with the composition of the floor, rendered the area dangerous for use as  
8 a passageway for the Plaintiff and for other patrons of the VENETIAN.

9  
10 **VI**

11 The Defendant knew or should have known that liquid located in an area of the fall was  
12 dangerous and in the exercise of ordinary care would have had reasonable opportunity to remedy the  
13 situation prior to the happening of the fall herein alleged. In spite of Defendants actual, constructive  
14 and/or continuous notice of the presence of the liquid, the Defendant failed to take appropriate  
15 precautions to prevent injury to Plaintiff and/or guests and/or patrons.

16 **FIRST CLAIM FOR RELIEF**

17 **(Negligence)**

18 **I**

19 Plaintiff repeats and realleges the allegations contained in Paragraphs I through VI of her  
20 General Allegations as though fully set forth herein.

21  
22 **II**

23 As a direct and proximate result of the negligence of Defendant and its yet unknown  
24 employee and/or employees, Plaintiff sustained personal injuries to her head, neck, back, arms and  
25 legs and has suffered pain and discomfort all to her damage in a sum in excess of FIFTEEN  
26 THOUSAND DOLLARS (\$15,000).

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III

Said injuries have resulted in medical treatment all to Plaintiff's damage in a sum in excess of FIFTEEN THOUSAND DOLLARS (\$15,000).

IV

Plaintiff has been compelled to retain the services of an attorney to prosecute this action and Plaintiff is, therefore, entitled to reasonable attorney's fees and costs of suit incurred herein.

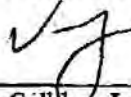
WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant as follows:

FIRST CLAIM FOR RELIEF

1. General damages in a sum in excess of \$15,000;
2. Special damages in a sum in excess of \$15,000;
3. Attorney's fees and costs of suit incurred herein; and,
4. For such other and further relief as the Court may deem just and proper on the premises.

DATED this 19<sup>th</sup> day of March, 2018

THE GALLIHER LAW FIRM

  
\_\_\_\_\_  
Keith E. Gallher, Jr., Esq.  
Nevada Bar No. 220  
1850 E. Sahara Ave., Suite 107  
Las Vegas, NV 89104  
Attorney for Plaintiffs



Arrest <input type="checkbox"/> Crime <input type="checkbox"/> Non-Criminal <input checked="" type="checkbox"/>	<b>Venetian Security</b> 3355 LAS VEGAS BLVD., S. LAS VEGAS, NV 89109	CASE # 1611V-0680
<b>Narrative Report</b>		Page 1 of 2
OFFENSE(S) Protected Health Information		OFFENSE(S) CONT'D
DATE, TIME AND DAY OF OCCURRENCE 11/04/16 12:39 Friday		DATE AND TIME REPORTED 11/04/16 12:39
LOCATION OF OCCURRENCE	LOCATION NAME Outside Grand Lux Cafe Restrooms	TYPE OF LOCATION REST
NARRATIVE		
<p>On November 4th, 2016 at 12:39pm, I was dispatched to the area outside of the restrooms adjacent to the Grand Lux Cafe for report of a slip and fall incident. I arrived on scene and met with Las Vegas Tours (business located in Grand Canal Shoppes) employee Sekera, Joyce who was seated on the marble flooring. I noted that a Public Areas Department team member was on scene and mopping the flooring in the area. Sekera apologized for falling and did not appear to be in any immediate distress. I did not observe an obvious injuries to threats to life at that time.</p> <p>Sekera was alert and oriented to person, place, time, and events, had a patent airway, and was breathing adequately. She stated she was walking through the area when she slipped in what she believed was water on the floor. She reported that she fell backwards and put her right hand behind her head to protect it. She landed on the marble flooring and her left elbow struck the base of a pillar next to her. She denied striking her head during the fall and denied losing consciousness prior to, or after, falling. She denied any head pain, neck pain, back pain, weakness, dizziness, or nausea at that time. I noted that she was guarding her left elbow and reported she was only experiencing pain there at that time. She stated she was embarrassed to which I offered to assist her to a more private area. She agreed and was assisted to a standing position. I asked if she felt any new pain, weakness, dizziness, or nausea to which she denied at that time. She agreed to be assessed in the Medical Room and refused wheelchair assistance. She was able to ambulate on her own to the Medical Room and was able to sit without assistance.</p> <p>Sekera's left elbow was exposed which presented with an abrasion. I did not observe any other injuries or deformities to the area. Palpation of the area showed an increase in tenderness with no obvious signs of instability or crepitation. Distal circulation, motor function, and sensory function were found intact in the left arm. Grip strength was found to be equal bilaterally in the upper extremities. She rated her pain at approximately 7 on a 1-10 severity scale. She had a limited range of motion in the left elbow due to increasing pain on movement. She stated that she was starting to feel a tingling sensation in left phalanges II and III (index and middle finger). A SAM splint was formed on the right arm and applied to the left arm. The splint covered the left elbow and wrist and was secured using four-inch Kerlix gauze and tape. Distal circulation, motor function, and sensory function were rechecked and found to be intact with no changes. The splinted left arm was placed into a</p>		
<b>ADMINISTRATION</b>		
BY OFFICER J. Larson 000025821	DATE/TIME 11/04/2016 15:30	APPROVED BY Michael Dean 000041303
OFFICER	UNIT/SHIFT	ASSIGNED TO
		DATE APPROVED 11/05/16
		CASE STATUS Closed

Arrest <input type="checkbox"/> Crime <input type="checkbox"/> Non-Criminal <input checked="" type="checkbox"/>	<b>Venetian Security</b> 3355 LAS VEGAS BLVD., S. LAS VEGAS, NV 89109	CASE # <b>1611V-0680</b>
<b>Narrative Report</b>		Page 2 of 2
OFFENSE(S) <b>Protected Health Information</b>		
OFFENSE(S) CONT'D:		
DATE, TIME AND DAY OF OCCURRENCE <b>11/04/16 12:39 Friday</b> to <b>11/04/16 13:31 Friday</b>		
DATE AND TIME REPORTED <b>11/04/16 12:39</b>		
LOCATION OF OCCURRENCE	LOCATION NAME <b>Outside Grand Lux Cafe Restrooms</b>	TYPE OF LOCATION REAT SECTOR
NARRATIVE		
<p>             sling made out of a triangle bandage to which she reported the treatment provided some relief from her pain. She added that she was beginning to feel minor pain and soreness to her left lower back and left side (localized to the axillary line).           </p> <p>             Sekera agreed to seek further medical attention, but refused ambulance transport. She stated her job did not provide Workers' Compensation and did not know where she should go. After some discussion, she opted to self-transport to Centennial Hills Hospital as it was close to her home. She refused to complete a Voluntary Statement for the incident and completed a Medical Release. She was escorted to her booth in the Grand Canal Shoppes, collected her belongings, and was escorted to her vehicle in the Team Member Garage on level 8.           </p> <p>             I checked the area of incident and noted that the marble flooring appeared to be flat, even, and dry throughout the area. I did not observe any wet or slick areas and no obstructions were observed. An Accident Scene Check was completed by Facilities Team Member Chavez, Rafael TM#9648 at 1:28pm which found no defects in the area of incident.           </p> <p>             Video coverage is available per Surveillance.           </p> <p>             Risk Management was notified.           </p> <p> <b>Attached Items</b>              1 Scan of the Medical Release              1 Scan of the Accident Scene Check              2 Photographs of Sekera's left arm              2 Photographs of Sekera's shoes (top and bottom)              5 Photographs of the area of incident           </p>		
<b>ADMINISTRATION</b>		
BY OFFICER <b>J. Larson 000025821</b>	DATE/TIME <b>11/04/2016 15:30</b>	APPROVED BY <b>Michael Dean 000041303</b>
OFFICER	DATE/TIME	DATE APPROVED <b>11/03/16</b>
OFFICER	DATE/TIME	CASE STATUS <b>Closed</b>

## Acknowledgement of First Aid Assistance & Advice to Seek Medical Care

☒ I (or my guardian) have been informed that only an initial Emergency First Aid treatment and evaluation has been rendered to me by a Venetian or Palazzo Emergency Medical Technician (EMT) who is not a medical doctor and that I (or my guardian) have been advised that I should seek the advice of a physician as soon as possible.

☐ I (or my guardian) refuse treatment by a Venetian or Palazzo Emergency Medical Technician (EMT) and have been advised that I should seek the advice of a physician as soon as possible.

Name (Print): JOYCE SEKERA WFA 5'6" 160 PPO/810  
(LV TOUR → GLS)  
Signature: [Signature]  
Address: 7810 NESTING PINE PL, LV, NV 89143  
Date of Birth: 3/22/56 Social Security #: N/A  
Phone: (702) 467-5457  
Witness: \_\_\_\_\_  
Date: 11/4/16 Time: 1257  
Refused to Sign: \_\_\_\_\_  
Venetian/Palazzo EMT: \_\_\_\_\_ ID#: 25821

S/F, fell backward's onto base of pillar @ LOC, @ H/W/B, @ event  
① elbow → @ T, @ IC ↳ Curved post crani. dizz

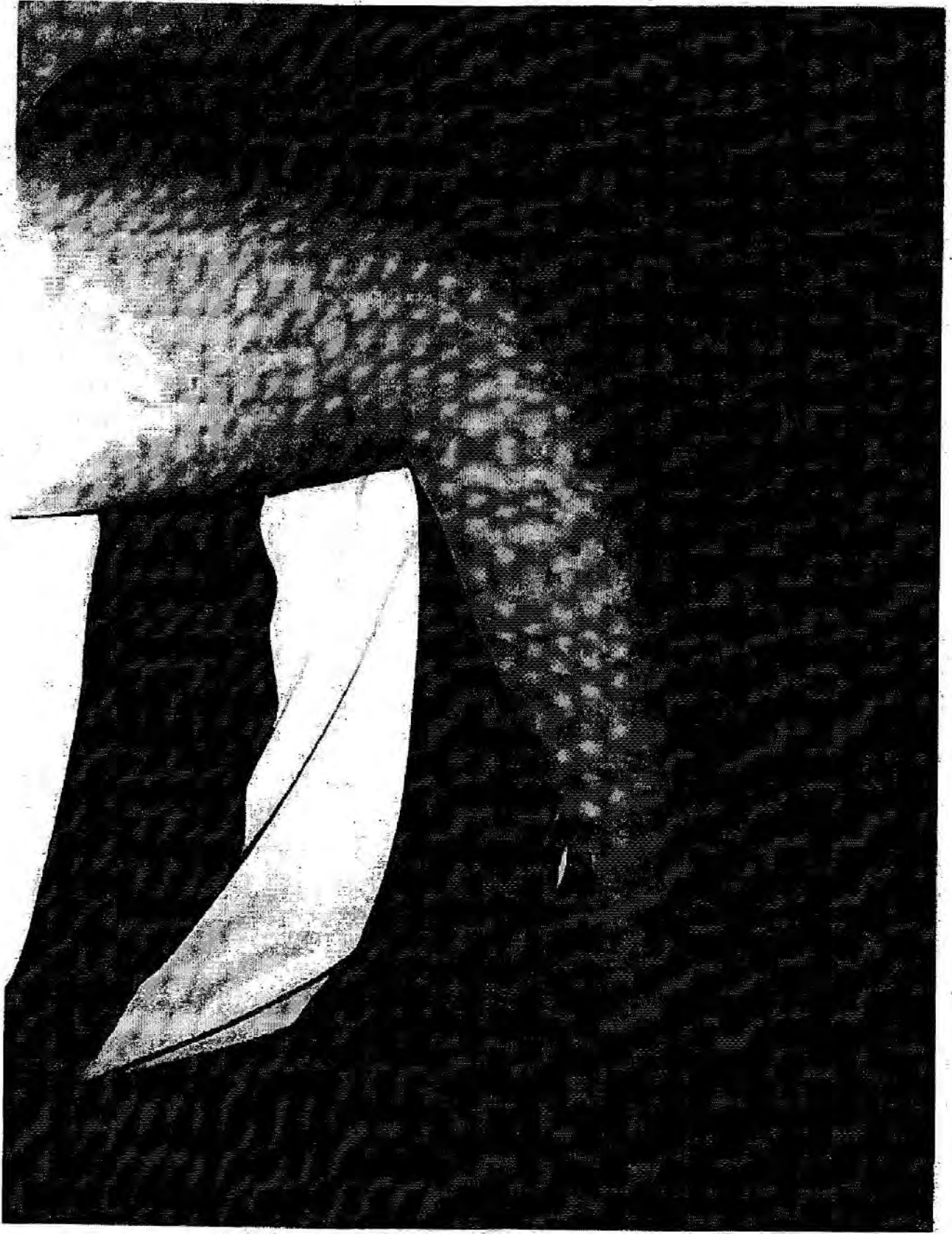
② CMS, tingling in @ PII, PIII : limited ROM due to pain  
↑ 7/10  
③ axillary pain / soreness  
④ flank / lateral back pain

⑤ dizziness  
⑥ foot slipped  
30 min prior  
to fall

X - splint to ① elbow / FA

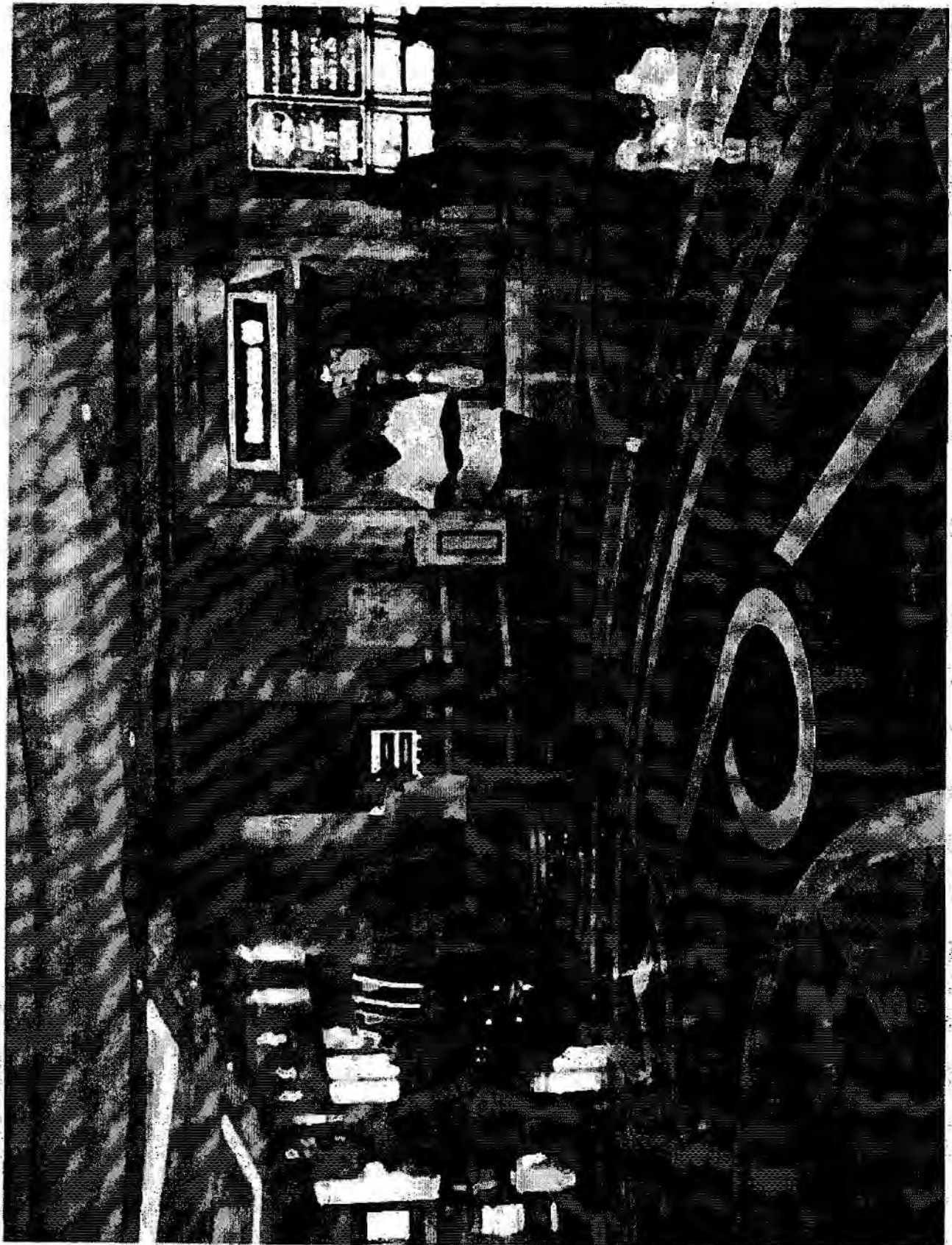
⑦ CMS → @ Δ P approx. 12 min; @ 1x







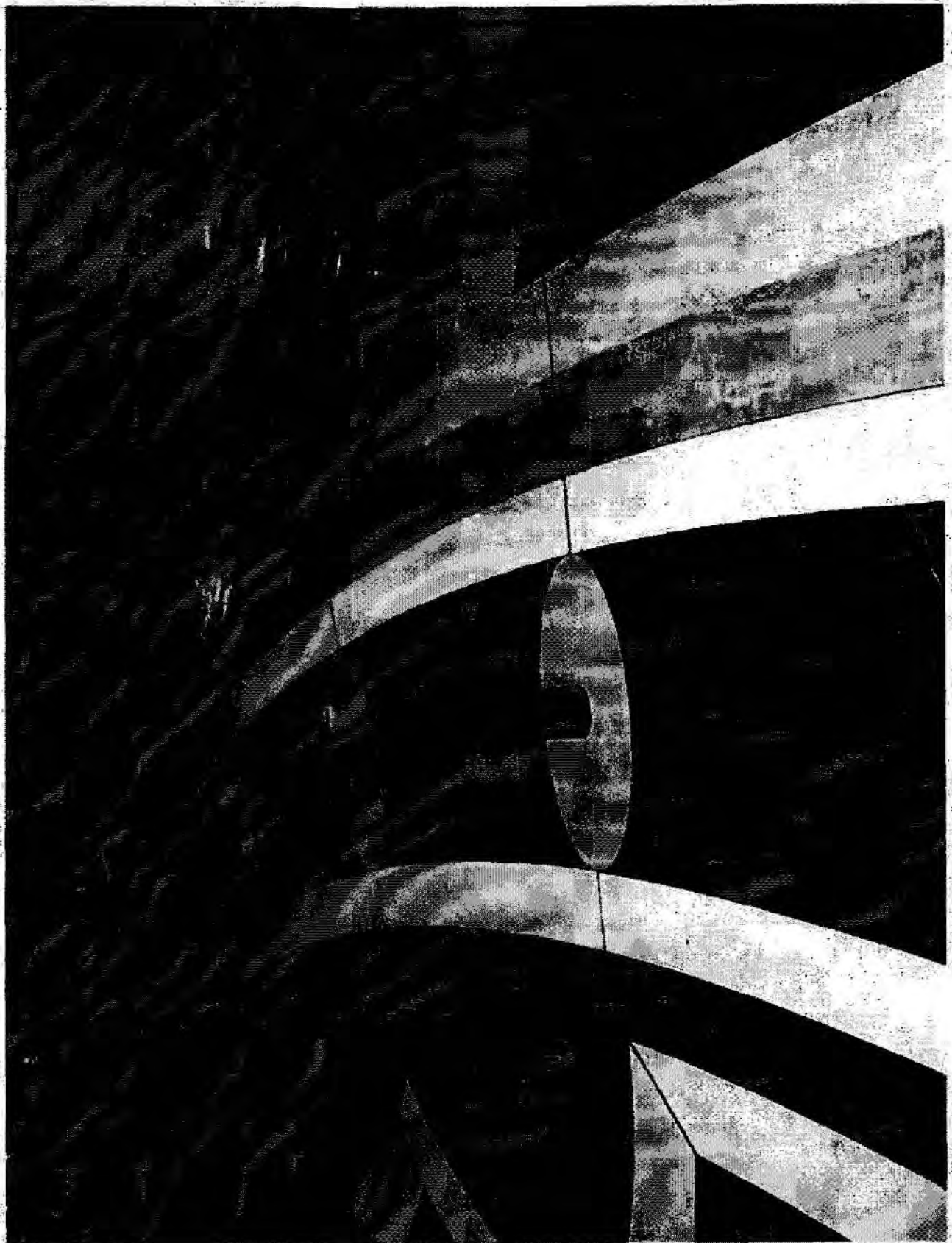




VEN 010

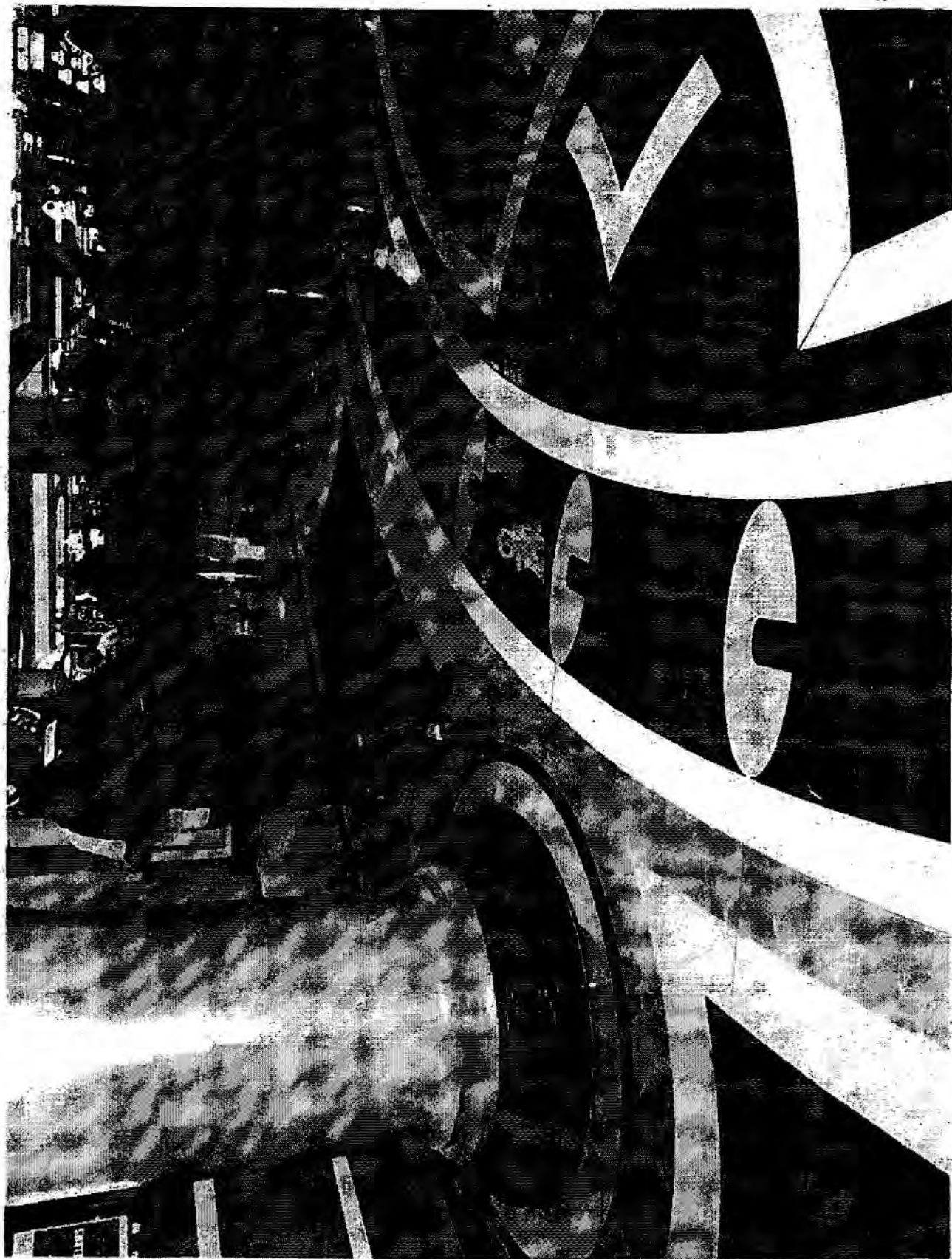






VEN 012





VEN 013





**Deposition of:**

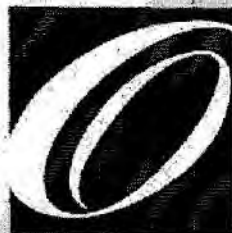
Joyce P. Sekera

**Case:**

Joyce Sekera v. Venetian Casino Resort, LLC d/b/a The Venetian Las Vegas, et al.  
A-18-772761-C

**Date:**

03/14/2019



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1

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

4

JOYCE SEKERA, an Individual, )

5

Plaintiff, )

6

vs. )

CASE NO.: A-18-772761-C

7

DEPT NO.: XXV

8

VENETIAN CASINO RESORT, LLC, )

9

d/b/a, THE VENETIAN LAS )

10

VEGAS, a Nevada Limited )

11

Liability Company; LAS VEGAS )

12

SANDS; LLC d/b/a THE )

13

VENETIAN LAS VEGAS, a Nevada )

14

Limited Liability Company; )

15

YET UNKNOWN EMPLOYEE; DOES I )

16

through X, inclusive, )

17

Defendants. )

18

19

20

21

22

DEPOSITION OF JOYCE P. SEKERA

23

Taken on Thursday, March 14, 2019

24

By a Certified Court Reporter

25

At 1522 West Warm Springs Road

26

Henderson, Nevada

27

At 10:00 a.m.

28

29

30

31

Reported by: Blanca I. Cano, CCR No. 861, RPR

32

Job No.: 31775



1 27th. I'm not sure. But at any rate, in August of  
2 2018, this says you reviewed the answers to  
3 interrogatories, you verified that they were accurate,  
4 and that's your signature?

5 A. Yes.

6 Q. Okay. So having looked at these again, did it  
7 refresh your recollection?

8 A. Yes.

9 Q. Did you see any of your responses that appeared  
10 inaccurate or --

11 A. Yes.

12 Q. Let's go --

13 MR. KUNZ: You're talking about the  
14 interrogatories or the admissions?

15 MR. ROYAL: Yes, the interrogatories.

16 MR. KUNZ: So there are two different --

17 THE WITNESS: Oh.

18 BY MR. ROYAL:

19 Q. Yeah. Let's just focus on the interrogatories.

20 Did you see anything in the interrogatories you  
21 wanted to change?

22 A. No.

23 Q. Okay. Did you see something in the admissions  
24 that you wanted to change?

25 A. Yes.

1 Q. Okay. That's -- the admissions are Exhibit B,  
2 so let's just look at those.

3 Was there more than one?

4 A. Yes.

5 Q. Okay. Let's go to the first one.

6 Which one did you note that is not correct?

7 MR. KUNZ: Page 2, No. 2.

8 THE WITNESS: Thank you.

9 BY MR. ROYAL:

10 Q. I'll read it. "Admit that you did not see  
11 liquid on the floor of the subject area after your fall  
12 on November 4, 2016," and then it says, "Deny."

13 A. Yes, because I didn't see it. I was looking  
14 through the people to walk to the restroom. I felt it  
15 when I fell.

16 Q. Okay. So --

17 A. I remember my pants being wet.

18 Q. Okay. So I get it. So you would change that  
19 to "Admit"?

20 I'll read it to you again. Request No. 2 in  
21 Exhibit B, page 2, says, "Admit that you did not see  
22 liquid on the floor of the subject area after your fall  
23 on November 4, 2016."

24 You would admit that; is that correct?

25 A. I felt it.

1 Q. No. I get that, you -- I understand. Look, the  
2 question is you did not see it?

3 A. Right. Correct.

4 Q. Okay. So you would admit you did not see it?

5 A. Correct.

6 Q. Okay. I understand you felt it, and we'll get  
7 into the specifics of that.

8 Was there another change?

9 MR. KUNZ: Page 7.

10 BY MR. ROYAL:

11 Q. Before we get to that one, let me look at  
12 Request No. 3 and have you look at that.

13 Request No. 3 reads, "Admit that you did not  
14 see a foreign substance on the floor potentially causing  
15 your fall on November 4, 2016, at any time."

16 Again, I know you said you felt it, but the  
17 question is did you see it?

18 A. No, I did not.

19 Q. Okay. So the answer to No. 3, would that also  
20 be "Admit" instead of "Deny"?

21 A. Correct.

22 Q. Okay. Those were kind of the same.

23 Which one are we on now?

24 MR. KUNZ: Page 7.

25 MR. ROYAL: Which number?

1 MR. KUNZ: Hold on just a second, please.

2 Number 27.

3 BY MR. ROYAL:

4 Q. Okay. Number 27 reads, "Admit that William D.  
5 Smith, M.D., accurately related in his report of your  
6 February 22nd, 2018, visit that you lost consciousness  
7 as a result of the subject incident."

8 A. I don't know what the correct wording would be.  
9 I was dazed and shocked and I don't remember. I knew I  
10 didn't -- lose consciousness was you're out cold.

11 Q. Okay. So we'll get to that too.

12 Is it your testimony that when you -- when this  
13 incident happened, you were not out cold?

14 A. I remember falling and talking, but I don't  
15 know what was coming out. I was -- I had pain and I  
16 don't remember.

17 Q. Okay. Are there any other changes?

18 MR. KUNZ: There is. Page 8.

19 MR. ROYAL: Which number? Again, we're talking  
20 about Exhibit B.

21 THE WITNESS: Oh, I did drive.

22 MR. KUNZ: Request No. 28.

23 MR. ROYAL: "Admit that William D. Smith,  
24 M.D., accurately related in his report on your  
25 February 22nd, 2018, visit that you did not drive

1 employment?

2 A. No. Only if we had a question which the guest  
3 wanted that particular seat and they couldn't have it  
4 because it was reserved for the hotel, so...

5 Q. Okay. The time that -- it sounds to me like  
6 you were spending anywhere from 40 to 60 hours a week at  
7 the Venetian.

8 A. Yes.

9 Q. Does that sound right?

10 A. Yes.

11 Q. And that would be pretty much from December 26,  
12 2015, until the date of the incident?

13 A. Yes.

14 Q. Did you take any vacations?

15 A. No, I did not. And I was always there at least  
16 an hour or two prior.

17 Q. What does that mean? Prior to what?

18 A. Prior to my shift starting.

19 Q. So if your shift started at 9:00, you would  
20 arrive at 7:00?

21 A. Yeah, because I would set up all the computers  
22 for everybody.

23 Q. And you're not paid for that time?

24 A. No.

25 Q. So you actually would have been there from,



1 like, what, 7:00 to 7:00?

2 A. Pretty much, or at least 8:00 to 7:00.

3 Q. Okay. I'm just doing the math in my head here.

4 That's a lot of hours. So you're talking about -- you  
5 could actually be working 80 hours a week.

6 A. Yeah.

7 Q. Does that sound right?

8 A. Yes.

9 Q. Okay.

10 A. And that wasn't every day, but I tried to help  
11 people because -- and have it all ready for them when  
12 they walked on the shift.

13 Q. So during the time that you work there for  
14 sounds like -- I'm going to say 50 to 70 hours a week  
15 maybe --

16 Does that sound about fair?

17 A. Fair.

18 Q. -- were you ever aware of any incidents where  
19 guest or employees would slip and fall?

20 A. No.

21 Q. The times that you were working at this booth,  
22 you don't recall ever responding to someone who had  
23 fallen; is that correct?

24 A. I would say yes. I don't remember helping  
25 anybody.

1 Q. Okay. When you would go to -- let's say on  
2 breaks, use the restroom and stuff, do you recall ever  
3 seeing security responding to somebody on the floor,  
4 anything like that?

5 A. No.

6 Q. Did you ever have any conversations that you  
7 can recall prior to your fall with hotel -- Venetian  
8 hotel security about incidents occurring on property?

9 A. No. I didn't really know anybody there.

10 Q. Okay. So prior to your incident of November 4,  
11 2016, is it fair to say that you were never aware of  
12 anyone slipping and falling at the Venetian property?

13 A. Yes.

14 Q. Okay. That was a correct statement; is that  
15 right?

16 A. Yes.

17 Q. So for all the time that you were at the  
18 Venetian working for Allstate Ticketing and Tours and  
19 then for Brand Vegas, the only fall that you're aware of  
20 occurring at the Venetian property was your fall?

21 A. That's correct.

22 Q. Okay. Do you recall during the time that you  
23 worked at the Venetian property -- now I'm going to  
24 expand it from any time that you're working there from  
25 1995 until 2016, I'm just going to ask you all of your

1 experience as an employee where you were working at a  
2 kiosk at the Venetian property, do you recall ever  
3 seeing foreign substances on the floor?

4 A. I have to just say this. When I worked for  
5 Allstate Ticketing, they didn't acquire the Venetian  
6 kiosk till a few years before, so earlier they weren't  
7 there. From '96 to -- I just can't remember the date.  
8 You said from '96 to...

9 Q. Okay. Thank you. But what I'm trying to do is  
10 you said you were probably at the Venetian 10 to 20  
11 times over the 15 years --

12 A. Yeah, not a lot.

13 Q. Okay. That's when you were at Allstate?

14 A. Right.

15 Q. And then you were there it sounds like almost  
16 every day for almost close to a year --

17 A. Oh, for Brand, yes.

18 Q. -- for Brand Vegas; correct?

19 A. Yes.

20 Q. All right. And during all that time,  
21 collectively, you don't recall ever seeing a substance  
22 on the floor, like somebody spilled a drink or something  
23 like that?

24 A. Oh, sure, I might have and I might have called  
25 housekeeping. See, I don't remember that. If that



1 happened, it was, like, once.

2 Q. Okay. But I'm asking if you have a specific  
3 memory --

4 A. No.

5 Q. -- of something like that.

6 A. Oh, no.

7 Q. Okay. So that's -- that's one of those things  
8 where I don't want you to speculate. If you have a  
9 specific memory, "Oh, yeah, I remember once or twice" --

10 A. Okay.

11 Q. Do you have a specific memory?

12 A. No.

13 Q. Okay. All right. Did you -- in all your time  
14 working at the Venetian talking with people, selling  
15 tickets, people walking by, casual conversation, even  
16 people that you were working with in your kiosk with  
17 that other company, okay, do you recall speaking with  
18 anyone who made any reference to any slip-and-falls that  
19 occurred on the company?

20 A. No.

21 Q. This would be a good time to take a break  
22 because I'm going to move into something else.

23 Let's go off the record.

24 (A short recess was taken from 11:41 a.m.  
25 to 11:48 a.m.)

1 Q. -- as you're walking; right?

2 Is that correct?

3 A. That's correct.

4 Q. Were you in a hurry?

5 A. No.

6 Q. Do you remember if you had the beverage in your  
7 right or left hand?

8 A. No.

9 Q. So you remember your feet going out quickly in  
10 front of you?

11 A. Yes.

12 Q. Tell me about as you fell.

13 What do you remember about the fall itself, how  
14 you landed?

15 A. I just remember landing hard. Whether it was  
16 my back, my butt, I don't know. I just remember going  
17 backwards and I was dazed. I mean, shocked. I can't --  
18 I don't remember. That's what kills me. I don't  
19 remember --

20 Q. Okay.

21 A. -- exactly what was on the floor or...

22 Q. Right.

23 A. I know it was liquid because my pants felt wet.

24 Q. Okay. So let me get back to the fall.

25 A. Okay.

1 Q. Because your initial complaint was your left  
2 elbow.

3 Do you remember striking your left elbow?

4 A. Yes, I do. Hard on the marble, yes.

5 Q. Do you remember -- other than your left elbow,  
6 do you remember striking your head?

7 A. My shoulder.

8 Q. Your left shoulder?

9 A. Uh-huh, because it was on the left side because  
10 I was trying to -- I just went -- it happened so quick.

11 Q. Okay. Let's -- I'm trying to take it one frame  
12 at a time here.

13 So you struck your left shoulder -- I'm sorry.  
14 Strike that.

15 Your feet go out in front of you, you strike  
16 your left elbow, and you remember striking your left  
17 shoulder -- part of your shoulder; correct?

18 A. Yes.

19 Q. Do you remember striking your hip, your left  
20 hip? That's something you remember?

21 A. I kind of remember just bouncing and I hit so  
22 hard, but I don't know -- I don't remember -- it's hard.

23 Q. Okay. Do you recall what happened to your  
24 drink that you were carrying?

25 A. No, I do not.

1 Q. Okay. Do you recall if any -- so you don't  
2 recall if any of part of your drink spilled when you  
3 fell?

4 A. No.

5 Q. You said that after the fall you're shocked and  
6 dazed, something you're not expecting; right?

7 A. Correct.

8 Q. You felt immediate pain in your left elbow?

9 A. Yes.

10 Q. Did you feel immediate pain in your left  
11 shoulder?

12 A. Yes. My neck, my head, yes.

13 Q. Okay. You felt immediate pain in your head?

14 A. Again, I fell on my left side hard. And I'm  
15 not 90 pounds, so when I fell hard, yeah, I felt it, the  
16 pain, the whole side, the left side.

17 Q. So when you say "the whole side," was it the  
18 left side of your head?

19 A. It just went down from my neck down.

20 Q. Okay. Now, so I'm pointing to, like, the back  
21 part of your head.

22 Do you recall any part of your head striking  
23 anything?

24 A. Yes. I remember just bouncing.

25 Q. Okay. So did you have a sore spot on your head



1 from when you fell?

2 A. Yes.

3 Q. Was it, like, a bump or just sore when you  
4 touched it?

5 A. Sore when I touched it.

6 Q. Okay. And so you have the left side of your  
7 head, the left -- or then your neck. I'm going to say  
8 the left side of your neck only because you've been  
9 pointing to your left side; is that correct?

10 A. Yes.

11 Q. And then your left shoulder and your left  
12 elbow?

13 A. Elbow.

14 Q. Okay. What do you remember right after the  
15 incident? What's the next thing you remember? People  
16 coming to you and seeing if you're okay?

17 A. I remember people in my face, "Are you okay?  
18 Are you okay?" That's all I remember. I just -- I  
19 don't know what you call it. For me to not remember,  
20 it's hard.

21 Q. Okay. How long were you on the floor?

22 A. That, I do not know.

23 Q. Do you remember someone from security coming to  
24 speak with you?

25 A. Is that the, like, paramedic?

1 Q. EMT?

2 A. The EMT, yes.

3 Q. Do you remember --

4 A. He was trying to help me up.

5 Q. Do you remember anything about your  
6 conversation with him?

7 A. No. I remember him walking me upstairs and  
8 fixing my arm so that I could drive to the hospital.  
9 That's all.

10 Q. Do you remember -- you said there was liquid on  
11 your pants?

12 A. Yes.

13 Q. Where on your pants?

14 A. Back side.

15 Q. The back left side?

16 A. Yes.

17 Q. Can you describe -- is it your rear end?

18 A. Yes.

19 Q. So your left rear end?

20 A. Yes.

21 Q. Was it --

22 A. And my back, so...

23 Q. The back of your shirt?

24 A. Yes.

25 Q. So it was on the left rear end and the back of

1 your shirt?

2 A. Uh-huh.

3 Q. Yes?

4 A. Yes.

5 Q. Anywhere else?

6 A. I didn't -- again, when I hit hard, I do not  
7 remember a lot from back then, but I do remember being  
8 wet.

9 Q. Okay. And I understand that. And I'm not  
10 trying to badger you. I'm just trying to get as best  
11 information I can when you say you felt wet, so I just  
12 want to know what parts of your body you felt wet.

13 So you've indicated the left rear and you think  
14 maybe --

15 A. Back.

16 Q. -- the low-back area; correct?

17 A. Yes.

18 Q. Any other areas where you recall specifically  
19 that were wet?

20 A. I do not recall.

21 Q. Okay. So as I understand it, you fell -- you  
22 didn't see anything on the floor before your fall;  
23 correct?

24 A. Correct.

25 Q. You've described your fall. You didn't see

1 Q. This particular photo, this represents the  
2 bathroom that you were going to at the time of the  
3 incident?

4 A. Yes.

5 Q. And this is the bathroom that you would  
6 typically use at least once a day when you were working  
7 at the Venetian?

8 A. Yes.

9 Q. And typically to get to the bathroom, you would  
10 either go down the elevator or go down the escalator,  
11 both of which would be off to the left of the photo in  
12 this vantage point?

13 A. Yes.

14 Q. Okay. Let's go to the next photo. I'll  
15 represent to you my understanding is is that you'll see  
16 the column here and that this VEN 040 represents the  
17 area where you fell.

18 Do you recognize it?

19 A. Yes.

20 Q. As you look at this photo, does anything about  
21 this photo refresh your recollection to anything you  
22 testified to at this point?

23 A. I'm looking at the pillar and I know they have  
24 a pillar. I don't remember the floor per se, but I  
25 fell --



*Steven D. Grier*

1 THE GALLIHER LAW FIRM  
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18 Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

19 JOYCE SEKERA, an Individual,  
20 Plaintiff,

21 v.

22 VENETIAN CASINO RESORT, LLC,  
23 d/b/a THE VENETIAN LAS VEGAS, a  
24 Nevada Limited Liability Company; LAS  
25 VEGAS SANDS, LLC d/b/a THE  
26 VENETIAN LAS VEGAS, a Nevada  
27 Limited Liability Company; YET  
28 UNKNOWN EMPLOYEE; DOES I  
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C  
DEPT. NO.: 25

**FIRST AMENDED COMPLAINT**

Plaintiff, by and through her undersigned attorneys, complains of Defendants as follows:

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**GENERAL ALLEGATIONS**

**I**

Plaintiff is a resident of the State of Nevada. The incident which gives rise to this cause of action occurred within the State of Nevada

**II**

Defendants, VENETIAN CASINO RESORT, LLC d/b/a THE VENETIAN LAS VEGAS (hereinafter VENETIAN), LAS VEGAS SANDS, LLC d/b/a THE VENETIAN LAS VEGAS (hereinafter VENETIAN), are, upon information and belief, Nevada Limited Liability Companies duly licensed and doing business within the State of Nevada.

**III**

1. The true names of DOES I through V, their citizenship and capacities, whether individual, corporate, associates, partnership or otherwise, are unknown to Plaintiff who therefore sues these Defendants by such fictitious names. Plaintiff is informed and believes, and therefore alleges, that each of the Defendants, designated as DOES I through V, are or may be, legally responsible for the events referred to in this action, and caused damages to the Plaintiff, as herein alleged, and Plaintiff will ask leave of this Court to amend the Complaint to insert the true names and capacities of such Defendants, when the same have been ascertained, and to join them in this action, together with the proper charges and allegations.

2. DOES I through V are employers of Defendants who may be liable for Defendants negligence pursuant to NRS 41.130, which states:

Whenever any person shall suffer personal injury by wrongful act, neglect or default of another, the person causing the injury shall be liable to the person injured for damages; and where

1 the person causing such injury is employed by another person or corporation responsible for his  
2 conduct, such person or corporation so responsible shall be liable to the person injured for damages.

3  
4 IV

5 On or about November 4, 2016 at approximately 1:00 p.m. Defendants negligently and  
6 carelessly permitted a pedestrian walkway to be unreasonably dangerous in that they allowed liquid  
7 on the floor causing the Plaintiff to slip and fall. Defendant had actual and/or constructive notice of  
8 the condition which caused the fall. Pursuant to the mode of operation doctrine Defendant was on  
9 continuous notice of the presence of liquid on its floors.

10  
11 V

12 At the aforementioned place and time, Plaintiff was walking through the VENETIAN when  
13 her foot came into contact with a liquid substance on the floor causing her to slip and fall. The liquid  
14 on the floor coupled with the composition of the floor, rendered the area dangerous for use as a  
15 passageway for the Plaintiff and for other patrons of the VENETIAN.

16  
17 VI

18 The Defendant knew or should have known that liquid located in an area of the fall was  
19 dangerous and in the exercise of ordinary care would have had reasonable opportunity to remedy the  
20 situation prior to the happening of the fall herein alleged. In spite of Defendants actual, constructive  
21 and/or continuous notice of the presence of the liquid, the Defendant failed to take appropriate  
22 precautions to prevent injury to Plaintiff and/or guests and/or patrons.

23  
24 VII

25 The Defendant knew that its marble floors caused unreasonable amount of injury slip and  
26 falls and thus were dangerous to pedestrians, and in the existence of ordinary care, would have had  
27 opportunity to remedy the situation prior to Plaintiff's fall.  
28



VIII

In the three years prior to Plaintiff's fall there were at least 73 injury slip and falls on the marble floors in Venetian. In spite of Defendant's actual, constructive, and/or continuous notice their marble floors were significantly more slippery than is safe for pedestrians, the Defendant failed to take any appropriate precautions to prevent injury to Plaintiff and other guests.

FIRST CLAIM FOR RELIEF

(Negligence)

I

Plaintiff repeats and realleges the allegations contained in Paragraphs I through VI of her General Allegations as though fully set forth herein.

II

As a direct and proximate result of the negligence of Defendant and its yet unknown employee and/or employees, Plaintiff sustained personal injuries to her head, neck, back, arms and legs and has suffered pain and discomfort all to her damage in a sum in excess of FIFTEEN THOUSAND DOLLARS (\$15,000).

III

Upon information and belief, Defendant had actual or constructive notice of the hazard posed by their marble floors. Defendant knew that the unsafe condition posed an unreasonable hazard or slip and fall risk to the general public, invitees, patrons and business invitees. Defendant's failure to remedy the situation was knowing, wanton, willful, malicious and/or done with conscious disregard for the safety of Plaintiff and of the public. Defendant's outrageous and unconscionable conduct warrants an award of punitive damages pursuant to NRS 42.005.



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1850 E. Sahara Avenue, Suite 107  
Las Vegas, Nevada 89104  
702-735-0049 Fax: 702-735-0204

IV

Said injuries have resulted in medical treatment all to Plaintiff's damage in a sum in excess of FIFTEEN THOUSAND DOLLARS (\$15,000).

V

Plaintiff has been compelled to retain the services of an attorney to prosecute this action and Plaintiff is, therefore, entitled to reasonable attorney's fees and costs of suit incurred herein.

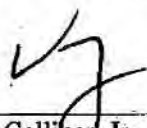
**WHEREFORE**, Plaintiff prays for judgment in her favor and against Defendant as follows:

**FIRST CLAIM FOR RELIEF**

1. General damages in a sum in excess of \$15,000;
2. Special damages in a sum in excess of \$15,000;
3. Punitive damages;
4. Attorney's fees and costs of suit incurred herein; and,
5. For such other and further relief as the Court may deem just and proper on the premises.

DATED this 27<sup>th</sup> day of June, 2019

THE GALLIHER LAW FIRM

  
\_\_\_\_\_  
Keith E. Gallihier, Jr., Esq.  
Nevada Bar Number 220  
1850 E. Sahara Avenue, Ste. 107  
Las Vegas, Nevada 89104  
*Attorney for Plaintiff*

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1850 E. Sahara Avenue, Suite 107  
Las Vegas, Nevada 89104  
702-735-0049 Fax: 702-735-0204

1 THE GALLIHER LAW FIRM  
2 Keith E. Galliher, Jr., Esq.  
3 Nevada Bar No. 220  
4 Jeffrey L. Galliher, Esq.  
5 Nevada Bar No. 8078  
6 George J. Kunz, Esq.  
7 Nevada Bar No. 12245  
8 1850 East Sahara Avenue, Suite 107  
9 Las Vegas, Nevada 89104  
10 Telephone: (702) 735-0049  
11 Facsimile: (702) 735-0204  
12 [kgalliher@galliherlawfirm.com](mailto:kgalliher@galliherlawfirm.com)  
13 [jgalliher@galliherlawfirm.com](mailto:jgalliher@galliherlawfirm.com)  
14 [gkunz@lvlawguy.com](mailto:gkunz@lvlawguy.com)  
15 Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

12 JOYCE SEKERA, an Individual,  
13  
14 Plaintiff,

CASE NO.: A-18-772761-C  
DEPT. NO.: 25

15 v.

16 VENETIAN CASINO RESORT, LLC,  
17 d/b/a THE VENETIAN LAS VEGAS, a  
18 Nevada Limited Liability Company;  
19 LAS VEGAS SANDS, LLC d/b/a THE  
20 VENETIAN LAS VEGAS, a Nevada  
21 Limited Liability Company; YET  
22 UNKNOWN EMPLOYEE; DOES I  
23 through X, inclusive,

24 Defendants.

**PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS AND MATERIALS TO**

**DEFENDANT**

25 TO: VENETIAN CASINO RESORT, LLC., Defendant; and

26 TO: MICHAEL A. ROYAL, ESQ. with ROYAL & MILES LLP., attorney for Defendant

1 Plaintiff, JOYCE SEKERA, by and through her attorneys, THE GALLIHER LAW FIRM,  
2 hereby makes the following Request for Production of Documents upon Defendant:

3 REQUEST NO. 1:

4 All written, oral, or recorded statements made by any party, witness, or any other person or  
5 persons with knowledge of the incident described in Plaintiff's Complaint.  
6

7 REQUEST NO. 2:

8 Any and all accident and investigative reports, films, video tapes, charts, plats, drawings,  
9 maps or pictures and/or photographs of any kind which has, as its subject matter, the incident  
10 described in Plaintiff's Complaint.

11 REQUEST NO. 3:

12 A complete copy of the Defendants insurance carriers and/or risk management pre-litigation  
13 claim file.  
14

15 REQUEST NO. 4:

16 The names of all expert witnesses or consultants that Defendant will use at the time of trial  
17 along with any reports produced by the same.

18 REQUEST NO. 5:

19 Any and all sweep sheets, sweep logs, or other similar documentation which reflects the  
20 maintenance and/or cleaning of the flooring located within the VENETIAN CASINO RESORT  
21 described in Plaintiff's Complaint for the day before, day of, and day after the incident described  
22 therein.  
23

24 REQUEST NO. 6:

25 True and correct copies of any and all manuals, documents, pamphlets, flyers, or other  
26 memorandum which has, as its subject matter, the standard operating procedures with respect to the  
27  
28



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1850 E. Sahara Avenue, Suite 107  
Las Vegas, Nevada 89104  
702-735-0049 Fax: 702-735-0204

1 maintenance, cleaning and sweeping of the floors with respect to the VENETIAN CASINO  
2 RESORT in which the fall occurred.

3 REQUEST NO. 7:

4 True and correct copies of any and all claim forms, legal actions, civil complaints,  
5 statements, security reports, computer generated lists, investigative documents or other memoranda  
6 which have, as its subject matter, slip and fall cases occurring on marble floors within the subject  
7 VENETIAN CASINO RESORT within three years prior to the incident described in Plaintiff's  
8 Complaint, to the present.

10 REQUEST NO. 8:

11 Any and all documents, information, memoranda, paperwork, or other material which relates  
12 to, establishes, or otherwise pertains to the affirmative defenses alleged by the Defendant herein.

14 REQUEST NO. 9:

15 Any surveillance video showing the Plaintiff's fall at the VENETIAN CASINO RESORT  
16 from any other angle, other than the one shown in the video surveillance produced by the  
17 Defendants thus far.

18 REQUEST NO. 10:

19 Any other witnesses, documents, or other disclosures required by NRCP 16.1.

20 DATED this 15<sup>TH</sup> day of August, 2018

22 THE GALLIHER LAW FIRM

23 

25 Keith E. Galliher, Jr., Esq.  
26 Nevada Bar Number 220  
27 1850 E. Sahara Avenue, Suite 107  
28 Las Vegas, Nevada 89104  
Attorney for Plaintiff



THE GALLIHER LAW FIRM  
1850 E. Sahara Avenue, Suite 107  
Las Vegas, Nevada 89104  
702-735-0049 Fax: 702-735-0204

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of THE GALLIHER LAW FIRM and that service of a true and correct copy of the above and foregoing **REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT** was served on the 16<sup>th</sup> day of August, 2018, to the following addressed parties by:

☐ First Class Mail, postage prepaid from Las Vegas, Nevada pursuant to N.R.C.P 5(b)

☐ Facsimile, pursuant to EDCR 7.26 (as amended)

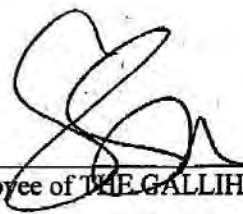
☒ Electronic Mail/Electronic Transmission

☐ Hand Delivered to the addressee(s) indicated

☐ Receipt of Copy on this \_\_\_\_ day of \_\_\_\_\_, 2018,

acknowledged by, \_\_\_\_\_

Michael A. Royal, Esq.  
Gregory A. Miles, Esq.  
ROYAL & MILES LLP  
1522 W. Warm Springs Road  
Henderson, Nevada 89014  
*Attorneys for Defendants*

  
\_\_\_\_\_  
An employee of THE GALLIHER LAW FIRM

**SUPP**

Michael A. Royal, Esq.

Nevada Bar No. 4370

Gregory A. Miles, Esq.

Nevada Bar No. 4336

**ROYAL & MILES LLP**

1522 West Warm Springs Road

Henderson Nevada 89014

Tel: 702-471-6777

Fax: 702-531-6777

Email: [mroyal@royalmilesllp.com](mailto:mroyal@royalmilesllp.com)

*Attorneys for Defendants*

*VENETIAN CASINO RESORT, LLC and*

*LAS VEGAS SANDS, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a  
THE VENETIAN LAS VEGAS, a Nevada  
Limited Liability Company; LAS VEGAS  
SANDS, LLC d/b/a THE VENETIAN LAS  
VEGAS, a Nevada Limited Liability Company;  
YET UNKNOWN EMPLOYEE; DOES I  
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: XXIV

**FIFTH SUPPLEMENT TO DEFENDANTS' 16.1 LIST OF WITNESSES AND  
PRODUCTION OF DOCUMENTS FOR EARLY CASE CONFERENCE**

Defendants, VENETIAN CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC, by and  
through their counsel, Michael A. Royal, Esq., of the law firm of Royal & Miles LLP, pursuant to  
N.R.C.P. 16.1, hereby supplement their list of witnesses and documents as follows:

///

///

ROYAL & MILES LLP  
1522 W Warm Springs Road  
Henderson NV 89014  
Tel: (702) 471-6777 ♦ Fax: (702) 531-6777

**Documents**  
***(Updated Information in Bold)***

1. Complaint (VEN 001 - 004);
2. Venetian Security CR-1 (1611V-0680) (11/04/16) (VEN 005);
3. Venetian Security Case MO (1611V-0680) (11/04/16) (VEN 006);
4. Venetian Security Person Profile (1611V-0680) (11/04/16) (VEN 007);
5. Venetian Security Narrative Report (1611V-0680) (11/04/16) (VEN 008 - 009);
6. Venetian Security Photographs (VEN 010 - 016);
7. Venetian Acknowledgment of First Aid Assistance & Advice to Seek Medical Care (1611V-0680) (11/04/16) (VEN 017);
8. Venetian Accident Scene Check (1611V-0680) (11/04/16) (VEN 018);
9. Venetian Surveillance Footage (1611V-0680) (11/04/16) (VEN 019);
10. Plaintiff's medical records (produced by Plaintiff, identified herein as PLF 001 - 624), including but not limited to:
  - a. Centennial Hills Hospital
  - b. Shadow Emergency Physicians
  - c. Desert Radiologists
  - d. Core Rehab
  - e. Las Vegas Radiology
  - f. Southern Nevada Medical Group
  - g. Radar Medical Group
  - h. PayLater/WellCare Pharmacy
  - i. Las Vegas Pharmacy
  - j. Walter M. Kidwell, MD (Pain Inst. Nevada)
  - k. Valley View Surgery Center
  - l. Steinberg Diagnostics
  - m. Desert Institute of Spine Care
11. Plaintiff's employment records (produced by Plaintiff, identified herein as PLF 625), including but not limited to:
  - a. Undated letter from Warren Church, Jr., CEO, Brand Las Vegas, LLC
12. Brand Vegas Ticket Broker Agreement (VEN 020 - 034).
13. Security Scene Photographs (VEN 035 - 043).

- 1 14. Medical and billing records from Centennial Hills Hospital, pertaining to Plaintiff (CHH 001 -  
2 326) (*radiology films on CD are available for inspection upon request*);
- 3 15. Medical and billing records from Southern Nevada Medical Group, pertaining to Plaintiff  
(SOUTHERN 001 - 043);
- 4 16. Medical and billing records from Radar Medical Group, pertaining to Plaintiff (RADAR 001 -  
5 426);
- 6 17. Medical and billing records from PayLater/WellCare Pharmacy, pertaining to Plaintiff (PLP  
7 001- 003);
- 8 18. Medical and billing records from Pain Institute of Nevada, pertaining to Plaintiff (PAIN  
9 001- 145); and
- 10 19. Medical and billing records from Valley View Surgery Center, pertaining to Plaintiff  
(VALLEY 001- 104).
- 11 20. Medical and billing records from Las Vegas Pharmacy, pertaining to Plaintiff (LVP 001 -  
12 002);
- 13 21. Medical and billing records from Western Regional Center for Brain & Spine, pertaining to  
14 Plaintiff (WRC 001 - 191);
- 15 22. PAD schedule for 11.04.16 (VEN 044 - 051);
- 16 23. PAD SOPs (VEN 052 - 057);
- 17 24. Safety Handbook in its entirety (VEN 058 - 091);
- 18 25. Venetian Slips, Trips and Falls (safety program presentation, Lesson Plan) (VEN 092 -  
19 094);
- 20 26. Venetian Slips, Trips and Falls (safety program presentation, Written Program) (VEN 095 -  
21 105); and
- 22 27. Slips, Trips and Falls (instructional video) (VEN 106).
- 23 28. Medical and billing records from Desert Radiologists, pertaining to Plaintiff (DR 001 - 019)  
(*radiology films on 3 CDs are available for inspection upon request*);
- 24 29. Employment and worker's comp records from Brand Vegas LLC, pertaining to Plaintiff  
25 (BV 001 - 240);
- 26 30. Tom Jennings April 23, 2018 Report (VEN 107 - 119);
- 27 31. Joseph Cohen, Ph.D, August 8, 2018 (VEN 120 - 132);
- 28 32. Tom Jennings October 23, 2018 Report (VEN 133 - 134);



- 1 33. Medical records from Las Vegas Radiology, pertaining to Plaintiff (LVR 001 - 002)  
2 (radiology films on 5 CDs are available for inspection upon request);  
3 34. Medical and billing records from Desert Institute of Spine Care, pertaining to Plaintiff  
4 (DISC 001 - 050) (radiology films on CD is available for inspection upon request);  
5 35. Ticket Broker Agreement with Invoices (VEN 135 - 268); and  
6 36. Medical and billing records from Shadow Emergency Physicians, pertaining to Plaintiff  
7 (SEP 001 - 042).  
8 37. **Billing records from Las Vegas Radiology, pertaining to Plaintiff (LVR 003 - 013);**  
9 **and**  
10 38. **Prior Incidents from 11.04.13 - 11.04.16 (VEN 269 - 928).**

11 Defendants reserve the right to supplement this document disclosure pursuant NRCP 16.1.  
12 Defendants further reserve the right to use any document or item identified by Plaintiffs at any time  
13 in the course of this litigation.

14 **Witnesses**

15 *(Updated Information in Bold)*

- 16 1. Louie Calleros  
17 2557 Land Rush Dr.  
18 Henderson NV 89002  
19 (702) (702) 414-9956

20 This witness was a Venetian front desk employee present when the subject incident  
21 occurred and is expected to testify as to facts and circumstances surrounding this controversy. *This*  
22 *witness is to be contacted only through defense counsel for the exception of service of a subpoena.*

- 23 2. Rafael Chavez  
24 c/o Royal & Miles LLP  
25 1522 W. Warm Springs Rd.  
26 Henderson, NV 89014  
27 (702) 471-6777

28 This witness responded to the subject incident as a Venetian facilities employee and is  
expected to testify of facts and circumstances surrounding this controversy. *This witness is to be*  
contacted only through defense counsel for the exception of service of a subpoena.

///

///

1 3. Warren Church, Jr.  
2 Brand Las Vegas, LLC  
3 3130 S Rainbow Blvd Suite 305  
4 Las Vegas, NV 89146  
5 (702) 538-9000

6 This witness is believed to have been Plaintiff's employer at the time of the subject incident  
7 and is expected to testify about Plaintiff's employment, including but not limited to Plaintiff's  
8 claim for loss of earnings, and other facts and circumstances surrounding this controversy.

9 4. Maria Cruz  
10 911 Melrose Dr.  
11 Las Vegas, NV 89101  
12 (702) 504-1742

13 This witness was a Venetian PAD employee assigned to patrol the area in question and  
14 responded to the scene, and is expected to testify as to facts and circumstances surrounding this  
15 controversy. *This witness is to be contacted only through defense counsel for the exception of*  
16 *service of a subpoena.*

17 5. Milan Graovac  
18 7660 W. Eldorado Ln. #140  
19 Las Vegas, NV 89113

20 This witness was a Venetian PAD employee assigned to the area in question and responded  
21 to the scene, and is expected to testify as to facts and circumstances surrounding this controversy.  
22 *This witness is to be contacted only through defense counsel for the exception of service of a*  
23 *subpoena.*

24 6. Sang Han  
25 9997 Heritage Desert St.  
26 Las Vegas, NV 89178  
27 (702) 607-2262

28 This witness was a Venetian Housekeeping executive present at the scene shortly after the  
incident and is expected to testify as to facts and circumstances surrounding this controversy. *This*  
*witness is to be contacted only through defense counsel for the exception of service of a subpoena.*

7. Chris Johnson  
8445 Las Vegas Blvd. So, #2106  
Las Vegas, NV 89123  
(702) 241-2302

This witness was a Venetian responding security officer and is expected to testify as to facts  
and circumstances surrounding this controversy. *This witness is to be contacted only through*  
*defense counsel for the exception of service of a subpoena.*

1 8. Joe Larson, EMT  
2 3339 Horned Lark Court  
3 Las Vegas, NV 89117  
4 619-961-8167

5 This witness was the responding/reporting Venetian security EMT and is expected to testify  
6 as to facts and circumstances surrounding this controversy. *This witness is to be contacted only*  
7 *through defense counsel for the exception of service of a subpoena.*

8 9. David Martinez  
9 517 North Yale St.  
10 Las Vegas, NV 89107  
11 (702) 878-2504

12 This witness was a Venetian PAD employee responding to the incident area in question and  
13 is expected to testify as to facts and circumstances surrounding this controversy. *This witness is to*  
14 *be contacted only through defense counsel for the exception of service of a subpoena.*

15 10. Joyce Sekera  
16 c/o THE GALLIHER LAW FIRM  
17 1850 E. Sahara Avenue, Suite 107  
18 Las Vegas, NV 89014

19 This witness is the Plaintiff in this matter and is expected to testify about claims set forth in  
20 the Complaint and to other facts and circumstances surrounding this controversy.

21 11. Gary Shulman  
22 10263 Jamapa Dr.  
23 Las Vegas, NV 89178-4028  
24 (702) 487-2207

25 This witness was a Venetian table games supervisor present when the subject incident  
26 occurred and is expected to testify as to facts and circumstances surrounding this controversy. *This*  
27 *witness is to be contacted only through defense counsel for the exception of service of a subpoena.*

28 12. Brand Las Vegas, LLC, NRCP 30(b)(6)  
3130 S Rainbow Blvd Suite 305  
Las Vegas, Nevada 89146.  
(702) 538-9000

This witness is believed to have been Plaintiff's employer at the time of the subject incident  
and is expected to testify about Plaintiff's employment, including but not limited to Plaintiff's  
claim for loss of earnings, Plaintiff's workers compensation claim, and issues surrounding the  
tenancy of Brand Las Vegas, LLC, and other facts and circumstances surrounding this controversy.

///

///

1 13. Centennial Hills Hospital, NRCP 30(b)(6)  
2 6900 N Durango Dr.  
3 Las Vegas, NV 89149  
4 (702) 835-9700

5 This witness is expected to testify about examination and treatment of the Plaintiff in this  
6 matter following the subject incident and to other facts and circumstances surrounding this  
7 controversy.

8 14. Shadow Emergency Physicians, NRCP 30(b)(6)  
9 620 Shadow Ln.  
10 Las Vegas, NV 89106  
11 (800) 355-2470

12 This witness is expected to testify about examination and treatment of the Plaintiff in this  
13 matter following the subject incident and to other facts and circumstances surrounding this  
14 controversy.

15 15. Desert Radiologists, NRCP 30(b)(6)  
16 3920 S Eastern Ave.  
17 Las Vegas, NV 89119  
18 (702) 759-8600

19 This witness is expected to testify about examination and treatment of the Plaintiff in this  
20 matter following the subject incident and to other facts and circumstances surrounding this  
21 controversy.

22 16. Desert Chiro. & Rehab/Core Rehab, NRCP 30(b)(6)  
23 7810 W Ann Rd, 110  
24 Las Vegas, NV 89149  
25 (702) 463-9508

26 This witness is expected to testify about examination and treatment of the Plaintiff in this  
27 matter following the subject incident and to other facts and circumstances surrounding this  
28 controversy.

29 17. Las Vegas Radiology, NRCP 30(b)(6)  
30 7500 Smoke Ranch Rd #100  
31 Las Vegas, NV 89128  
32 (702) 254-5004

33 This witness is expected to testify about examination and treatment of the Plaintiff in this  
34 matter following the subject incident and to other facts and circumstances surrounding this  
35 controversy.

36 ///

37 ///



1 18. Southern Nevada Medical Group, NRCP 30(b)(6)  
2 1485 E Flamingo Rd.  
3 Las Vegas, NV 89119  
4 (702) 386-0882

5 This witness is expected to testify about examination and treatment of the Plaintiff in this  
6 matter following the subject incident and to other facts and circumstances surrounding this  
7 controversy.

8 19. Radar Medical Group, NRCP 30(b)(6)  
9 2628 W Charleston Blvd.  
10 Las Vegas, NV 89102  
11 (702) 644-0500

12 This witness is expected to testify about examination and treatment of the Plaintiff in this  
13 matter following the subject incident and to other facts and circumstances surrounding this  
14 controversy.

15 20. Paylater Pharmacy, NRCP 30(b)(6)  
16 552 E Charleston Blvd.  
17 Las Vegas, NV 89104  
18 (702) 852-6600

19 This witness is expected to testify about examination and treatment of the Plaintiff in this  
20 matter following the subject incident and to other facts and circumstances surrounding this  
21 controversy.

22 21. Las Vegas Pharmacy, NRCP 30(b)(6)  
23 2600 W Sahara Ave # 120  
24 Las Vegas, NV 89102  
25 (702) 220-3906

26 This witness is expected to testify about examination and treatment of the Plaintiff in this  
27 matter following the subject incident and to other facts and circumstances surrounding this  
28 controversy.

29 22. Pain Institute of Nevada, NRCP 30(b)(6)  
30 7435 W Azure Dr #190  
31 Las Vegas, NV 89130  
32 (702) 878-8252

33 This witness is expected to testify about examination and treatment of the Plaintiff in this  
34 matter following the subject incident and to other facts and circumstances surrounding this  
35 controversy.

36 ///

37 ///

1 23. Valley View Surgery Center, NRCP 30(b)(6)  
2 1330 S. Valley View Blvd.  
3 Las Vegas, NV 89102  
4 (702) 675-3276

5 This witness is expected to testify about examination and treatment of the Plaintiff in this  
6 matter following the subject incident and to other facts and circumstances surrounding this  
7 controversy.

8 24. Steinberg Diagnostics, NRCP 30(b)(6)  
9 800 N Gibson Rd., Suite 110  
10 Henderson, NV 89011  
11 (702) 732-6000

12 This witness is expected to testify about examination and treatment of the Plaintiff in this  
13 matter following the subject incident and to other facts and circumstances surrounding this  
14 controversy.

15 25. Desert Institute of Spine Care, NRCP 30(b)(6)  
16 56 N Pecos Rd.  
17 Henderson, NV 89074  
18 (702) 630-3472

19 This witness is expected to testify about examination and treatment of the Plaintiff in this  
20 matter following the subject incident and to other facts and circumstances surrounding this  
21 controversy.

22 26. Plaintiff's Workers Compensation Insurer, NRCP 30(b)(6)  
23 Address Unknown

24 This witness is expected to testify about Plaintiff's course of medical care and benefits  
25 provided following the subject incident and to other facts and circumstances surrounding this  
26 controversy.

27 27. Venetian Casino Resort, LLC - NRCP 30(b)(6)  
28 c/o Royal & Miles LLP  
1522 W. Warm Springs Rd.  
Henderson, NV 89014  
(702) 471-6777

This witness is expected to testify regarding employees identified in the surveillance  
footage (identified as VEN 019), Venetian's security report, PAD cleaning activities, and to other  
facts and circumstances surrounding this controversy. *This witness is to be contacted only through  
defense counsel for the exception of service of a subpoena.*

28 28. Western Regional Center for Brain & Spine, NRCP 30(b)(6)  
3061 S. Maryland Pkwy., Suite 200  
Las Vegas, NV 89109

1 This witness is expected to testify about examination and treatment of the Plaintiff in this  
2 matter following the subject incident and to other facts and circumstances surrounding this  
3 controversy.

4 Defendants reserve the right to supplement this witness disclosure pursuant NRCP 16.1.  
5 Defendants further reserve the right to call any witness identified by Plaintiffs at any time in the  
6 course of this litigation.

7 **COMPUTATION OF DAMAGES**  
8 ***(Updated Information in Bold)***

9 Defendant reserves the right to seek reimbursement of any incurred attorneys' fees and costs  
10 and permitted under applicable law.

11 **INSURANCE**  
12 ***(Updated Information in Bold)***

13 Defendant is in the process of obtaining a copy of its policy and will supplement  
14 accordingly.

15 DATED this 3 day of January, 2019.

16 **ROYAL & MILES LLP**

17 By: 

18 Michael A. Royal, Esq.

19 Nevada Bar No. 4370

20 Gregory A. Miles, Esq.

21 Nevada Bar No. 4336

22 1522 W. Warm Springs Road

23 Henderson, NV 89014

24 Attorneys for Defendants

25 VENETIAN CASINO RESORT, LLC and

26 LAS VEGAS SANDS, LLC

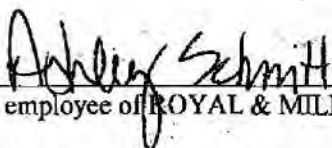
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 4 day of January, 2019, and pursuant to NRCP 5(b), I caused a true and correct copy of the foregoing **FIFTH SUPPLEMENT TO DEFENDANTS' 16.1 LIST OF WITNESSES AND PRODUCTION OF DOCUMENTS FOR EARLY CASE CONFERENCE** to be served as follows:

- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ to be served via facsimile; and/or
- ☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or
- ☐ to be hand delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Keith E. Galliher, Jr., Esq.  
THE GALLIHER LAW FIRM  
1850 E. Sahara Avenue, Suite 107  
Las Vegas, NV 89014  
*Attorneys for Plaintiff*  
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*Steven D. Grierson*

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*Attorneys for Defendants*

*VENETIAN CASINO RESORT, LLC and*

*LAS VEGAS SANDS, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a  
THE VENETIAN LAS VEGAS, a Nevada  
Limited Liability Company; LAS VEGAS  
SANDS, LLC d/b/a THE VENETIAN LAS  
VEGAS, a Nevada Limited Liability Company;  
YET UNKNOWN EMPLOYEE; DOES I  
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: XXV

*Before the Discovery Commissioner*

**DEFENDANTS' MOTION FOR PROTECTIVE ORDER**

COMES NOW, Defendants, VENETIAN CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC (collectively referenced herein as *Venetian*), by and through their counsel, ROYAL & MILES LLP, and hereby submits the following Motion for Protective Order.

///

///

///

ROYAL & MILES LLP

1522 W Warm Springs Road

Henderson NV 89014

Tel: (702) 471-6777 • Fax: (702) 531-6777

1 This Motion is based on the pleadings and papers on file, the memorandum of points and  
2 authorities contained herein, the affidavit of counsel, the attached exhibits and any argument permitted  
3 by this Court at the time set for hearing.

4 DATED this 1 day of February, 2019.

5 ROYAL & MILES LLP

6  
7 By 

8 MICHAEL A. ROYAL, ESQ.  
9 Nevada Bar No. 4370  
10 1522 W. Warm Springs Rd.  
11 Henderson, NV 89014  
12 Attorney for Defendants  
13 VENETIAN CASINO RESORT, LLC and  
14 LAS VEGAS SANDS, LLC

15 **NOTICE OF MOTION**

16 TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

17 PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing  
18 DEFENDANT'S MOTION FOR PROTECTIVE ORDER, on for hearing before the Discovery  
19 Commissioner on the    day of March 8, 2019, at the hour of 9:00 a.m. of said day,  
20 or as soon thereafter as counsel can be heard.

21 DATED this 1 day of February, 2019.

22 ROYAL & MILES LLP

23 By 

24 MICHAEL A. ROYAL, ESQ.  
25 Nevada Bar No. 4370  
26 1522 W. Warm Springs Rd.  
27 Henderson, NV 89014  
28 Attorney for Defendants  
VENETIAN CASINO RESORT, LLC and  
LAS VEGAS SANDS, LLC

**DECLARATION OF MICHAEL A. ROYAL, ESQ.**

STATE OF NEVADA       )  
                                  ) ss.  
COUNTY OF CLARK     )

MICHAEL A. ROYAL, ESQ., being first duly sworn, under oath deposes and states:

1. I am an attorney duly licensed to practice law in the State of Nevada and I am counsel for Venetian in connection with the above-captioned matter. I have personal knowledge of the following facts and if called upon could competently testify to such facts.

2. I further declare that the exhibits identified in Venetian's Motion For Protective Order, as outlined below, are true and correct copies of documents produced in this matter.

3. This action arises out of an alleged incident involving a floor in a lobby area of the Venetian hotel on November 4, 2016.

4. That on or about August 16, 2018, Plaintiff served Plaintiff's Request for Production of Documents and Materials to Defendant in which Plaintiff requested reports related to slip and falls occurring within three years preceding the subject incident. (See Exhibit A, attached hereto, No. 7.)

5. That on or about December 17, 2018, I sent email correspondence to Mr. Galliher advising that documents were ready for production, but that Venetian would like an NRCP 26(c) protection order associated with the production to limit its use to the pending litigation. (See Exhibit B, *Email Correspondence Between Michael Royal, Esq., and Keith Galliher, Esq.*, dated December 18, 2018, with enclosure.)

6. That Mr. Galliher and I shortly thereafter discussed Venetian's proposal in a telephone conference, which was rejected by Mr. Galliher.

7. That Venetian produced a total of sixty-four (64) prior incident reports in response to Plaintiff's request on or about January 4, 2019, with names, contact information, personal information



1 (i.e. DOB/SSN), and scene photographs redacted to protect the privacy of prior guests involved in these  
2 incidents since Plaintiff would not agree to a protective order.

3 8. That Mr. Galliher thereafter contacted me to discuss his objection to Venetian having  
4 provided redacted reports, and we once again discussed Venetian's agreement to provide unredacted  
5 documents with a Rule 26(c) stipulation. Mr. Galliher explained that, in his view, any person involved  
6 in one of the disclosed prior incidents on Venetian property is a potential witness in this case. He  
7 further stated his intention to contact any or all of the persons involved in the prior incidents. I  
8 expressed concern that the information relating to these non-party patrons could not only be improperly  
9 used in this litigation, but that it could also be passed along to other counsel or persons wholly  
10 unrelated to this action and used for other purposes (subjecting these guests to further intrusions into  
11 their privacy). After respectfully considering my stated concerns, Mr. Galliher and I were unable to  
12 reach an agreement.  
13

14 9. That on January 23, 2019, I sent correspondence to Mr. Galliher again outlining  
15 Venetian's position and offering to resolve this dispute by requesting a phone conference with the  
16 Discovery Commissioner. (See Exhibit C, *Correspondence from Michael Royal, Esq., to Keith*  
17 *Galliher, Esq.*, dated January 23, 2019.) Shortly thereafter, Mr. Galliher contacted me by phone and  
18 agreed to have my office reach out to the Discovery Commissioner's office as suggested in an effort  
19 to resolve this dispute expeditiously.  
20

21 10. That my office was subsequently advised by the Discovery Commissioner's office that  
22 a phone conference to resolve this dispute could not be arranged, but that a motion would need to be  
23 filed.  
24

25 11. That on January 29, 2019, I advised Mr. Galliher that a motion would need to be filed,  
26 and that the sole issue from Venetian's perspective is its desire for a Rule 26(c) protective order.  
27  
28

1 (See Exhibit D, *Email Correspondence from Michael Royal, Esq., to Keith Galliher, Esq.*, dated  
2 January 29, 2019.)

3 12. That I have complied with the requirements of EDCR 2.34 in good faith and that,  
4 despite meaningful discussions held with Mr. Galliher, the parties were unable to resolve this discovery  
5 dispute regarding the subject non-party identification information.

6 Executed on 1 day of February, 2019.

7  
8   
9 Michael A. Royal, Esq.

10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11  
12 **I.**

13 **STATEMENT OF FACTS**

14 This litigation arises from a November 4, 2016 incident occurring when Plaintiff slipped and  
15 fell in a lobby area of the Venetian while taking a break from her work station where she was employed  
16 as a salesperson for a vendor leasing space in the Grand Canal Shops. The cause of Plaintiff's fall is  
17 in dispute, as Venetian denies that there was any foreign substance on the floor at the time the incident  
18 occurred.

19  
20 In the course of discovery, Plaintiff requested that Venetian provide three (3) years of prior  
21 incident reports. (See Exhibit A, attached hereto.) Venetian produced sixty-four (64) incident reports  
22 in redacted form (nearly 650 pages of documents), as Plaintiff would not agree to execute a stipulation  
23 and order to protect the information pursuant to NRCP 26(c). Plaintiff now demands that all of the  
24 nearly 650 pages produced responsive to her request be unredacted without providing the requested  
25 protection by Venetian.  
26  
27  
28

II.

ARGUMENT

Rule 26, Nevada Rules of Civil Procedure, governs the scope of discovery, and provides for protection of both parties and other persons, against annoyance, embarrassment, oppression, or undue burden or expense. More specifically, NRCP 26(b)(1) provides as follows:

*Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.*

Rule 26(c), Nevada Rules of Civil Procedure, reads as follows in pertinent part:

**Protective Orders.** *Upon motion by a party or by the person from whom discovery is sought, accompanied by a certification that the movant has in good faith conferred or attempted to confer with the other affected parties in an effort to resolve the dispute without court action, and for good cause shown, the court in which the action is pending may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:*

- (1) that the discovery not be had;*
- (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;*
- (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;*
- (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;*
- (5) that discovery be conducted with no one present except persons designated by the court;*
- (6) that a deposition after being sealed be opened only by order of the court;*
- (7) that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way;*
- (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.*

The objective of discovery rules is to limit discovery to relevant matters, and to prevent "fishing expeditions" by restricting litigants to discovery that only implicates matters raised by them in the pleadings. (See FED. R. CIV. P. 26(b), Advisory Committee Note, Amendments to Federal Rules

1 of Civil Procedure, at 388-90). Pursuant to the Nevada Rules of Civil Procedure, the court in which  
2 the action is pending may make any order/recommendation which justice requires to protect a party  
3 so that certain discovery abuses do not occur. (See NRCP 26). The compulsion of production of  
4 irrelevant information is an inherently undue burden. (See *Jimenez v. City of Chicago*, 733 F. Supp.  
5 2d 1268, 1273 (W.D. Wash. 2010) (citing, *Compaq Computer Corp. v. Packard Bell Elecs.*, 163  
6 F.R.D. 329, 335-336 (N.D.Cal.1995)).

7  
8 A. **This is the kind of circumstance NRCP 26(c) is designed to address**

9 In the instant case, Plaintiff is using discovery in a manner that is unduly burdensome by  
10 requesting the production of personal and sensitive information from non-parties to this action;  
11 information which is not otherwise relevant to any claims or defenses of this case. Plaintiff is  
12 demanding the production of personal identification information, including Social Security numbers,  
13 dates of birth, driver's license numbers, home addresses, and telephone numbers of individuals who  
14 do not have any personal knowledge of the incident at issue. Once produced, this identification  
15 information would be used to correlate non-parties with sensitive health information included in the  
16 previously produced incident reports. It is not disputed by Plaintiff that the individuals involved in the  
17 prior incidents are not parties to this action, and are not percipient witnesses to Plaintiff's alleged  
18 accident.  
19

20 Plaintiff cannot reasonably articulate how the identity of individuals involved in prior incidents  
21 on Venetian's premises, with no relation to Plaintiff's case, could be relevant to any issue of Plaintiff's  
22 claim. Plaintiff's personal injury litigation stems from the allegation that Plaintiff slipped and fell on  
23 a marble floor. Individuals involved in prior slip-and-fall incidents would be unable to provide any  
24 information regarding the alleged hazard which Plaintiff contends caused her fall. Reports of prior slip  
25 and fall incidents, which occurred on different circumstances, and on different dates, in different areas  
26 of the property have no relevancy to the issue of whether Venetian had notice of any condition  
27  
28



1 contributing to Plaintiff's fall on November 4, 2016. (See *Eldorado Club, Inc. v. Graff*, 78 Nev. 507  
2 (1962); *Southern Pac. Co. v. Harris*, 80 Nev. 426, 431 (1964).)

3 All that stated, it is important to note that Venetian is not objecting to providing Plaintiff  
4 with unredacted copies of prior incident reports, despite the fact that Venetian insists the  
5 personal information of prior guests is not at all relevant to any issues regarding the subject  
6 incident.<sup>1</sup> Venetian simply wants to keep all such information protected by order of the court  
7 under NRCP 26(c) to ensure that it remains solely within the scope of this litigation. Venetian's  
8 concern is that such information can be disseminated to the public in a multitude of ways, and passed  
9 onto other persons having nothing to do with this litigation, thereby subjecting the persons identified  
10 herein to multiple contacts by persons, who have access to their personal information, including events,  
11 injuries, care provided, etc.  
12

13  
14 **B. The policy interests of protecting the confidential personal information outweigh the  
15 alleged need for discovery in this case**

16 Even where inquiries could reasonably lead to the discovery of admissible evidence, courts  
17 must still balance the proponent's interest in discovery of the information against any legitimate interest  
18 of the other party. Further, discovery requests should be specifically tailored to result in the production  
19 of materials relevant to the claims at issue, rather than broadly drafted in the hopes of uncovering  
20 relevant information. "[Nevada's] discovery rules provide no basis for [a carte blanche] invasion into  
21 a litigant's private affairs merely because redress is sought for personal injury." *Schlatter v. Eighth*  
22 *Judicial Dist. Court*, 93 Nev. 189, 192 (1977). "[T]he initiation of a lawsuit, does not, by itself, grant  
23 plaintiffs the right to rummage unnecessarily and unchecked through the private affairs of anyone they  
24 choose. A balance must be struck." (*Ragge v. MCA/Universal Studios*, 165 F.R.D. 601, 605 (C.D.  
25

26  
27  
28 <sup>1</sup>Recall that Venetian contends that Plaintiff's fall had nothing to do with a foreign substance  
being on the floor; regardless, Venetian provided Plaintiff with sixty-four (64) prior incidents involving  
a foreign substance on the floor.

1 Cal. 1995) (quoting *Cook v. Yellow Freight Sys., Inc.*, 132 F.R.D. 548,551 (E.D. Cal. 1990)).  
2 Discovery based on mere suspicion or speculation is nothing more than the proverbial "fishing  
3 expedition." (See, *Mackelprang v. Fid. Nat'l Title Agency of Nev.*, 2007 U.S. Dist. LEXIS 2379, \*7  
4 (D. Nev. Jan. 9, 2007); see also, *Costella v. Clark*, 2009 U.S. Dist. LEXIS 120566, \*5 (N.D. Cal.  
5 Dec. 7, 2009).)

6  
7 Where privacy concerns are implicated by discovery requests, the party requesting such  
8 information "must show that the value of the information sought would outweigh the privacy interests  
9 of the affected individuals." (*Case v. Platte County*, No. 8:03CV160, 2004 WL 1944777, at \*2 (D.  
10 Neb. June 11, 2004); see also, *Walters v. Breaux*, 200 F.R.D. 271, 274 (W.D. La. 2001),  
11 acknowledging legitimate privacy concerns with respect to social security numbers).)

12  
13 Public policy concerns surrounding the protection of personal medical information are far  
14 reaching. Generally, public policy concerns favor the protection of individual health information.  
15 Similar privacy concerns surround the protection of other confidential information of non-parties,  
16 including individuals' Social Security numbers, unlisted telephone numbers and addresses, and dates  
17 of birth. A protective order is warranted where the requested discovery "contains highly personal  
18 information." (*Knoll v. AT&T, et al.*, 176 F.3d 359 (6th Cir. 1999) (recognizing the need for  
19 protection of information from non-parties including an individual's unlisted address and telephone  
20 number, marital status, and medical background). In addition, many courts have found that social  
21 security numbers are confidential and not reasonably calculated to lead to the discovery of [admissible  
22 evidence]. (See, e.g., *Mike v. Dymon*, No. 95-2405-EEO, 1996 WL 674007, at \*7 (D. Kan. Nov.  
23 14, 1996) ("The court does not find that requests for social security numbers and dates of birth of all  
24 individuals who provided information to answer the interrogatories are reasonably calculated to lead  
25 to the discovery of admissible evidence."); *Beasley v. First Amer. Real Estate Info. Serv., Inc.*, No.  
26 3-04-CV-1059-B, 2005 WL 1017818, at \*2 (N.D. Tex. April 27, 2005) ("[T]he social security  
27  
28

1 | *numbers of employees are confidential and not reasonably calculated to lead to the discovery of*  
2 | *admissible evidence.").*

3 |       In this case, the personal identification information withheld is arguably not otherwise relevant  
4 | to Plaintiff's claim, nor is it likely to lead to the discovery of admissible evidence. As such, the value  
5 | of the information sought arguably does not outweigh the privacy interests of the affected individuals.  
6 | **However, Venetian is nevertheless willing to produce unredacted copies with an NRCP 26(c)**  
7 | **protective order, as the incident reports at issue in this case contain the sensitive, and private**  
8 | **information of individuals who are not parties to this lawsuit, and who are not believed to have**  
9 | **any information regarding the facts or circumstances surrounding Plaintiffs allegations.**

11 |       The hundreds of pages of incident reports include home addresses, dates of birth, driver's  
12 | license numbers, and Social Security Numbers. Venetian has produced these prior reports with all  
13 | personal identification information redacted, in order to preserve the privacy of the guests. All other  
14 | information contained in the prior incident reports have been produced. Should unredacted reports be  
15 | produced without a protective order, the personal identification information, the medical information  
16 | contained in the reports, including brief medical histories of the guests, as well as other private  
17 | information, including dates and durations of the guests' stay with the hotel, injuries sustained during  
18 | the prior incidents, and the perception of consumption of alcohol of the guests at the time of the  
19 | incidents, could be used for any number of reasons by untold others wholly unrelated to this lawsuit.  
20 | If this information were so disclosed, without court ordered protection, it would likely lead to the  
21 | annoyance and aggravation of the individuals involved in prior incidents on Venetian's property;  
22 | individuals who are not believed to have any personal knowledge or information regarding any of the  
23 | facts surrounding Plaintiff's alleged incident.

26 |       Disclosure of the guest information as it pertains to this litigation alone creates an issue for  
27 | Venetian, as it is potentially detrimental to its business interests to protect the confidential information  
28 |

1 of its guests. Were Venetian to disclose this information without court ordered protection, subjecting  
2 its customers to unrelenting contact by persons uninvolved with the litigation, it would likely diminish  
3 the customer/client relationships which Venetian has extended extraordinary effort and resources  
4 establishing. There is a recognized interest in protecting the disclosure of personal client information,  
5 as unauthorized disclosure would likely be perceived negatively by customers and potential customers.  
6 (See e.g., *Gonzales v. Google, Inc.*, 234 FRD 674, 684 (N.D.CA 2006) (disclosing client information  
7 "may have an appreciable impact on the way which [the company] is perceived, and consequently the  
8 frequency with which customers use [the company]").)

10 Guests who stay at Venetian do so with an expectation that their personal information will not  
11 be disclosed or disseminated without their consent. Accordingly, Venetian respectfully requests that  
12 the private identification information of its guests involved in prior incidents be protected from  
13 disclosure by anyone not involved in this litigation as legal counsel, an expert witness, or otherwise.  
14

### 15 III.

#### 16 CONCLUSION

17 Based on the foregoing, Venetian respectfully submits that it has presented good cause to this  
18 Honorable Court to issue an order protecting the confidential personal identification information of  
19 non-parties to this action. Venetian has made every effort to reasonably cooperate with discovery,  
20 including the production of three years of prior incident reports, with guest identification information  
21 redacted. Plaintiff's request to obtain un-redacted versions of these reports without an NRCP 26(c)  
22 protective order is unreasonable. Therefore, Venetian moves this Honorable Court for a protective  
23

24 ///

25 ///

26 ///



1 order, that the unredacted information sought by Plaintiff not be disclosed for any purpose not directly  
2 related to this litigation.

3 DATED this 1 day of February, 2019.

4 ROYAL & MILES LLP

5  
6 By 

7 MICHAEL A. ROYAL, ESQ.

8 Nevada Bar No. 4370

9 1522 W. Warm Springs Rd.

10 Henderson, NV 89014

11 *Attorney for Defendants*

12 *VENETIAN CASINO RESORT, LLC and*

13 *LAS VEGAS SANDS, LLC*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 1 day of February, 2019, and pursuant to NRCP 5(b), I caused a true and correct copy of the foregoing **DEFENDANTS' MOTION FOR PROTECTIVE ORDER** to be served as follows:

\_\_\_\_\_ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

\_\_\_\_\_ to be served via facsimile; and/or

☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

\_\_\_\_\_ to be hand delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Keith E. Galliher, Jr., Esq.  
THE GALLIHER LAW FIRM  
1850 E. Sahara Avenue, Suite 107  
Las Vegas, NV 89014  
*Attorneys for Plaintiff*  
Facsimile: 702-735-0204

E-Service: [kgalliher@galliherlawfirm.com](mailto:kgalliher@galliherlawfirm.com)  
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[sray@galliherlawfirm.com](mailto:sray@galliherlawfirm.com)

  
An employee of ROYAL & MILES LLP

# EXHIBIT “A”

THE GALLIHER LAW FIRM  
1850 E. Sahara Avenue, Suite 107  
Las Vegas, Nevada 89104  
702-735-0049 Fax: 702-735-0204

1 THE GALLIHER LAW FIRM  
2 Keith E. Galliher, Jr., Esq.  
3 Nevada Bar No. 220  
4 Jeffrey L. Galliher, Esq.  
5 Nevada Bar No. 8078  
6 George J. Kunz, Esq.  
7 Nevada Bar No. 12245  
8 1850 East Sahara Avenue, Suite 107  
9 Las Vegas, Nevada 89104  
10 Telephone: (702) 735-0049  
11 Facsimile: (702) 735-0204  
12 [kgalliher@galliherlawfirm.com](mailto:kgalliher@galliherlawfirm.com)  
13 [jgalliher@galliherlawfirm.com](mailto:jgalliher@galliherlawfirm.com)  
14 [jkunz@lvlawguy.com](mailto:jkunz@lvlawguy.com)  
15 Attorneys for Plaintiffs

DISTRICT COURT  
CLARK COUNTY, NEVADA

16 JOYCE SEKERA, an Individual, )  
17 )  
18 Plaintiff, )  
19 )  
20 v. )  
21 )  
22 VENETIAN CASINO RESORT, LLC, )  
23 d/b/a THE VENETIAN LAS VEGAS, a )  
24 Nevada Limited Liability Company; )  
25 LAS VEGAS SANDS, LLC d/b/a THE )  
26 VENETIAN LAS VEGAS, a Nevada )  
27 Limited Liability Company; YET )  
28 UNKNOWN EMPLOYEE; DOES I )  
through X, inclusive, )  
Defendants. )

CASE NO.: A-18-772761-C  
DEPT. NO.: 25

PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS AND MATERIALS TO

DEFENDANT

TO: VENETIAN CASINO RESORT, LLC., Defendant; and

TO: MICHAEL A. ROYAL, ESQ. with ROYAL & MILES LLP., attorney for Defendant



1 Plaintiff, JOYCE SEKERA, by and through her attorneys, THE GALLIHER LAW FIRM,  
2 hereby makes the following Request for Production of Documents upon Defendant:

3 REQUEST NO. 1:

4 All written, oral, or recorded statements made by any party, witness, or any other person or  
5 persons with knowledge of the incident described in Plaintiff's Complaint.

6 REQUEST NO. 2:

7 Any and all accident and investigative reports, films, video tapes, charts, plats, drawings,  
8 maps or pictures and/or photographs of any kind which has, as its subject matter, the incident  
9 described in Plaintiff's Complaint.

10 REQUEST NO. 3:

11 A complete copy of the Defendants insurance carriers and/or risk management pre-litigation  
12 claim file.

13 REQUEST NO. 4:

14 The names of all expert witnesses or consultants that Defendant will use at the time of trial  
15 along with any reports produced by the same.

16 REQUEST NO. 5:

17 Any and all sweep sheets, sweep logs, or other similar documentation which reflects the  
18 maintenance and/or cleaning of the flooring located within the VENETIAN CASINO RESORT  
19 described in Plaintiff's Complaint for the day before, day of, and day after the incident described  
20 therein.

21 REQUEST NO. 6:

22 True and correct copies of any and all manuals, documents, pamphlets, flyers, or other  
23 memorandum which has, as its subject matter, the standard operating procedures with respect to the  
24

THE GALLIHER LAW FIRM  
1850 E. Sahara Avenue, Suite 107  
Las Vegas, Nevada 89104  
702-735-0049 Fax: 702-735-0204

1 maintenance, cleaning and sweeping of the floors with respect to the VENETIAN CASINO  
2 RESORT in which the fall occurred.

3 REQUEST NO. 7:

4 True and correct copies of any and all claim forms, legal actions, civil complaints,  
5 statements, security reports, computer generated lists, investigative documents or other memoranda  
6 which have, as its subject matter, slip and fall cases occurring on marble floors within the subject  
7 VENETIAN CASINO RESORT within three years prior to the incident described in Plaintiff's  
8 Complaint, to the present.

10 REQUEST NO. 8:

11 Any and all documents, information, memoranda, paperwork, or other material which relates  
12 to, establishes, or otherwise pertains to the affirmative defenses alleged by the Defendant herein.

14 REQUEST NO. 9:

15 Any surveillance video showing the Plaintiff's fall at the VENETIAN CASINO RESORT  
16 from any other angle, other than the one shown in the video surveillance produced by the  
17 Defendants thus far.

18 REQUEST NO. 10:

19 Any other witnesses, documents, or other disclosures required by NRCP 16.1.

20 DATED this 15<sup>th</sup> day of August, 2018

22 THE GALLIHER LAW FIRM

23 

25 Keith E. Galliher, Jr., Esq.  
26 Nevada Bar Number 220  
27 1850 E. Sahara Avenue, Suite 107  
28 Las Vegas, Nevada 89104  
Attorney for Plaintiff

THE GALLIHER LAW FIRM  
1850 E. Sahara Avenue, Suite 107  
Las Vegas, Nevada 89104  
702-735-0049 Fax: 702-735-0204

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of THE GALLIHER LAW FIRM and that service of a true and correct copy of the above and foregoing **REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT** was served on the 16<sup>th</sup> day of August, 2018, to the following addressed parties by:

☐ First Class Mail, postage prepaid from Las Vegas, Nevada pursuant to N.R.C.P 5(b)

☐ Facsimile, pursuant to EDCR 7.26 (as amended)

☒ Electronic Mail/Electronic Transmission

☐ Hand Delivered to the addressee(s) indicated

☐ Receipt of Copy on this \_\_\_\_\_ day of \_\_\_\_\_, 2018,

acknowledged by, \_\_\_\_\_

Michael A. Royal, Esq.  
Gregory A. Miles, Esq.  
ROYAL & MILES LLP  
1522 W. Warm Springs Road  
Henderson, Nevada 89014  
*Attorneys for Defendants*

  
\_\_\_\_\_  
An employee of THE GALLIHER LAW FIRM

# EXHIBIT “B”



---

**From:** Mike Royal  
**Sent:** Tuesday, December 18, 2018 1:16 PM  
**To:** 'Keith Galliher'  
**Cc:** Ashley Schmitt  
**Subject:** RE: VCR adv. Sekera  
**Attachments:** 04SAO Protective Order.pdf

I apologize. Here's the one I intended to enclosed. Thanks for your patience.

Mike

*Michael A. Royal, Esq.*

Royal & Miles LLP  
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Henderson, NV 89014  
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---

**From:** Keith Galliher [mailto:[kgalliher@galliherlawfirm.com](mailto:kgalliher@galliherlawfirm.com)]  
**Sent:** Tuesday, December 18, 2018 11:03 AM  
**To:** Mike Royal  
**Subject:** RE: VCR adv. Sekera

Mike: Wrong attachment . Please resend with correct one for my review. Thanks.

*Keith E. Galliher, Jr., Esq.*

THE GALLIHER LAW FIRM  
1850 E. Sahara Avenue, Ste. 107  
Las Vegas, Nevada 89104  
[kgalliher@galliherlawfirm.com](mailto:kgalliher@galliherlawfirm.com)  
Tele: 702-735-0049  
Fax: 702-735-0204

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EMAILS TO ENSURE RECEIPT. For personal emails, a follow up by telephone may be appropriate and necessary. I apologize for this inconvenience. Thank you for your cooperation.

---

**From:** Mike Royal <mroyal@royalmilesllp.com>  
**Sent:** Monday, December 17, 2018 4:20 PM  
**To:** Keith Galliher <kgalliher@galliherlawfirm.com>  
**Cc:** Stacy Ray <rray@galliherlawfirm.com>; Ashley Schmitt <ASchmitt@royalmilesllp.com>  
**Subject:** VCR adv. Sekera

Keith:

I have now completed gathering and reviewing the prior incident reports, but my client would like Rule 26(c) stip/order prior to disclosure. Will you please review the enclosed and advise if this is acceptable? If not, please relay any desired changes. Thanks.

Mike

*Michael A. Royal, Esq.*

Royal & Miles LLP  
1522 W. Warm Springs Rd.  
Henderson, NV 89014

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ROYAL & MILES LLP

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Tel: (702) 471-6777 • Fax: (702) 531-6777

1 **SAO**

2 Michael A. Royal, Esq.

3 Nevada Bar No. 4370

4 Gregory A. Miles, Esq.

5 Nevada Bar No. 4336

6 **ROYAL & MILES LLP**

7 1522 West Warm Springs Road

8 Henderson Nevada 89014

9 Tel: (702) 471-6777

10 Fax: (702) 571-6777

11 Email: [mroyal@royalmilesllp.com](mailto:mroyal@royalmilesllp.com)

12 *Attorneys for Defendants*

13 *VENETIAN CASINO RESORT, LLC and*

14 *LAS VEGAS SANDS, LLC*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 JOYCE SEKERA, an Individual;

18 Plaintiff,

19 v.

20 VENETIAN CASINO RESORT, LLC, d/b/a  
21 THE VENETIAN LAS VEGAS, a Nevada  
22 Limited Liability Company; LAS VEGAS  
23 SANDS, LLC d/b/a THE VENETIAN LAS  
24 VEGAS, a Nevada Limited Liability Company;  
25 YET UNKNOWN EMPLOYEE; DOES I  
26 through X, inclusive,

27 Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: 24

28 **STIPULATION AND ORDER FOR PROTECTION PURSUANT TO NRCP 26(C)**

29 COMES NOW Plaintiff JOYCE SEKERA, by and through her counsel of record, Keith E.  
30 Galliher, Jr., Esq., of The Galliher Law Firm, and Defendants, VENETIAN CASINO RESORT, LLC,  
31 and LAS VEGAS SANDS, LLC (collectively referenced as *VENETIAN*), by and through their counsel  
32 of record, Michael A. Royal, Esq., of ROYAL & MILES LLP, and hereby stipulate that the following  
33 be hereby entered as an ORDER by this Honorable Court:



1       Whereas, Plaintiff has requested production of information from Venetian relating to prior  
2 incidents occurring on the VCR property; and,

3       Whereas, certain of the information requested by Plaintiff is held out and treated by Venetian  
4 as proprietary and confidential, to and including mode of operation of security and its response to  
5 incidents involving Venetian guests; and

6       Whereas, Venetian desires to protect the privacy of the above-referenced information; and

7       Whereas, in order (1) to facilitate Plaintiff's request and need for the information in this matter;  
8 (2) to avoid the cost and expense of a discovery dispute with the Court; and (3) to protect the  
9 proprietary and confidential nature of the information, Plaintiff and her counsel agree to the following  
10 terms of confidentiality.  
11

12       1.     Any and all information produced by Venetian regarding its reports related to prior  
13 incidents shall be protected under seal pursuant to NRCP 26(c) and preserved as confidential;

14       2.     Plaintiff and her counsel will not reveal or release the confidential information to any  
15 person or entity not involved in this matter;

16       3.     In the event that the subject confidential information is exchanged to Plaintiff and her  
17 counsel, Plaintiff and her counsel will take reasonable steps to preserve the confidentiality of the  
18 information, including a requirement that other counsel abide by the terms of this stipulation and order;

19       4.     Plaintiff will destroy, or return to Venetian's counsel, all existing electronic and hard  
20 copies of the confidential information at the conclusion of the subject litigation;

21       5.     Plaintiff and her counsel will not use or caused to be used the confidential information  
22 in any other action in which Venetian is a party; and,

23       6.     In the event that Plaintiff and her counsel determine it necessary to submit or refer to  
24 the confidential information in filings with the Court in this matter, they will take reasonable steps to  
25 preserve the confidentiality of the information in the process of doing so.  
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IT IS SO AGREED.

DATED this \_\_\_\_ day of December, 2018.

**ROYAL & MILES LLP**

\_\_\_\_\_  
Michael A. Royal, Esq.  
Nevada Bar No. 4370  
Gregory A. Miles, Esq.  
Nevada Bar No. 4336  
1522 W. Warm Springs Road  
Henderson, NV 89014  
*Attorneys for Defendants*

DATED this \_\_\_\_ day of December, 2018.

**THE GALLIHER LAW FIRM**

\_\_\_\_\_  
Keith E. Galliher, Jr., Esq.  
Nevada Bar No. 220  
1850 E. Sahara Avenue, Suite 107  
Las Vegas, NV 89014  
*Attorneys for Plaintiff*

**ORDER**

IT IS SO ORDERED.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
DISTRICT COURT JUDGE

# EXHIBIT “C”

Michael A. Royal\*  
Gregory A. Miles\*

Attorneys at Law



ROYAL & MILES LLP

1522 W. Warm Springs Road  
Henderson, NV 89014

Telephone:  
702.471.6777

Facsimile:  
702.531.6777

Email:  
[ma@rmllp.com](mailto:ma@rmllp.com)

January 23, 2019

Sent Via US Mail &

Facsimile: 702-735-0204

Keith E. Galliher, Jr., Esq.

THE GALLIHER LAW FIRM

1850 E. Sahara Avenue, Suite 107

Las Vegas, NV 89104

Attorney for Plaintiff

Re: Venetian adv. Sekera, Joyce  
Our File No.: 3837-18

Keith:

This follows my correspondence of December 17, 2018 regarding the prior incident reports and my client's request for a protective order under NRC 26(c), and our two subsequent discussions on the subject, the latest being last Thursday. For clarification, I initially requested that your client agree to keep information provided regarding prior incident reports strictly within the scope of this litigation. As I have related, my client is concerned about protecting the privacy of its injured guests, who may not wish to be contacted by multiple attorneys unaffiliated with this matter. I understand your desire to name these patrons as witnesses in this matter and contact them for purposes of this litigation, per our discussion last week, and my client respects your position in that regard. However, its concern remains what happens to these unredacted reports if they are allowed to be passed around to persons who are not part of this litigation, exposing their personal information to be potentially shared via email, posted online, or stored in some kind of repository. As you know, these reports contain information not just about prior incidents, but also about injury complaints, initial examinations by responding EMTs, many have executed medical releases, and other private information.

My client will therefore agree to provide unredacted reports to you (with the exception of social security numbers, per our discussion last week) with an agreement by your client to keep all information protected, to be used only within the confines of this litigation. That addresses all of your stated concerns - allowing you to contact all patrons, interview and take statements from them, name them as witnesses, and present them to testify as permitted by the court. It also addresses my client's concern regarding the protection of patron privacy by limiting such contact

VEN 079

ROYAL & MILES LLP

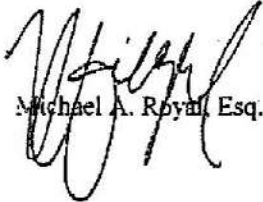
Keith E. Galliher, Jr., Esq.  
January 23, 2019  
Page 2

and involvement to this particular litigation. I believe this proposed compromise is reasonable in light of the privacy concerns expressed by my client.

I have depositions this afternoon, but I am certainly open to discussing this further in an effort to reach a resolution without having to bring the matter before the Discovery Commissioner. Would you be amenable to requesting a phone conference with the Discovery Commissioner to address this more expeditiously rather than filing a motion? Whatever the case, thank you for taking time to work with me on this matter.

Very truly yours,

ROYAL & MILES LLP



Michael A. Royal, Esq.

MAR/as



4505133900

P.01/01

## TRANSACTION REPORT

JAN/23/2019/WED 11:38 AM

FAX(TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	JAN/23	11:37AM	7027350204	0:01:17	3	MEMORY OK	RCM 4498

Michael A. Royal\*  
Gregory A. Miles\*  
\*Also Admitted in Utah



ROYAL &amp; MILES LLP

1522 W. Warm Springs Road  
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Telephone:  
702-471-6777

Fax/Facsimile:  
702-531-6777

E-Mail:  
mroyal@royal-miles.com

## FAX COVER SHEET

To: Keith E. Galliher, Jr., Esq.  
THE GALLIHER LAW FIRM      Fax No: 702-735-0204

From: Michael A. Royal, Esq.  
Assistant: Ashley Schmitt

Date: January 23, 2019

File No: 3837-18

Subject: Venetian adv. Sekera

Number of Pages 3  
(including cover):

Message: Please see attached correspondence dated January 23, 2019; your immediate attention is appreciated. Thank you!

NOTE: If you experience any problems in receiving this transmission, please call (702) 471-6777. If we do not hear from you, we will assume that you have received all pages, and that they are legible.

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VEN 081

# EXHIBIT “D”

---

**From:** Mike Royal  
**Sent:** Tuesday, January 29, 2019 11:32 AM  
**To:** 'kgallier@gallierlawfirm.com'  
**Cc:** Ashley Schmitt; sray@gallierlawfirm.com  
**Subject:** VCR adv. Sekera  
  
**Importance:** High

Keith:

Our office contacted the Discovery Commissioner's office and, unfortunately, we have been advised that a she will not hear this dispute via a phone conference, but that a motion must be filed. I can just file a motion for protective order to get it in front of the court. However, if you prefer to do it by motion to compel, that is fine, as well. I will respond with a countermotion for protective order. As we have discussed, that's my client's sole issue. It simply wants a protective order to ensure that unredacted documents produced with information of other incidents involving its guests are used solely for this litigation. If you reconsider, and will agree to that requested stipulation, we can resolve this today. Please advise.

Regards,

Mike

*Michael A. Royal, Esq.*

Royal & Miles LLP  
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**DECLARATION OF PETER GOLDSTEIN**

I, Peter Goldstein, declare as follows:

1. I am an attorney duly licensed to practice law in Nevada and am counsel of record for Plaintiff. I have personal knowledge of all matters stated herein that I know to be true.

2. The exhibits attached hereto are true and correct copies of the originals of those documents that I have kept in my office file for this matter in the ordinary course of business.

Exhibit 1 is the Discovery Commissioner's Report and Recommendations from May 2, 2018.

Exhibit 2 is the Discovery Commissioner's Report and Recommendations from October 31, 2018.

Exhibit 3 is a spreadsheet documenting the incident reports disclosed to Plaintiff in the Smith v. Venetian case.

Exhibit 4 is a spreadsheet documenting incident reports from Sekera v. Venetian and a column of what was not disclosed in Smith v. Venetian.

Exhibit 5 is Plaintiff's proposed Order regarding the Defendant's Objection to the Discovery Commissioner's Report and Recommendation, as well as correspondence with my office and the Defense, which has gone unanswered.

3. Defendant has failed to produce any video footage.

4. Defendant has failed to produce any incident reports from 2011 - 2013.

5. Mr. Keith Gallagher provided additional incident reports of slip and falls on marble floors on property, produced by the Venetian in the case Sekera v. Venetian, Case No. A-18-772761-C, on February 7, 2019.

6. I can provide PDF copies of all incident reports disclosed in the Smith v. Venetian and Sekera v. Venetian cases, if required by the Court.

7. Defendant has refused to discuss the admissibility of prior reports.

8. Defendant has refused to respond to the proposed order, submitted to them on February 4, 2019.



1  
2 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and  
3 correct.

4  
5 Dated February 13, 2019 at Las Vegas, Nevada.

6  
7  
8 Signed: 

9 Peter Goldstein, Declarant  
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*Steven D. Grierson*

**ROPP**

Michael A. Royal, Esq.

Nevada Bar No. 4370

Gregory A. Miles, Esq.

Nevada Bar No. 4336

**ROYAL & MILES LLP**

1522 West Warm Springs Road

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Tel: (702) 471-6777

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Email: [mroyal@royalmilesllp.com](mailto:mroyal@royalmilesllp.com)

*Attorneys for Defendants*

**VENETIAN CASINO RESORT, LLC and**

**LAS VEGAS SANDS, LLC**

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a  
THE VENETIAN LAS VEGAS, a Nevada  
Limited Liability Company; LAS VEGAS  
SANDS, LLC d/b/a THE VENETIAN LAS  
VEGAS, a Nevada Limited Liability Company;  
YET UNKNOWN EMPLOYEE; DOES I  
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: XXV

*Before the Discovery Commissioner*

Hearing Date: 03/13/19

Hearing Time: 9:00 am

**REPLY TO PLAINTIFF'S OPPOSITION TO  
DEFENDANTS' MOTION FOR PROTECTIVE ORDER**

COMES NOW, Defendants, VENETIAN CASINO RESORT, LLC, and LAS VEGAS  
SANDS, LLC (collectively referenced herein as *Venetian*), by and through their counsel, ROYAL &  
MILES LLP, and hereby files this REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS'  
MOTION FOR PROTECTIVE ORDER.

1 This Reply is based on the pleadings and papers on file, the memorandum of points and  
2 authorities contained herein, the affidavit of counsel, the attached exhibits and any argument permitted  
3 by this Court at the time set for hearing.

4 DATED this 1 day of March, 2019.

5 ROYAL & MILES LLP

6  
7 By 

8 MICHAEL A. ROYAL, ESQ.

9 Nevada Bar No. 4370

10 1522 W. Warm Springs Rd.

11 Henderson, NV 89014

12 Attorney for Defendants

13 VENETIAN CASINO RESORT, LLC and

14 LAS VEGAS SANDS, LLC

15 **DECLARATION OF MICHAEL A. ROYAL, ESQ.**

16 STATE OF NEVADA )  
17 ) ss.  
18 COUNTY OF CLARK )

19 MICHAEL A. ROYAL, ESQ., being first duly sworn, under oath deposes and states:

20 1. I am an attorney duly licensed to practice law in the State of Nevada and I am counsel  
21 for Venetian in connection with the above-captioned matter. I have personal knowledge of the  
22 following facts and if called upon could competently testify to such facts.

23 2. That through Plaintiff's counsel, Keith Galliher, Esq., I became aware of the following  
24 matter: *Eric Cohen vs. Venetian Casino Resort, LLC*, case no. A-17-761036-C, where Mr. Galliher  
25 attached a copy of *Discovery Commissioner's Report and Recommendations* (filed January 4, 2019)  
26 as Exhibit 4 to Plaintiff's Opposition to Defendants' Motion for Protective Order.

27 3. That I contacted defense counsel in the *Cohen* matter and was advised that the prior  
28 incident reports provided to Plaintiff's counsel in that matter were likewise redacted.



4. That Mr. Galliher provided a copy of the transcript of the *Deposition of Joseph Larson*, attached to the Opposition as Exhibit 2, to plaintiff's counsel in the matter of *Cohen, supra*, which transcript has been produced in the *Cohen* litigation pursuant to NRCP 16.1. (See Reply Exhibit A, *Plaintiff's First Supplement to NRCP 16.1 Early Case Conference List of Documents and Witnesses*, served February 4, 2019.)

5. That it is my understanding that Mr. Galliher plans to obtain unredacted reports of prior incidents for the purpose of not only contacting each Venetian patron involved, but to also share that information with other attorneys, as demonstrated in the *Cohen* matter, subjecting Venetian patrons with multiple contacts from untold attorneys handling unrelated litigated matters.

6. It is Defendants' position that production of certain information provided in prior incident reports is an invasion of privacy, that said information is not necessary for Mr. Galliher to make notice arguments, and that counsel's stated desire to contact any and all such prior patrons personally is the very kind of fishing expedition contemplated by *Schlatter v. Eighth Jud. Dist Court*, 561 P.2d 1342 (Nev. 1977).

7. I further declare that the exhibits identified in the Reply to Plaintiff's Opposition to Defendants' Motion For Protective Order, as outlined below, are true and correct copies of documents produced in or otherwise related to this matter.

Executed on 1 day of March, 2019.

MICHAEL A. ROYAL, ESQ.

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111



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **STATEMENT OF RELEVANT FACTS**

4 This litigation arises from a November 4, 2016 incident occurring when Plaintiff fell in a lobby  
5 area of the Venetian while taking a break from her work station where she was employed as a  
6 salesperson for a vendor leasing space in the Grand Canal Shops. The cause of Plaintiff's fall is in  
7 dispute, as Venetian denies that there was any foreign substance on the floor at the time the incident  
8 occurred.  
9

10 **II.**

11 **NATURE OF REPLY**

12 In the course of discovery, Plaintiff requested that Venetian provide three (3) years of prior  
13 incident reports. Venetian produced sixty-four (64) incident reports in redacted form (nearly 650 pages  
14 of documents), as Plaintiff would not agree to execute a stipulation and order to protect the information  
15 pursuant to NRCP 26(c). Plaintiff now demands that all of the nearly 650 pages produced responsive  
16 to her request be unredacted without providing the requested protection by Venetian, insisting she and  
17 her counsel have *carte blanche* access to all contact information for guests and other non-employee  
18 witnesses involved in these prior incidents, and to pass this information along to anyone else they  
19 choose who is not in any way involved in the subject litigation. Defendants maintain that this is a  
20 violation of privacy rights and an overreach by Plaintiff under *Schlatter v. Eighth Judicial Dist. Court*,  
21 93 Nev. 189, 192 (1977). Defendants maintain, at this point, based on information presently available,  
22 that Plaintiff should not even be allowed unredacted copies of the 650 pages of prior incident reports,  
23 based on her stated desire to contact all such persons (and any other non-employee witnesses) and share  
24 that information with the world. It is an unreasonable position and Defendants must protect the privacy  
25 of their prior guests.  
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III.

ARGUMENT

Referring again to NRCP 26(b)(1), in weighing a request for discovery in dispute, the Court must consider relevancy against the actual *needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.* Plaintiff has not addressed these issues in the Opposition, nor has Plaintiff addressed the privacy concerns raised by Defendants - other than to assert that Defendants have not made a credible, compelling argument that the information qualifies for protection under NRCP 26(c).

Incredibly, Plaintiff has set forth her specific desire and intent to contact each and every non-employee witness identified in the 650 pages of redacted documents previously produced by Defendants in a wild fishing expedition to obtain information from people who know absolutely nothing about the subject incident and, therefore, have nothing of relevance to add. While Defendants objected to providing Plaintiff with this kind of access to information, they agreed to do so with a stipulation of protection in an effort to safeguard information related to those persons identified in other unrelated incidents. Plaintiff has refused to do so, with an expressed intention of sharing the 650 pages with anyone and everyone she chooses, however and whenever she so chooses. Defendants simply cannot agree to that. Now, based on new information received that Plaintiff has already shared information from this litigation with counsel in another matter, Defendants maintain that information previously produced to Plaintiff in redacted form should be sufficient.

Defendants maintain that producing 650 pages of redacted information designed to keep contact information of prior guests private is reasonable. Defendants do not, for example, have permission to provide this private information and would generally need to obtain that before releasing it without a

1 court order. That is especially the case when Defendants are aware of Plaintiff's desire to disseminate  
2 that information to the world, as Plaintiff intends to do here. That is not within the spirit of NRCP  
3 26(b), and certainly falls within the scope of NRCP 26(c), with Defendants reasonably seeking  
4 protection.

5 In the Opposition, Plaintiff has educated the court with the following:

6 1. She received sixty-four (64) prior incident reports consisting of 650 pages from  
7 Defendants, with contact information of all non-employees involved redacted;

8 2. She obtained the deposition testimony of former security officer Joseph Larson who  
9 opined that he may have responded to 100 or so slip/fall incidents over a nine year period - or about  
10 eleven (11) per year; and  
11

12 3. She obtained a copy of a DCRR from another Venetian matter Plaintiff purports to  
13 support her position that she should be allowed to have unfettered access to all private information for  
14 guests involved in prior incidents on Defendants property (which information was previously produced  
15 in redacted form); and  
16

17 4. Plaintiff has a retained expert, Thomas Jennings, prepared to testify that the subject fall  
18 area is slippery when wet.

19 In short, what Plaintiff accomplished in the Opposition is to demonstrate that she does not need  
20 the information Defendants have redacted in the 650 pages pertaining to prior incidents to support her  
21 claim of *mode of operation* and notice. Plaintiff has not given one good reason to support her stated  
22 need to potentially contact hundreds of persons associated with prior incidents that have absolutely no  
23 bearing on, relationship with, or relevance to the subject incident.  
24

25 A. **Plaintiff's Reference to the Deposition of Joseph Larson**

26 Plaintiff attached a portion of the transcript from the deposition of Joseph Larson, taken  
27 October 11, 2018, in this litigation (identified in the Opposition as Exhibit 2), apparently to support  
28



1 the proposition that Defendants were not forthcoming in disclosing 650 pages of prior incidents over  
2 the period of time from November 4, 2013 to November 4, 2016. Plaintiff's extrapolation of  
3 information obtained from Mr. Larson, concluding that there must have been 600-1000 falls on marble  
4 floors at the Venetian over a nine year period is interesting creative fiction, and may well make for  
5 some compelling argument for those unschooled in the area of mathematics; however, it is a non-issue  
6 here.  
7

8 The subject motion is limited to Defendants' desire to protect the privacy rights of its guests  
9 identified in prior incident reports. What Plaintiff has established is that she now has two avenues to  
10 demonstrate notice based on evidence obtained in discovery, *to wit*: 1) the testimony of Joseph Larson;  
11 and 2) 650 pages of prior incident reports provided by Defendants. What more does Plaintiff actually  
12 need?  
13

14 Something Plaintiff failed to relate from Mr. Larson's deposition testimony is that the witness  
15 found no evidence of a foreign substance on the floor at the time he investigated the subject incident.  
16 Mr. Larson testified that among the falls to which he responded as a Venetian employee were those  
17 where no foreign substance was involved. Consider the following:

18 Q. Does that have anything to do with why you take pictures of shoes?

19 A. Yeah, yes. Actually, yeah. We take shoes to document evidence of how  
20 good of footwear the person was wearing when they're on our flooring.

21 Q. Okay. As you sit here today, you didn't make any conclusions as to  
22 whether or not there was any kind of foreign substance on the floor that caused Ms.  
23 Sekera to fall in this particular correct?

24 A. That's correct; I didn't observe anything.

25 Q. The only information you had is that she said to you she believed she  
26 stepped in water?

27 A. Correct.

28 Q. As you do you recall or did you see anything in your report related to  
29 Ms. Sekera complaining that her pants were wet after the fall?

30 A. No. I didn't document and it wasn't discussed.

31 Q. Did she say anything to you other than she believed there was water on  
32 the floor?

33 A. Aside from that, no.

34 (See Reply Exhibit A, deposition of Joseph Larson, at 81, ln 5-25; 82, ln 1.)



1 Despite the fact that there is no objective evidence of any foreign substance being on the floor  
2 at the time of the subject accident, Defendants nevertheless provided Plaintiff with 650 pages of prior  
3 incident reports which involve foreign substance on the floor. Plaintiff's complaint in the Opposition  
4 that Defendants are not being sufficiently forthright based on how she creatively extrapolated from a  
5 small portion of Mr. Larson's deposition testimony is devoid of both fact and reason, and should be  
6 wholly disregarded.<sup>1</sup>

7  
8 **B. Plaintiff's Use of *Cohen v. Venetian Casino Resort, LLC* in Support of the Opposition**

9 Plaintiff attached a copy of a *Discovery Commissioner's Report and Recommendation* in *Cohen*  
10 *v. Venetian Casino Resort, LLC*, Case No. A-17-761036-C, in the Opposition, identified as Exhibit 4.  
11 The *Cohen* DCRR pertains to a ruling by the Discovery Commissioner in a case with much different  
12 facts (*i.e.* where there was actually a foreign substance on the floor). However, in referencing the  
13 *Cohen* matter, Plaintiff failed to advise the Court that the prior incident reports disclosed by Venetian  
14 Casino Resort, LLC, there were likewise in redacted form.

15  
16 It is unclear why Plaintiff included Exhibit 4 in the Opposition, as Defendants are not disputing  
17 Plaintiff's right to obtain information generally regarding the occurrence of similar incidents.<sup>2</sup>  
18 However, what *Cohen* DCRR does demonstrate to the Court is Defendants' consistency in their stated  
19 desire to protect the privacy of guests identified in security reports in previous incidents. In the *Cohen*  
20 matter, the redaction of guest information to protect privacy was at issue, apparently because the  
21 plaintiff in that matter was satisfied

22  
23  
24 <sup>1</sup>Mr. Larson testified that he could not necessarily differentiate between slips and trips from his  
25 estimated number of falls, or the number of occasions where other EMTs responded to the same call,  
26 but stated a belief that the latter occurred about half the time. (See Exhibit A, Deposition of Joseph  
Larson at 80, ln 3-19.)

27 <sup>2</sup>Defendants again note that there is no evidence of a foreign substance being on the floor at the  
28 time of Plaintiff's fall, beyond that which may have been introduced by the beverage she was carrying  
in her left hand. Regardless, Defendants nevertheless provided Plaintiff with three years of prior  
incidents, consisting of approximately 650 pages, in response to her Rule 34 production request.

1 with information regarding prior incidents to support a notice argument. In reality, the *Cohen* DCRR  
2 attached by Plaintiff supports Defendants' position here.

3 Since Plaintiff has drawn the *Cohen v. Venetian Casino Resort, LLC* matter into the heart of  
4 her Opposition, Defendants note that *Cohen* counsel has now received a copy of the Joseph  
5 Larson deposition transcript and identified it pursuant to NRCP 16.1. (See Reply Exhibit A,  
6 *Cohen v. Venetian Casino Resort, LLC*, Case No. A-17-761036-C, Plaintiff's First Supplement to  
7 NRCP 16.1 Early Case Conference List of Documents and Witnesses.) While there is nothing  
8 inherently wrong with Plaintiff's counsel sharing the transcript of a deposition taken of a witness in  
9 the instant matter, this highlights what Plaintiff desires to do with 650 pages of unredacted prior  
10 incident reports - share them with *Cohen* counsel and anyone else she desires. Indeed, if Plaintiff so  
11 chooses, she could upload all of the 650 pages online for any purpose - thereby exposing persons  
12 involved in prior incident reports to all kinds of undesired scrutiny and contact. Why would the Court  
13 want to do anything but carefully protect such a potential invasion of privacy? Did Plaintiff contact  
14 Mr. Larson to advise that she would be sharing his deposition transcript with other attorneys in Las  
15 Vegas? That is quite unlikely.

16 Plaintiff's sharing of the Joseph Larson deposition transcript with counsel representing  
17 *Cohen* further highlights why Defendants motion must be granted.

18 C. **Plaintiff's Use of Tom Jennings Report**

19 Plaintiff's discussion in the Opposition of the Tom Jennings report (attached thereto as Exhibit  
20 3) bears no relevance to the issue at hand - which is the privacy rights of persons identified in prior  
21 incident reports. However, the fact that Plaintiff has a report by Mr. Jennings addressing issues of slip  
22 resistance and notice, combined with the testimony of Mr. Larson and 650 pages of prior incidents,  
23 certainly seems to be more than sufficient for Plaintiff to make her case about notice and/or application  
24 of the *mode of operation*

1 doctrine, without Plaintiff being allowed unfettered access to the private information of guests involved  
2 in prior incidents.

3 **D. Protection of Privacy Rights**

4 It is clear that Plaintiff does not care about issues related to the protect of privacy rights. In  
5 Plaintiff's world, the *Schlatter* decision is a one-way street that applies only to her benefit. She wants  
6 to have access to all information related to every person identified in the 650 pages of redacted records  
7 produced by Defendants not only for her use in this litigation, but with the freedom to share with the  
8 world at large.

10 The objective of discovery in litigation is to limit discovery to relevant matters, and to prevent  
11 "fishing expeditions" by restricting litigants to discovery that only implicates matters raised by them  
12 in the pleadings. (See FED. R. CIV. P. 26(b), Advisory Committee Note, Amendments to Federal  
13 Rules of Civil Procedure, at 388-90). Here, Plaintiff admittedly desires to go fishing by potentially  
14 contacting hundreds of persons involved in prior incidents on Defendants' property. It is an overreach.  
15 It is unnecessary. It is an invasion of privacy. It is harassment.

17 Where privacy concerns are implicated by discovery requests, the party requesting such  
18 information "must show that the value of the information sought would outweigh the privacy interests  
19 of the affected individuals." (*Case v. Platte County*, No. 8:03CV160, 2004 WL 1944777, at \*2 (D.  
20 Neb. June 11, 2004); see also, *Walters v. Breaux*, 200 F.R.D. 271, 274 (W.D. La. 2001),  
21 acknowledging legitimate privacy concerns with respect to social security numbers.) Plaintiff has not  
22 demonstrated to the Court in Opposition why she should be allowed to have unfettered access to the  
23 private information of prior guests and members of their party identified in prior incident reports, and  
24 be allowed to freely share the private information with anyone she so chooses.

26 Guests who stay at Venetian do so with an expectation that their personal information will not  
27 be disclosed or disseminated without their consent. Defendants take the position that this information  
28

1 should be provided on a case by case basis, depending on the information provided in a prior accident  
2 report. If Plaintiff can make a connection of relevance, then she should be allowed to have the contact  
3 information. However, to just provide the information to Plaintiff so she can go fishing puts  
4 Defendants at risk of violating privacy rights of its guests.

5  
6 IV.

7 CONCLUSION

8 Based on the foregoing, Defendants respectfully submit that they have presented good cause  
9 for this Honorable Court to conclude that they have adequately responded to the demand for prior  
10 incident reports by providing 650 pages of redacted records to Plaintiff. With Plaintiff's stated  
11 intention of contacting these individuals and passing along that information to anyone and everyone,  
12 Defendants are now concerned that even granting their motion for protective order by providing  
13 unredacted information to Plaintiff is sufficient under the circumstances. Defendants therefore move  
14 for a protective order which provides that the redacted documents produced are sufficient, and that  
15 Plaintiff may inquire with Defendants for contact information on a case by case basis, where some  
16 reasonable connection with relevance to the subject incident can be established.

17  
18 DATED this 1 day of March, 2019.

19  
20 ROYAL & MILES LLP

21 By 

22 MICHAEL A. ROYAL, ESQ.

23 Nevada Bar No. 4370

24 1522 W. Warm Springs Rd.

25 Henderson, NV 89014

26 Attorney for Defendants

27 VENETIAN CASINO RESORT, LLC and

28 LAS VEGAS SANDS, LLC



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 5 day of March, 2019, and pursuant to NRCP 5(b), I caused a true and correct copy of the foregoing **REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR PROTECTIVE ORDER** to be served as follows:

\_\_\_\_\_ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

\_\_\_\_\_ to be served via facsimile; and/or

☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

\_\_\_\_\_ to be hand delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Keith E. Galliher, Jr., Esq.  
THE GALLIHER LAW FIRM  
1850 E. Sahara Avenue, Suite 107  
Las Vegas, NV 89014  
*Attorneys for Plaintiff*  
Facsimile: 702-735-0204  
E-Service: [kgalliher@galliherlawfirm.com](mailto:kgalliher@galliherlawfirm.com)  
[dmooney@galliherlawfirm.com](mailto:dmooney@galliherlawfirm.com)  
[gramos@galliherlawfirm.com](mailto:gramos@galliherlawfirm.com)  
[sray@galliherlawfirm.com](mailto:sray@galliherlawfirm.com)

  
An employee of ROYAL & MILES LLP

# EXHIBIT “A”

1 GEORGE T. BOCHANIS, ESQ.  
2 Nevada Bar No.: 2262  
3 **GEORGE T. BOCHANIS, LTD.**  
4 631 So. Ninth Street  
5 Las Vegas, Nevada 89101  
6 Telephone: (702) 388-2005  
7 Facsimile: (702) 388-0484  
8 Attorney for Plaintiff, ERIC COHEN

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 ERIC COHEN, individually,

10 Plaintiff,

11 vs.

12 VENETIAN CASINO RESORT, LLC, is a  
13 Domestic Limited-Liability Company, duly  
14 authorized to conduct business in Clark  
15 County, Nevada; DOES I through X; and  
16 ROE CORPORATIONS I through X,  
17 inclusive,

18 Defendants.

CASE NO. : A-17-761036-C  
DEPT.NO. : 14

19 **PLAINTIFF'S FIRST SUPPLEMENT TO NRCP 16.1 EARLY CASE CONFERENCE**  
20 **LIST OF DOCUMENTS AND WITNESSES**

21 **DOCUMENTS and/or INFORMATION**

22 Plaintiff hereby produces the following documents:

- 23 1. Deposition transcript of Joseph Larson dated October 11, 2018 (bates-stamped  
24 000860-000896).

25 ///

26 ///

27 ///

28 ///

1 Plaintiff reserves the right to use any and all exhibits listed by any other Party to this  
2 lawsuit, and any and all discovery responses and all pleadings filed and/or served in this case.

3 Plaintiff also reserves the right to supplement this document list at a later date.

4  
5 DATED: February 4<sup>th</sup>, 2019.

6 GEORGE T. BOCHANIS, LTD.

7 *George T Bochanis*

8 GEORGE T. BOCHANIS, ESQ.

9 Nevada Bar No.: 2262

10 631 So. Ninth Street

11 Las Vegas, Nevada 89101

12 (702) 388-2005

13 Attorney for Plaintiff ERIC COHEN  
14  
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**CERTIFICATE OF SERVICE**

Pursuant to N.R.C.P. 5(b), I certify that I am an employee of George T. Bochanis, Ltd.,  
and that on the 14<sup>th</sup> day of February 2019, I served a true and correct copy of the foregoing

**PLAINTIFF'S FIRST SUPPLEMENT TO NRCP 16.1 EARLY CASE CONFERENCE**

**LIST OF DOCUMENTS AND WITNESSES:**

By placing same to be deposited for mailing in the United States Mail, in a sealed  
envelope upon which first class postage was prepared in Las Vegas, Nevada;

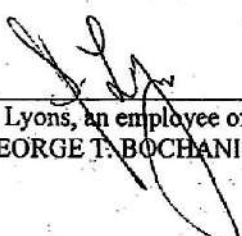
X XXX By electronic service in the Eighth Judicial District Court e-Filing System in  
accordance with the mandatory electronic service requirements of administrative  
Order 14-2 and the Nevada Electronic Filing and Conversion Rules, and/or;

By facsimile; and/or

By Receipt of Copy to the interested parties

as follows:

David P. Pritchett, Esq.  
Messner Reeves LLP  
8945 W. Russell Road, Suite 300  
Las Vegas, Nevada 89148  
Attorneys for Defendant  
VENETIAN HOTEL & CASINO

  
\_\_\_\_\_  
S. Lyons, an employee of  
GEORGE T. BOCHANIS, LTD.

# EXHIBIT 1

DISTRICT COURT  
CLARK COUNTY, NEVADA

JOYCE SEKERA, an Individual,  
Plaintiff,

vs.

Case No. A-18-772761-C  
Dept. 25

VENETIAN CASINO RESORT, LLC,  
d/b/a THE VENETIAN LAS VEGAS,  
a Nevada Limited Liability  
Company; LAS VEGAS SANDS, LLC  
d/b/a THE VENETIAN LAS VEGAS,  
a Nevada Limited Liability  
Company; YET UNKNOWN EMPLOYEE;  
DOES I through X, inclusive,

Defendants.

DEPOSITION OF JOSEPH LARSON

Taken at the Galliher Law Firm  
1850 East Sahara Avenue, Suite 107  
Las Vegas, Nevada 89104

On Thursday, October 11, 2018  
At 2:15 p.m.

Reported By: PAULINE C. MAY  
CCR 286, RPR

1 APPEARANCES:

2 For the Plaintiff:

KEITH E. GALLIHER, JR., ESQ.

-And-

3

GEORGE J. KUNZ, ESQ.

4

Galliher Law Firm

5

1850 East Sahara Avenue

6

Suite 107

Las Vegas, Nevada 89104

(702) 735-0049

7 For the Defendants:

MICHAEL A. ROYAL, ESQ.

8

Royal & Miles LLP

9

1522 West Warm Springs Road

Henderson, Nevada 89014

(702) 471-6777

10

11

12

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\* \* \* \* \*

16

17

I N D E X

18 WITNESS

PAGE

JOSEPH LARSON

19 Examination By Mr. Galliher

3

Examination By Mr. Royal

37

20 Further Examination By Mr. Galliher

83

21

22 EXHIBITS

PAGE

Plaintiff's:

23 1 Venetian Security report

3

24 2 Color photographs

3

25

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JOSEPH LARSON 10/11/2018

Page 3	Page 5
<p>1 (Plaintiff's Exhibits 1 and 2 marked for 2 identification.) 3 JOSEPH LARSON, 4 having been first duly sworn to tell the truth, the 5 whole truth and nothing but the truth, was examined 6 and testified as follows: 7 8 EXAMINATION 9 BY MR. GALLIHER: 10 Q Would you state your name, please. 11 A Joseph Larson. 12 Q Your business address. 13 A I don't have one. 14 Q All right. Your home address. 15 A 3339 Horned Lark -- H-o-r-n-e-d, space, 16 L-a-r-k -- Court, Las Vegas, Nevada 89117. 17 Q Have you ever had your deposition taken 18 before? 19 A Yes. 20 Q Do you understand today that you are under 21 oath? 22 A Yes. 23 Q The oath you've taken carries with it the 24 same solemnity as if you were testifying in court 25 before a judge and a jury?</p>	<p>1 Q How long have you been unemployed? 2 A Since March of 2017. 3 Q Since before March of 2017, where were you 4 working? 5 A Before that? 6 Q Yes. 7 A At the Venetian. 8 Q So what years did you work at the Venetian? 9 A I started in 2008, I think in the summer. 10 In 2008 and then, yeah, I quit on March 2017. 11 Q And was there a reason that you quit? 12 A The reason I quit was, I was I guess tired 13 of being an EMT. I had been an EMT for about a decade 14 so I felt it was time to make a career shift. 15 Q So when you worked at the Venetian from 2008 16 to 2017, were you an EMT the entire time? 17 A EMT security officer. 18 Q And when we talk about that, that's an 19 Emergency Medical Technician security officer? 20 A Correct. 21 Q Give me a brief description of your duties 22 as an EMT security officer. 23 A The primary duties of my job were to respond 24 to any medical incidents or any serious incidents that 25 occurred on the property. The additional functions of</p>
Page 4	Page 6
<p>1 A I understand that. 2 Q Also carries with it the penalties of 3 perjury? 4 A I understand that. 5 Q General background first. How long have you 6 lived in Las Vegas? 7 A I moved here two thousand -- towards the end 8 of 2007, beginning of 2008. 9 Q How far did you go in school? 10 A Some college. 11 Q And where did you get your college? 12 A Many places, various colleges. 13 Q Let's start and make it simpler. Where did 14 you last go to college? 15 A Last go to college? CSN. 16 Q Here in Las Vegas? 17 A Yes. 18 Q What years did you attend CSN? 19 A It would have been when I got here, so 20 probably around 2008. I'm not exactly sure on the 21 year. 22 Q Let's talk a little bit about employment. 23 Since you don't have a business address, you are 24 currently not employed? 25 A Currently unemployed.</p>	<p>1 my job were to also work as a security officer. We 2 weren't ever posted anywhere, we were free to roam 3 around the property as needed. 4 Q What training did you have in EMT work? 5 A I received my EMT-Basic in San Diego and 6 then when I moved out here, I got my 7 EMT-Intermediate -- which is now called an Advanced 8 EMT certification -- when I arrived here so I could 9 work. 10 Q So are you still an EMT-Intermediate? 11 A No, I have -- 12 Q Did you give up your certification? 13 A Correct. 14 Q So you don't have any intentions to reenter 15 the EMT field? 16 A Correct. 17 Q Do you have any aspirations in terms of what 18 field you want to enter? 19 A I'm currently in a cybersecurity scholarship 20 program. 21 Q Tell me what that is for old people. 22 A Okay. There's a company called Cisco. They 23 manufacture a lot of the networking hardware and 24 infrastructure and things like that for companies, 25 businesses, you know, whoever wants to buy the</p>

3 (Pages 3 to 6)

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VEN 105

1 equipment.  
2 Cisco itself is putting on a cybersecurity  
3 program for a select number of students as a  
4 scholarship program. You apply, you test in, they  
5 give you a scholarship to pay for your training, and  
6 then you take a test at the end.  
7 Q Where do you go after you take a test?  
8 A Once I pass a test, I'll be applying for  
9 cybersecurity jobs.  
10 Q With Cisco or elsewhere?  
11 A Anywhere.  
12 Q I presume that's a job that pays better.  
13 A Yeah, I would say so.  
14 Q All right. That's a good reason.  
15 A Sure.  
16 Q All right. We're here to talk to you about  
17 a fall incident that happened at the Venetian while  
18 you were there. And I presume -- have you had an  
19 opportunity to review the report that you prepared for  
20 today's deposition?  
21 A I have, yes.  
22 Q So let me show you this that's been marked  
23 as Exhibit 1 to your deposition and ask you if that's  
24 a true and correct copy of the report you reviewed.  
25 A All of the pages?

1 Q Yes.  
2 A Yeah.  
3 Q Now, the report there has the Bates stamp  
4 numbers from VEN005 through 009, and then switch to  
5 VEN017 and then 018. See that at the lower right-hand  
6 portion of the report?  
7 A Yes, sir.  
8 Q As we look at the report, I note that your  
9 name appears -- at least typed in -- 00025821 on the  
10 first five pages; am I correct? At the same location,  
11 lower left?  
12 A Yes; correct.  
13 Q Is that an entry that you made or that  
14 someone else made?  
15 A I believe that is what -- when you print out  
16 a report from the system, it just basically shows who  
17 typed up the report.  
18 So when something happens on property and  
19 you are assigned to report through dispatch, that's  
20 assigned to your name, basically your identity in the  
21 computer system. So I believe that's just an  
22 automatic stamp that gets added to this printout.  
23 Q Now, as you look at this report -- I'm  
24 referring to the first five pages initially -- is this  
25 information that you entered into the system?

1 A Yes, yeah. These would all be things that I  
2 either entered by typing or checking a box.  
3 Q So is everything in these first five pages  
4 true and correct to the best of your knowledge?  
5 A Yes.  
6 Q Do you remember anything about this event  
7 other than what's contained in this report?  
8 A No.  
9 Q Then let's look at the VEN017. That's the  
10 next page after the first five.  
11 A Yeah.  
12 Q And can you tell me if any of the print --  
13 or the writing on this page is your writing?  
14 A All of the handwriting is mine except for  
15 the signature line.  
16 Q All right, so everything is yours except for  
17 the signature line. What about the next page which is  
18 VEN018?  
19 MR. ROYAL: Can I just ask for  
20 clarification? There's two signature lines.  
21 THE WITNESS: Oh, I apologize. Yeah, the  
22 second line with the "X" mark.  
23 BY MR. GALLIHER:  
24 Q And let me see what you are looking at. The  
25 reason I ask that, Mike, is I'm looking at this page

1 and I'm not seeing a signature line.  
2 Oh, talking about a signature line under  
3 "Joyce Sekera"?  
4 A Yeah.  
5 Q For some reason, I'm looking at this page  
6 and it looks like it's cut off at the end.  
7 MR. ROYAL: Yeah, yes. And by the way, I  
8 had inquired about that and I don't know that we have  
9 what's cut off too.  
10 BY MR. GALLIHER:  
11 Q So these are handwritten entries that you  
12 made based upon your specific observation of Joyce  
13 Sekera?  
14 A Correct.  
15 Q And again, everything on this page is true  
16 and correct to the best of your knowledge?  
17 A Yes.  
18 Q So as we go to the next page, we've got --  
19 you see there's some -- you got security officer time,  
20 1326, and some printing where it starts with "marble  
21 flooring."  
22 See that?  
23 A Yes.  
24 Q Is that your handwriting?  
25 A Yes.

JOSEPH LARSON 10/11/2018

Page 11

1 Q So you made those entries as well?

2 A Correct.

3 Q How is it that you were dispatched to the

4 scene of the fall? Do you remember?

5 A I don't remember exactly, but I mean,

6 security dispatch would have contacted me on the radio

7 and told me where to go.

8 Q And do you remember how long after the fall

9 you arrived at the scene?

10 A I don't recollect.

11 Q And the reason I ask you, I'm looking at the

12 first page which is VEN005 and if you look up where it

13 says "Date and Time and Day of occurrence," see that?

14 A Yes, sir.

15 Q And it says 11/4/16, 12:39, Friday, to

16 11/4/16, 13:31 Friday. Is that correct?

17 A That's what it says, yeah.

18 Q So as I read that, looks like that's a

19 52-minute difference between the time that it starts

20 and the time that it ends.

21 A Basically --

22 Q See that?

23 A -- I would say.

24 Q Can you explain to me how we have this 52

25 minutes?

Page 12

1 A So what I'm gathering this says is when the

2 call started in the system, so when dispatch put it

3 into their system, and then 13:31 would be the time

4 that I cleared from my call.

5 Q So between the time that you were called to

6 the scene and the time you left the scene was 52

7 minutes?

8 A Yes.

9 Q And again, we're going to go through a few

10 things in this report with you --

11 A Yeah.

12 Q -- if that's okay?

13 A Sure.

14 Q By the way, just so you know, looking at the

15 same page we've got, "TM, one of one, Chavez, Rafael."

16 Do you see that a little lower in the page?

17 A Yes.

18 Q And we just deposed Mr. Chavez, he's a

19 member of your facilities department.

20 A Yes.

21 Q He told us he didn't arrive to the scene

22 until about 30 or 45 minutes until after the fall.

23 Does that square with your recollection?

24 A Time line-wise, I'm not sure of the exact

25 minutes, yeah, that's normal procedure for us, for him

Page 13

1 to respond after the incident.

2 Q Do you know if you entered the name "Chavez,

3 Rafael" there or if someone else did?

4 A I did.

5 Q On the lower right-hand-side portion of the

6 page, it says "Approved by Michael Dean." Who is he?

7 A That would be the supervisor.

8 Q And then on the upper -- again to the upper

9 portion of the report under Venetian Security there's

10 handwritten, "RC00008621." See that?

11 A Yes.

12 Q And what would that be?

13 A I do not know.

14 Q Is it like a report number? Event number?

15 A The event number would be the case number in

16 the upper right where it says is 1611V-0680.

17 Q All right. So it would be the case number,

18 that's the upper right, correct?

19 A Yeah.

20 Q And you don't know what is meant by the

21 handwritten RC00008621?

22 A Yeah, I don't know what that means.

23 Q Let's go then to the next page, VEN006.

24 Again, is this information that you entered?

25 A Yes. This information would be check boxes

Page 14

1 that I clicked.

2 Q And so what happens is that you check a box,

3 you click a box, so to speak, and it automatically

4 prints out?

5 A It would just add that information to the

6 report.

7 Q And that also applies to the information on

8 VEN007?

9 A Yes, that's correct.

10 Q And when we talk about the -- looks like

11 more of the narrative report, which is VEN008 and

12 nine. All information you entered?

13 A Yes.

14 Q And everything in that, those two pages, is

15 true and correct to the best of your knowledge?

16 A Yes.

17 Q You don't have a recollection of this event,

18 other than what's contained in these two pages?

19 A Not independent of what I wrote.

20 Q So you are going to stick with what's in

21 these pages?

22 A Correct.

23 Q Now I'm just curious about something. As

24 the -- did you respond to this fall as the EMT, as

25 security, or both?

5 (Pages 11 to 14)

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VEN 107

1 A I would have responded to this as EMT.  
 2 Q Do you know whether or not there was another  
 3 security officer that responded to the scene other  
 4 than you?  
 5 A I believe there was, but I'm not exactly  
 6 sure.  
 7 Q Well, if you -- the reason I ask that  
 8 question, as I read the report, it pretty much talks  
 9 about your evaluation physically of Joyce Sekera as an  
 10 EMT; is that right?  
 11 A Correct.  
 12 Q And, for example, there's reference made in  
 13 the upper portion of VEN008 to, "I noted that a Public  
 14 Areas Department team member was on scene and mopping  
 15 the floor in the area."  
 16 See that?  
 17 A Uh-huh.  
 18 Q Is that yes?  
 19 A Yes. I'm sorry.  
 20 Q And that's something that you saw?  
 21 A Yes, that's what I observed.  
 22 Q Did you have any conversations with that  
 23 team member -- that public area department team  
 24 member, about what it was that they were mopping?  
 25 A I did not. I did not have a conversation.

1 Q Do you know if anybody else from security  
 2 had a conversation with that person?  
 3 A I don't know.  
 4 Q So as you testify here today, you know there  
 5 was mopping of the flooring in the area occurring, but  
 6 you don't know what was being mopped up?  
 7 A Correct.  
 8 Q The rest of the report talks about your  
 9 physical observations of your examination of Joyce  
 10 Sekera; is that right?  
 11 A Uh-huh. Yes; correct.  
 12 Q And looks like, if I am reading my  
 13 information correctly, we know, first of all, that  
 14 there was a fall?  
 15 A Yes.  
 16 Q Right?  
 17 A Yes.  
 18 Q And we know there was an injury?  
 19 A Yes.  
 20 Q And the injury initially that you noted was  
 21 to her left elbow?  
 22 A That's correct.  
 23 Q Then later you added that -- you stated that  
 24 she added she was beginning to feel minor pain and  
 25 soreness to her left lower back and left side

1 localized to the axillary line.  
 2 See that? I'm talking about page 009 now.  
 3 A Sorry, wrong page.  
 4 Q Up at the top, first paragraph.  
 5 A Oh. Okay, I see it.  
 6 Q I'll read it again, just make sure I'm  
 7 reading it correctly.  
 8 "She added that she was beginning to feel  
 9 minor pain and soreness to her left lower back and  
 10 left side," in parentheses, "localized to the axillary  
 11 line."  
 12 See that?  
 13 A Yes.  
 14 Q What's the axillary line?  
 15 A It is kind of an imaginary line that goes  
 16 down your armpit across the side of your body.  
 17 Q So it sounds like she had pain both in her  
 18 left lower back and left side; is that right?  
 19 A Yes.  
 20 Q Now, again confirming everything else that  
 21 you stated in this, these two pages, is true and  
 22 correct to the best of your knowledge?  
 23 A Yes.  
 24 Q Now, there were apparently also some  
 25 photographs taken at the scene. Are you aware of

1 that?  
 2 A I'm aware, yeah.  
 3 Q Did you take them?  
 4 A I would have; yes.  
 5 Q Let me show you what we've marked for  
 6 identification as Exhibit 1 to your deposition. And  
 7 Mike was kind enough to give better copies than we  
 8 had. Take a look at those and tell me if those are  
 9 true and correct copies of all the photographs that  
 10 you took.  
 11 A Yes, these would be photographs I've taken.  
 12 Q Now, did you take any other photographs  
 13 other than those?  
 14 A If I did, they would be attached. I don't  
 15 recall taking any other pictures.  
 16 Q Do you know if any other security officers  
 17 took photos?  
 18 A I'm not aware.  
 19 Q And as you testify here today, you don't  
 20 have a recollection of whether or not any other  
 21 security officers presented at this scene of the fall?  
 22 A Independently, no.  
 23 Q Are there any documents that would have been  
 24 prepared in the event that another security officer  
 25 had arrived at the scene?



JOSEPH LARSON 10/11/2018

Page 19

- 1 A Nothing officially, unless he would have  
2 done a voluntary statement. But if the officer that  
3 was on scene before me, if he didn't actually witness  
4 anything and was just responding, we wouldn't ask him  
5 to write a voluntary statement.  
6 Q Do you have a recollection of whether or not  
7 there was an officer there before you arrived?  
8 A I'm not sure.  
9 Q If there was an officer there before you  
10 arrived, would that information be contained in the  
11 report that we have just talked about?  
12 A If he wasn't a witness to the incident, I  
13 wouldn't have included him.  
14 Q And what about witnesses to the fall? Is  
15 that something that you would have taken care of in  
16 terms of interviewing and getting statements from  
17 them?  
18 A Potentially, yes, if we had identified any  
19 witnesses. But at that time, I was more concerned  
20 about her well being.  
21 Q So would it be fair to state that your focus  
22 was on caring for Joyce Sekora as a result of her  
23 injuries from the fall, rather than locating and  
24 obtaining statements from witnesses?  
25 A Yeah. That's my primary duty.

Page 20

- 1 Q And you don't recall whether or not there  
2 was any other security officer at the scene of the  
3 fall to help you to the extent of contacting  
4 witnesses, if there were any, and getting statements  
5 from them?  
6 A I don't recall if there was other officers  
7 there.  
8 Q If there were statements taken, is that  
9 something that would be part of her?  
10 A If a statement was taken, yes.  
11 Q And when you reviewed the report in  
12 connection with today's deposition, the only  
13 information that you reviewed is the information that  
14 we have previously discussed in this report?  
15 A Correct.  
16 Q There was nothing else in the file that you  
17 saw, other than this report and your photographs?  
18 A Correct.  
19 Q As far as you know, there were no other  
20 witnesses that were identified or statements obtained  
21 from?  
22 A Correct.  
23 Q Now, you were at the Venetian in the  
24 security department part as an EMT for approximately  
25 nine years?

Page 21

- 1 A Yes.  
2 Q Is there any type of rule that a person  
3 can't walk through the Venetian with a drink in their  
4 hand?  
5 A As far as I know, we didn't have any rules  
6 like that.  
7 Q In other words, if I were a customer at the  
8 Venetian and I decided to buy a bottle of water or a  
9 drink from one of the businesses located nearby, I  
10 decided to walk through the Venetian, would you stop  
11 me and tell me I couldn't drink?  
12 A No.  
13 Q So as far as you know, there's no  
14 prohibition at the Venetian that would make it -- not  
15 unlawful, but some cause for stopping a customer  
16 saying, Hey, you can't drink that here?  
17 A The only provision that I'm aware of -- in  
18 fact, I don't even know if I would call it that. Call  
19 it policy. There was a policy on having an actual  
20 bottle of liquor. Like a bottle of Jack Daniels, say  
21 for example, you couldn't walk around with that. A  
22 simple beer, simple drink, would be fine, but no  
23 actual, like, bottles of hard liquor you could get at  
24 a convenience store.  
25 Q And you are aware that you can buy hard

Page 22

- 1 liquor inside the convenience store at the Venetian?  
2 A Yes.  
3 Q So the fall occurred near the restroom  
4 adjacent to the Grand Lux Cafe, right?  
5 A Correct.  
6 Q That's a marble floor?  
7 A Correct.  
8 Q Is that the first fall that you were aware  
9 of on a marble floor at the Venetian when you worked  
10 there?  
11 A First fall?  
12 Q Yes, ever.  
13 A No, that wasn't the first.  
14 Q Give me an idea of how many falls you  
15 personally attended to when you were at the Venetian  
16 in security.  
17 A Like an actual number?  
18 MR. ROYAL: I'm sorry --  
19 BY MR. GALLIHER:  
20 Q I'm asking for your best estimate.  
21 MR. ROYAL: Are you asking falls on marble  
22 floors or just any falls?  
23 BY MR. GALLIHER:  
24 Q We can clarify that after he answers the  
25 first question and I can go from there.

7 (Pages 19 to 22)

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000866

VEN 109

JOSEPH LARSON 10/11/2018

Page 23

1 A I know off the top of my head, I wrote -- in  
2 nine years' time, I wrote about 2600 reports.  
3 Q Okay.  
4 A Of those being slip-and-falls, that's hard  
5 to say. Because of those 2600 reports I wrote, that  
6 would include also security details, that would  
7 include trespasses, serious incidents, other types of  
8 medical.  
9 Q Well, maybe just give me your best estimate.  
10 I don't expect you to be exact unless your memory is a  
11 lot better than mine.  
12 MR. ROYAL: Object to form.  
13 Go ahead and answer.  
14 THE WITNESS: My best guess over nine  
15 years --  
16 MR. ROYAL: He's not asking you to guess, by  
17 the way.  
18 BY MR. GALLIHER:  
19 Q Best estimate.  
20 A Okay, best estimate. Best estimate, I would  
21 say maybe 300.  
22 Q Okay. So of those 300 as your best  
23 estimate -- by the way, just so you know the  
24 difference between a best estimate and a guess, if I  
25 were to ask you how long this conference table was

Page 24

1 from one side to the other, you could give me the best  
2 estimate because you can see it.  
3 If I were to ask you how long is my desk in  
4 my office from one side to the other side, it would be  
5 a guess. Why? Because you hadn't seen it.  
6 So your best estimate is that you wrote  
7 approximately 200 reports involving slip-and-fall  
8 events at the Venetian during the nine years that you  
9 were there?  
10 A Correct.  
11 Q Now when I talk about slip-and-falls, would  
12 it be fair to state that the slip-and-falls would  
13 occur on the marble flooring as opposed to the  
14 carpeted areas?  
15 A Between the two of those options? Yes.  
16 Q So when you talk about the reports that you  
17 wrote, would it be fair to state that those reports --  
18 when we're talking about slip-and-falls, that  
19 generally they would involve the marble floor?  
20 A I wouldn't say a large number of them  
21 because we also respond to slip-and-falls even on the  
22 concrete in the sidewalk out in the front of the  
23 property, the pool deck upstairs.  
24 Q So can you narrow the number of reports that  
25 you wrote regarding slip-and-falls occurring on the

Page 25

1 marble flooring inside the Venetian?  
2 A I would say a little more than half.  
3 Q So maybe somewhere between, let's say, 150  
4 and 200?  
5 A Yeah.  
6 Q Would that be fair?  
7 A Yeah.  
8 Q All right. Yes?  
9 A I would say 150 to, like, 175. I wouldn't  
10 go the full 200.  
11 Q So 150 to 175; would that be fair?  
12 A That's right.  
13 Q Is that a --  
14 A That's a good estimate.  
15 Q By the way, there's also marble flooring on  
16 the fifth floor adjacent to the Bouchon Restaurant and  
17 also where they have the other additional check-in  
18 area at the Venetian?  
19 A That would be the 10th floor.  
20 Q The 10th floor. Were you responsible for  
21 responding to falls there?  
22 A Anywhere on property I was responsible.  
23 Q So when we talk about the 150 to 175  
24 slip-and-falls on marble floors, we're talking about  
25 throughout the hotel, whether it be the first level or

Page 26

1 the tenth level?  
2 A Correct. And that also includes the suites  
3 as well.  
4 Q And we talk about the suites, we talk about  
5 the suites that have marble floors?  
6 A All of them, yes.  
7 Q How many suites are there?  
8 A Between the Venetian and Palazzo, a little  
9 over 7000.  
10 Q 7000 suites?  
11 A Yes.  
12 Q So all of the rooms have marble floors?  
13 A Yes, in the bathroom areas.  
14 Q Apart from the bathroom areas, any other  
15 areas inside the suites that have marble floor?  
16 A Just the bathroom and the main entryway.  
17 Q So during that nine years when you were  
18 there and a security officer, how many times did you  
19 respond to falls occurring inside the suites on the  
20 marble floors in the bathroom?  
21 A That would include the 150 to 175.  
22 Q What I'm trying to distinguish between is  
23 the falls that occurred inside the suites versus the  
24 falls that occurred on the ground floor and the 10th  
25 level.

8 (Pages 23 to 26)

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000867

VEN 110

JOSEPH LARSON 10/11/2018

Page 27

1 A Okay. So of that 150 to 175, how many were  
2 in the suites that we're tracking?  
3 Q Right.  
4 A I would estimate that it was -- nine years  
5 is a long time. I apologize.  
6 Q That's okay.  
7 A I would say probably 75 --  
8 Q So --  
9 A -- would have occurred in the suites.  
10 Q So best estimate is 75 or so occurring in  
11 the suites and 100 or so occur outside the suites on  
12 the floor, either on the ground floor or the tenth  
13 floor?  
14 A In the public areas; yeah.  
15 Q How many hours a day did you work as an EMT?  
16 A Eight hours.  
17 Q Did you respond to those fall events because  
18 of your training as an EMT or because you were a  
19 security officer or both?  
20 A Because I was an EMT.  
21 Q So would it be fair to state that you  
22 responded to these calls to determine whether or not  
23 there were injuries?  
24 A Yes, and to determine the extent of their  
25 injuries.

Page 28

1 Q And in connection with this 175 or so falls  
2 that you are aware of -- slip-and-falls on marble  
3 floors, how many times was the customer or anyone else  
4 injured in the fall?  
5 A I would say about 80 percent of the time.  
6 And that's as far as, you know, what they told us on  
7 initial assessment.  
8 Q So at least about 80 percent of the time  
9 when you reported to the scene of the fall as an EMT,  
10 injury was reported to you by whomever fell?  
11 A Correct.  
12 Q Did you work an eight-hour shift?  
13 A Yes.  
14 Q How many days a week?  
15 A Five days.  
16 Q Were there any other EMT security officers  
17 on duty while you were on duty?  
18 A Yes.  
19 Q And how many other EMT security officers  
20 would be on duty when you were on duty?  
21 A Including myself, it would be two.  
22 Q So it would be two per shift?  
23 A Two per shift per side and some days it  
24 would be three. By "per side," I mean Venetian and  
25 Palazzo. Palazzo had their own EMTs as well.

Page 29

1 Q Did you venture beyond the Venetian or did  
2 you stick with Venetian and somebody else took care of  
3 the Palazzo?  
4 A Normally someone else took care of the  
5 Palazzo. If they were busy, we would cover their side  
6 for any calls and vice versa.  
7 Q So when you give me the 175 number, is that  
8 strictly Venetian or is that Venetian and Palazzo?  
9 A That's both.  
10 Q And can you apportion between the two? In  
11 other words, how many at the Venetian versus how many  
12 at the Palazzo?  
13 A I don't know if I could estimate that only  
14 because -- I say that only because I worked at the  
15 Palazzo in the beginning and I transferred over to the  
16 Venetian a couple years after.  
17 Q Did the Palazzo have the same marble floors  
18 as the Venetian?  
19 A They had carpet. Their casino floor was  
20 mostly carpet. Their suites were the same in terms of  
21 bathroom and entryway being marble. Public areas, I  
22 don't think they had marble on their floor.  
23 Q So if the Palazzo didn't have marble on  
24 their floors, the slip-and-falls that occurred in the  
25 public areas would have occurred primarily in the

Page 30

1 Venetian?  
2 MR. ROYAL: I'm going to object to form.  
3 BY MR. GALLIHER:  
4 Q By the way, he gets to object. You get to  
5 answer unless he tells you not to.  
6 MR. ROYAL: Go ahead.  
7 THE WITNESS: I apologize. I'm sorry, can  
8 you repeat the question?  
9 BY MR. GALLIHER:  
10 Q We've established, based on your testimony,  
11 the Palazzo is primarily carpeted when we're talking  
12 about the public areas. The suites are the same as  
13 the Venetian to the extent they have marble on the  
14 bathroom areas; right?  
15 A Correct.  
16 Q The Venetian has the marble floors in the  
17 public areas, both on the casino floor, hotel floor  
18 and the 10th floor?  
19 A Correct. I would add that as I'm thinking  
20 about it -- it's been two years, year and a half since  
21 I've been there.  
22 The main entryway to the Palazzo where the  
23 front desk is and their statue water feature is, and  
24 the floor below that is all marble. So the casino  
25 floor is --

9 (Pages 27 to 30)

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000068

VEN 111

JOSEPH LARSON 10/11/2018

Page 31

1 Q So at least as you testify here today, you  
2 are unable to give me any quantification, so to speak,  
3 of what percentage of falls you investigated at the  
4 Venetian versus the Palazzo?  
5 A I -- I would be unable to.  
6 Q And that includes slip-and-falls?  
7 A Correct.  
8 Q And I think we have established previously  
9 there was roughly 175 slip-and-fall events that you  
10 personally investigated?  
11 A My estimate; yes.  
12 Q And 80 percent of the time the people were  
13 injured?  
14 A Correct.  
15 Q Now, you said there were two EMTs per shift.  
16 Was that at the Venetian, Palazzo or both?  
17 A Both.  
18 Q So was it two plus two equals four or just  
19 two together?  
20 A Correct. And depending on scheduling and  
21 depending on the shift, some shifts had more EMTs than  
22 others. On day shift and the shift I worked, it was  
23 between two and three EMTs.  
24 Q So was it between two and three EMTs for the  
25 Venetian?

Page 32

1 A Yes, and that just depends on scheduling.  
2 But more often than not, it was two.  
3 Q What about the swing shift when -- I  
4 presume -- a casino was busier, was there more EMTs?  
5 A The Venetian had four EMTs scheduled, you  
6 know, with varying days off. The Palazzo had three  
7 and then that switched for overnight. The Venetian  
8 had three EMTs on their overnight, the Palazzo had  
9 four EMTs on their overnight.  
10 Q What was the reason for that?  
11 A I don't know.  
12 Q You weren't part of the plan?  
13 A No. Yeah, I didn't schedule anything.  
14 Q So the total number of EMT security  
15 officers, such as yourself, at the Venetian would vary  
16 between two and four depending upon the shift --  
17 A Correct.  
18 Q -- and the conditions?  
19 For example, if there was a major convention  
20 there, I would presume they would have more EMTs on  
21 the shift than the normal EMTs because of the volume  
22 of customers.  
23 A Depending on the day, yeah, it would change.  
24 Q And who was responsible for scheduling the  
25 EMT security officers?

Page 33

1 A That would fall on the shift manager or the  
2 assistant shift manager.  
3 Q When you say shift manager or assistant  
4 shift manager, is that of the security department?  
5 A Yes.  
6 Q And do you remember the names of the  
7 security manager or assistant security manager while  
8 you were there?  
9 A George Valley (phonetic) would have been --  
10 November 2016, George Valley would have been the shift  
11 manager. Michael Dean I think was a new addition at  
12 that time, if I recall correctly, and I think Jacob  
13 Johnson was the other assistant manager.  
14 Q Let me shift gears again, go downstairs.  
15 We're adjacent to the area where the fall happened,  
16 which is next to the restroom areas by the Grand Lux  
17 Cafe.  
18 With me?  
19 A Yes.  
20 Q Do you know whether or not there are any  
21 businesses in, let's say, within a 100-foot radius of  
22 where the fall occurred that sell drinks?  
23 A There would be -- at Grand Lux Cafe, they  
24 had a small bistro.  
25 Q Bakery?

Page 34

1 A Like a bakery where you could order coffee  
2 or a pastry.  
3 Q Water?  
4 A Probably. I never shopped there.  
5 Q And if you walked down the hallway to the  
6 left past the restrooms, is there a food court?  
7 A There is a food court around the corner.  
8 Q Do you know how many businesses occupy the  
9 food court?  
10 A I don't know.  
11 Q And then as you walk past the food court  
12 around the corner, there is Bouchon Bakery?  
13 A Bouchon Bakery, that would be the opposite  
14 direction of the food court.  
15 Q What I'm getting at is this -- I'll try to  
16 show you with my hand as best I can. We've got the  
17 Grand Lux Cafe. To the immediate -- as we face it to  
18 the immediate left, we've got the bakery.  
19 A Yes.  
20 Q And then to the immediate right, we've got  
21 the restrooms?  
22 A All the way to the right; yes.  
23 Q And then past the restrooms to the right, as  
24 you walk down that hallway, you've got the food court?  
25 A Yes.

10 (Pages 31 to 34)

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000889

VEN 112



1 Q And that's where the physical business --  
 2 there are five businesses in the food court. So if we  
 3 go past the food court to the right and go around the  
 4 corner, do you recall seeing the Bouchon Bakery there?  
 5 A From your diagram, it would be -- it would  
 6 be -- as you are facing Grand Lux Cafe, as you look to  
 7 the right, you would see the escalators. Undemeath,  
 8 on the backside of the escalators, was Bouchon Bakery  
 9 and then again to the right would be the restrooms,  
 10 and then to the right would be the food court.  
 11 Q As you go around the corner, the Bouchon  
 12 Bakery is behind the escalator -- we'll talk about  
 13 that in a minute.  
 14 To the right of the Bouchon Bakery, is there  
 15 a shop that sells hard liquor, beer, wine, water?  
 16 A A gift store; yes.  
 17 Q But it sells those items?  
 18 A Yes.  
 19 Q And then at the top of the escalator, is  
 20 there a Coffee Bean?  
 21 A A Coffee Bean? Yes.  
 22 Q At the top?  
 23 A Yes, at the top of the escalator.  
 24 Q And do you know whether or not they sell --  
 25 apart from coffee, do you know whether or not they

1 sell soft drinks, bottled water?  
 2 A I imagine they would.  
 3 Q I just want to know whatever you remember.  
 4 Do you remember whether or not there was a  
 5 cooler inside the Coffee Bean inside where all the  
 6 drinks were displayed in bottles?  
 7 A I don't remember.  
 8 Q For example, if I were to buy bottled water  
 9 at the Coffee Bean and if I were to go down the  
 10 escalator into the area adjacent to the Grand Lux and  
 11 the restroom and I had my bottled water and you saw  
 12 me, you wouldn't be stopping me and telling me I  
 13 couldn't drink the water?  
 14 A Correct.  
 15 MR. GALLIHER: I want to take a little bit  
 16 of a break. We may be almost done.  
 17 (Short Break.)  
 18 BY MR. GALLIHER:  
 19 Q As I understood what you testified earlier,  
 20 you left the Venetian because you decided you didn't  
 21 want to be an EMT any longer.  
 22 A Yeah. I mean it's a little deeper than  
 23 that, but...  
 24 Q But you didn't leave under bad terms?  
 25 A No, not at all.

1 Q So as you testify here today, you don't have  
 2 any axe to grind against the Venetian or have any bad  
 3 feelings against the Venetian?  
 4 A Not at all.  
 5 Q Have you understood all my questions?  
 6 A Yes.  
 7 Q Anything you want me to repeat or rephrase  
 8 for you?  
 9 A No.  
 10 MR. ROYAL: I have a few questions.  
 11  
 12 EXAMINATION  
 13 BY MR. ROYAL:  
 14 Q All right. Let's go back to -- I think we  
 15 marked it as Exhibit 1. Do you have it in front of  
 16 you? Now, I just -- let's see. Look at VEN005. So  
 17 this indicates up at the top 12:39 on Friday,  
 18 November 4, 2016, and then at 13:31 on Friday you  
 19 cleared.  
 20 So you were involved in this incident for,  
 21 looks like, almost an hour. Look about right?  
 22 A Yes.  
 23 Q Okay. The information that's on this  
 24 particular page where it says "Joyce Sekera," where  
 25 did you get that? There's a home address, phone

1 number and so forth.  
 2 A That would have been provided to me, which I  
 3 would have written down on the medical release, which  
 4 is VEN017.  
 5 Q And who provided that?  
 6 A I completed that with her.  
 7 Q With who?  
 8 A With Joyce. I'm sorry.  
 9 Q Okay.  
 10 A So any information that would have been  
 11 verbally given to me and I would have copied it down  
 12 on this form.  
 13 Q Which is "this form"? You mean VEN017?  
 14 A Correct.  
 15 Q Let's go to that, then.  
 16 Okay. So I think we have established that  
 17 everything on this particular page is in your  
 18 handwriting except for it says Signature with an "X"  
 19 and a circle around the "X."  
 20 A Correct.  
 21 Q Okay. All right. There's an indication  
 22 where it says "LV Tour," with an arrow, "GCS." Do you  
 23 know what that means?  
 24 A That would be Grand Canal Shops.  
 25 Q And what is LV Tours; do you know?

JOSEPH LARSON 10/11/2018

Page 39

1 A I believe that's the company she worked for.  
2 Q Is that information she gave?  
3 A Yes.  
4 Q And how about above that? There's some  
5 abbreviations, "WFA," and just tell us what all that  
6 is.  
7 A That's a physical descriptor. That would be  
8 white female, 5'6", 160 pounds, brown eyes, brown  
9 hair.  
10 Q Is that information she gave you?  
11 A That's what I observed.  
12 Q All right. So some of the things on here,  
13 on this particular page, is information that you  
14 observed; other information is information she  
15 provided to you?  
16 A During the assessment and interview; yes.  
17 Q Okay. Now, when you were completing this  
18 particular form, do you recall where you completed  
19 this? Was it at the accident scene; do you remember?  
20 A It would have been a combination of both.  
21 Q "Both" what?  
22 A I'm sorry. So when responding to the scene,  
23 I usually jot down a few notes and then I would have  
24 completed the form with her on assessment -- on  
25 further assessment of the left elbow injury.

Page 40

1 Q Okay. Now, as I recall -- or at least it  
2 appears that you indicated that you left the area to  
3 do your assessment. Is that correct?  
4 A Yes.  
5 Q All right, we'll get to that. So when you  
6 say "both," some of this was completed at the scene  
7 and some was completed in a different area?  
8 A Correct. The initial assessment, what I do  
9 on scene is determine that there's no life-threatening  
10 injuries, that she's able to stand and care for  
11 herself and that we don't need an ambulance  
12 immediately. Which would be most of this top line  
13 stuff -- I'm sorry. Here in the middle of the page it  
14 will say S, slash, F, slip-and-fall, fell backwards  
15 onto base of pillar, then negative LOC, which is  
16 negative loss of consciousness, negative H/N/B for  
17 negative head, neck, back pain. And then negative  
18 weak, dizzy.  
19 So as long as she wasn't displaying anything  
20 like that, we know that we would be able to move her  
21 without having to call an ambulance.  
22 Q So you just read on VEN017 where it says  
23 Venetian, Palazzo EMT. That's where your handwriting  
24 starts there starting with "S/F."  
25 A Correct.

Page 41

1 Q Okay. Where did you get the information  
2 that you just read to us?  
3 A That would have been from me talking to her.  
4 Q So where it says, "fell backwards onto base  
5 of pillar," that's not something you witnessed; right?  
6 A Correct.  
7 Q And then where it says negative loss of  
8 consciousness, negative H/N/B means -- what again?  
9 A Head, neck or back pain.  
10 Q So when it says negative LOC, did you have a  
11 conversation? Did you ask if there was loss of  
12 consciousness?  
13 A Yes.  
14 Q Why did you ask that -- why would you ask  
15 that?  
16 A For any slip-and-fall we always ask that.  
17 It's pretty much the three standard questions that  
18 everyone is asked.  
19 Q So you asked about loss of consciousness  
20 which she denied?  
21 A Correct.  
22 Q You asked about injuries to the head, neck  
23 or back, which she initially denied?  
24 A Yes.  
25 Q You asked if she was weak or dizzy, which

Page 42

1 she denied?  
2 A Correct.  
3 Q Go to the next line starting with the "L"  
4 that's circled and just read across if you would.  
5 A Okay. It would be left elbow and then the  
6 arrow symbol and then positive "C" would be  
7 tenderness, and then negative would be -- negative  
8 "IC" would be no instability or crepitation.  
9 Q Is that something that -- or how do you get  
10 that information? Is that by your assessment or is  
11 that from a report? In other words, she's giving you  
12 that information?  
13 A This would be my assessment. So the  
14 tenderness would be, as we palpate or feel the injury,  
15 they would tell us if touching it would increase the  
16 pain which would be the tenderness.  
17 And then instabilities or crepitation would  
18 be any issues with the bone, if we felt anything  
19 shifting or if the joint didn't feel whole or correct  
20 or stable.  
21 Q Okay. Now, there's a notation under where  
22 it says "pillar" in that first line that you read where  
23 it says "S/F," and under "pillar" there's a line down  
24 with an arrow. Can you read that?  
25 A Guarded posterior cranium.

12 (Pages 39 to 42)

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VEN 114



1 Q What does that mean?  
 2 A So from what she told me and what was  
 3 documented in the report was that, when she fell she  
 4 put her hand behind her head as she fell to protect  
 5 her head. So the guarded posterior would be the rear  
 6 and oranium is head, so she guarded the back of her  
 7 head as she fell at the base of the pillar.  
 8 Q Okay. When you did this examination, did  
 9 you palpate anything other than the left elbow that  
 10 you recall?  
 11 A Normally we would palpate -- yes. We would  
 12 palpate the head, neck and back, the spinal column for  
 13 any additional pain.  
 14 Q Okay. And tell us about your palpation of  
 15 the head. How does that work; how did you do that?  
 16 A Usually we would just kind of feel around  
 17 the back of the skull. We feel for any depressions or  
 18 anything that's shifting, anything that doesn't feel  
 19 stable. Check for blood on gloves while doing that,  
 20 because a lot of open injuries in the hairline get  
 21 concealed pretty well.  
 22 So we just kind of take a general feel of  
 23 the entire cranium or head.  
 24 Q When you did that in this case, did you note  
 25 any complaints of tenderness?

1 A No.  
 2 Q Tell us about the neck down to the low back,  
 3 when you did that assessment.  
 4 A So for the neck, we would do mainly the  
 5 spinal region. We wouldn't do anything from, like,  
 6 the sides of the back, but we would do the spinal  
 7 region.  
 8 So neck would be the cervical spine from the  
 9 bottom of the head to the top of shoulders, and the  
 10 rest would be the thoracic spine all the way down to  
 11 the sacrum.  
 12 Q And you did that in this case after you did  
 13 the palpation of the head?  
 14 A Correct.  
 15 Q Were there complaints of pain from the neck  
 16 down to the low back when you did -- on palpation that  
 17 you recall?  
 18 A If it's not written here, it wasn't stated.  
 19 Q I don't know because I can't tell exactly  
 20 from your writing. Do you see anything like that?  
 21 A No, no, I don't.  
 22 Q Why don't you read to us. I'm going to  
 23 point to, it says plus CMS and just go ahead and read  
 24 down to where it says -- or just to the end of the  
 25 line.

1 A Okay. Plus CMS, it's -- CMS is shorthand  
 2 for circulation motor and sensory. So in the left arm  
 3 we would assist at the -- assess at the fingertips  
 4 whether there was circulation going past the elbow.  
 5 So in the form of what we would call a like  
 6 a capillary test where you press on the nail bed and  
 7 see how quickly blood would return. Motor, we would  
 8 ask them to move their fingers, and then sensory, if  
 9 they can feel at the tips of their fingers.  
 10 She reported -- and that's written here,  
 11 tingling in left P2 and P3. That's phalanges -- or  
 12 phalanx for the individuals, phalanges for both. P2  
 13 is the index finger, P3 is the middle finger.  
 14 And then after that I wrote "Limited ROM,"  
 15 that's range of motion, due to pain. So she didn't  
 16 have full movement of the elbow joint due to the pain  
 17 that she was reporting.  
 18 Q All right. So everything you just read to  
 19 us related to the left elbow?  
 20 A Correct.  
 21 MR. GALLIHER: Wait a minute. Objection,  
 22 you stated he was talking about two fingers.  
 23 MR. ROYAL: Okay. You are right. You are  
 24 right.  
 25 /////

1 BY MR. ROYAL:  
 2 Q Everything you just said related to your  
 3 examination of the left elbow?  
 4 A Left elbow and left arm, yes.  
 5 Q Were there any other body parts during your  
 6 examination where she exhibited -- Ms. Sekera  
 7 exhibited limited range of motion due to pain?  
 8 A No.  
 9 Q All right, down, then it says left --  
 10 auxiliary pain?  
 11 A Axillary pain.  
 12 Q Excuse me. What is that?  
 13 A That would be that armpit line, that  
 14 imaginary line straight down the armpit.  
 15 MR. GALLIHER: On the left side?  
 16 THE WITNESS: Left side, correct.  
 17 BY MR. ROYAL:  
 18 Q Okay. Tell us what that indicated to you,  
 19 if anything.  
 20 A Any indication -- I mean it could have been  
 21 numerous things. It indicated to me -- I mean I  
 22 didn't witness the fall so I don't know exactly how  
 23 she landed, but towards the end she was reporting left  
 24 axillary pain and soreness there.  
 25 But not to jump ahead, but left flank and

1 lateral back pain would be also just left back side.  
 2 So I mean it could be any number of things if she  
 3 landed on at the base of the pillar.  
 4 What it would indicate to me is she maybe  
 5 made contact there and she maybe wasn't feeling it  
 6 because maybe the pain in her elbow was masking other  
 7 pain.

8 Because I did notate a little below that  
 9 that there was an increase, there's an arrow up and  
 10 seven out of 10, that was her pain in the area at the  
 11 time.

12 Q Pain for what?

13 A At the left elbow.

14 Q Did she give you a pain -- degree of pain in  
 15 anything other than the left elbow, that seven out of  
 16 10?

17 A No.

18 Q She didn't rate this back pain?

19 A No.

20 Q This lateral back pain, was that -- did she  
 21 explain about that after you had already done your  
 22 palpation? Was it during when you were palpating the  
 23 spine?

24 A That would have been towards the end. It's  
 25 stated in the narrative.

1 Q Okay, we'll go to the narrative. That's  
 2 okay. Let's just read the rest of this as we can.  
 3 So there's -- go ahead and read it, what you  
 4 can. I realize a little bit's cut off here, but to  
 5 the degree you can just read the rest of it, under  
 6 where it says left flank.

7 A Okay. So at the angle, that's positive  
 8 video, and I'm not sure if that's from surveillance or  
 9 security control. It would be one of those two  
 10 entities that told me that we had video of the  
 11 incident. And below that is just kind of the quick  
 12 notes I took while they were talking to me on the  
 13 phone which would be left foot slipped, 30 minutes  
 14 prior, no spill, below that.

15 Q Do you know what that means?

16 A That would have been -- they reviewed  
 17 coverage 30 minutes before the fall and they said no  
 18 spill was observed.

19 MR. GALLIHER: And I'll allow the testimony,  
 20 but it's hearsay. But you can go ahead and answer.

21 THE WITNESS: But they didn't observe any  
 22 spill in the video footage.

23 BY MR. ROYAL:

24 Q Did you ever observe any spill?

25 A I did not see any wet areas.

1 Q Did Ms. Sekera indicate to you she had  
 2 observed any spill at any time, that you recall?

3 A She said she had slipped and -- I think what  
 4 I said in the report was that something like water,  
 5 but I never observed what she stated she slipped in.

6 Q Okay. Let's go through the rest of this on  
 7 017.

8 A So continuing, that's "RX," which would be  
 9 treatment, which is splint to left elbow, slash FA,  
 10 which is forearm. And below that is positive CMS  
 11 which is -- what that indicates is after we apply a  
 12 splint to somebody, we want to reassess their injury  
 13 and anything distal or further down the body, so that  
 14 would be the fingertips.

15 So we would reevaluate CMS at the fingertips  
 16 again after the splint to make sure the splint isn't  
 17 doing any damage or hindering anything.

18 After that it goes negative triangle, which  
 19 is delta or change. So negative change. There is a  
 20 "P" with a line above it that's post, after. So  
 21 negative change after application.

22 And then that's negative HX, which is  
 23 history.

24 Q What does that mean?

25 A That would be no history of injury to that

1 elbow.

2 Q Prior to the fall?

3 A Correct.

4 Q And that's information obtained from where?

5 A The assessment interview, speaking with her.

6 Q Okay. So let's go to, still on Exhibit 1,

7 VEN006. You asked about -- this was called the case  
 8 MO, and you were asked about I guess how you put this  
 9 information together. You said you checked boxes.

10 A Correct.

11 Q On a computer program you used?

12 A Correct.

13 Q When did you complete this report? Did it  
 14 say here?

15 Look at the VEN006 at the bottom by your  
 16 name. It says date and time, it says 15:30. What's  
 17 that?

18 A That would be November 4, 2016, at 3:30 p.m.  
 19 That, I believe -- and I'm not 100-percent sure  
 20 because I normally don't see these printouts. These  
 21 aren't what we normally look at in the report system,  
 22 but I think that's the time the report was submitted.

23 Q So if that's accurate, you would have  
 24 prepared this report within two hours of clearing?

25 A Correct.



1 Q All right. Look at where it says, under "MO  
2 data," it says "Incident Information." About the  
3 fourth line down says "PHI, outside vendor." What is  
4 that?  
5 A "PHI" is protected health information and  
6 then "outside vendor" would be not a Palazzo Venetian  
7 team member and not a guest of the hotel. So that  
8 would be somebody who is a temp worker or somebody who  
9 works in a business on the Venetian Palazzo property  
10 that's not officially employed by the Venetian or  
11 Palazzo.  
12 Q Then you have Surface Conditions: Dry,  
13 marble, flat.  
14 A Correct.  
15 Q Why did you select dry as opposed to wet?  
16 A The reason I did that is because that was my  
17 assessment of the area, and that was done on an  
18 accident scene check which is VEN018.  
19 Q Let's go to -- still in Exhibit 1, VEN007.  
20 This is called a Person Profile. Is this the same  
21 kind of form you fill out -- in other words, where you  
22 get on and you click boxes?  
23 A Correct.  
24 Q Just give us -- based on what you clicked  
25 here under "MO information," give us a summary of at

1 least what you indicated to be Ms. Sekera's state of  
2 mind --  
3 A Okay.  
4 Q -- at the time you were doing your  
5 assessment.  
6 A That would be the patient assessment and  
7 speech. When I clicked, Patient is alert, airway  
8 status open, breathing adequate, circulation present,  
9 patient has a trauma, slash, injury, abrasions,  
10 tenderness and that her speech was normal.  
11 Q At any time during your assessment, did she  
12 have any -- did she exhibit any signs of a concussion  
13 or anything of that nature?  
14 A Nothing that was immediately noticeable.  
15 Q Let's go to your VEN008, 009. This is a  
16 narrative report.  
17 All right, a few questions from this. It  
18 says you arrived on scene and met with Las Vegas Tours  
19 employee Sekera, Joyce.  
20 Do you know what Las Vegas Tours is?  
21 A I'm not exactly sure what they do. I know  
22 they have a couple booths up in the Grand Canal Shops,  
23 but I don't know exactly what they sell. I mean I  
24 would imagine it's tours, but I'm not --  
25 Q Had you ever seen Ms. Sekera before this

1 incident that you recall?  
2 A Not that I'm aware of. Not that I would  
3 recollect.  
4 Q Still on the first paragraph, let's go to  
5 the second-to-last sentence. It says "Sekera  
6 apologized for falling and did not appear to be in any  
7 immediate distress."  
8 Do you have any independent recollection of  
9 that initial conversation with Ms. Sekera where she  
10 apologized?  
11 MR. GALLIHER: Other than what's in the  
12 report?  
13 MR. ROYAL: Right.  
14 BY MR. ROYAL:  
15 Q I'm asking, do you have an independent  
16 recollection of that conversation?  
17 A Outside of this report, no.  
18 Q Then you write, "I did not note any obvious  
19 injuries or threats of life."  
20 When you say you didn't note any obvious  
21 injuries, what are you referring to?  
22 A Any pools of blood, any obvious fractures.  
23 Anything that you could just look at somebody and  
24 understand something's not right about their  
25 condition.

1 Q Okay, next sentence -- or rather the next  
2 paragraph says, "Sekera was alert, oriented to person,  
3 place, time and events."  
4 At what point -- does this report indicate  
5 at what point you had this particular conversation  
6 with her to make that determination? Was it during  
7 your initial assessment or was it later?  
8 A This would be the initial assessment. This  
9 would be right when I walked up and started talking to  
10 her.  
11 Q Okay. So the next sentence says "She stated  
12 that she was walking through the area when she slipped  
13 in what she believed was water on the floor."  
14 See that?  
15 A Yes.  
16 Q When you say "She stated" in this report,  
17 what is -- what does that indicate? What is that  
18 meant to indicate? Can you explain that?  
19 A In this, in my report writing, if I don't  
20 add quotations, it's not a direct quote of what they  
21 said. This would just be a paraphrase of what she  
22 explained to me happened before she ended up on the  
23 floor.  
24 Q Okay. So she said she believed water was on  
25 the floor. Did she ever identify to you anything else



1 beyond saying it was on the floor? Did she describe  
2 it? Did she give any indication about size or  
3 location?  
4 A No, not that I can recall.  
5 Q The next sentence says "She reported that  
6 she fell backwards and put her right hand behind her  
7 head to protect it."  
8 When you say "She reported," is that any  
9 different than when you said "She stated"?  
10 A No.  
11 Q Do you recall -- okay. Then it says, the  
12 next sentence, "She landed on the marble floor and her  
13 left elbow struck the base of the pillar next to her."  
14 You didn't say "she reported" or "she  
15 stated" prior to that particular statement. Is there  
16 a reason for that?  
17 A That would have been a continuation of the  
18 previous sentence --  
19 Q Okay.  
20 A -- because obviously I wouldn't have seen  
21 it.  
22 Q Okay. The next sentence, "She denied  
23 striking her head during the fall and denied losing  
24 consciousness prior to or after falling."  
25 Do you see that?

1 A Yes.  
2 Q When you say "She denies," would you explain  
3 to us how we're supposed to read that in this report?  
4 A So that would be me asking her just  
5 basically that: Did you feel like you were going to  
6 pass out or did you pass out before falling, before  
7 being on the floor? And do you remember being on the  
8 floor and everything up until seeing me, is basically  
9 how I would put it.  
10 And then that's just kind of a paraphrasing  
11 of that conversation.  
12 Q Okay. So when we read this and it says she  
13 denied striking her head, that indicates you had a  
14 conversation with her?  
15 A Correct. I would have asked her, you know,  
16 how she fell, did her head hit anything; and then in  
17 line with that, it would be other questions about loss  
18 of conscious or levels of consciousness.  
19 Q Okay. So as you sit here today and as you  
20 read this report so far, does any of this refresh your  
21 recollection as to any of the conversation you  
22 actually had with Ms. Sekera?  
23 A The exact conversation, no. No, I --  
24 outside of what's written here, I have no independent  
25 recollection of this conversation.

1 Q The next sentence, "She denied any head  
2 pain, neck pain, weakness, dizziness or nausea at that  
3 time."  
4 Again, when you use the words "She denied,"  
5 what does that indicate to us?  
6 A That would be her saying, no, to basically  
7 any of those things: Do you have any head pain, neck  
8 pain, back pain? The weakness and dizziness would  
9 have been included in the loss of consciousness  
10 conversation.  
11 Q Okay. So up to this point in paragraph 2,  
12 other than the first sentence where you said she was  
13 alert, oriented to person, place and time, pretty much  
14 what we've been reading is information she has  
15 provided to you; is that correct?  
16 A Yes, correct.  
17 Q All right. The next sentence says "I noted  
18 she was guarding her left elbow and reported she was  
19 only experiencing pain there at that time."  
20 See that?  
21 A Correct.  
22 Q Okay. So you observed -- tell us about what  
23 you observed in that sentence versus what information  
24 she gave to you.  
25 A So from what I typed there, guarding is

1 basically kind of protecting or shielding. So a lot  
2 of times people, when they're guarding an injury, they  
3 won't put their hands directly over it, but they'll  
4 guard like a body part near it. I didn't exactly  
5 explain that she was holding an arm across her chest  
6 or anything like that.  
7 But guarding in the medical assessment is  
8 usually something along those lines, that the patient  
9 is protecting the injury from any further movement or  
10 anything affecting it.  
11 Q Okay. The next sentence, "She was  
12 embarrassed, to which I offered to assist her to a  
13 more private area." Again she stated she was  
14 embarrassed, I should say.  
15 That, again, was conversation you had with  
16 Ms. Sekera?  
17 A Yes.  
18 Q Okay, let's continue. "She agreed and was  
19 assisted to a standing position."  
20 Did you do that?  
21 A I would have, yeah.  
22 Q Then it says, "I asked if she felt any new  
23 pain, weakness, dizziness or nausea, to which she  
24 denied at that time."  
25 Can you explain to us why you would ask that

JOSEPH LARSON 10/11/2018

Page 59

1 a second time? Looks like you had already covered  
2 that before.  
3 A So like I said previously with the  
4 splinting, anytime we change a condition for a  
5 patient, you always want to reassess. So anytime you  
6 do something you want to reassess: Is this hurting  
7 you more? Does this make you feel better?  
8 And then usually when somebody falls,  
9 picking them back up, you know, sometimes people will  
10 feel a little weak or dizzy, in my experience doing  
11 that job. So that became just a normal question I  
12 would ask whenever I would assist anybody to stand,  
13 regardless of injury, is if there was any weakness or  
14 dizziness upon standing up.  
15 Q Okay. Continuing it says, "She agreed to be  
16 assessed in the medical room and refused wheelchair  
17 assistance."  
18 What's the medical room?  
19 A The medical room is a section of the  
20 security office that the EMT stage out of. We have  
21 our own computers, or own phone, own private area that  
22 wasn't under camera coverage. Because most of the  
23 security office had camera coverage because obviously  
24 we wouldn't want any cameras in the medical room. So  
25 the medical room is a more private place that I could

Page 60

1 get her to and then finish the assessment there.  
2 Q How did you get to the medical room from the  
3 scene when you first met Ms. Sekera?  
4 A From the report, looks like we walked  
5 because she refused the wheelchair.  
6 Q Do you remember anything about that walk?  
7 A No.  
8 Q Do you remember her having any trouble  
9 ambulating from the accident scene to the medical  
10 room?  
11 A No. And if she did, I would have put her in  
12 a wheelchair anyway.  
13 A lot of times you would get a patient who  
14 would overestimate their ability to walk. There were  
15 ways that we could have conversations with people to  
16 make them understand that, you know, if it's from a  
17 previous fall, we don't want them falling again. We  
18 don't want things getting worse.  
19 So even though a wheelchair is  
20 embarrassing -- a lot of people said it was  
21 embarrassing, we would always prefer that route to  
22 having them fall again, and most people were  
23 understanding of that.  
24 And that was part of us walking with them.  
25 We wanted to make sure that they didn't appear

Page 61

1 unstable or were able to walk on their own without  
2 assistance.  
3 Q Now, this next paragraph, it goes from -- it  
4 goes on to VEN009, starting with the last paragraph.  
5 This appears to be just details associated with your  
6 assessment -- your assessment of the left elbow.  
7 A The paragraph that ends on 008?  
8 Q I'm sorry. Secure left elbow.  
9 A Yeah, that would be my assessment of the  
10 injury.  
11 Q Now, I'm just sort of looking at this  
12 chronologically the way you drafted this. Does this  
13 sort of refresh your recollection as to where you did  
14 this extensive left elbow assessment? Whether it was  
15 at the accident scene or the medical room?  
16 A This would have happened in the medical  
17 room.  
18 Q Okay. Now going on to VEN009 at the top  
19 starting with "She added." "She added that she was  
20 beginning to feel minor pain and soreness in her left  
21 lower back and left side localized to the axillary  
22 line."  
23 Can you explain what that means again?  
24 A So that would have been during my  
25 conversation with her. This would have been after

Page 62

1 treatment because all my report writing is  
2 chronological. That would have been after treatment  
3 of her elbow.  
4 So once it was splinted -- let's see,  
5 splinted and slinged, she began to report minor pain  
6 and soreness, left lower back and left side. So that  
7 would have been at the end of my assessment.  
8 And usually for writing like this to be a  
9 little more concise, throughout the entire call we  
10 usually ask if they want an ambulance, if they want to  
11 see a doctor or seek any further medical attention.  
12 And the way I wrote my reports is that that would be  
13 towards the end.  
14 I mean if somebody says yes to an ambulance,  
15 obviously that would be chronologically reported. But  
16 to make the report more concise, I added the seeking  
17 medical attention part towards the end of those  
18 reports.  
19 Q I'm going to ask you one more time about  
20 this minor pain and soreness to her left lower back  
21 and left side, localized to the axillary line, because  
22 I'm not clear on where this is.  
23 Where is the pain in the left lower back?  
24 Is it like in the kidney area? Is it on the side or  
25 the spine?

17 (Pages 59 to 62)



1 A Okay. So, yeah, it would be the area -- so  
2 imagine on the left side, the invisible line like the  
3 middle of the amput going all the way down towards  
4 the flank, which would be just above the beltline and  
5 then around to the back.  
6 Q So you've indicated going to the back either  
7 to the spine or -- how far to the middle of the back?  
8 A Yeah, usually -- I don't know if it was to  
9 the spine. If it's not documented, I'm not exactly  
10 sure how far it extended.  
11 Q Okay. All right. Now on VEN009 starting  
12 with "Sekera agreed to seek medical attention."  
13 See that?  
14 A Yes.  
15 Q Okay. Then it says, "but refused ambulance  
16 transport." That means what? That means you had a  
17 conversation about whether you should call an  
18 ambulance?  
19 A Yes.  
20 Q The next sentence says, "She stated her job  
21 did not provide worker's compensation."  
22 Do you know why that would be part of your  
23 conversation?  
24 A The reason that's in there is because she  
25 was a third party -- I'm sorry. What was the exact

1 phrasing? On VEN006, "PHI, outside vendor."  
2 Because she was in line with, like, a temp  
3 worker or somebody who works at the Venetian Palazzo,  
4 but is not employed by the Venetian Palazzo, we would  
5 ask them if they had worker's compensation only  
6 because that would require them to report to their  
7 manager and that would require them to fill out the  
8 worker's compensation paperwork.  
9 And that -- mostly we saw temp workers for  
10 injuries, but that's for third-party stuff like this.  
11 And they had their own worker's comp, but most people  
12 aren't aware of how to engage that conversation with  
13 the manager or how to start the worker's compensation  
14 process.  
15 So that's just the normal thing we ask them,  
16 anybody that's not employed by the Venetian Palazzo.  
17 Only because, like I said, they have to report to the  
18 manager and let them know they were injured.  
19 Q That brings up another question. Is it  
20 unusual to take someone from, let's say, the public  
21 area back to the medical room? Just a normal guest?  
22 A I wouldn't take a guest back to the medical  
23 room.  
24 Q Why did you on this occasion?  
25 A Because she was an outside vendor. She

1 worked at the property, but wasn't exactly a team  
2 member with us.  
3 Those employees on our property do have  
4 access to our back-of-house areas, so it's not against  
5 anything for me to bring her back to a secure area  
6 like that. And in the case of a guest, if they ask  
7 for more privacy, there are other areas near the  
8 casino floor that we could assess them that isn't the  
9 medical room.  
10 Q Okay. Back to VEN009, Exhibit I, and it  
11 indicates, "She refused to complete a voluntary  
12 statement for the incident."  
13 Can you explain what that indicates or  
14 reads?  
15 A Sure.  
16 So our policy for reporting injuries to  
17 outside vendors or third-party employees on property  
18 was that they would fill out the medical release,  
19 which is VEN017.  
20 They would fill out the medical release and  
21 they were given the option of completing a voluntary  
22 statement for their employer. But, like, it's implied  
23 it's a voluntary statement. If they don't want to  
24 complete any paperwork for their injury, they don't  
25 have to.

1 Q And you said "She was escorted to her booth  
2 in the Grand Canal Shops, collected her belongings and  
3 was escorted to her vehicle in the team member garage  
4 on Level 8."  
5 Do you see that?  
6 A Yes.  
7 Q Can you explain, to the best you can, what  
8 that means?  
9 A So after all the paperwork and photographs  
10 were completed and everything I had -- everything I  
11 needed I had, I offered to walk her back up to where  
12 she worked, collect her belongings -- I guess I don't  
13 know what that entailed and probably a purse, but  
14 that's just guessing -- and then she was escorted to  
15 her vehicle.  
16 So I walked with her basically just to make  
17 sure she was okay. Only because she was injured and  
18 she was also complaining of the additional things, but  
19 didn't want to go by ambulance.  
20 More often than not -- and I think everybody  
21 is different about it as far as EMTs. If somebody is  
22 injured on property and I have the ability to walk  
23 with them, I'll do it only because they are on our  
24 property and I'm caring for them. I always take it  
25 upon myself to escort injured team members or



1 employees.

2 Q So in this case, from the accident scene,  
3 where did you walk with her?

4 A So from the accident scene, it would have  
5 been through the hotel -- the elevator lobby to the  
6 back of house, to the security office, and the medical  
7 room in the security office where the rest of the  
8 report was finished, paperwork was collected.

9 And then we would have gone from the medical  
10 room back out to the casino floor and then her booth,  
11 which is where she worked up on the second floor out  
12 of the Grand Canal Shops. And then she would have  
13 collected her stuff and I would have walked with her  
14 to wherever her car was parked.

15 Q Okay. Did you indicate, anywhere in your  
16 report, any concerns related to her ability to operate  
17 a vehicle on her own?

18 A Not in the report itself, but I would have  
19 asked her. And it's not documented, so I can't say.

20 Q Okay. So once you -- What happened after  
21 you got to the team member garage? Strike that. Let  
22 me ask another question.

23 This team member garage, what is that? On  
24 Level 8, what's a team member garage?

25 A Where all the employees park their vehicles

1 have to do an accident scene check. That is policy  
2 for us to complete.

3 I don't remember this exact incident, but my  
4 normal procedure is to go where the incident happened,  
5 take a look around and just evaluate the area, see if  
6 there's anything uneven, see if there's any  
7 obstruction, see if there's just anything that might  
8 present a hazard.

9 Because if there is something present -- and  
10 this was done in conjunction with facilities. So if  
11 there was something present, I would need to stand  
12 there and make sure nobody else got injured from it or  
13 tripped on something or slipped on something. So it  
14 would be on me to make sure either nobody else slipped  
15 or fell in that area, and that was done with the PAD  
16 department.

17 Q The next line down says, "A previous wet  
18 spill was reported and cleaned by PAD."

19 When you refer to a previous wet spill, what  
20 information did you have other than Ms. Sekera saying  
21 that she believed she stepped in water?

22 A As far as my recollection, she was the only  
23 one that told me.

24 Q And is there anything in your report  
25 indicating whether or not Ms. -- other than Ms. Sekera

1 and they walk onto the property.

2 Q Then after you walked her to -- Ms. Sekera  
3 to her car, last paragraph indicates that you returned  
4 to the area; is that right?

5 A Yes.

6 Q Did you -- you don't have an independent  
7 recollection of that, do you?

8 A No, not outside of the report.

9 Q Okay. Now, it says, "Video coverage is  
10 available per surveillance."

11 Do you recall ever reviewing any actual  
12 surveillance?

13 A I'm not allowed to look at the video  
14 coverage.

15 Q Okay. So you haven't?

16 A No.

17 Q On VEN018, if you could go to that for a  
18 minute. Your notes indicate, "Defects noted, explain  
19 in detail." It says "Marble flooring appears flat,  
20 even and dry."

21 See that?

22 A Yes.

23 Q Do you recall what you did to make that  
24 determination or not?

25 A So for this -- any slip-and-fall, we always

1 saying she believes she slipped in water, any other  
2 objective observation you made about the existence of  
3 water prior to this slip-and-fall?

4 A No.

5 MR. ROYAL: Did we mark those?

6 MR. GALLIHER: They're marked as 2.

7 MR. ROYAL: Can I look at those?

8 BY MR. ROYAL:

9 Q I just ask you, on Exhibit 2, on these  
10 photographs that we looked at, there's VEN035, I  
11 assume you took that photo.

12 A Yes.

13 Q All those photos; right?

14 A Correct.

15 Q Was that taken in the -- can you just tell  
16 us where this was taken.

17 A That would be the medical room.

18 Q Okay. And how about Photo 036?

19 A Also in the medical room.

20 Q And that's of the left elbow?

21 A Yes.

22 Q And how about 037?

23 A Medical room.

24 Q Do you know why you took that picture?

25 A It's policy for us to photograph shoes if

1 we're able to. Tops and bottoms of shoes.  
 2 Q And 038?  
 3 A Medical room.  
 4 Q Okay. That's the bottom of the shoe?  
 5 A Correct.  
 6 Q 039?  
 7 A That's the area of incident.  
 8 Q Do you remember when this one was taken,  
 9 039? Would that have been after you returned to the  
 10 scene?  
 11 A Yes. That photograph, I don't know exactly  
 12 when that was taken, but my normal operation was to  
 13 take photographs during the accident scene check.  
 14 Q All right. So VEN014, you took that?  
 15 A Yes.  
 16 Q And in this particular photograph or  
 17 anywhere around this pillar, did Ms. Sekera ever point  
 18 to you and say, "This is where I believe the water  
 19 was"?  
 20 A Not to my recollection.  
 21 Q All right, 041, that's also of where you  
 22 found Ms. Sekera?  
 23 A Yes.  
 24 Q On 042, why did you take this photo?  
 25 A That would be the pillar she pointed to as

1 the falling event.  
 2 Q And other than her left elbow, did she  
 3 complain to you about anything else striking the  
 4 pillar?  
 5 A Striking the pillar? No.  
 6 Q Did she complain to you about anything else  
 7 striking the floor or any other object other than her  
 8 left elbow?  
 9 A No.  
 10 Q Okay. And this last photo, 0043, you took  
 11 that and that was of the incident area?  
 12 A Yes.  
 13 Q Okay. I just have a couple more here. I'm  
 14 going to show you --  
 15 MR. ROYAL: Off the record for a second?  
 16 (Discussion off the record.)  
 17 BY MR. ROYAL:  
 18 Q And I'm trying to remember what I -- for the  
 19 record, I've got up here the surveillance photo of the  
 20 incident starting at 12:43:15.  
 21 And it's still right now, but do you  
 22 recognize yourself?  
 23 A Looks like me.  
 24 Q And would that be you on the right with the  
 25 backpack?

1 A Yes.  
 2 Q There's an officer in a blue uniform -- I'm  
 3 sorry, there is a man in a blue uniform. Do you see  
 4 that?  
 5 A Yes.  
 6 Q Do you know who that is?  
 7 A Not off the top of my head.  
 8 Q Counsel had asked on direct whether or not  
 9 there was another security officer there. Does  
 10 looking at this, still at 12:43:15, at all refresh  
 11 your recollection?  
 12 A No.  
 13 Q I'm not left-handed so this is a little  
 14 tricky. Hang on. So I've let it -- it's now rolling,  
 15 it's 12:43:22. You are bending over.  
 16 You are talking to -- I assume that's  
 17 Ms. Sekera.  
 18 A I believe so.  
 19 Q Okay. Is this the first time you've seen  
 20 this footage?  
 21 A Yes.  
 22 Q Does anything that you are seeing at this  
 23 point refresh your recollection --  
 24 A No.  
 25 Q -- about anything you testified to?

1 A No, not independently.  
 2 Q Hold on one second.  
 3 MR. ROYAL: Give me a second here.  
 4 BY MR. ROYAL:  
 5 Q Okay. I'm going to show you now video  
 6 starting at 12:44:45. Ms. Sekera is now standing up  
 7 and you are in -- is that a white shirt --  
 8 A Yes.  
 9 Q -- white uniform?  
 10 A That's correct.  
 11 Q And then we still have this other officer  
 12 here in the blue uniform. We don't know who he is at  
 13 this point; is that right?  
 14 A I don't recognize him.  
 15 Q So I'm just going to hit Go here, so it's  
 16 rolling at 12:44:45 forward. You see the officer in  
 17 the blue uniform, looks like he's gone somewhere else  
 18 and just you and Ms. Sekera are walking from the scene  
 19 and you've got the wheelchair, right?  
 20 A Yes.  
 21 Q And where are you going at this particular  
 22 point?  
 23 A To the medical room.  
 24 Q Okay. So these cameras at 12:45:14, they  
 25 depict you going into what looks like the elevator



JOSEPH LARSON 10/11/2018

Page 75

1 lobby area.  
2 A Yes.  
3 Q And at 12:45:25 you are going through this  
4 door, and where does that lead?  
5 A To the back of house.  
6 Q Are guests typically allowed back there?  
7 A No.  
8 Q Okay, 12:45:40 we see you again with the  
9 wheelchair and Ms. Sekera in the back hall, and it  
10 just continues as you are going towards the medical  
11 room.  
12 Looking at any of this, does it refresh your  
13 recollection as to anything you testified to today?  
14 A Nothing outside the report.  
15 Q At 12:46:05, that's you and Ms. Sekera  
16 walking towards the camera?  
17 A Yes.  
18 Q At this particular time, does she at least  
19 appear to have difficulty ambulating to you?  
20 A No.  
21 Q Do you have an idea of the estimated  
22 distance that you walked from the incident scene to  
23 the medical -- to this room you are going into at  
24 12:46:42?  
25 A Total distance walked?

Page 76

1 Q It's okay, best guess.  
2 A My best estimate is a couple hundred feet.  
3 Maybe -- trying to do the math in my head because each  
4 pace is about three steps or each pace is about  
5 two feet.  
6 Q You know what? It's not --  
7 A I don't know.  
8 Q So at 12:46:54, that's when you -- just  
9 because you disappeared, that's when you go into the  
10 medical room?  
11 A Correct.  
12 Q So I want you to -- all right, now I'm going  
13 to show you footage -- oh, boy. I'm going to show you  
14 footage starting at 13:02:37, and you said there's no  
15 cameras in the room where you were doing your  
16 assessment.  
17 A Correct.  
18 Q All right. So at 13:02:39, that looks like  
19 you and Ms. Sekera coming from the medical room.  
20 A Yes.  
21 Q All right. So according to at least the  
22 time difference there, looks like your assessment in  
23 the medical room was somewhere close to about 15  
24 minutes.  
25 A Yeah -- yes.

Page 77

1 Q All right. So from this point, I'll just --  
2 I'll represent to you that this -- maybe I'll just  
3 kind of speed this up -- that this shows you walking  
4 back from the medical room, the same -- looks like the  
5 same course that you took to get there.  
6 Would you agree?  
7 A Yes.  
8 Q Okay. I'm at 13:04:06. We see you coming  
9 from those rooms that lead to the back area, and then  
10 now you are out in the common area -- the guest area?  
11 A Yes.  
12 Q Okay. At this point, we're -- at this point  
13 you are going where?  
14 A Back up to her booth or place of employment.  
15 Q So I'm going to speed this up a little bit.  
16 Now at 13:05:25, what are we seeing here? You see  
17 yourself and Ms. Sekera?  
18 A Yes.  
19 Q Where is that?  
20 A That's up in the Grand Canal Shops.  
21 Q Okay. It's a floor above?  
22 A Yes.  
23 Q A floor above where the incident occurred;  
24 is that right?  
25 A Not exactly, but, yeah.

Page 78

1 Q What do you mean "Not exactly"?  
2 A Not like directly on top of it, but a floor  
3 above it.  
4 If you were to pinpoint exactly where it was  
5 above it, it would be further down that hallway on the  
6 left side of the video there.  
7 Q But it was one floor above?  
8 A Yeah.  
9 Q Okay. I'm going to speed it up quite a bit  
10 here. We're now at 13:13:08. Looks like you are  
11 backtracking, basically going back to the area that  
12 you came once you went up to the Grand Canal Shops. I  
13 don't know if you can tell.  
14 A Yeah, yeah.  
15 Q And at this point you are headed towards  
16 the --  
17 A The garage.  
18 Q Okay. We just watched at 13:08 -- 13:08:50,  
19 up to 13:09. Now it's continuing at this point, she's  
20 in a sling, she's walking on her own and just headed  
21 towards -- looks like the elevator.  
22 A Correct.  
23 Q And that's the elevator to get to the  
24 parking area?  
25 A Correct.

21 (Pages 75 to 78)

1 Q Okay, now it's at 13:10:08. Looks like you  
2 are getting onto an elevator. Is this to go up to the  
3 team member parking garage?  
4 A To Level 8; yeah.  
5 Q Okay. This looks like it ends at 13:10:32.  
6 As you and Ms. Sekera are getting out of the elevator  
7 on that particular floor to the team member parking,  
8 see that?  
9 A Yes.  
10 Q Does anything that we just went over refresh  
11 your recollection as to anything that is beyond, you  
12 know, either what you can see in the video or what's  
13 in your report that we have covered marked as  
14 Exhibit 1?  
15 A Nothing stands out.  
16 Q If Ms. Sekera had complained to you about  
17 anything else during the time that you were doing this  
18 escort, either to the medical room or from the medical  
19 room to the garage, is that something that you would  
20 have typically included in your report?  
21 A Yes.  
22 MR. ROYAL: I just got a couple more  
23 questions here.  
24 BY MR. ROYAL:  
25 Q You were asked about prior incidents and

1 best estimates and so forth about slip-and-falls. I  
2 want to cover a couple things about that.  
3 There are occasions when you respond to  
4 incidents like this where there are more than one EMT  
5 that responds?  
6 A Yeah, yeah, that's happened.  
7 Q On some of those estimates that you  
8 provided, how many of those would include other EMTs  
9 responding with you?  
10 A I wouldn't be able to estimate that.  
11 Q Would it be more than 10 percent? More than  
12 20 percent?  
13 A I would say maybe 50 percent.  
14 Q Of those 175 that you -- or I'll say 150 to  
15 175, which is what my notes indicate you said,  
16 How many of those falls on marble floors  
17 were trips versus slips?  
18 A I don't know if I would be able to estimate  
19 that.  
20 Q Are you -- when you said 175 or up to 175,  
21 would that include just slips with a foreign substance  
22 or was it any kind of a fall on a marble floor?  
23 A More often than not it was a slip. If it  
24 was a trip, it would be an unusual circumstance only  
25 because they were very good -- PAD and facilities were

1 very good about obstructions and things that people  
2 could trip over.  
3 More often than not, it was a slip over a  
4 trip, but I couldn't give you a number.  
5 Q Of the 150 to 175 that you estimated, how  
6 many of those related to slips on marble floors where  
7 there was no foreign substance?  
8 A No foreign substance?  
9 MR. GALLIHER: Again, I'll object on grounds  
10 of foundation. There's no foundation for your  
11 testimony, but you may answer.  
12 THE WITNESS: Can you repeat the question?  
13 BY MR. ROYAL:  
14 Q Do you understand what I mean by foreign  
15 substance?  
16 A Yeah, like a fluid or anything like that.  
17 Q Yeah. So of the 150 to 175 -- or let me ask  
18 it this way.  
19 Do you recall if you responded to any falls  
20 or slips on a marble floor that did not involve a  
21 foreign substance?  
22 MR. GALLIHER: Same objection. You may  
23 answer.  
24 THE WITNESS: A slip that did not involve --  
25 there might be a handful of those. It's usually

1 related to footwear or somebody not being cautious  
2 about where they're stepping. Those are pretty  
3 common.  
4 BY MR. ROYAL:  
5 Q Does that have anything to do with why you  
6 take pictures of shoes?  
7 A Yeah, yes. Actually, yeah. We take shoes  
8 to document evidence of how good of footwear the  
9 person was wearing when they're on our flooring.  
10 Q Okay. As you sit here today, you didn't  
11 make any conclusions as to whether or not there was  
12 any kind of foreign substance on the floor that caused  
13 Ms. Sekera to fall in this particular incident;  
14 correct?  
15 A That's correct; I didn't observe anything.  
16 Q The only information you had is that she  
17 said to you she believed she stepped in water?  
18 A Correct.  
19 Q As you -- do you recall or did you see  
20 anything in your report related to Ms. Sekera  
21 complaining that her pants were wet after the fall?  
22 A No. I didn't document and it wasn't  
23 discussed.  
24 Q Did she say anything to you other than she  
25 believed there was water on the floor?



1 A Aside from that, no.  
2 Q Did she indicate to you -- do you recall her  
3 indicating to you whether she had anything in her hand  
4 at the time she fell? A beverage of any kind?  
5 A I don't independent recall that, but the  
6 video coverage showed me that she had a white cup in  
7 her hand.  
8 Q Did she ever indicate to you, as you  
9 recall -- if you recall -- that she felt liquid on the  
10 floor with her hand after the fall?  
11 A I don't recall that.  
12 Q If she told you that, typically is that  
13 something you would put in your report?  
14 A Yes.  
15 Q Did she exhibit anything that indicated to  
16 you that she was dazed and confused as a result of the  
17 fall, based on your observation or based on your  
18 reporting?  
19 A No, no. I didn't see anything like that.  
20 MR. ROYAL: Okay. That's all my questions.  
21  
22 FURTHER EXAMINATION  
23 BY MR. GALLIHER:  
24 Q Back to me. Let's start with VEN018.  
25 And I think we established earlier that the

1 Q And no one else reported it to you, right?  
2 A That would be her saying that to me; yes.  
3 Q Who reported to you that the previous wet  
4 spill was cleaned by PAD?  
5 A I would attribute that to the phrasing,  
6 then, because I observed PAD cleaning when I arrived  
7 on scene. She would be the one that told me that the  
8 wet spill was there.  
9 Q So let's go back to VEN008, first paragraph,  
10 and -- all right. "I" -- meaning you, "noted that a  
11 Public Areas Department team member was on scene and  
12 mopping the floor in the area."  
13 Correct?  
14 A Correct.  
15 Q Now, would that indicate to you that there  
16 must have been something wet on the floor because  
17 somebody was mopping it up?  
18 MR. ROYAL: Objection, foundation; calls for  
19 speculation.  
20 THE WITNESS: Potentially? If I didn't see  
21 anything, I wouldn't -- I mean if I didn't see  
22 anything, I wouldn't make a notation of it.  
23 So if I saw a wet spill, I would make a  
24 notation of it in the report.  
25 /////

1 handwriting at the top half of the page where it  
2 says -- starts with "Marble flooring" was your  
3 handwriting.  
4 A Correct.  
5 Q And what exactly is PAD? Is that Public  
6 Areas Department?  
7 A Correct, yeah.  
8 Q So I'm reading the sentence that Mr. Royal  
9 read to you and I want to ask you about it. It says  
10 "A previous wet spill was reported and cleaned by  
11 PAD"; is that right?  
12 A Yes.  
13 Q That's what you wrote down?  
14 A Yes.  
15 Q How would Ms. Sekera know that PAD cleaned  
16 it?  
17 MR. ROYAL: Objection, form.  
18 THE WITNESS: So this statement was -- this  
19 observation was made by me. It wouldn't be anything  
20 that she said to me.  
21 BY MR. GALLIHER:  
22 Q Well, but earlier you testified that the  
23 previous wet spill was reported and you said that was  
24 Ms. Sekera.  
25 A Yes.

1 BY MR. GALLIHER:  
2 Q Remember something. You didn't come  
3 immediately after the fall, you came after it was  
4 cleaned up.  
5 A Correct.  
6 Q And what I'm asking you is that, you made a  
7 specific note in your report that there was a Public  
8 Areas Department team member on the scene mopping the  
9 floor in the area; right?  
10 A Correct. They had a mop and they were  
11 mopping through the area. I didn't see a puddle of  
12 anything being mopped up. I just saw that they  
13 were -- they had a mop in their hand.  
14 Q Did you walk over to where the Public Area  
15 Department person was and ask them what they were  
16 mopping up?  
17 A No.  
18 Q Did you go over and look to see whether the  
19 mop was wet?  
20 A No.  
21 Q Did you go over to look to see whether or  
22 not there was a wet spot that was being mopped?  
23 A No.  
24 Q So all you know is that in the immediate  
25 vicinity of the fall, there was a Public Areas



Page 87

1 Department team member mopping the floor --  
 2 A Correct.  
 3 Q -- right?  
 4 A That's what I saw.  
 5 Q And go back to VEN018. So what we've got is  
 6 a wet spill is reported and you said that was reported  
 7 by Ms. Sekera, and then we have your personal  
 8 observation that the floor was being mopped in the  
 9 area of the fall; right?  
 10 A Yes.  
 11 Q Now, the assessment that you performed, I  
 12 want to talk to you a little bit about that. That  
 13 would be VEN017. With me?  
 14 A Yes.  
 15 Q Sounds to me like the assessment was  
 16 performed roughly 15 to 20 minutes after the fall.  
 17 Would that be fair?  
 18 A I didn't follow the time stamps exactly.  
 19 Q Well, the reason I ask is because when we  
 20 talk about VEN018, the next page, it bears the time of  
 21 13:26. Do you see that?  
 22 A Yes.  
 23 Q And that would be -- the fall was reported  
 24 to you on 12:39.  
 25 A Yes.

Page 88

1 Q Same date?  
 2 A Yes.  
 3 Q So if I do my math correctly, it looks like  
 4 you've got about 45 minutes that elapsed between the  
 5 time the fall was the reported to you and the time  
 6 that you completed VEN018.  
 7 A Correct.  
 8 Q Would that right?  
 9 A That would be correct.  
 10 Q And then if we go back to VEN017, you've got  
 11 the time there at 12:57. You see that?  
 12 A Yes.  
 13 Q So if we do the math, the fall was reported  
 14 to you at 12:39, you do the assessment at 12:57. By  
 15 my math, that's roughly 18 minutes; would that be  
 16 fair?  
 17 A The time inputted on here would be the time  
 18 that I signed.  
 19 Q Okay. So did you perform the assessment  
 20 before 12:57?  
 21 A Yes, the assessment was completed before  
 22 12:57.  
 23 Q So how long did the assessment take?  
 24 A I don't remember the exact time we got to  
 25 the room on the time stamps, but whatever time we got

Page 89

1 to the room and then 12:57 on here.  
 2 Q So we know that the assessment, then, would  
 3 have been performed sometime between the time the fall  
 4 was reported to you and 12:57 p.m.?  
 5 A Yes.  
 6 Q And so that would be roughly within that  
 7 18-minute time frame post fall you performed the  
 8 assessment?  
 9 A Yes.  
 10 Q Now, you mentioned in response to  
 11 Mr. Royal's questions that you don't usually see the  
 12 printouts which we have identified as VEN005 through  
 13 009.  
 14 Is that right?  
 15 A Correct.  
 16 Q Okay. So what do you normally see?  
 17 A On the computer screen, it's kind of like a  
 18 tab system. Like it would be, like, think of like a  
 19 web browser with multiple tabs. It's kind of like a  
 20 system like that. There's different areas for input  
 21 and the area of the screen is just a blank space.  
 22 That is just a printout of all the information I put  
 23 in there, but what we see is not anything close to  
 24 this when we're actually writing the report.  
 25 Q So when you're looking at the computer

Page 90

1 screen when you're writing the report, you are  
 2 checking boxes?  
 3 A Yes.  
 4 Q And when you check the boxes, it comes back  
 5 in printed form in the report which we previously  
 6 discussed; is that correct?  
 7 A Yeah. Not all the reports we complete are  
 8 printed. It just stays in the system electronically.  
 9 For cases like this, we just print it out and it comes  
 10 out in this form which is not something I see very  
 11 often.  
 12 Q Apart from 017 and 018, do you recall if  
 13 there was anything that was prepared in handwriting in  
 14 connection with this fall event?  
 15 A No, it would just be these two forms.  
 16 Typically it would be a voluntary statement as well,  
 17 but she declined.  
 18 Q Now, you have been asked to describe the  
 19 nature of the fall. In other words, what happened in  
 20 connection with the fall, you are basing your  
 21 description upon what Ms. Sekera told you?  
 22 A Yes.  
 23 Q And you haven't seen the video surveillance  
 24 of the fall itself?  
 25 A Of the fall; no.

<p style="text-align: right;">Page 91</p> <p>1 Q So you would agree with me that all the 2 questions would be answered by the video surveillance 3 showing the fall? 4 In other words, what hit, what didn't hit, 5 how hard the fall was, the video surveillance would be 6 the best evidence of that? 7 A Yes. 8 Q A couple of other things that weren't 9 mentioned in Mr. Royal's examination of you that I 10 wanted to address. 11 Look at VEN009. The one thing it doesn't 12 mention is -- you said she refused ambulance 13 transport, right? 14 A Yes. 15 Q However, in the same paragraph -- and tell 16 me if I'm reading this correctly. It says, "After 17 some discussion, she," meaning Ms. Sekera, "opted to 18 self transport to Centennial Hills Hospital as it was 19 close to her home." 20 You see that? 21 A Yes. 22 Q That's what she told you she was going to 23 do? 24 A Yes. 25 Q In other words, she was going to go to the</p>	<p style="text-align: right;">Page 93</p> <p>1 Q And that would be the time that you filed 2 this out? 3 A That would be the time I looked at the area. 4 Q All right. So in other words, when you 5 looked at the area and found it to be flat, even and 6 dry, you were roughly, by my calculations, 45 minutes 7 after the fall. 8 A I believe so, yeah. 9 Q Because the fall was reported at 12:39; 10 right? 11 A Yes. 12 Q So 13:26 would be about 45 minutes later? 13 A Yes. 14 Q All right. So VEN018 was completed by you 15 as a result of an inspection of the floor 45 minutes 16 after the fall? 17 A Yes. 18 Q Thank you. That's all I have. 19 MR. ROYAL: Nothing else. 20 THE COURT REPORTER: Mr. Royal, did you want 21 to order a copy of this transcript? 22 MR. ROYAL: Yes, please. 23 (The deposition concluded at 4:05 p.m.) 24 25</p>
<p style="text-align: right;">Page 92</p> <p>1 hospital? 2 A Yes. 3 Q And then let's go with page VEN0007. 4 A Okay. 5 Q Something else that wasn't talked about when 6 we were talking about your assessment of Ms. Sekera. 7 The middle of the page, it says, "Odor of 8 intoxicants," do you see that? 9 A Yes. 10 Q And what did you indicate? 11 A "None." 12 Q So she was not -- did not smell of alcohol 13 or wasn't under the influence of alcohol at the time? 14 A She didn't have the mannerisms of it; no. 15 Q And she didn't smell -- you didn't smell -- 16 A No. 17 Q If you had, you would have noted that in the 18 report? 19 A Yeah, yes; absolutely. 20 Q And then we talk about when you inspected 21 the floor area where the fall occurred. And as I read 22 that, looks like -- and I'm referring to VEN018. 23 A Okay. 24 Q And you note the time, 13:26. 25 A Correct; yes.</p>	

REPORTER'S DECLARATION

STATE OF NEVADA)  
COUNTY OF CLARK)

I, Pauline C. May, CCR No. 286, declare as follows:

That I reported the taking of the deposition of the witness, JOSEPH LARSON, commencing on Thursday, October 11, 2018 at the hour of 2:15 p.m.

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth.

That I thereafter transcribed said shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and accurate transcription of said shorthand notes taken down at said time, and that a request has not been made to review the transcript.

I further declare that I am not a relative or employee of counsel of any party involved in said action, nor a relative or employee of the parties involved in said action, nor a person financially interested in the action.

Dated at Las Vegas, Nevada this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Pauline C. May, CCR 286, RPR



A				
A-18-772761-C 1:6	48:20 81:11,23	18:25 19:7,10	62:21	69:21 82:17,25
abbreviations 39:5	answered 91:2	52:18 85:6		believes 70:1
ability 60:14 66:22	answers 22:24	arrow 38:22 42:6,24	B	belongings 66:2,12
67:16	anybody 16:1 59:12	47:9	back 16:25 17:9,18	belpline 63:4
able 40:10,20 61:1	64:16	Aside 83:1	37:14 40:17 41:9	bending 73:15
71:1 80:10,18	anytime 59:4,5	asked 41:18,19,22,25	41:23 43:6,12,17	best 9:4 10:16 14:15
abrasions 52:9	anyway 60:12	50:7,8 56:15 58:22	44:2,6,16 47:1,1,18	17:22 22:20 23:9
absolutely 92:19	apart 26:14 35:25	67:19 73:8 79:25	47:20 57:8 59:9	23:14,19,20,20,22
access 65:4	90:12	90:18	61:21 62:6,20,23	23:24 24:1,6 27:10
accident 39:19 51:18	apologize 9:21 27:5	asking 22:20,21	63:5,6,7 64:21,22	34:16 66:7 76:1,2
60:9 61:15 67:2,4	30:7	23:16 53:15 56:4	65:5,10 66:11 67:6	80:1 91:6
69:1 71:13	apologized 53:6,10	86:6	67:10 75:5,6,9 77:4	better 7:12 18:7
accurate 50:23 94:14	apparently 17:24	aspirations 6:17	77:9,14 78:11	23:11 59:7
action 94:20,21,22	appear 53:6 60:25	assess 45:3 65:8	83:24 85:9 87:5	beverage 83:4
actual 21:19,23	75:19	assessed 59:16	88:10 90:4	beyond 29:1 55:1
22:17 68:11	APPEARANCES	assessment 28:7	back-of-house 65:4	79:11
add 14:5 30:19 54:20	2:1	39:16,24,25 40:3,8	background 4:5	bistro 33:24
added 8:22 16:23,24	appears 8:9 40:2	42:10,13 44:3 50:5	backpack 72:25	bit 4:22 36:15 77:15
17:8 61:19,19	61:5 68:19	51:17 52:5,6,11	backside 35:8	78:9 87:12
62:16	application 49:21	54:7,8 58:7 60:1	backtracking 78:11	bit's 48:4
addition 33:11	applies 14:7	61:6,6,9,14 62:7	backwards 40:14	blank 89:21
additional 5:25	apply 7:4 49:11	76:16,22 87:11,15	41:4 55:6	blood 43:19 45:7
25:17 43:13 66:18	applying 7:8	88:14,19,21,23 89:2	bad 36:24 37:2	53:22
address 3:12,14 4:23	apportion 29:10	89:8 92:6	bakery 33:25 34:1,12	blue 73:2,3 74:12,17
37:25 91:10	Approved 13:6	assigned 8:19,20	34:13,18 35:4,8,12	body 17:16 46:5
adequate 52:8	approximately 20:24	assist 45:3 58:12	35:14	49:13 58:4
adjacent 22:4 25:16	24:7	59:12	base 40:15 41:4 43:7	bone 42:18
33:15 36:10	area 15:15,23 16:5	assistance 59:17 61:2	47:3 55:13	booth 66:1 67:10
Advanced 6:7	25:18 33:15 36:10	assistant 33:2,3,7,13	based 10:12 30:10	77:14
agree 77:6 91:1	40:2,7 47:10 51:17	assisted 58:19	51:24 83:17,17	booths 52:22
agreed 58:18 59:15	54:12 58:13 59:21	associated 61:5	basically 8:16,20	bottle 21:8,20,20
63:12	62:24 63:1 64:21	assume 70:11 73:16	11:21 56:5,8 57:6	bottled 36:1,8,11
ahead 23:13 30:6	65:5 68:4 69:5,15	attached 18:14	58:1 66:16 78:11	bottles 21:23 36:6
44:23 46:25 48:3	71:7 72:11 75:1	attend 4:18	basing 90:20	bottom 44:9 50:15
48:20	77:9,10,10 78:11,24	attended 22:15	Bates 8:3	71:4
airway 52:7	85:12 86:9,11,14	attention 62:11,17	bathroom 26:13,14	bottoms 71:1
alcohol 92:12,13	87:9 89:21 92:21	63:12	26:16,20 29:21	Bouchon 25:16 34:12
alert 52:7 54:2 57:13	93:3,5	attribute 85:5	30:14	34:13 35:4,8,11,14
allow 48:19	areas 15:14 24:14	automatic 8:22	Bean 35:20,21 36:5,9	box 9:2 14:2,3
allowed 68:13 75:6	26:13,14,15 27:14	automatically 14:3	bears 87:20	boxes 13:25 50:9
ambulance 40:11,21	29:21,25 30:12,14	auxiliary 46:10	bed 45:6	51:22 90:2,4
62:10,14 63:15,18	30:17 33:16 48:25	available 68:10	beer 21:22 35:15	boy 76:13
66:19 91:12	65:4,7 84:6 85:11	Avenue 1:16 2:4	began 62:5	break 36:16,17
ambulating 60:9	86:8,25 89:20	aware 17:25 18:2,18	beginning 4:8 16:24	breathing 52:8
75:19	arm 45:2 46:4 58:5	21:17,25 22:8 28:2	17:8 29:15 61:20	brief 5:21
And-2:2	armpit 17:16 46:13	53:2 64:12	believe 8:15,21 15:5	bring 65:5
angle 48:7	46:14 63:3	axe 37:2	39:1 50:19 71:18	brings 64:19
answer 23:13 30:5	arrive 12:21	axillary 17:1,10,14	73:18 93:8	brown 39:8,8
	arrived 6:8 11:9	46:11,24 61:21	believed 54:13,24	browser 89:19



busier 32:4 business 3:12 4:23 35:1 51:9 businesses 6:25 21:9 33:21 34:8 35:2 busy 29:5 buy 6:25 21:8,25 36:8 <hr/> C C 1:24 42:6 94:4,25 Cafe 22:4 33:17,23 34:17 35:6 calculations 93:6 call 12:2,4 21:18,18 40:21 45:5 62:9 63:17 called 6:7,22 12:5 50:7 51:20 calls 27:22 29:6 85:18 camera 59:22,23 75:16 cameras 59:24 74:24 76:15 Canal 38:24 52:22 66:2 67:12 77:20 78:12 capillary 45:6 car 67:14 68:3 care 19:15 29:2,4 40:10 career 5:14 caring 19:22 66:24 carpet 29:19,20 carpeted 24:14 30:11 carries 3:23 4:2 case 1:6 13:15,17 43:24 44:12 50:7 65:6 67:2 cases 90:9 casino 1:8 29:19 30:17,24 32:4 65:8 67:10 cause 21:15 caused 82:12 cautious 82:1 CCR 1:25 94:4,25 Centennial 91:18	certification 6:8,12 cervical 44:8 change 32:23 49:19 49:19,21 59:4 Chavez 12:15,18 13:2 check 13:25 14:2 43:19 51:18 69:1 71:13 90:4 check-in 25:17 checked 50:9 checking 9:2 90:2 chest 58:5 chronological 62:2 chronologically 61:12 62:15 circle 38:19 circled 42:4 circulation 45:2,4 52:8 circumstance 80:24 Cisco 6:22 7:2,10 clarification 9:20 clarify 22:24 CLARK 1:2 94:3 cleaned 69:18 84:10 84:15 85:4 86:4 cleaning 85:6 clear 62:22 cleared 12:4 37:19 clearing 50:24 click 14:3 51:22 clicked 14:1 51:24 52:7 close 76:23 89:23 91:19 CMS 44:23 45:1,1 49:10,15 coffee 34:1 35:20,21 35:25 36:5,9 collect 66:12 collected 66:2 67:8 67:13 college 4:10,11,14,15 colleges 4:12 Color 2:23 column 43:12 combination 39:20 come 86:2	comes 90:4,9 coming 76:19 77:8 commencing 94:7 common 77:10 82:3 comp 64:11 companies 6:24 company 1:9,11 6:22 39:1 compensation 63:21 64:5,8,13 complain 72:3,6 complained 79:16 complaining 66:18 82:21 complaints 43:25 44:15 complete 50:13 65:11 65:24 69:2 90:7 94:14 completed 38:6 39:18,24 40:6,7 66:10 88:6,21 93:14 completing 39:17 65:21 computer 8:21 50:11 89:17,25 computers 59:21 conceded 43:21 concerned 19:19 concerns 67:16 concise 62:9,16 concluded 93:23 conclusions 82:11 concrete 24:22 concussion 52:12 condition 53:25 59:4 conditions 32:18 51:12 conference 23:25 confirming 17:20 confused 83:16 conjunction 69:10 connection 20:12 28:1 90:14,20 conscious 56:18 consciousness 40:16 41:8,12,19 55:24 56:18 57:9	contact 47:5 contacted 11:6 contacting 20:3 contained 9:7 14:18 19:10 continuation 55:17 continue 58:18 continues 75:10 continuing 49:8 59:15 78:19 control 48:9 convenience 21:24 22:1 convention 32:19 conversation 15:25 16:2 41:11 53:9,16 54:5 56:11,14,21,23 56:25 57:10 58:15 61:25 63:17,23 64:12 conversations 15:22 60:15 cooler 36:5 copied 38:11 copies 18:7,9 copy 7:24 93:21 corner 34:7,12 35:4 35:11 correct 5:20 6:13,16 7:24 8:10,12 9:4 10:14,16 11:2,16 13:18 14:9,15,22 15:11 16:7,11,22 17:22 18:9 20:15 20:18,22 22:5,7 24:10 26:2 28:11 30:15,19 31:7,14,20 32:17 36:14 38:14 38:20 40:3,8,25 41:6,21 42:2,19 44:14 45:20 46:16 50:3,10,12,25 51:14 51:23 56:15 57:15 57:16,21 70:14 71:5 74:10 76:11 76:17 78:22,25 82:14,15,18 84:4,7 85:13,14 86:5,10 87:2 88:7,9 89:15	90:6 92:25 correctly 16:13 17:7 33:12 88:3 91:16 counsel 73:8 94:19 COUNTY 1:2 94:3 couple 29:16 52:22 72:13 76:2 79:22 80:2 91:8 course 77:5 court 1:1 3:16,24 34:6,7,9,11,14,24 35:2,3,10 93:20 cover 29:5 80:2 coverage 48:17 59:22 59:23 68:9,14 83:6 covered 59:1 79:13 cranium 42:25 43:6 43:23 crepitation 42:8,17 CSN 4:15,18 cup 83:6 curious 14:23 currently 4:24,25 6:19 customer 21:7,15 28:3 customers 32:22 cut 10:6,9 48:4 cybersecurity 6:19 7:2,9 <hr/> D D 2:17 d/b/a 1:8,10 damage 49:17 Daniels 21:20 data 51:2 date 11:13 50:16 88:1 Dated 94:23 day 11:13 27:15 31:22 32:23 94:23 days 28:14,15,23 32:6 dazed 83:16 Dean 13:6 33:11 decade 5:13 decided 21:8,10 36:20
---	---	--	--	--



deck 24:23	disappeared 76:9	69:14 79:12,18	entities 48:10	52:12 65:10 70:9
DECLARATION	discussed 20:14	elapsed 88:4	entries 10:11 11:1	79:14 83:15
94:1	82:23 90:6	elbow 16:21 39:25	entry 8:13	exhibited 46:6,7
declare 94:4,18	discussion 72:16	42:5 43:9 45:4,16	entryway 26:16	Exhibits 2:22 3:1
declined 90:17	91:17	45:19 46:3,4 47:6	29:21 30:22	existence 70:2
deeper 36:22	dispatch 8:19 11:6	47:13,15 49:9 50:1	equals 31:18	expect 23:10
Defects 68:18	12:2	55:13 57:18 61:6,8	equipment 7:1	experience 59:10
Defendants 1:12 2:7	dispatched 11:3	61:14 62:3 70:20	escalator 35:12,19,23	experiencing 57:19
degree 47:14 48:5	displayed 36:6	72:2,8	36:10	explain 11:24 47:21
delta 49:19	displaying 40:19	electronically 90:8	escalators 35:7,8	54:18 56:2 58:5,25
denied 41:20,23 42:1	distal 49:13	elevator 67:5 74:25	escort 66:25 79:18	61:23 65:13 66:7
55:22,23 56:13	distance 75:22,25	78:21,23 79:2,6	escorted 66:1,3,14	68:18
57:1,4 58:24	distinguish 26:22	embarrassed 58:12	ESQ 2:2,3,7	explained 54:22
denies 56:2	distress 53:7	58:14	established 30:10	extended 63:10
department 12:19	DISTRICT 1:1	embarrassing 60:20	31:8 38:16 83:25	extensive 61:14
15:14,23 20:24	dizziness 57:2,8	60:21	estimate 22:20 23:9	extent 20:3 27:24
33:4 69:16 84:6	58:23 59:14	Emergency 5:19	23:19,20,20,23,24	30:13
85:11 86:8,15 87:1	dizzy 40:18 41:25	employed 4:24 51:10	24:2,6 25:14 27:4	cyes 39:8
depending 31:20,21	59:10	64:4,16	27:10 29:13 31:11	
32:16,23	doctor 62:11	employee 1:11 52:19	76:2 80:10,18	
depends 32:1	document 82:8,22	94:19,20	estimated 75:21 81:5	F
depict 74:25	documented 43:3	employees 65:3,17	estimates 80:1,7	F 40:14
deposed 12:18	63:9 67:19	67:1,25	evaluate 69:5	FA 49:9
deposition 1:15 3:17	documents 18:23	employer 65:22	evaluation 15:9	face 34:17
7:20,23 18:6 20:12	doing 43:39 49:17	employment 4:22	event 9:6 13:14,15	facilities 12:19 69:10
93:23 94:6,14	52:4 59:10 76:15	77:14	14:17 18:24 72:1	80:25
depressions 43:17	79:17	EMT 5:13,13,16,17	90:14	facing 35:6
Dept 1:7	door 75:4	5:22 6:4,8,15 14:24	events 24:8 27:17	fact 21:18
describe 55:1 90:18	downstairs 33:14	15:1,10 20:24	31:9 54:3	fair 19:21 24:12,17
description 5:21	drafted 61:12	27:15,18,20 28:9,16	everybody 66:20	25:6,11 27:21
90:21	drink 21:3,9,11,16	28:19 32:14,25	evidence 82:8 91:6	87:17 88:16
descriptor 39:7	21:22 36:13	36:21 40:23 59:20	exact 12:24 23:10	fall 7:17 11:4,8 12:22
desk 24:3 30:23	drinks 33:22 36:1,6	80:4	56:23 63:25 69:3	14:24 16:14 18:21
detail 68:19	dry 51:12,15 68:20	EMT-Basic 6:5	88:24	19:14,23 20:3 22:3
details 23:6 61:5	93:6	EMT-Intermediate	exactly 4:20 11:5	22:8,11 27:17 28:4
determination 54:6	due 45:15,16 46:7	6:7,10	15:5 44:19 46:22	28:9 33:1,15,22
68:24	duly 3:4 94:10	EMTs 28:25 31:15	52:21,23 58:4 63:9	46:22 48:17 50:2
determine 27:22,24	duties 5:21,23	31:21,23,24 32:4,5	65:1 71:11 77:25	55:23 60:17,22
40:9	duty 19:25 28:17,17	32:8,9,20,21 66:21	78:1,4 84:5 87:18	80:22 82:13,21
diagram 35:5	28:20,20	80:8	examination 2:19,19	83:10,17 86:3,25
Diego 6:5		ended 54:22	2:20 3:8 16:9 37:12	87:9,16,23 88:5,13
difference 11:19		ends 11:20 61:7 79:5	43:8 46:3,6 83:22	89:3,7 90:14,19,20
23:24 76:22		engage 64:12	91:9	90:24,25 91:3,5
different 40:7 55:9		entailed 66:13	examined 3:5 94:9	92:21 93:7,9,16
66:21 89:20		enter 6:18	example 15:12 21:21	falling 53:6 55:24
difficulty 75:19		entered 8:25 9:2 13:2	32:19 36:8	56:6 60:17 72:1
direct 54:20 73:8		13:24 14:12	Excuse 46:12	falls 22:14,21,22
direction 34:14		entire 5:16 43:23	exhibit 7:23 18:6	25:21 26:19,23,24
directly 58:3 78:2		62:9	37:15 50:6 51:19	28:1 31:3 59:8
				80:16 81:19

far 4:9 20:19 21:5,13 28:6 56:20 63:7,10 66:21 69:22 feature 30:23 feel 16:24 17:8 42:14 42:19 43:16,17,18 43:22 45:9 56:5 59:7,10 61:20 feeling 47:5 feelings 37:3 feet 76:2,5 fell 28:10 40:14 41:4 43:3,4,7 55:6 56:16 69:15 83:4 felt 5:14 42:18 58:22 83:9 female 39:8 field 6:15,18 fifth 25:16 file 20:16 fill 51:21 64:7 65:18 65:20 filled 93:1 financially 94:21 fine 21:22 finger 45:13,13 fingers 45:8,9,22 fingertips 45:3 49:14 49:15 finish 60:1 finished 67:8 Firm 1:16 2:3 first 3:4 4:5 8:10,24 9:3,10 11:12 16:13 17:4 22:8,11,13,25 25:25 42:22 53:4 57:12 60:3 73:19 85:9 five 8:10,24 9:3,10 28:15 35:2 flank 46:25 48:6 63:4 flat 51:13 68:19 93:5 floor 15:15 22:6,9 24:19 25:16,19,20 26:15,24 27:12,12 27:13 29:19,22 30:17,17,18,24,25 54:13,23,25 55:1,12 56:7,8 65:8 67:10	67:11 72:7 77:21 77:23 78:2,7 79:7 80:22 81:20 82:12 82:25 83:10 85:12 85:16 86:9 87:1,8 92:21 93:15 flooring 10:21 16:5 24:13 25:1,15 68:19 82:9 84:2 floors 22:22 25:24 26:5,12,20 28:3 29:17,24 30:16 80:16 81:6 fluid 81:16 focus 19:21 follow 87:18 follows 3:6 94:5 food 34:6,7,9,11,14 34:24 35:2,3,10 foot 48:13 footage 48:22 73:20 76:13,14 footwear 82:1,8 forearm 49:10 foreign 80:21 81:7,8 81:14,21 82:12 form 23:12 30:2 38:12,13 39:18,24 45:5 51:21 84:17 90:5,10 forms 90:15 forth 38:1 80:1 forward 74:16 found 71:22 93:5 foundation 81:10,10 85:18 four 31:18 32:5,9,16 fourth 51:3 fractures 53:22 frame 89:7 free 6:2 Friday 11:15,16 37:17,18 front 24:22 30:23 37:15 full 25:10 45:16 functions 5:25 further 2:20 39:25 49:13 58:9 62:11	78:5 83:22 94:18  G Gallier 1:16 2:2,3 2:19,20 3:9 9:23 10:10 22:19,23 23:18 30:3,9 36:15 36:18 45:21 46:15 48:19 53:11 70:6 81:9,22 83:23 84:21 86:1 garage 66:3 67:21,23 67:24 78:17 79:3 79:19 gathering 12:1 GCS 38:22 gears 33:14 general 4:5 43:22 generally 24:19 George 2:3 33:9,10 getting 19:16 20:4 34:15 60:18 79:2,6 gift 35:16 give 5:21 6:12 7:5 18:7 22:14 23:9 24:1 29:7 31:2 47:14 51:24,25 55:2 74:3 81:4 given 38:11 65:21 giving 42:11 gloves 43:19 go 4:9,14,15 7:7 10:18 11:7 12:9 13:23 22:25 23:13 25:10 30:6 33:14 35:3,11 36:9 37:14 38:15 42:3 44:23 48:1,3,20 49:6 50:6 51:19 52:15 53:4 66:19 68:17 69:4 74:15 76:9 79:2 85:9 86:18,21 87:5 88:10 91:25 92:3 goes 17:15 49:18 61:3,4 going 12:9 14:20 30:2 44:22 45:4 56:5 61:18 62:19	63:3,6 72:14 74:5 74:15,21,25 75:3,10 75:23 76:12,13 77:13,15 78:9,11 91:22,25 good 7:14 25:14 80:25 81:1 82:8 Grand 22:4 33:16,23 34:17 35:6 36:10 38:24 52:22 66:2 67:12 77:20 78:12 grind 37:2 ground 26:24 27:12 grounds 81:9 guard 58:4 guarded 42:25 43:5,6 guarding 57:18,25 58:2,7 guess 5:12 23:14,16 23:24 24:5 50:8 66:12 76:1 guessing 66:14 guest 51:7 64:21,22 65:6 77:10 guests 75:6  H H-o-r-n-e-d 3:15 H/N/B 40:16 41:8 hair 39:9 hairline 43:20 half 25:2 30:20 84:1 hall 75:9 hallway 34:5,24 78:5 hand 21:4 34:16 43:4 55:6 83:3,7,10 86:13 handful 81:25 hands 58:3 handwriting 9:14 10:24 38:18 40:23 84:1,3 90:13 handwritten 10:11 13:10,21 Hang 73:14 happened 7:17 33:15 54:22 61:16 67:20 69:4 80:6 90:19 happens 8:18 14:2	hard 21:23,25 23:4 35:15 91:5 hardware 6:23 hazard 69:8 head 23:1 40:17 41:9 41:22 43:4,5,6,7,12 43:15,23 44:9,13 55:7,23 56:13,16 57:1,7 73:7 76:3 headed 78:15,20 health 51:5 hearsay 48:20 help 20:3 Henderson 2:8 Hey 21:16 Hills 91:18 hindering 49:17 history 49:23,25 hit 56:16 74:15 91:4 91:4 Hold 74:2 holding 58:5 home 3:14 37:25 91:19 Horned 3:15 hospital 91:18 92:1 hotel 25:25 30:17 51:7 67:5 hour 37:21 94:8 hours 27:15,16 50:24 house 67:6 75:5 hundred 76:2 hurting 59:6 HX 49:22  I IC 42:8 idea 22:14 75:21 identification 3:2 18:6 identified 19:18 20:20 89:12 identify 54:25 identity 8:20 imaginary 17:15 46:14 imagine 36:2 52:24 63:2 immediate 34:17,18
---	---	--	--	--



34:20 53:7 86:24 immediately 40:12 52:14 86:3 implied 65:22 incident 7:17 13:1 19:12 37:20 48:11 51:2 53:1 65:12 69:3,4 71:7 72:11 72:20 75:22 77:23 82:13 incidents 5:24,24 23:7 79:25 80:4 include 23:6,7 26:21 80:8,21 included 19:13 57:9 79:20 includes 26:2 31:6 Including 28:21 inclusive 1:11 increase 42:15 47:9 independent 14:19 53:8,15 56:24 68:6 83:5 independently 18:22 74:1 index 45:13 indicate 47:4 49:1 54:4,17,18 57:5 67:15 68:18 80:15 83:2,8 85:15 92:10 indicated 40:2 46:18 46:21 52:1 63:6 83:15 indicates 37:17 49:11 56:13 65:11,13 68:3 indicating 69:25 83:3 indication 38:21 46:20 55:2 Individual 1:5 Individuals 45:12 influence 92:13 information 8:25 13:24,25 14:5,7,12 16:13 19:10 20:13 20:13 37:23 38:10 39:2,10,13,14,14 41:1 42:10,12 50:4 50:9 51:2,5,25	57:14,23 69:20 82:16 89:22 infrastructure 6:24 initial 28:7 40:8 53:9 54:7,8 initially 8:24 16:20 41:23 injured 28:4 31:13 64:18 66:17,22,25 69:12 injuries 19:23 27:23 27:25 40:10 41:22 43:20 53:19,21 64:10 65:16 injury 16:18,20 28:10 39:25 42:14 49:12,25 52:9 58:2 58:9 59:13 61:10 65:24 input 89:20 inputted 88:17 inquired 10:8 inside 22:1 25:1 26:15,19,23 36:5,5 inspected 92:20 inspection 93:15 instabilities 42:17 instability 42:8 intentions 6:14 interested 94:22 interview 39:16 50:5 interviewing 19:16 intoxicants 92:8 investigated 31:3,10 invisible 63:2 involve 24:19 81:20 81:24 involved 37:20 94:19 94:21 involving 24:7 issues 42:18 items 35:17	jobs 7:9 Johnson 33:13 joint 42:19 45:16 Joseph 1:15 2:18 3:3 3:11 94:7 jot 39:23 Joyce 1:5 10:3,12 15:9 16:9 19:22 37:24 38:8 52:19 JR 2:2 judge 3:25 jump 46:25 Jury 3:25  K KEITH 2:2 kidney 62:24 kind 17:15 18:7 43:16,22 48:11 51:21 56:10 58:1 77:3 80:22 82:12 83:4 89:17,19 know 6:25 10:8 12:14 13:2,13,20,22 15:2 16:1,3,4,6,13 16:18 18:16 20:19 21:5,13,18 23:1,23 28:6 29:13 32:6,11 33:20 34:8,10 35:24,25 36:3 38:23,25 40:20 44:19 46:22 48:15 52:20,21,23 56:15 59:9 60:16 63:8,22 64:18 66:13 70:24 71:11 73:6 74:12 76:6,7 78:13 79:12 80:18 84:15 86:24 89:2 knowledge 9:4 10:16 14:15 17:22 KUNZ 2:3  L L 42:3 L-a-r-k 3:16 landed 46:23 47:3 55:12 large 24:20	Lark 3:15 Larson 1:15 2:18 3:3 3:11 94:7 Las 1:8,9,10,17 2:5 3:16 4:6,16 52:18 52:20 94:23 lateral 47:1,20 Law 1:16 2:3 lead 75:4 77:9 leave 36:24 left 8:11 12:6 16:21 16:25,25 17:9,10,18 17:18 34:6,18 36:20 39:25 40:2 42:5 43:9 45:2,11 45:19 46:3,4,4,9,15 46:16,23,25 47:1,13 47:15 48:6,13 49:9 55:13 57:18 61:6,8 61:14,20,21 62:6,6 62:20,21,23 63:2 70:20 72:2,8 78:6 left-handed 73:13 let's 4:13,22 9:9 13:23 25:3 33:21 37:14,16 38:15 48:2 49:6 50:6 51:19 52:15 53:4 58:18 62:4 64:20 83:24 85:9 92:3 level 25:25 26:1,25 66:4 67:24 79:4 levels 56:18 Liability 1:9,10 life 53:19 life-threatening 40:9 limited 1:9,10 45:14 46:7 line 9:15,17,22 10:1,2 17:1,11,14,15 40:12 42:3,22,23 44:25 46:13,14 49:20 51:3 56:17 61:22 62:21 63:2 64:2 69:17 line-wise 12:24 lines 9:20 58:8 liquid 83:9 liquor 21:20,23 22:1	35:15 little 4:22 12:16 25:2 26:8 36:15,22 47:8 48:4 59:10 62:9 73:13 77:15 87:12 lived 4:6 LLC 1:8,9 LLP 2:7 lobby 67:5 75:1 LOC 40:15 41:10 localized 17:1,10 61:21 62:21 located 21:9 locating 19:23 location 8:10 55:3 long 4:5 5:1 11:8 23:25 24:3 27:5 40:19 88:23 longer 36:21 look 8:8,23 9:9 11:12 18:8 35:6 37:16,21 50:15,21 51:1 53:23 68:13 69:5 70:7 86:18,21 91:11 looked 70:10 93:3,5 looking 9:24,25 10:5 11:11 12:14 61:11 73:10 75:12 89:25 looks 10:6 11:18 14:10 16:12 37:21 59:1 60:4 72:23 74:17,25 76:18,22 77:4 78:10,21 79:1 79:5 88:3 92:22 losing 55:23 loss 40:16 41:7,11,19 56:17 57:9 lot 6:23 23:11 43:20 58:1 60:13,20 low 44:2,16 lower 8:5,11 12:16 13:5 16:25 17:9,18 61:21 62:6,20,23 Lux 22:4 33:16,23 34:17 35:6 36:10 LV 38:22,25  M
---	---	---	---	--

main 26:16 30:22	memory 23:10	neck 40:17 41:9,22	objection 45:21	39:17 40:1 41:1
major 32:19	mention 91:12	43:12 44:2,4,8,15	81:22 84:17 85:18	42:5,21 43:8,14
man 73:3	mentioned 89:10	57:2,7	objective 70:2	45:1,23 46:18 48:1
manager 33:1,2,3,4,7	91:9	need 40:11 69:11	observation 10:12	48:2,7 49:6 50:6
33:7,11,13 64:7,13	met 52:18 60:3	needed 6:3 66:11	70:2 83:17 84:19	52:3 54:1,11,24
64:18	Michael 2:7 13:6	negative 40:15,16,16	87:8	55:11,19,22 56:12
mannerisms 92:14	33:11	40:17,17 41:7,8,10	observations 16:9	56:19 57:11,22
manufacture 6:23	middle 40:13 45:13	42:7,7 49:18,19,21	observe 48:21,24	58:11,18 59:15
marble 10:20 22:6,9	63:3,7 92:7	49:22	82:15	61:18 63:1,11,15
22:21 24:13,19	Mike 9:25 18:7	networking 6:23	observed 15:21 39:11	65:10 66:17 67:15
25:1,15,24 26:5,12	Miles 2:7	Nevada 1:2,9,10,17	39:14 48:18 49:2,5	67:20 68:9,15
26:15,20 28:2	mind 52:2	2:5,8 3:16 94:2,23	57:22,23 85:6	70:18 71:4 72:10
29:17,21,22,23	mine 9:14 23:11	never 34:4 49:5	obstruction 69:7	72:13 73:19 74:5
30:13,16,24 51:13	minor 16:24 17:9	new 33:11 58:22	obstructions 81:1	74:24 75:8 76:1
55:12 68:19 80:16	61:20 62:5,20	nine 14:12 20:25	obtained 20:20 50:4	77:8,12,21 78:9,18
80:22 81:6,20 84:2	minute 35:13 45:21	23:2,14 24:8 26:17	obtaining 19:24	79:1,5 82:10 83:20
March 5:2,3,10	68:18	27:4	obvious 53:18,20,22	88:19 89:16 92:4
mark 9:22 70:5	minutes 11:25 12:7	normal 12:25 32:21	obviously 55:20	92:23
marked 3:1 7:22	12:22,25 48:13,17	52:10 59:11 64:15	59:23 62:15	old 6:21
18:5 37:15 70:6	76:24 87:16 88:4	64:21 69:4 71:12	occasion 64:24	once 7:8 62:4 67:20
79:13	88:15 93:6,12,15	normally 29:4 43:11	occasions 80:3	78:12
masking 47:6	MO 50:8 51:1,25	50:20,21 89:16	occupy 34:8	open 43:20 52:8
math 76:3 88:3,13,15	mop 86:10,13,19	notate 47:8	occur 24:13 27:11	operate 67:16
mean 11:5 28:24	mopped 16:6 86:12	notation 42:21 85:22	occurred 5:25 22:3	operation 71:12
36:22 38:13 43:1	86:22 87:8	85:24	26:23,24 27:9	opportunity 7:19
46:20,21 47:2	mopping 15:14,24	note 8:8 43:24 53:18	29:24,25 33:22	opposed 24:13 51:15
49:24 52:23 62:14	16:5 85:12,17 86:8	53:20 86:7 92:24	77:23 92:21	opposite 34:13
78:1 81:14 85:21	86:11,16 87:1	noted 15:13 16:20	occurrence 11:13	opted 91:17
meaning 85:10 91:17	motion 45:15 46:7	57:17 68:18 85:10	occurring 16:5 24:25	option 65:21
means 13:22 38:23	motor 45:2,7	92:17	26:19 27:10	options 24:15
41:8 48:15 61:23	move 40:20 45:8	notes 39:23 48:12	October 1:18 94:8	order 34:1 93:21
63:16,16 66:8	moved 4:7 6:6	68:18 80:15 94:12	Odor 92:7	oriented 54:2 57:13
meant 13:20 54:18	movement 45:16	94:15	offered 58:12 66:11	outside 27:11 51:3,6
medical 5:19,24 23:8	58:9	noticeable 52:14	office 24:4 59:20,23	53:17 56:24 64:1
38:3 58:7 59:16,18	multiple 89:19	November 33:10	67:6,7	64:25 65:17 68:8
59:19,24,25 60:2,9		37:18 50:18	officer 5:17,19,22 6:1	75:14
61:15,16 62:11,17		number 7:3 13:14,14	10:19 15:3 18:24	overestimate 60:14
63:12 64:21,22		13:15,15,17 22:17	19:2,7,9 20:2 26:18	overnight 32:7,8,9
65:9,18,20 67:6,9		24:20,24 29:7	27:19 73:2,9 74:11	
70:17,19,23 71:3		32:14 38:1 47:2	74:16	
74:23 75:10,23		81:4	officers 18:16,21	
76:10,19,23 77:4		numbers 8:4	20:6 28:16,19	
79:18,18		numerous 46:21	32:15,25	
member 12:19 15:14			officially 19:1 51:10	
15:23,24 51:7 65:2			oh 9:21 10:2 17:5	
66:3 67:21,23,24			76:13	
79:3,7 85:11 86:8			okay 6:22 12:12 17:5	
87:1			23:3,20,22 27:1,6	
members 66:25			37:23 38:9,16,21	



9:17,25 10:5,15,18 11:12 12:15,16 13:6,23 17:2,3 37:24 38:17 39:13 40:13 84:1 87:20 92:3,7 pages 7:25 8:10,24 9:3 14:14,18,21 17:21 pain 16:24 17:9,17 40:17 41:9 42:16 43:13 44:15 45:15 45:16 46:7,10,11,24 47:1,6,7,10,12,14 47:14,18,20 57:2,2 57:7,8,19 58:23 61:20 62:5,20,23 Palazzo 26:8 28:25 28:25 29:3,5,8,12 29:15,17,23 30:11 30:22 31:4,16 32:6 32:8 40:23 51:6,9 51:11 64:3,4,16 palpate 42:14 43:9 43:11,12 palpating 47:22 palpation 43:14 44:13,16 47:22 pants 82:21 paperwork 64:8 65:24 66:9 67:8 paragraph 17:4 53:4 54:2 57:11 61:3,4,7 68:3 85:9 91:15 paraphrase 54:21 paraphrasing 56:10 parentheses 17:10 park 67:25 parked 67:14 parking 78:24 79:3,7 part 20:9,24 32:12 58:4 60:24 62:17 63:22 particular 37:24 38:17 39:13,18 54:5 55:15 71:16 74:21 75:18 79:7 82:13 parties 94:20	parts 46:5 party 63:25 94:19 pass 7:8 56:6,6 pastry 34:2 patient 52:6,7,9 58:8 59:5 60:13 Pauline 1:24 94:4,25 pay 7:5 pays 7:12 penalties 4:2 people 6:21 31:12 58:2 59:9 60:15,20 60:22 64:11 81:1 percent 28:5,8 31:12 80:11,12,13 percentage 31:3 perform 88:19 performed 87:11,16 89:3,7 perjury 4:3 person 16:2 21:2 51:20 54:2 57:13 82:9 86:15 94:21 personal 87:7 personally 22:15 31:10 phalanges 45:11,12 phalanx 45:12 PHI 51:3,5 64:1 phone 37:25 48:13 59:21 photo 70:11,18 71:24 72:10,19 photograph 70:25 71:11,16 photographs 2:23 17:25 18:9,11,12 20:17 66:9 70:10 71:13 photos 18:17 70:13 phrasing 64:1 85:5 physical 16:9 35:1 39:7 physically 15:9 picking 59:9 picture 70:24 pictures 18:15 82:6 pillar 43:7 pillar 40:15 41:5	42:22,23 47:3 55:13 71:17,25 72:4,5 pinpoint 78:4 place 54:3 57:13 59:25 77:14 places 4:12 Plaintiff 1:6 2:2 Plaintiff's 2:22 3:1 plan 32:12 please 3:10 93:22 plus 31:18 44:23 45:1 point 44:23 54:4,5 57:11 71:17 73:23 74:13,22 77:1,12,12 78:15,19 pointed 71:25 policy 21:19,19 65:16 69:1 70:25 pool 24:23 pools 53:22 portion 8:6 13:5,9 15:13 position 58:19 positive 42:6 48:7 49:10 post 49:20 89:7 posted 6:2 posterior 42:25 43:5 Potentially 19:18 85:20 pounds 39:8 prefer 60:21 prepared 7:19 18:24 50:24 90:13 present 52:8 69:8,9 69:11 presented 18:21 press 45:6 presume 7:12,18 32:4,20 pretty 15:8 41:17 43:21 57:13 82:2 previous 55:18 60:17 69:17,19 84:10,23 85:3 previously 20:14 31:8 59:3 90:5 primarily 29:25	30:11 primary 5:23 19:25 print 8:15 9:12 90:9 printed 90:5,8 printing 10:20 printout 8:22 89:22 printouts 50:20 89:12 prints 14:4 prior 48:14 50:2 55:15,24 70:3 79:25 94:9 privacy 65:7 private 58:13 59:21 59:25 probably 4:20 27:7 34:4 66:13 procedure 12:25 69:4 process 64:14 Profile 51:20 program 6:20 7:3,4 50:11 prohibition 21:14 property 5:25 6:3 8:18 24:23 25:22 51:9 65:1,3,17 66:22,24 68:1 protect 43:4 55:7 protected 51:5 protecting 58:1,9 provide 63:21 provided 38:2,5 39:15 57:15 80:8 provision 21:17 public 15:13,23 27:14 29:21,25 30:12,17 64:20 84:5 85:11 86:7,14 86:25 puddle 86:11 purse 66:13 put 12:2 43:4 50:8 55:6 56:9 58:3 60:11 83:13 89:22 putting 7:2	question 15:8 22:25 30:8 59:11 64:19 67:22 81:12 questions 37:5,10 41:17 52:17 56:17 79:23 83:20 89:11 91:2 quick 48:11 quickly 45:7 quit 5:10,11,12 quite 78:9 quotations 54:20 quote 54:20
				R
				radio 11:6 radius 33:21 Rafael 12:15 13:3 range 45:15 46:7 rate 47:18 RC00008621 13:10 13:21 read 11:18 15:8 17:6 40:22 41:2 42:4,22 42:24 44:22,23 45:18 48:2,3,5 56:3 56:12,20 84:9 92:21 reading 16:12 17:7 57:14 84:8 91:16 reads 65:14 realize 48:4 rear 43:5 reason 5:11,12 7:14 9:25 10:5 11:11 15:7 32:10 51:16 55:16 63:24 87:19 reassess 49:12 59:5,6 recall 18:15 20:1,6 33:12 35:4 39:18 40:1 43:10 44:17 49:2 53:1 55:4,11 68:11,23 81:19 82:19 83:2,5,9,11 90:12 received 6:5 recognize 72:22 74:14 recollect 11:10 53:3
				Q
				quantification 31:2

recollection 12:23 14:17 18:20 19:6 53:8,16 56:21,25 61:13 68:7 69:22 71:20 73:11,23 75:13 79:11 record 72:15,16,19 reenter 6:14 reevaluate 49:15 refer 69:19 reference 15:12 referring 8:24 53:21 92:22 refresh 56:20 61:13 73:10,23 75:12 79:10 refused 59:16 60:5 63:15 65:11 91:12 regarding 24:25 regardless 59:13 region 44:5,7 related 45:19 46:2 67:16 81:6 82:1,20 relative 94:18,20 release 38:3 65:18,20 remember 9:6 11:4,5 11:8 33:6 36:3,4,7 39:19 56:7 60:6,8 69:3 71:8 72:18 86:2 88:24 repent 30:8 37:7 81:12 rephrase 37:7 report 2:23 7:19,24 8:3,6,8,16,17,19,23 9:7 12:10 13:9,14 14:6,11 15:8 16:8 19:11 20:11,14,17 42:11 43:3 49:4 50:13,21,22,24 52:16 53:12,17 54:4,16,19 56:3,20 60:4 62:1,5,16 64:6 64:17 67:8,16,18 68:8 69:24 75:14 79:13,20 82:20 83:13 85:24 86:7 89:24 90:1,5 92:18 reported 1:24 28:9	28:10 45:10 55:5,8 55:14 57:18 62:15 69:18 84:10,23 85:1,3 87:6,6,23 88:5,13 89:4 93:9 94:6 REPORTER 93:20 REPORTER'S 94:1 reporting 45:17 46:23 65:16 83:18 reports 23:2,5 24:7 24:16,17,24 62:12 62:18 90:7 represent 77:2 request 94:16 require 64:6,7 RESORT 1:8 respond 5:23 13:1 14:24 24:21 26:19 27:17 80:3 responded 15:1,3 27:22 81:19 responding 19:4 25:21 39:22 80:9 responds 80:5 response 89:10 responsible 25:20,22 32:24 rest 16:8 44:10 48:2 48:5 49:6 67:7 Restaurant 25:16 restroom 22:3 33:16 36:11 restrooms 34:6,21,23 35:9 result 19:22 83:16 93:15 return 45:7 returned 68:3 71:9 review 7:19 94:17 reviewed 7:24 20:11 20:13 48:16 reviewing 68:11 right 3:14 7:14,16 9:16 13:16,17,18 15:10 16:10,16 17:18 22:4 25:8,12 27:3 30:14 34:20 34:22,23 35:3,7,9	35:10,14 37:14,21 38:21 39:12 40:5 41:5 45:18,23,24 46:9 51:1 52:17 53:13,24 54:9 55:6 57:17 63:11 68:4 70:13 71:14,21 72:21,24 74:13,19 76:12,18,21 77:1,24 84:11 85:1,10 86:9 87:3,9 88:8 89:14 91:13 93:4,10,14 right-hand 8:5 right-hand-side 13:5 Road 2:8 roam 6:2 rolling 73:14 74:16 ROM 45:14 room 59:16,18,19,24 59:25 60:2,10 61:15,17 64:21,23 65:9 67:7,10 70:17 70:19,23 71:3 74:23 75:11,23 76:10,15,19,23 77:4 79:18,19 88:25 89:1 rooms 26:12 77:9 roughly 31:9 87:16 88:15 89:6 93:6 route 60:21 Royal 2:7,7,19 9:19 10:7 22:18,21 23:12,16 30:2,6 37:10,13 45:23 46:1,17 48:23 53:13,14 70:5,7,8 72:15,17 74:3,4 79:22,24 81:13 82:4 83:20 84:8,17 85:18 93:19,20,22 Royal's 89:11 91:9 RPR 1:25 94:25 rule 21:2 rules 21:5 RX 49:8 S S 40:14	S/F 40:24 42:23 saerum 44:11 Sahara 1:16 2:4 San 6:5 SANDS 1:9 saw 15:20 20:17 36:11 64:9 85:23 86:12 87:4 saying 21:16 55:1 57:6 69:20 70:1 85:2 says 11:13,15,17 12:1 13:6,16 37:24 38:18,22 40:22 41:4,7,10 42:23 44:23,24 46:9 48:6 50:16,16 51:1,2,3 52:18 53:5 54:2,11 55:5,11 56:12 57:17 58:22 59:15 62:14 63:15,20 68:9,19 69:17 84:2 84:9 91:16 92:7 scene 11:4,9 12:6,6 12:21 15:3,14 17:25 18:21,25 19:3 20:2 28:9 39:19,22 40:6,9 51:18 52:18 60:3,9 61:15 67:2,4 69:1 71:10,13 74:18 75:22 85:7,11 86:8 90:23 schedule 32:13 scheduled 32:5 scheduling 31:20 32:1,24 scholarship 6:19 7:4 7:5 school 4:9 screen 89:17,21 90:1 second 9:22 59:1 67:11 72:15 74:2,3 second-to-last 53:5 section 59:19 secure 61:8 65:5 security 2:23 5:17,19 5:22 6:1 10:19 11:6 13:9 14:25 15:3	16:1 18:16,21,24 20:2,24 22:16 23:6 26:18 27:19 28:16 28:19 32:14,25 33:4,7,7 48:9 59:20 59:23 67:6,7 73:9 see 8:5 9:24 10:19,22 11:13,22 12:16 13:10 15:16 17:2,5 17:12 24:2 35:7 37:16 44:20 45:7 48:25 50:20 54:14 55:25 57:20 62:4 62:11 63:13 66:5 68:21 69:5,6,7 73:3 74:16 75:8 77:8,16 79:8,12 82:19 83:19 85:20,21 86:11,18,21 87:21 88:11 89:11,16,23 90:10 91:20 92:8 seeing 10:1 35:4 56:8 73:22 77:16 seek 62:11 63:12 seeking 62:16 seen 24:5 52:25 55:20 73:19 Sekera 1:5 10:3,13 15:9 16:10 19:22 37:24 46:6 49:1 52:19,25 53:5,9 54:2 56:22 58:16 60:3 63:12 68:2 69:20,25 71:17,22 73:17 74:6,18 75:9 75:15 76:19 77:17 79:6,16 82:13,20 84:15,24 87:7 90:21 91:17 92:6 Sekera's 52:1 select 7:3 51:15 self 91:18 sell 33:22 35:24 36:1 52:23 sells 35:15,17 sensory 45:2,8 sentence 53:5 54:1 54:11 55:5,12,18,22 57:1,12,17,23 58:11
---	---	---	--	--



63:20 84:8	slinged 62:5	spot 86:22	72:3,5,7	talk 4:22 5:18 7:16
serious 5:24 23:7	slip 80:23 81:3,24	Springs 2:8	struck 55:13	14:10 24:11,16
seven 47:10,15	slip-and-fall 24:7	square 12:23	students 7:3	25:23 26:4,4 35:12
shielding 58:1	31:9 40:14 41:16	stable 42:20 43:19	stuff 40:13 64:10	87:12,20 92:20
shift 5:14 28:12,22	68:25 70:3	stage 59:20	67:13	talked 19:11 92:5
28:23 31:15,21,22	slip-and-falls 23:4	stamp 8:3,22	submitted 50:22	talking 10:2 17:2
31:22 32:3,16,21	24:11,12,18,21,25	stamps 87:18 88:25	substance 80:21 81:7	24:18 25:24 30:11
33:1,2,3,4,10,14	25:24 28:2 29:24	stand 40:10 59:12	81:8,15,21 82:12	41:3 45:22 48:12
shifting 42:19 43:18	31:6 80:1	69:11	Suite 1:16 2:4	54:9 73:16 92:6
shifts 31:21	slipped 48:13 49:3,5	standard 41:17	suites 26:2,4,5,7,10	talks 15:8 16:8
shirt 74:7	54:12 69:13,14	standing 58:19 59:14	26:15,19,23 27:2,9	team 15:14,23,23
shoe 71:4	70:1	74:6	27:11,11 29:20	51:7 65:1 66:3,25
shoes 70:25 71:1 82:6	slips 80:17,21 81:6	stands 79:15	30:12	67:21,23,24 79:3,7
82:7	81:20	start 4:13 64:13	summary 51:25	85:11 86:8 87:1
shop 35:15	small 33:24	83:24	summer 5:9	Technician 5:19
shopped 34:4	smell 92:12,15,15	started 5:9 12:2 54:9	supervisor 13:7	tell 3:4 6:21 9:12
Shops 38:24 52:22	soft 36:1	starting 40:24 42:3	supposed 56:3	18:8 21:11 39:5
66:2 67:12 77:20	solemnity 3:24	61:4,19 63:11	sure 4:20 7:15 12:13	42:15 43:14 44:2
78:12	somebody 29:2 49:12	72:20 74:6 76:14	12:24 15:6 17:6	44:19 46:18 57:22
Short 36:17	51:8,8 53:23 59:8	starts 10:20 11:19	19:8 48:8 49:16	70:15 78:13 91:15
shorthand 45:1	62:14 64:3 66:21	40:24 84:2	50:19 52:21 60:25	telling 36:12
94:12,15	82:1 85:17	state 3:10 19:21	63:10 65:15 66:17	tells 30:5
shoulders 44:9	something's 53:24	24:12,17 27:21	69:12,14	temp 51:8 64:2,9
show 7:22 18:5 34:16	soreness 16:25 17:9	52:1 94:2	Surface 51:12	tenderness 42:7,14
72:14 74:5 76:13	46:24 61:20 62:6	44:18 45:22 47:25	surveillance 48:8	42:16 43:25 52:10
76:13	62:20	49:5 54:11,16 55:9	68:10,12 72:19	tenth 26:1 27:12
showed 83:6	sorry 15:19 17:3	55:15 58:13 63:20	90:23 91:2,5	terms 6:17 19:16
showing 91:3	22:18 30:7 38:8	statement 19:2,5	swing 32:3	29:20 36:24
shows 8:16 77:3	39:22 40:13 61:8	20:10 55:15 65:12	switch 8:4	test 7:4,6,7,8 45:6
side 16:25 17:10,16	63:25 73:3	65:22,23 84:18	switched 32:7	testified 3:6 36:19
17:18 24:1,4,4	sort 61:11,13	90:16	sworn 3:4 94:10	73:25 75:13 84:22
28:23,24 29:5	sounds 17:17 87:15	statements 19:16,24	symbol 42:6	testify 16:4 18:19
46:15,16 47:1	space 3:15 89:21	20:4,8,20	system 8:16,21,25	31:1 37:1 94:10
61:21 62:6,21,24	speak 14:3 31:2	statue 30:23	12:2,3 50:21 89:18	testifying 3:24
63:2 78:6	speaking 50:5	status 52:8	89:20 90:8	testimony 30:10
sides 44:6	specific 10:12 86:7	stays 90:8		48:19 81:11
sidewalk 24:22	speculation 85:19	stepped 69:21 82:17	T	Thank 93:18
signature 9:15,17,20	speech 52:7,10	stepping 82:2	tab 89:18	thing 64:15 91:11
10:1,2 38:18	speed 77:3,15 78:9	steps 76:4	table 23:25	things 6:24 9:1 12:10
signed 88:18	spill 48:14,18,22,24	stick 14:20 29:2	tabs 89:19	39:12 46:21 47:2
signs 52:12	49:2 69:18,19	stop 21:10	take 7:6,7 18:3,8,12	57:7 60:18 66:18
simple 21:22,22	84:10,23 85:4,8,23	stopping 21:15 36:12	36:15 43:22 64:20	80:2 81:1 91:8
simpler 4:13	87:6	store 21:24 22:1	64:22 66:24 69:5	think 5:9 29:22 31:8
sir 8:7 11:14	spinal 43:12 44:5,6	35:16	71:13,24 82:6,7	33:11,12 37:14
sit 56:19 82:10	spine 44:8,10 47:23	straight 46:14	88:23	38:16 49:3 50:22
size 55:2	62:25 63:7,9	strictly 29:8	taken 1:16 3:17,23	66:20 83:25 89:18
skull 43:17	splint 49:9,12,16,16	Strike 67:21	17:25 18:11 19:15	thinking 30:19
slash 40:14 49:9 52:9	splinted 62:4,5	striking 55:23 56:13	20:8,10 70:15,16	third 63:25
sling 78:20	splinting 59:4		71:8,12 94:15	third-party 64:10

65:17 thoracic 44:10 thousand 4:7 threats 53:19 three 28:24 31:23,24 32:6,8 41:17 76:4 Thursday 1:18 94:7 time 5:14,16 10:19 11:13,19,20 12:3,5 12:6,24 19:19 23:2 27:5 28:5,8 31:12 33:12 47:11 49:2 50:16,22 52:4,11 54:3 57:3,13,19 58:24 59:1 62:19 73:19 75:18 76:22 79:17 83:4 87:18 87:20 88:5,5,11,17 88:17,24,25,25 89:3 89:7 92:13,24 93:1 93:3 94:16 times 26:18 28:3 58:2 60:13 tingling 45:11 tips 45:9 tired 5:12 TM 12:15 today 3:20 16:4 18:19 31:1 37:1 56:19 75:13 82:10 today's 7:20 20:12 told 11:7 12:21 28:6 43:2 48:10 69:23 83:12 85:7 90:21 91:22 top 17:4 23:1 35:19 35:22,23 37:17 40:12 44:9 61:18 73:7 78:2 84:1 Tops 71:1 total 32:14 75:25 touching 42:15 Tour 38:22 tours 38:25 52:18,20 52:24 tracking 27:2 training 6:4 7:5 27:18 transcribed 94:12	transcript 93:21 94:13,17 transcription 94:15 transferred 29:15 transport 63:16 91:13,18 trauma 52:9 treatment 49:9 62:1 62:2 trespasses 23:7 triangle 49:18 tricky 73:14 trip 80:24 81:2,4 tripped 69:13 trips 80:17 trouble 60:8 true 7:24 9:4 10:15 14:15 17:21 18:9 94:14 truth 3:4,5,5 94:10 94:10,11 try 34:15 trying 26:22 72:18 76:3 two 4:7 9:20 14:14,18 17:21 24:15 28:21 28:22,23 29:10 30:20 31:15,18,18 31:19,23,24 32:2,16 45:22 48:9 50:24 76:5 90:15 type 21:2 typed 8:9,17 57:25 types 23:7 typewriting 94:13 typewritten 94:13 typically 75:6 79:20 83:12 90:16 typing 9:2	37:5 unemployed 4:25 5:1 uneven 69:6 uniform 73:2,3 74:9 74:12,17 UNKNOWN 1:11 unlawful 21:15 unstable 61:1 unusual 64:20 80:24 upper 13:8,8,16,18 15:13 upstairs 24:23 use 57:4 usually 39:23 43:16 58:8 59:8 62:8,10 63:8 81:25 89:11	64:25 vendors 65:17 Venetian 1:8,8,10 2:23 5:7,8,15 7:17 13:9 20:23 21:3,8 21:10,14 22:1,9,15 24:8 25:1,18 26:8 28:24 29:1,2,8,8,11 29:16,18 30:1,13,16 31:4,16,25 32:5,7 32:15 36:20 37:2,3 40:23 51:6,9,10 64:3,4,16 venture 29:1 verbally 38:11 versa 29:6 versus 26:23 29:11 31:4 57:23 80:17 vice 29:6 vicinity 86:25 video 48:8,10,22 68:9 68:13 74:5 78:6 79:12 83:6 90:23 91:2,5 volume 32:21 voluntary 19:2,5 65:11,21,23 90:16 vs 1:7	Warm 2:8 wasn't 19:12 22:13 40:19 44:18 47:5 59:22 65:1 82:22 92:5,13 watched 78:18 water 21:8 30:23 34:3 35:15 36:1,8 36:11,13 49:4 54:13,24 69:21 70:13 71:18 82:17 82:25 way 10:7 12:14 23:17 23:23 25:15 30:4 34:22 44:10 61:12 62:12 63:3 81:18 ways 60:15 we'll 35:12 40:5 48:1 we're 7:16 12:9 24:18 25:24 27:2 30:11 33:15 56:3 71:1 77:12 78:10 89:24 we've 10:18 12:15 18:5 30:10 34:16 34:18,20 57:14 87:5 weak 40:18 41:25 59:10 weakness 57:2,8 58:23 59:13 wearing 82:9 web 89:19 week 28:14 went 78:12 79:10 weren't 6:2 32:12 91:8 West 2:8 wet 48:25 51:15 69:17,19 82:21 84:10,23 85:3,8,16 85:23 86:19,22 87:6 WFA 39:5 wheelchair 59:16 60:5,12,19 74:19 75:9 white 39:8 74:7,9 83:6
---	---	--	--	--



JOSEPH LARSON 10/11/2018

Page 11

wine 35:15	19:25 25:5,7 27:14	12:45:25 75:3	2018 1:18 94:8,23
witness 2:18 9:21	32:13,23 36:22	12:45:40 75:8	25 1:7
19:3,12 23:14 30:7	58:21 61:9 63:1,8	12:46:05 75:15	2600 23:2,5
46:16,22 48:21	76:25 77:25 78:8	12:46:42 75:24	286 1:25 94:4,25
81:12,24 84:18	78:14,14 79:4 80:6	12:46:54 76:8	
85:20 94:7,9	80:6 81:16,17 82:7	12:57 88:11,14,20,22	3
witnessed 41:5	82:7 84:7 90:7	89:1,4	32:19,23,23
witnesses 19:14,19	92:19 93:8	13:02:37 76:14	3:30 50:18
19:24 20:4,20	year 4:21 30:20	13:02:39 76:18	30 12:22 48:13,17
words 21:7 29:11	years 4:18 5:8 20:25	13:04:06 77:8	300 23:21,22
42:11 51:21 57:4	23:15 24:8 26:17	13:05:25 77:16	3339 3:15
90:19 91:4,25 93:4	27:4 29:16 30:20	13:08 78:18	37 2:19
work 5:8 6:1,4,9	years' 23:2	13:08:50 78:18	4
27:15 28:12 43:15		13:09 78:19	437:18 50:18
worked 5:15 22:9	Z	13:10:08 79:1	4:05 93:23
29:14 31:22 39:1	0	13:10:32 79:5	45 12:22 88:4 93:6,12
65:1 66:12 67:11		13:13:08 78:10	93:15
worker 51:8 64:3	00025821 8:9	13:26 87:21 92:24	5
worker's 63:21 64:5	0043 72:10	93:12	5'6 39:8
64:8,11,13	008 61:7	13:31 11:16 12:3	50 80:13
workers 64:9	009 8:4 17:2 52:15	37:18	52 11:24 12:6
working 5:4	89:13	1326 10:20	52-minute 11:19
works 51:9 64:3	017 49:7 90:12	15 76:23 87:16	
worse 60:18	018 8:5 90:12	15:30 50:16	6
wouldn't 19:4,13	036 70:18	150 25:3,9,11,23	7
24:20 25:9 36:12	037 70:22	26:21 27:1 80:14	7000 26:9,10
44:5 55:20 59:24	038 71:2	81:5,17	702)471-6777 2:9
64:22 80:10 84:19	039 71:6,9	1522 2:8	702)735-0049 2:5
85:21,22	041 71:21	160 39:8	75 27:7,10
write 19:5 53:18	042 71:24	1611V-0680 13:16	8
writing 9:13,13		175 25:9,11,23 26:21	8 66:4 67:24 79:4
44:20 54:19 62:1,8	1	27:1 28:1 29:7 31:9	80 28:5,8 31:12
89:24 90:1	1 2:23 3:1 7:23 18:6	80:14,15,20,20 81:5	83 2:20
written 38:3 44:18	37:15 50:6 51:19	81:17	89014 2:8
45:10 56:24	65:10 79:14	18 88:15	89104 1:17 2:5
wrong 17:3	10 47:10,16 80:11	18-minute 89:7	89117 3:16
wrote 14:19 23:1,2,5	100 27:11	1850 1:16 2:4	
24:6,17,25 45:14	100-foot 33:21	2	
62:12 84:13	100-percent 50:19	2 2:23 3:1 57:11 70:6	
X	107 1:16 2:4	70:9	
X 1:11 2:17 9:22	10th 25:19,20 26:24	2:15 1:18 94:8	
38:18,19	30:18	20 80:12 87:16	
Y	11 1:18 94:8	200 24:7 25:4,10	
yeah 5:10 7:13 8:2	11/4/16 11:15,16	2007 4:8	
9:1,11,21 10:4,7	12:39 11:15 37:17	2008 4:8,20 5:9,10,15	
11:17 12:11,25	87:24 88:14 93:9	2016 33:10 37:18	
13:19,22 18:2	12:43:15 72:20 73:10	50:18	
	12:43:22 73:15	2017 5:2,3,10,16	
	12:44:45 74:6,16		
	12:45:14 74:24		

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10 **CAROL SMITH**

7 **DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

9 **CAROL SMITH, an individual,**

10 **Plaintiff,**

11 **vs.**

12 **VENETIAN CASINO RESORT, LLC; and**  
13 **DOES 1 through 50, inclusive,**

14 **Defendants.**

Case No.: A-17-753362-C  
Dept. No.: X

Discovery Commissioner

**PLAINTIFF'S REPLY TO  
DEFENDANT VENETIAN CASINO  
RESORT, LLC'S OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
TERMINATING SANCTIONS,  
MONETARY SANCTIONS FOR  
WILLFUL SUPPRESSION OF  
EVIDENCE PURSUANT TO NRCP  
RULE 37**

Date of Hearing: March 20, 2019  
Time of Hearing: 9:00 a.m.

20 Plaintiff, CAROL SMITH, by and through her attorney of record, PETER GOLDSTEIN, ESQ.,  
21 hereby submit Plaintiff's Reply to Defendant Venetian Casino Resort, LLC's Opposition to Plaintiff's  
22 Motion for Termination Sanctions, Monetary Sanctions for Willful Suppression of Evidence Pursuant to  
23 NRCP Rule 37.  
24

25 Dated: 3.12.19

PETER GOLDSTEIN LAW CORPORATION

26 BY: *Peter Goldstein*  
27 PETER GOLDSTEIN, ESQ.  
28 Attorney for Plaintiff



1                   **I. The Incident Reports In The Sekera Case And The Smith Case All Involve Falls**  
2                   **On Marble Floors**

3           Defendant argues that the discovery issues involving *Sekera v Venetian*, Case No. A-18-772761-  
4 C and *Smith v Venetian* are not identical, but "rather are different". The discovery requests and  
5 responses involve prior falls on marble floors in lobbies of the Venetian Hotel and Casino primarily for  
6 2014 to 2016. In request number 7, *Sekera* requested slip and fall incident reports on marble floors in the  
7 Venetian Hotel and Casino for three years prior to the date of the *Sekera* incident (November 4, 2016).  
8 Venetian provided 64 prior reports and 660 pages of documents in its Responses and Supplemental  
9 Responses to Request for Production of Documents No. 7, see Exhibits 7 and 8. It is undisputed that 25  
10 reports were produced in Smith for falls reports from 2014 to 2016, no reports were produced for the  
11 two year period of time 2011 to 2013 for falls in Lobby One, see Exhibit 9, Defendant's Ninth  
12 Supplemental Disclosure.  
13

14           Plaintiff will bring 660 bates stamped pages of documents produced by Defendant Venetian in  
15 *Sekera v. Venetian*, to the hearing as they are responsive to the previous fall incident requests and  
16 responses in Smith and directly relate to notice and knowledge of prior falls on wet marble floors (Ex.  
17 10 not attached) but Plaintiff also attaches another spreadsheet of the incident reports, Exhibit 11,  
18 showing the *Sekera* falls in black and the *Smith* falls in red. The *Sekera* reports were produced in  
19 response to a request for prior falls on marble floors for a three-year period before November 14, 2016  
20 and 56 involved falling on wet floors. Defendant's argument that the cases differ in facts, circumstances,  
21 allegations, discovery, orders, is more than misleading, it is flat out false. Of the 60 plus incident reports  
22 disclosed in the 660 pages of documents, only four do not specifically state that Venetian patrons  
23 slipped on a liquid on a marble floor. Of those four, two do not specify the reason for the fall and two  
24 state that the individual tripped over their feet. Though, in those two reports, it is noted that the floor was  
25 recently cleaned, so a wet floor cannot be ruled out. For example, an incident report, not disclosed in this  
26  
27  
28

1 case, dated 11/24/2013 the author of the narrative states "impossible to see because of the shiny floor  
2 until the liquid was encountered".

3 This cannot be viewed as an innocent mistake. The Venetian generates and maintains incident  
4 reports of injured persons. Venetian failed to provide 36 incident reports involving falls to Plaintiff in  
5 this case for the time period requested on marble floors. Additionally, of the 36 non-disclosed incident  
6 reports which Defendant argues are not similar situations, 14 reported the impact from their falls  
7 resulted in specific complaints of knee injuries, similar to Plaintiff.

9 Defendant's "understanding" of what it produced is not the question. Defendant cannot hide  
10 behind the fact that they produced less than half as many reports, within the same time frame as another  
11 case for the same discovery requests. It is simply inexcusable and Defendant implicitly concedes it has  
12 no defense by failing to provide any reasonable explanation. In an effort to obfuscate, Defendant  
13 conflates whether evidence is admissible or discoverable which is not the point. The sheer number of  
14 prior fall reports speaks to their admissibility at trial. As the court stated in *Eldorado v Graff* (1962) 78  
15 Nev 507:  
16

17 "The admissibility of evidence of prior accidents in this kind of a case, to show notice or  
18 knowledge of the danger causing the accident, is generally confined to situations where there are  
19 conditions of permanency. See annot. 70 A.L.R.2d 167. Evidence of the type here in question is  
20 usually excluded where it relates to a temporary condition which might or might not exist from  
21 one day to the other unless, of course, there is proper showing that the conditions  
22 surrounding the prior occurrences have continued and persisted." *Moore v. American*  
23 *Stores Co.*, 169 Md. 541, 182 A. 436; *Boles v. Montgomery Ward & Co.*, 153 Ohio St. 381, 92  
24 N.W.2d 9; *Montgomery Ward & Co. v. Wright*, 70 Ariz. 319, 220 P.2d 225.

25 Defendant's motive for not producing the reports and to minimize the number of prior reports is  
26 so they can argue that the prior occurrences are less than actually exists so that the prior reports would  
27  
28

1 not be admissible at trial. This would be consistent with their failure to meet and confer regarding a  
2 stipulation on the admissibility of the prior reports even though the Discovery Commissioner required  
3 them to do so.

4         Similar to the Defendant's Opposition to Plaintiff's Motion for Disqualification, it rambles  
5 between ad hominem attacks without any semblance of organized or cogent points and authorities. For  
6 example, Defendant attack on Plaintiff's expert, Fred Hueston has nothing to do with the issues  
7 presented in Plaintiff's Motion. Defendant falsely accuses Plaintiff of concealing information from the  
8 Court without any basis. Fred Hueston's expert testimony concerns his opinions about the treatment,  
9 maintenance and application of polymer to the marble floor in order to increase friction coefficient. He  
10 is not testifying as an expert about anything other than his expertise in the area of marble flooring  
11 treatment and maintenance. One of his opinions is that the product which Defendant utilizes to clean the  
12 marble floors is V2, but after cleaning they fail to apply the V3 polymer which the manufacturer  
13 recommends to help traction. This was admitted by defendant in its response to Request for Admissions,  
14 set 3.  
15

16         Defendant argues that the main line of questioning of Plaintiff's expert was the number of  
17 incidents and gratuitously inserted an argument without any evidentiary support that the marble floors  
18 were built within building codes which have been approved. This is unsupported hyperbole and lacks  
19 evidentiary support.  
20

21         Defendant then confuses and conflates the mode of operation theory of liability with the fact that  
22 the marble floors are inherently dangerous when wet and are a serious slip hazard. It wasn't until 2012  
23 when we heard the term in Nevada, the mode of operations, a legal variation to the traditional approach  
24 to premises liability. Customarily, a business will only be held liable for a dangerous condition on its  
25 floor (e.g., foreign substance) caused by someone other than an employee when the business had actual  
26 or constructive notice of the condition and failed to remedy or warn of it. *See Sprague v. Lucky Store*,  
27  
28



1 *Inc.*, 109 Nev. 247, 849 P.2d 320 (1993). However, the Nevada Supreme Court first departed from  
2 tradition in *Sprague*, based on an approach near identical to the mode of operations. Even in the absence  
3 of constructive notice, the court looked at Lucky's "chronic hazard" from its self-service produce area.  
4 Continual debris from falling items onto the store's floor required more than sweeping; rather, a jury  
5 could continue that further precautions were necessary. In *FGA, Inc. v. Giglio*, 278 P.3d 490, 128 Nev.  
6 Adv. Op. 26 (Nev. June 14, 2012), the Nevada Supreme Court stated it had "implicitly adopted the mode  
7 of operation approach" with its *Sprague* ruling. *Id.*, 278 P.3d at 497.  
8  
9

10 Plaintiff's Motion did not misrepresent the fact that Defendant failed to produce video footage in  
11 violation of the Court Order. Defendant never responded to the proposed Order contained in the email  
12 which Plaintiff's counsel submitted to defense counsel. Regardless, that Order has been signed by the  
13 Court, and attached as Exhibit 10.  
14

15 This litigation has been ongoing for years and been the subject of two discovery hearings with  
16 the Discovery Commissioner and one by the District Court Judge, accordingly there is no requirement to  
17 further meet and confer. Plaintiff relied on representations that the reports produced were true and  
18 correct, and constituted all prior incidents involving falls on liquids on marble floors of the five lobbies  
19 that contain marble tile. The reports disclosed in this Smith case are simply false and this Motion  
20 demonstrates that defendants have engaged in flagrant discovery abuse. Plaintiff's Motion does not take  
21 issue with the protective order, which was simply for the purpose of allowing redacted names of the  
22 persons involved.  
23  
24

25 **II. The Prior Falls Should Be Admitted As Evidence At Trial To Prove Notice And**  
26 **Knowledge Of The Dangerous Condition.**  
27  
28



1 The court in *Reingold v Wet and Wild* previously held that evidence of subsequent, similar  
2 accidents involving the same condition may be relevant on the issues of causation and whether there is a  
3 defective and dangerous condition. *Ginnis v. Mapes Hotel Corp.*, 86 Nev. 408, 415, 470 P.2d 135, 139  
4 (1970).

5 NRS 47.250(3) does provide for a disputable presumption "[t]hat evidence willfully  
6 suppressed would be adverse if produced." The district court apparently believed that  
7 "willful suppression" requires more than following the company's normal records destruction policy.  
8 We disagree. There is no dispute that the records were "willfully" or intentionally destroyed. Wet 'N  
9 Wild claimed that all records are destroyed at the end of each season. This policy means that the  
10 accident records are destroyed even before the statute of limitations has run on any potential litigation  
11 for that season. It appears that this records destruction policy was deliberately designed to prevent  
12 production of records in any subsequent litigation. Deliberate destruction of records before the statute of  
13 limitations has run on the incidents described in those records amounts to suppression of evidence. If  
14 Wet 'N Wild chooses such a records destruction policy, it must accept the adverse inferences of the  
15 policy.  
16  
17

18 Additionally, *Ault v. International Harvester Company*, 13 Cal.3d 113, 117 Cal.Rptr. 812, 817,  
19 528 P.2d 1148, 1153 (1974), held that the lower court did not err by admitting evidence of both prior  
20 and subsequent accidents to prove a defective condition or cause of the accident. The court noted that  
21 the purpose of providing evidence of the other accidents was to show that all the accidents, including the  
22 one in litigation, occurred due to the dangerous condition. *Id.*

23  
24 The United States Supreme Court stated that:

25 [The other accidents] were proved simply as circumstances which, with other evidence, tended  
26 to show the dangerous character of the sidewalk.... The frequency of accidents at a particular place  
27 would seem to be good evidence of its dangerous character—at least, it is some evidence to that effect.  
28

1 *District of Columbia v. Arms*, 107 U.S. 519, 524-25, 2 S.Ct. 840, 844-46, 27 L.Ed. 618 (1883).

2  
3 Defendant clearly found that it was better to be deceitful and attempt to hide evidence that would  
4 harm their case than comply with discovery orders.  
5  
6  
7  
8  
9

10 DATED: 3.12.19

LAW OFFICES OF PETER GOLDSTEIN

11 BY   
12

PETER GOLDSTEIN, ESQ.  
Attorney for Plaintiff  
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1  
2  
3 **DECLARATION OF PETER GOLDSTEIN**

4 I, Peter Goldstein, declare as follows:

- 5 1. I am an attorney duly licensed to practice law in Nevada and am counsel of record  
6 for Plaintiff. I have personal knowledge of all matters stated herein that I know to be true  
7 2. Exhibit 7 is Defendant's Response to Request for Production of Documents in  
8 *Sekera v. Venetian*.  
9 3. Exhibit 8 is Defendant's Supplemental Response to Request for Production of  
10 Documents in *Sekera v. Venetian*.  
11 4. Exhibit 9 is a true and correct copy of Defendants' Ninth Supplemental  
12 Disclosures in *Smith v. Venetian*.  
13 5. Exhibit 10 is a CD of 660 bate stamped pages of documents produced by  
14 Defendant in *Sekera v. Venetian*.  
15 6. Exhibit 11 is a detailed spreadsheet of incident reports disclosed in both the  
16 *Sekera v. Venetian* and *Smith v. Venetian* cases.

17 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and  
18 correct.

19 Dated March 12, 2019 at Las Vegas, Nevada.

20 Signed:   
21 \_\_\_\_\_

22 Peter Goldstein, Declarant  
23  
24  
25  
26  
27  
28

1  
2 **CERTIFICATE OF SERVICE**  
3

4 Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure and [N.E.F.R. 9(b)] I certify that  
5 I am an employee of Peter Goldstein Law Corporation and that on March 12, 2019, I served a true  
6 and correct copy of the foregoing document entitled **PLAINTIFF'S REPLY TO DEFENDANT**  
7 **VENETIAN CASINO RESORT, LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR**  
8 **TERMINATING SANCTIONS, MONETARY SANCTIONS FOR WILLFUL SUPPRESSION**  
9 **OF EVIDENCE PURSUANT TO NRCP RULE 27.** upon all parties listed below, via the following  
10 means:  
11

12 \_\_\_\_\_ Via U.S. Mail by placing said document in a sealed envelope, with postage prepaid [N.R.C.P. 5(B)]  
13   X   Via Electronic Filing [N.E.F.R. 9(b)]  
14   X   Via Electronic Service [N.E.F.R. 9]  
15 \_\_\_\_\_ Via Facsimile [E.D.C.R. 7.26(a)]  
16

17 Michael Edwards  
18 Lisa Thayer  
19 Lani Maile  
20 Ryan Loosvelt  
21 MESSNER REEVES LLP  
22 8945 W. Russel Road, Suite 300  
23 Las Vegas, Nevada 89148  
24 Tel: (702) 363-5100  
25 Fax: (702) 363-5101  
26 Email: medwards@messner.com  
27 Email: lthayer@messner.com  
28 Email: lmaile@messner.com  
Email: RLoosvelt@messner.com  
Attorney for Venetian Casino Resort, LLC

26  
27 3/12/19  
28 Date

Joelynn Jordan  
Joelynn Jordan  
An employee of the Law Office of Peter Goldstein



## EXHIBIT 7

ROYAL & MILES LLP  
1522 W Warm Springs Road  
Henderson NV 89014  
Tel: (702) 471-6777 • Fax: (702) 531-6777

1 RFP

2 Michael A. Royal, Esq.

3 Nevada Bar No. 4370

4 Gregory A. Miles, Esq.

5 Nevada Bar No. 4336

6 ROYAL & MILES LLP

7 1522 West Warm Springs Road

8 Henderson Nevada 89014

9 Tel: 702-471-6777

10 Fax: 702-531-6777

11 Email: [mroyal@royalmilesllp.com](mailto:mroyal@royalmilesllp.com)

12 Attorneys for Defendants

13 VENETIAN CASINO RESORT, LLC and

14 LAS VEGAS SANDS, LLC

15 DISTRICT COURT

16 CLARK COUNTY, NEVADA

17 JOYCE SEKERA, an Individual;

CASE NO.: A-18-772761-C

DEPT. NO.: XXV

18 Plaintiff,

19 v.

20 VENETIAN CASINO RESORT, LLC, d/b/a  
21 THE VENETIAN LAS VEGAS, a Nevada  
22 Limited Liability Company; LAS VEGAS  
23 SANDS, LLC d/b/a THE VENETIAN LAS  
24 VEGAS, a Nevada Limited Liability Company;  
25 YET UNKNOWN EMPLOYEE; DOES I  
26 through X, inclusive,

27 Defendants.

28 **RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION OF DOCUMENTS  
AND MATERIALS TO DEFENDANT**

TO: Plaintiff JOYCE SEKERA; and

TO: Keith E. Galliher, Jr., Esq.; her attorney:

Pursuant to Rules 26 and 36 of the Nevada Rules of Civil Procedure, Defendant VENETIAN CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC, by and through their counsel, ROYAL & MILES LLP, responds to Plaintiff's first requests for production of documents and materials as follows:

1 **REQUEST NO. 1:**

2 All written, oral, or recorded statements made by any party, witness, or any other person or  
3 persons with knowledge of the incident described in Plaintiffs Complaint.

4 **RESPONSE NO. 1:**

5 Defendants object to the extent this request seeks information protected by attorney/client  
6 privilege and/or attorney work product privilege. Without waiving said objection, Defendants refer  
7 to their disclosures pursuant to NRCP 16.1, documents 2-9, and all supplements thereto. Discovery  
8 is continuing.  
9

10 **REQUEST NO. 2:**

11 Any and all accident and investigative reports, films, video tapes, charts, plats, drawings, maps  
12 or pictures and/or photographs of any kind which has, as its subject matter, the incident described in  
13 Plaintiffs Complaint.  
14

15 **RESPONSE NO. 2:**

16 See Response No. 1.

17 **REQUEST NO. 3:**

18 A complete copy of the Defendant's insurance carriers and/or risk management pre-litigation  
19 claim file.  
20

21 **RESPONSE NO. 3:**

22 Objection. This request lacks foundation, assumes facts not in evidence, seeks information that  
23 is protected from disclosure by the attorney/client and/or attorney work product doctrine. Without  
24 waiving said objection all known discoverable documents regarding the investigation of the loss have  
25 been produced. See Defendants' NRCP 16.1 early case conference disclosures, documents 2-9, and  
26 all supplements thereto. Discovery is continuing.  
27  
28

1 **REQUEST NO. 4:**

2 The names of all expert witnesses or consultants that Defendant will use at the time of trial  
3 along with any reports produced by the same.

4 **RESPONSE NO. 4:**

5 Objection. This request is premature. Defendants' expert disclosures containing the requested  
6 information will take place as set forth in the court's scheduling order. It is also an improper request  
7 for production of documents.  
8

9 **REQUEST NO. 5:**

10 Any and all sweep sheets, sweep logs, or other similar documentation which reflects the  
11 maintenance and/or cleaning of the flooring located within the VENETIAN CASINO RESORT  
12 described in Plaintiffs Complaint for the day before, day of, and day after the incident described  
13 therein.  
14

15 **RESPONSE NO. 5:**

16 Defendants object to the extent this request lacks foundation, assumes facts not in evidence,  
17 is overly broad, vague and ambiguous. This request also presupposes that there was a foreign  
18 substance on the floor causing Plaintiff's fall, which Defendants deny. It also incorrectly identifies the  
19 subject premises as *VENETIAN CASINO RESORT*. This request further seeks information not  
20 reasonably calculated to lead to the discovery of admissible evidence (*i.e.* documents related to  
21 November 5, 2016). Without waiving said objection, Defendants respond as follows: *See* documents  
22 identified pursuant to NRCP 16.1, bates numbers VEN 044-106. Discovery is continuing.  
23

24 **REQUEST NO. 6:**

25 True and correct copies of any and all manuals, documents, pamphlets, flyers, or other  
26 memorandum which has, as its subject matter, the standard operating procedures with respect to the  
27  
28



1 maintenance, cleaning and sweeping of the floors with respect to the VENETIAN CASINO RESORT  
2 in which the fall occurred.

3 **RESPONSE NO. 6:**

4 Defendant objects to the extent this request lacks foundation, assumes facts not in evidence,  
5 and is further overly broad, vague and ambiguous. This request also presupposes that there was a  
6 foreign substance on the floor causing Plaintiff's fall, which Defendants deny. also incorrectly identifies  
7 the subject premises as *VENETIAN CASINO RESORT*. This request further seeks information not  
8 reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection,  
9 Defendant responds as follows: See Response No. 5.

11 **REQUEST NO. 7:**

12 True and correct copies of any and all claim forms, legal actions, civil complaints, statements,  
13 security reports, computer generated lists, investigative documents or other memoranda which have,  
14 as its subject matter, slip and fall cases occurring on marble floors within the subject VENETIAN  
15 CASINO RESORT within three years prior to the incident described in Plaintiffs Complaint, to the  
16 present.

18 **RESPONSE NO. 7:**

19 Defendants object to the extent this request lacks foundation, assumes facts not in evidence,  
20 is overly broad, vague and ambiguous, unduly burdensome and presupposes there was a foreign  
21 substance on the floor causing Plaintiff's fall, which Defendants deny. It also incorrectly identifies the  
22 subject premises as *VENETIAN CASINO RESORT*. This request further seeks access to information  
23 which is equally available to Plaintiff via public records, and otherwise seeks information that is not  
24 reasonably calculated to lead to the discovery of admissible evidence. Defendant objects as the request  
25 as over broad and not properly tailored to the issues in this case. Without waiving said objection,  
26  
27  
28

1 Defendant responds as follows: Defendant is in the process of making a good faith effort to identify  
2 information responsive to this request and will respond as soon as the information is collected.  
3 Discovery is continuing.

4 **REQUEST NO. 8:**

5 Any and all documents, information, memoranda, paperwork, or other material which relates  
6 to establishes, or otherwise pertains to the affirmative defenses alleged by the Defendant herein.

7 **RESPONSE NO. 8:**

8 See Response No. 1.

9 **REQUEST NO. 9:**

10 Any surveillance video showing the Plaintiffs fall at the VENETIAN CASINO RESORT  
11 from any other angle, other than the one shown in the video surveillance produced by the  
12 Defendants thus far.

13 **RESPONSE NO. 9:**

14 Defendants object to the extent this request incorrectly identifies the subject premises as  
15 VENETIAN CASINO RESORT, and further that the term "surveillance video" is itself overly broad  
16 and seeks information outside Defendants' knowledge, custody and control (i.e. videos taken by other  
17 persons on the subject premises at the time). Without waiving said objection, Defendants respond as  
18 follows: All known surveillance related to this matter was produced as Document No. 9 in Defendants'  
19 NRCP 16.1 disclosure. Discovery is continuing.

20 **REQUEST NO. 10:**

21 Any other witnesses, documents, or other disclosures required by NRCP 16.1.

22 ///

23 ///

24 ///

1 **RESPONSE NO. 10:**

2 See Response No. 1.

3 DATED this 9 day of October, 2018.

4 **ROYAL & MILES LLP**

6 By: 

7 Michael A. Royal, Esq.

8 Nevada Bar No. 4370

9 Gregory A. Miles, Esq.

10 Nevada Bar No. 4336

11 1522 W. Warm Springs Road

12 Henderson, NV 89014

13 *Attorneys for Defendants*

14 *VENETIAN CASINO RESORT, LLC and*

15 *LAS VEGAS SANDS, LLC*

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 9 day of October, 2018, and pursuant to NRCP 5(b), I  
3 caused a true and correct copy of the foregoing **RESPONSES TO PLAINTIFF'S REQUESTS FOR**  
4 **PRODUCTION OF DOCUMENTS AND MATERIALS TO DEFENDANT** to be served as  
5 follows:  
6

7 ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed  
8 envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

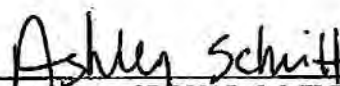
9 ☐ to be served via facsimile; and/or

10 ☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth  
11 Judicial Court's electronic filing system, with the date and time of the electronic service  
12 substituted for the date and place of deposit in the mail; and/or

13 ☐ to be hand delivered;

14 to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

15 Keith E. Galliher, Jr., Esq.  
16 THE GALLIHER LAW FIRM  
17 1850 E. Sahara Avenue, Suite 107  
18 Las Vegas, NV 89014  
19 *Attorneys for Plaintiff*  
20 Facsimile: 702-735-0204  
21 Email: kgalliher@galliherlawfirm.com

22   
23 An employee of ROYAL & MILES LLP  
24  
25  
26  
27  
28



## EXHIBIT 8

ROYAL & MILES LLP  
1522 W Warm Springs Road  
Henderson NV 89014  
Tel: (702) 471-6777 • Fax: (702) 531-6777

RFP

Michael A. Royal, Esq.

Nevada Bar No. 4370

Gregory A. Miles, Esq.

Nevada Bar No. 4336

**ROYAL & MILES LLP**

1522 West Warm Springs Road

Henderson Nevada 89014

Tel: 702-471-6777

Fax: 702-531-6777

Email: [mroyal@royalmilesllp.com](mailto:mroyal@royalmilesllp.com)

*Attorneys for Defendants*

**VENETIAN CASINO RESORT, LLC and**

**LAS VEGAS SANDS, LLC**

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a  
THE VENETIAN LAS VEGAS, a Nevada  
Limited Liability Company; LAS VEGAS  
SANDS, LLC d/b/a THE VENETIAN LAS  
VEGAS, a Nevada Limited Liability Company;  
YET UNKNOWN EMPLOYEE; DOES 1  
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: XXV

**SUPPLEMENTAL RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION OF  
DOCUMENTS AND MATERIALS TO DEFENDANT**

TO: Plaintiff JOYCE SEKERA; and

TO: Keith E. Galliher, Jr., Esq.; her attorney:

Pursuant to Rules 26 and 36 of the Nevada Rules of Civil Procedure, Defendant VENETIAN  
CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC, by and through their counsel, ROYAL &  
MILES LLP, responds to Plaintiff's first requests for production of documents and materials as  
follows:

1 **REQUEST NO. 1:**

2 All written, oral, or recorded statements made by any party, witness, or any other person or  
3 persons with knowledge of the incident described in Plaintiffs Complaint.

4 **RESPONSE NO. 1:**

5 Defendants object to the extent this request seeks information protected by attorney/client  
6 privilege and/or attorney work product privilege. Without waiving said objection, Defendants refer  
7 to their disclosures pursuant to NRCP 16.1, documents 2-9, and all supplements thereto. Discovery  
8 is continuing.

10 **REQUEST NO. 2:**

11 Any and all accident and investigative reports, films, video tapes, charts, plats, drawings, maps  
12 or pictures and/or photographs of any kind which has, as its subject matter, the incident described in  
13 Plaintiffs Complaint.

15 **RESPONSE NO. 2:**

16 See Response No. 1.

17 **REQUEST NO. 3:**

18 A complete copy of the Defendant's insurance carriers and/or risk management pre-litigation  
19 claim file.

21 **RESPONSE NO. 3:**

22 Objection. This request lacks foundation, assumes facts not in evidence, seeks information that  
23 is protected from disclosure by the attorney/client and/or attorney work product doctrine. Without  
24 waiving said objection all known discoverable documents regarding the investigation of the loss have  
25 been produced. See Defendants' NRCP 16.1 early case conference disclosures, documents 2-9, and  
26 all supplements thereto. Discovery is continuing.

28

1 **REQUEST NO. 4:**

2 The names of all expert witnesses or consultants that Defendant will use at the time of trial  
3 along with any reports produced by the same.

4 **RESPONSE NO. 4:**

5 Objection. This request is premature. Defendants' expert disclosures containing the requested  
6 information will take place as set forth in the court's scheduling order. It is also an improper request  
7 for production of documents.  
8

9 **REQUEST NO. 5:**

10 Any and all sweep sheets, sweep logs, or other similar documentation which reflects the  
11 maintenance and/or cleaning of the flooring located within the VENETIAN CASINO RESORT  
12 described in Plaintiffs Complaint for the day before, day of, and day after the incident described  
13 therein.  
14

15 **RESPONSE NO. 5:**

16 Defendants object to the extent this request lacks foundation, assumes facts not in evidence,  
17 is overly broad, vague and ambiguous. This request also presupposes that there was a foreign  
18 substance on the floor causing Plaintiff's fall, which Defendants deny. It also incorrectly identifies the  
19 subject premises as *VENETIAN CASINO RESORT*. This request further seeks information not  
20 reasonably calculated to lead to the discovery of admissible evidence (*i.e.* documents related to  
21 November 5, 2016). Without waiving said objection, Defendants respond as follows: *See* documents  
22 identified pursuant to NRCP 16.1, bates numbers VEN 044-106. Discovery is continuing.  
23

24 **REQUEST NO. 6:**

25 True and correct copies of any and all manuals, documents, pamphlets, flyers, or other  
26 memorandum which has, as its subject matter, the standard operating procedures with respect to the  
27  
28



1 maintenance, cleaning and sweeping of the floors with respect to the VENETIAN CASINO RESORT  
2 in which the fall occurred.

3 **RESPONSE NO. 6:**

4 Defendant objects to the extent this request lacks foundation, assumes facts not in evidence,  
5 and is further overly broad, vague and ambiguous. This request also presupposes that there was a  
6 foreign substance on the floor causing Plaintiff's fall, which Defendants deny. also incorrectly identifies  
7 the subject premises as *VENETIAN CASINO RESORT*. This request further seeks information not  
8 reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection,  
9 Defendant responds as follows: See Response No. 5.

11 **REQUEST NO. 7:**

12 True and correct copies of any and all claim forms, legal actions, civil complaints, statements,  
13 security reports, computer generated lists, investigative documents or other memoranda which have,  
14 as its subject matter, slip and fall cases occurring on marble floors within the subject VENETIAN  
15 CASINO RESORT within three years prior to the incident described in Plaintiffs Complaint, to the  
16 present.

18 **RESPONSE NO. 7:**

19 Defendants object to the extent this request lacks foundation, assumes facts not in  
20 evidence, is overly broad, vague and ambiguous, unduly burdensome and presupposes there was  
21 a foreign substance on the floor causing Plaintiff's fall, which Defendants deny. It also  
22 incorrectly identifies the subject premises as *VENETIAN CASINO RESORT*. This request  
23 further seeks access to information which is equally available to Plaintiff via public records, and  
24 otherwise seeks information that is not reasonably calculated to lead to the discovery of  
25 admissible evidence. Defendant objects as the request as over broad and not properly tailored  
26 to the issues in this case. Without waiving said objection, Defendants respond as follows: Please  
27  
28

1 see Defendants' 5th Supplement to NRCP 16.1 Disclosure and all supplements thereto.

2 Discovery is continuing.

3 **REQUEST NO. 8:**

4 Any and all documents, information, memoranda, paperwork, or other material which relates  
5 to establishes, or otherwise pertains to the affirmative defenses alleged by the Defendant herein.

6 **RESPONSE NO. 8:**

7 See Response No. 1.

8 **REQUEST NO. 9:**

9 Any surveillance video showing the Plaintiffs fall at the VENETIAN CASINO RESORT  
10 from any other angle, other than the one shown in the video surveillance produced by the  
11 Defendants thus far.

12 **RESPONSE NO. 9:**

13 Defendants object to the extent this request incorrectly identifies the subject premises as  
14 VENETIAN CASINO RESORT, and further that the term "surveillance video" is itself overly broad  
15 and seeks information outside Defendants' knowledge, custody and control (i.e. videos taken by other  
16 persons on the subject premises at the time). Without waiving said objection, Defendants respond as  
17 follows: All known surveillance related to this matter was produced as Document No. 9 in Defendants'  
18 NRCP 16.1 disclosure. Discovery is continuing.

19 **REQUEST NO. 10:**

20 Any other witnesses, documents, or other disclosures required by NRCP 16.1.

21 ///

22 ///

23 ///

24

25

1 **RESPONSE NO. 10:**

2 See Response No. 1.

3 DATED this 3 day of January, 2019.

4

5

6

By: \_\_\_\_\_

**ROYAL & MILES LLP**

Michael A. Royal, Esq.

Nevada Bar No. 4370

Gregory A. Miles, Esq.

Nevada Bar No. 4336

1522 W. Warm Springs Road

Henderson, NV 89014

*Attorneys for Defendants*

*VENETIAN CASINO RESORT, LLC and*

*LAS VEGAS SANDS, LLC*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 4 day of January, 2019, and pursuant to NRCP 5(b), I caused a true and correct copy of the foregoing **SUPPLEMENTAL RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION OF DOCUMENTS AND MATERIALS TO DEFENDANT** to be served as follows:

\_\_\_\_\_ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

\_\_\_\_\_ to be served via facsimile; and/or

☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

\_\_\_\_\_ to be hand delivered;

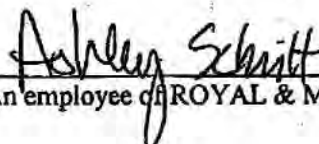
to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Keith E. Galliher, Jr., Esq.  
THE GALLIHER LAW FIRM  
1850 E. Sahara Avenue, Suite 107  
Las Vegas, NV 89014

*Attorneys for Plaintiff*

Facsimile: 702-735-0204

E-Service: [kgalliher@galliherlawfirm.com](mailto:kgalliher@galliherlawfirm.com)  
[dmooney@galliherlawfirm.com](mailto:dmooney@galliherlawfirm.com)  
[gramos@galliherlawfirm.com](mailto:gramos@galliherlawfirm.com)  
[sray@galliherlawfirm.com](mailto:sray@galliherlawfirm.com)

  
An employee of ROYAL & MILES LLP



## EXHIBIT 9

1 ECCD  
MARK B. SCHELLERUP  
2 Nevada Bar No. 7170  
ANDREW R. GUZIK  
3 Nevada Bar No. 12758  
MESSNER REEVES LLP  
4 8945 W. Russell Road, Suite 300  
Las Vegas, Nevada 89148  
5 Telephone: (702) 363-5100  
Facsimile: (702) 363-5101  
6 Email: [mschellerup@messner.com](mailto:mschellerup@messner.com)  
Email: [aguzik@messner.com](mailto:aguzik@messner.com)  
7 Attorneys for Venetian Casino Resort, LLC

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA  
10

11 CAROL SMITH, an individual,  
12 Plaintiff,

Case No.: A-17-753362-C  
Dept. No.: X

13 vs.

14 VENETIAN CASINO RESORT, LLC; and  
15 DOES 1 through 50, inclusive,  
16 Defendant(s).

**DEFENDANT'S NINTH  
SUPPLEMENTAL EARLY CASE  
CONFERENCE STATEMENT LIST OF  
WITNESSES, EXHIBITS AND  
PRODUCTION OF DOCUMENTS**

17  
18 Defendant VENETIAN CASINO RESORT, LLC, by and through its attorneys of record,  
19 Messner Reeves, LLP, hereby serves their Ninth Supplemental Early Case Conference Statement  
20 List of Witnesses, Exhibits and Production of Documents with respect to the above captioned action.

21 New items in [BOLD]

22 WITNESSES

23 1. Security Officer, Patrick Overfield, Security Department of Venetian, c/o Messner  
24 Reeves LLP, 8945 W. Russell Rd., Suite 300, Las Vegas, Nevada 89148. Expected to testify  
25 regarding the facts and circumstances surrounding the subject incident, any investigation regarding  
26 the subject incident, any interaction with the Plaintiff or witnesses, the Incident Report.

27 2. Rafael Chavez, Facilities Department of Palazzo, c/o Messner Reeves LLP, 8945 W.  
28 Russell Rd., Suite 300, Las Vegas, Nevada 89148. Expected to testify regarding the facts and

1 circumstances surrounding the subject incident, the inspection conducted after the alleged incident,  
2 the Accident Scene Check report which he authored, any interaction with the Plaintiff or any  
3 witnesses.

4 3. Security Officer, Michael Chreene, Security Department of Venetian, c/o Messner  
5 Reeves LLP, 8945 W. Russell Rd., Suite 300, Las Vegas, Nevada 89148. Expected to testify  
6 regarding the facts and circumstances surrounding the subject incident, any investigation regarding  
7 the subject incident, any interaction with the Plaintiff or witnesses, the Incident Report.

8 4. Person Most Knowledgeable, PAD Department of Venetian, c/o Messner Reeves  
9 LLP, 8945 W. Russell Road, Suite 300, Las Vegas, Nevada 89148. Expected to testify regarding  
10 the policies and procedures regarding floor maintenance in the area where this incident occurred.

11 5. Person Most Knowledgeable, Security Department of Venetian, c/o Messner Reeves  
12 LLP, 8945 W. Russell Road, Suite 300, Las Vegas, Nevada 89148. Expected to testify regarding  
13 the facts and circumstances surrounding the subject incident.

14 6. Carol Smith, Plaintiff, c/o PETER GOLDSTEIN LAW CORP, 10795 W. Twain,  
15 #110, Las Vegas, NV 89135. Ms. Smith is the named Plaintiff in this matter and is expected to  
16 testify regarding her interaction with security personnel, her visit to the Venetian, any conversations  
17 she may have had with anyone relating to the subject incident, her medical treatment and medical  
18 history and any other facts and circumstances surrounding the subject incident.

19 7. Plaintiff's medical providers.

20 8. Any witnesses identified by any party to this action.

21 9. Any necessary rebuttal witnesses.

22 Defendant hereby reserves the right to amend and/or supplement its Early Case Conference  
23 Statement List of Witnesses, Exhibits and Production of Documents as it uncovers additional  
24 information through discovery of this matter and it reserves the right to object to Plaintiff's  
25 witnesses.

26 **EXHIBITS/DOCUMENTS**

27 A. Plaintiff's First Amended Complaint [Bates No. VEN001-VEN005]  
28

- 1 B. Medical records produced with letter from Peter Goldstein dated 10/25/16 (letter  
2 included) [Bates No. VEN006-VEN0027]
- 3 C. Venetian Incident Report w/ color photographs [Bates No. VEN028-VEN037]
- 4 D. Copy of Voluntary Statement authored by Carol Smith [Bates No. VEN038]
- 5 E. Copy of Accident Scene Check [Bates No. VEN039]
- 6 F. Copy of Letter of Representation from Peter Goldstein dated 7/19/16 [Bates No.  
7 VEN040]
- 8 G. Copy of letter from Venetian to Peter Goldstein dated 8/2/16 [Bates No. VEN041]
- 9 H. Copy of letter from Venetian to Peter Goldstein dated 4/17/17 [Bates No. VEN042]
- 10 I. Copy of surveillance video [Bates No. VEN043]
- 11 J. Copy of records from Irvine Unified School District [Bates No VEN044-VEN132]
- 12 K. Copy of records from State of the Art Physical Therapy [Bates No. VEN133-  
13 VEN223]
- 14 L. Copy of records from Orthopedic Surgery Center of Orange County [Bates No.  
15 VEN224-VEN303]
- 16 M. Copy of records from State of the Art Physical Therapy [Bates No. VEN304-  
17 VEN370]
- 18 N. Copy of Incident Reports of slip and falls for ~~two~~ FIVE (5) years prior to this  
19 alleged incident, in the area where Plaintiff's incident occurred (with all personal information  
20 redacted) [Bates No. VEN371-VEN499]
- 21 O. Copy of Preventing Slip, Trips & Falls [Bates No. VEN500-VEN510]
- 22 P. Copy of floor cleaner product documents [Bates No. VEN511-VEN522]
- 23 P. Copy of Public Area's Department Work Slips for two-years prior to incident  
24 [Bates No. VEN523-VEN1750]
- 25 Q. Copy of Preventing Slips, Trips and Falls Lesson Plan [Bates No. VEN1751-  
26 VEN1753]
- 27 R. Copy of Lobby 2 Day Shift Specialist Workslip [Bates No. VEN1754]
- 28 ///



1 S. Copy of Day Shift Schedule for 7/7/2016 [Bates No. VEN1755]  
2 T. Copy of Slip & Fall Training Video [Bates No. VEN1756]  
3 U. Copy of medical records from Newport Orthopedic Institute [Bates No. VEN1757-  
4 VEN1891]

5 V. Copy of similar incident reports 7/7/14-7/7/16 with personal information  
6 redacted [Bates No. VEN1892-VEN2251]

7 Defendant hereby reserves the right to amend and/or supplement its Early Case Conference  
8 Statement List of Witnesses, Exhibits and Production of Documents as it uncovers additional  
9 information through discovery of this matter and it reserves the right to object to Plaintiff's exhibits  
10 and documents.

11 DATED this 8<sup>th</sup> day of June, 2018

12 MESSNER REEVES, LLP

13 By 

14 MARK B. SCHELLERUP  
15 Nevada Bar No. 7170  
16 ANDREW R. GUZIK  
17 Nevada Bar No. 12758  
18 8945 W. Russell Road, Suite 300  
19 Las Vegas, NV 89148  
20 Telephone: (702) 363-5100  
21 Facsimile: (702) 363-5101  
22 Attorneys for Venetian Casino Resort, LLC  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**  
*LV-Smith v. Venetian Casino Resort, LLC*  
Case No.: A-17-753362-C

The undersigned does hereby declare that I am over the age of eighteen (18) years and not a party to the within entitled action. I am employed by Messner Reeves LLP, 8945 W. Russell Road, Suite 300, Las Vegas, Nevada 89148. I am readily familiar with Messner Reeves LLP's practice for collection and processing of documents for delivery by way of the service indicated below.

On June 11, 2018, I served the following document(s):

**DEFENDANT'S NINTH SUPPLEMENTAL EARLY CASE CONFERENCE STATEMENT  
LIST OF WITNESSES, EXHIBITS AND PRODUCTION  
OF DOCUMENTS**

on the interested party(ies) in this action as follows:

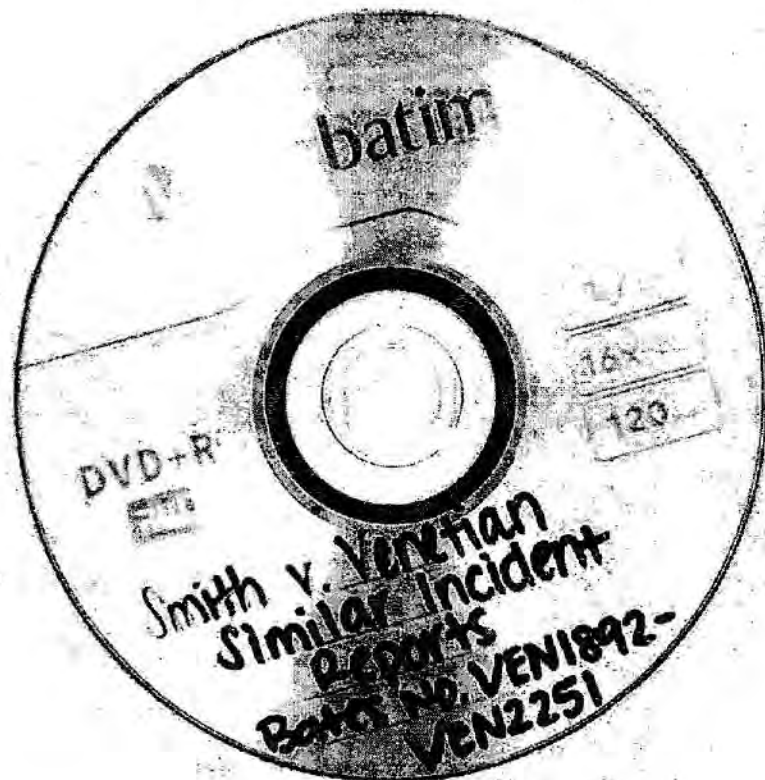
Peter Goldstein  
Nevada Bar No. 6992  
PETER GOLDSTEIN LAW CORP  
10795 W. Twain Avenue, #110  
Las Vegas, NV 89135  
Telephone: (702) 474-6400  
Facsimile: (888) 400-8799  
*Attorneys for Plaintiff*

By U.S. Mail and Electronic Service. Pursuant to Administrative Order 14-2 and Rule 9 of the NEFCR, I caused said documents(s) to be transmitted to the person(s) identified in the E-Service List for this captioned case in Odyssey E-File & Serve of the Eighth Judicial District Court, County of Clark, State of Nevada. A service transmission report reported service as complete and a copy of the service transmission report will be maintained with the document(s) in this office.

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

Executed on June 11, 2018, at Las Vegas, Nevada.

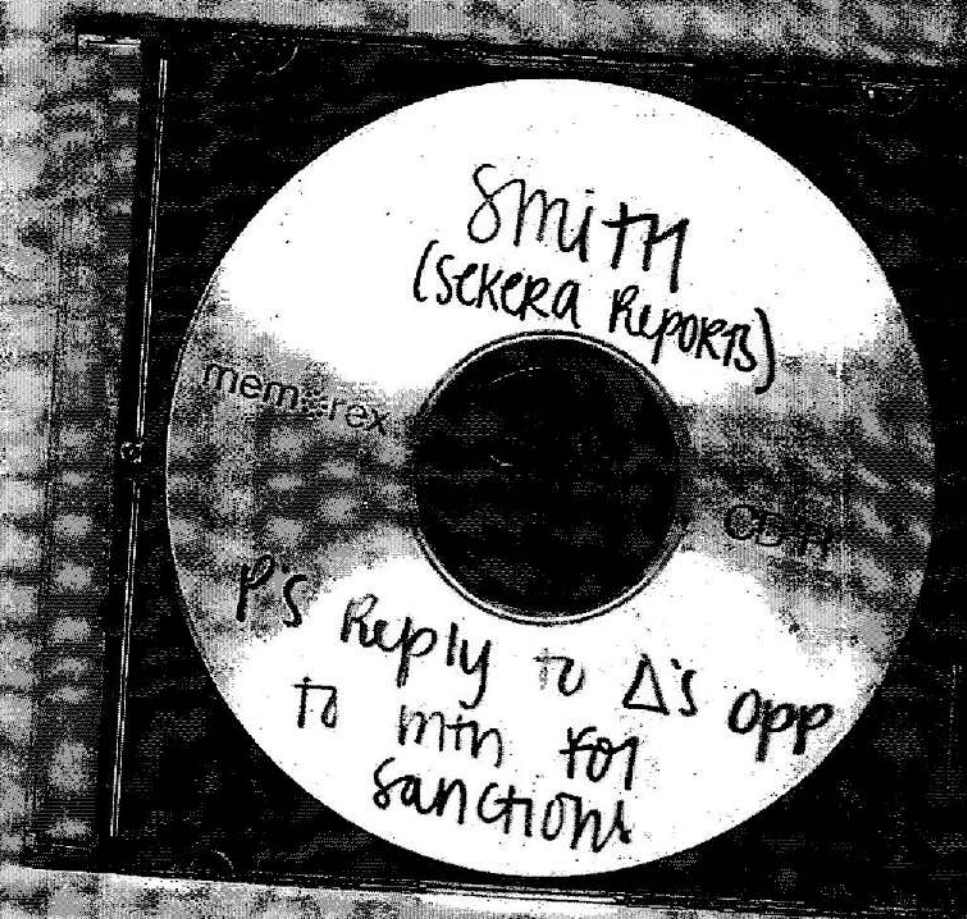
  
An employee of MESSNER REEVES LLP



## **EXHIBIT 10**

**VEN 172**





## **EXHIBIT 11**

**SEKERA FALLS**  
 Sekera v. Venetian reports are in black  
 Smith v. Venetian reports are in red

DATE	TIME	REPORT	LOCATION	COMMENTS	SECURITY
11-24-13	5:27 a.m.	1311V-5502	Grand Luxe Café	Slip and fall	Mary Ros Eve Giselbach Ryan Meyer J. Lopez report writer
11-24-13	1:54 p.m.	1311V-5588	Grand Hall	Slipped in apple cider given out by elves who are employees	Devon O'Brien manager Christopher Mosier asst. security manager G. Rescigno report writer David Magnism
1-26-14	12:28 a.m.	1401V-5339	Lobby 1	Water on marble	Conie Klaver Joe Barrett facilities senior watch L. Sivrais report writer Joe Barrett
5-2-14	4:42 p.m.	1405V-0423	Grand Hall LV	Water on marble	Manny Arguello R. Marquez report writer David Boyko
5-3-14	3:36 p.m.	1405V-0687	Grand Hall	Wet marble	Thomas Harris security officer Gary Rescigno security EMT T. McFate report writer Derek Santillan facilities
5-3-14	4:47 p.m.	1405V-0704	Lobby 1	Water on marble	Christopher Daniels Derek Santillan
5-24-14	9:49 p.m.	1405V-5900	Lobby 1	Wet marble	Karen Sidhoo front desk manager Tim Alvonellis security shift manager T. Morgan report writer Sean Pemberton
6-28-14	2:10 p.m.	1406V-66937	Grand Luxe Café	Wet marble	Connie Kulver Nicholas Coronado Andres Florentino J. Lopez report writer John Burnett security officer
7-5-14	6:05 p.m.	1407V-1121	Lobby 1	Liquid stated he had fallen yesterday see report	Brittany Peck front desk manager Sean Pemberton engineer

				1407V-0807 (missing this report)	L. Sivas report writer
7-10-14	1:25 PM	1407V-2272	Grand Luxe	Water on floor	J. Larson report writer T. Mofate EMT/SO Merrick Anderson Facilities Eng.
7-10-14	12:30 a.m.	1407V-2142	Grand Hall	Drink on floor Prior to victim slipping group of unknown males with "yard" like drink spilled on floor	Sang Han front desk manager E. Gizeback report writer
7-13-14	8:02	1407V-3057	Lobby 1	Liquid	Jacob Johnson Asst. Sec. Mng. Brittany Peck Front desk mng. Taylor McFate, EMT S.O. G. Rescigno Report writer
7-13-14	8:02 a.m.	1407V-3057	Lobby 1	liquid marble	Jacob Johnson asst. security manager Brittany Peck front desk manager Tyler McFate EMT security G. Rescigno report writer
7-18-14	7:14 p.m.	1407V-4386	Venetian front desk	Fall happened at 6:00 p.m. victim stated there was a guy there said his buddy dropped his bottle of alcohol and left it there	Tim Avonellos security shift manager Conie Kluver front desk manager K.T. Morgan report writer
7-25-14	5:31 p.m.	1407V-6125	Lobby 1	Wet marble	Amy McCaslin front desk manager Kyle Donaldson Asst. security manager T. Morgan report writer
7-25-14	7:59	1407V-6151	Grand Hall	Liquid Victim Luz Gamino (unredacted)	Allen Backman facilities L. Sivas report writer
7-29-14	2:47 p.m.	1407V-7161	Lobby 1	Liquid	Thomas Labert Front Desk Mng. Christopher Moiser Asst. Sec Mng. Sean Pemberton Eng. G. Rescigno Report writer Chris Malcom S.O.
7-29-14	2:47 p.m.	1407V-7161	Lobby 1	Liquid	Thomas Lambert front desk manager Christopher Mosier asst. security manager Sean Pemberton engineer



7-30-14	9:55 a.m.	1407V-7375	Lobby 1	Water fluid was spilled by unknown male at 9:48	G. Rescigno Chris Malcom security officer Mary Rosk front desk manager Joseph Florio security officer Joseph Larson EMT security officer T. McFate report writer Abimael Suarez internal maintenance PAD
8-4-14	4:31 a.m.	1408V-0843	Lobby 1	Tripped over own feet	Mary Ros front desk manager John Ballesteros facilities team member E. Gitzelbach report writer
8-5-14	5:08 a.m.	1408V-1088	Lobby 1	Tripped over own feet Marc Fesel engineer no defects but a wet floor	Mary Ros front desk manager Garry Lee security officer E. Gitzelbach report writer
8-28-14	10:30 p.m.	1408V-7104	Venetian Tower	Fall reported next morning. Fall occurred near bathroom by Grand Luxe Water	Mary Ros, Front Desk Monie McAnnulty Facilities J. Larson, Report Writer 1/7/15
8-28-14	10:30 p.m.	1408V-7104	11 Venetian Tower 121	Fall reported next morning. Fall occurred near bathrooms by Grand Luxe Water	Mary Ros front desk manager Monte McAnnulty facilities J. Larson report writer
8-31-14	2:43 p.m.	1408V-7791	Lobby 1	Large water spill	Jacob Johnson Asst. Sec. Mgr. Archie Balon, S.O. G. Rescigno, report writer Derek Santillan, Facilities
8-31-14	2:43 p.m.	1408V-7791	Lobby 1	Large water spill	Jacob Johnson asst. security manager Archie Balon security officer G. Rescigno report writer Derek Santillon facilities
9-13-14	3:17 p.m.	1409V2807	Grand Hall	Slipped due to water or drink spill that another guest caused. Tyler Corbely had notified security earlier about his stand by due to this fluid spill	Jacob Johnson asst. security manager Tyler Corbely field training officer G. Rescigno report writer

9-15-14	5:29 a.m.	1409V-3261	Lobby 1	3 piles of feces slip and fall	Nicholas Coronado Mary Ros. Hinkle
9-30-14	1:30	1409V-6750	Grand Hall	Slip and fall on marble. "I slipped on something spilled on marble" pictures of liquid looks like milk	Z. Hakim report writer Rosa Estela facilities George Valley security manager Jonathan Derleth front desk manager John Wells security officer Z. Hakim report writer James Guernick security officer
10-11-14	2:08 a.m.	1410V-2293	Lobby 1	Tripped over feet	Nachely front desk manager Zachary Hakim EMT security E. Gitzelbach report writer Rudy Conception facilities engineer
12-23-14	5:24 p.m.	1412V-4685	Lobby 1	Liquid Ashay Shah minor (not redacted) Jignesh Shah father	Sang Han hotel manager Tim Avonellos security shift manager L. Sivrals report writer Derek Sentilan facilities
1-17-15	11:49 p.m.	1501V-3857	Venetian Front Office	Liquid	Nicolas Coronado, asst. mgr. Jonathan Deruth, Front desk mgr. Jose Lopez, EMT Sec. Z. Hakim Report Writer Theodore Reash, facilities
1-17-15	11:49 p.m.	1501V-3857	Venetian front office	Liquid	Nicholas Coronado asst. manager Jonathan Deruth front desk manager Jose Lopez EMT security Z. Hakim report writer Theodore Eash facilities
1-31-15	2:53 p.m.	1501V-6887	Lobby 1	Water "there appeared to be water all over immediate area"	Tim Alvonellos security shift manager Thomas Lambert front desk manager L. Dozier report writer
2-9-15	1:37 p.m.	1502V-1803	Lobby 1	Liquid	Eric Wennerberg security officer Rudy Conception senior watch Eve Gitzelbach report writer
2-9-15	1:37 a.m.	1502V-1803	Lobby 1	Liquid	Eric Wennerberg, S.O. Rady Conception, Seior Watch E. Gitzelbach Report writer



2-20-15	1:28 p.m.	1502V-4322	Lobby 1	Liquid. Slipped on spilled beverage	Jacob Johnson Asst. Sec. Mngt. Brittany Peck, Front Desk L. Dozier, Report writer
2-20-15	1:28 p.m.	1502V-4322	Lobby 1	Liquid. Slipped on spilled beverage	Jacob Johnson asst. security manager Brittany Peck front desk manager L. Dozier report writer
3-8-15	8:45 a.m.	1503V-1561	Grand Hall	Slip. "I observed a wet sticky spot on marble floor"	Melissa Perry front desk manager Bryan Greenfield facilities E. Gitzelbach report writer
3-23-15	3:18 a.m.	1503V-5040	Lobby 1	Slip. "appeared to have red sauce or grease on marble" previous injury under report #1503V-5119 (we don't have report) stated she had been injured earlier that morning at 3:00 a.m. when she slipped and fell in pasta sauce	Nathan Beyers front desk manager Garry Lee security officer E. Gitzelbach report writer James Stoyer facilities engineer
4-24-15	3:25 p.m.	1504V-5396	Grand Hall	Slip. Broken bottle of alcohol	Sang Han front desk manager Melissa Perry front desk manager Lynn Sivrais EMT Security G. Rescigno report writer Rodolfo Stoino
4-24-15	3:25 p.m.	1504V-5396	Grand Hall	Broken Bottle of Alcohol	Sang Han, Front Desk Mngt. Melissa Perry Front Desk Mngt. Lynn Sivrais, EMT S.O. V-5319G, Rescigno Report writer Rodolfo Stoino
5-3-15	1:08 p.m.	1505V-0844	Grand Hall	Slip. "small puddles of what appeared to be a clear liquid"	Jacob Johnson asst. security manager Tyler Corbaley field training officer G. Rescigno report writer
5-22-15	4:43 p.m.	1505V-5319	Lobby 1	Water on floor	Thomas Lambert Front Desk Tony Bersano Asst. Sec. Mngt. Crystal Clanton S.O. J. Lopez Report writer Jeffrey Duniho, S.O.
5-22-15	4:43 a.m.	1505V-5319	Lobby 1	Water on floor	Thomas Lambert front desk manager

					Tony Bersano asst. security manager Crystal Clanton, security officer J. Lopez report writer Jeffrey Dunlao security officer
5-29-15	7:36 a.m.	1505V-7253	Lobby 1	Slip	Christopher Moiler asst. security manager Francesca Cornell front desk manager G. Rescigno report writer Steve Hansen facilities
5-30-15	4:35 p.m.	1505V-7506	Lobby 1	Slip Water	Tony Bersano, Asst. Sec. Mgr. Thomas Lambert, Front Desk Mgr. Michael Perez, S.O. D. Davila Report writer Heather Kaufmann, S.O. Zachary Hakim, EMT S.O.
5-30-15	4:35	1505V-7506	Lobby 1	Slip water	Anthony Bersano asst. security manager Thomas Lambert front desk manager Zachary Hakim security officer EMT Michael Perez security officer Heather Kaufmann security officer S. Davila report writer John Ballesteros facilities
6-12-15	12:51 p.m.	1506V-7480	Lobby 1	Liquid	Antonio Lopez David Magnuson A. Lopez report writer
6-12-15	5:51 p.m.	1506V-2824	Lobby 1	Wet floor. "so much foot traffic I asked two males to stand by spill" "The spill was small comprised of droplets of what seemed to be water stretching about a foot and a half in a straight line on the tile"	Antonio Lopez security officer David Magnuson A. Lopez report writer
6-30-15	11:38 a.m.	1506V-7480	Lobby 1	Slip and fall "small pool of clear liquid on marble flooring nearby"	Mary Ros front desk manager Gary Rescigno Security/EMT John Wells Security Officer J. Larson Report writer



6-30-15	11:58 a.m.	1506V-7480	Lobby 1	Slip and fall. "small pool of clear liquid on marble flooring nearby"	Mary Ros front desk manager Gary Rescigno security EMT John Wells security officer J. Larson report writer Bryan Greenfield facilities
7-5-15	12:40 p.m.	1507V-1236	6 Venezia Tower 417 Lobby 4	Slip and fall on water	Jacob Johnson Asst. Security Manager K. Ecnamnesto facilities G. Rescigno Report writer
7-5-15	12:40 p.m.	1507V-1236	6 Venezia Tower 417 Lobby 4	Slip and fall on water	Jacob Johnson asst. security manager Keenam Meste facilities G. Rescigno report writer
7-19-15	8:18 a.m.	1507V-5121	19 Venetian Tower 129 Lobby 1	Liquid	Melissa Perry Front desk manager Jacob Johnson Asst. Security manager L. Dozier report writer Jeffrey Dunahoo security officer Richard Heleman
7-19-15	1:47 a.m.	1507V-5024	Grand Hall	Slip and fall	Nicholas Coronado asst. manager S. Tevan security L. Lopez report writer Brian Corpas security officer
7-19-15	8:18 a.m.	1507V-5121	Venetian Tower 129	Slip and fall. Liquid on floor at approximately 7:05	Jacob Johnson asst. security manager L. Dozier report writer Jeffrey Dunahoo security officer Richard Heleman Melissa Perry
7-20-15	5:36 a.m.	1507V-5392	Main entrance	Slip and fall. Sofia Lovgren victim (unredacted) Swedish passport	Julianne Edward front desk manager Nicholas Coronado asst. manager James Stoyer facilities J. Burnett report writer Eric Wennberg security officer
8-2-15	10:48 a.m.	1508V-0357	Lobby 1	Slip and fall. Puddle of water on floor	Conie Klaver M. Criddle report writer
8-8-15	1:30 p.m.	1508V-1866	Grand Hall	Slip and fall	Jacob Johnson asst. security manager Jonathan Derleth front desk manager L. Dozier report writer Glen Helman facilities
8-8-15	2:00 p.m.	1508V-1869	Lobby 1	Slip and fall.	Jacob Johnson Asst. Security Manager

				Upon contacting surveillance I was advised an unknown guest had dropped a bucket	Brittany Peck front desk manager Allan Hill security officer G. Rescigno report writer
8-8-15	2:00 p.m.	1508V-1869	Lobby 1	Slip and fall. Upon contacting surveillance I was advised an unknown guest had dropped a bucket	Jacob Johnson asst. security manager Brittany Peck front desk manager Allan Hill security officer G. Rescigno report writer
8-14-15	1:40 a.m.	1508V2554	17 Palazzo Tower 141	Slip and fall on water Susan hammonds (unredacted)	Michael Perez security officer Eddie Hoang security manager Mathan Byers facilities Marc Fesel facilities
8-29-15	11:34 a.m.	1508V-7246	Lobby 1	Slip and fall clear liquid. "significant pool of water"	Tim Alvonellos Security shift manager Thomas Lambert front desk manager D. Cabada report writer Marc Fesel facilities Joseph De Jesus security/EMT
8-29-15	11:34 p.m.	1508V-7246	Lobby 1	Slip and fall clear liquid. "significant pool of water"	Tim Alvonellos security shift manager Thomas Lambert front desk manager D. Cabada report writer Marc Fesel facilities Joseph De Jesus security officer EMT
9-6-15	6:39 p.m.	1509V-1497	Lobby 1	Slip and fall wet floor. Spilled drink on floor	Tim Alvonellos security shift manager Nachely Martinez front desk manager J. De Jesus report writer Catherine Carlson security officer
9-6-15	6:39 p.m.	1509V-1497	Lobby 1	Slip and fall wet floor. Spilled drink on floor	Tim Alvonellos security shift manager Nachely Martinez front desk manager Joseph De Jesus report writer Catherine Carlson security officer Derek Sanitlan facilities
9-13-15	11:26 p.m.	1509V-3312	Grand Hall	Slip and fall red liquid	Matthew Kaufman security manager Thomas Lambert front desk manager D. Cabada report writer Jose Lopez security officer Peter Guagiardo facilities
12-27-15	3:32 p.m.	1512V-5875	Lobby 1	Slip and fall clear liquid	Thomas Lambert front desk manager

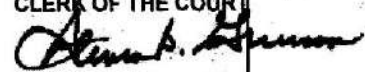
					Tim Alvonnellos security shift manager D. Cabada report writer Shane Navara facilities
2-20-16	2:56 p.m.	1602V-4290	1 Guest services podium	Liquid fall occurred earlier in day at 11:45 - 12:05 "very wet floor"	Jacob Johnson asst. Security manager Devon O'Brien G. Rescigno report writer
2-20-16	2:56 p.m.	1602V-4290	Guest service podium	Slip and fall. Fell earlier in the day at 11:45 - 12:05 "very wet floor"	Jacob Johnson asst. Security manager Devon O'Brien G. Rescigno report writer
3-6-16	1:59 p.m.	1603V-1233	Lobby 1	Liquid	Jacob Johnson Asst. security manager Kyle Kirchmeier VIP Services D. Winn report writer Rafael Chavez facilities
3-6-16	1:59 p.m.	1603V-1233	Lobby 1	Liquid	Jacob Johnson security manager Kyle Kirchmeier VIP services D. Winn report writer Raphael Chavez facilities
3-18-16	2:57 p.m.	1603V-3584	5 <sup>th</sup> floor of the garage elevator lobby	Cup of coffee spilled on floor. Fall occurred earlier in the day 11:45 - 12:00	Seljika Bucalo security officer David Boko facilities D. Wi report writer Devin O'Brien front desk manager Jacob Johnson security manager
3-25-16	1:14 p.m.	1603V-5018	Lobby 1	Slip and fall. Puddle of clear liquid	Sharry Kim front desk supervisor Rafael Chavez facilities J. Larson report writer
3-25-16	1:14	1603V-5018	Lobby 1	Slip and fall. Puddle of clear liquid	Sharry Kim front desk supervisor Rafael Chavez facilities J. Larson report writer
4-9-16	7:34 p.m.	1604V-1926	Lobby 1	Male walker between wet floor signs	Matthew Kaufman security manager C. Reanos report writer
4-9-16	2:44 p.m.	1604V-1850	Grand Hall	Slip and fall. Puddle of water	Archie Balon security officer Jacob Johnson security manager D. Winn report writer Raphael Chavez facilities
4-9-16	7:34 p.m.	1604V-1926	Lobby	Slip and fall. Walked between wet floor signs	Matthew Kaufman security manager C. Reanos report writer
4-10-16	1:51 p.m.	1604V-2136	Grand Hall	Slip and fall	Nicole Floyd George Valley security manger



				Jason Palm guest (unredacted)	D. Winn report writer Shane Navara Facilities Sharry Kim front desk manager
4-12-16	3:40 p.m.	1604V-2459	Control 1	Slip and fall. Occurred on 4/10/16 SO "Felix" was attempting to stop foot traffic when he slipped and fell	Matthew Kaufman asst. manager Albert Liu D. Cabda report writer
4-12-16	3:40 p.m.	1604V-2459	1 control	Slip and fall. Occurred on 4/10/16 SO "Felix" was attempting to stop foot traffic when he slipped and fell	Matthew Kaufman asst. manager Albert Liu D. Cabada report writer Felix Escobar security officer
5-5-16	9:12 p.m.	1605V-0952	Lobby 1	Slip and fall. Picture of red solo cup and liquid on floor	Tim Alvonnello security shift manager Royce Phung front desk manager J. Buscemi report writer James Johnson security officer
5-5-16	9:12 p.m.	1605V-0952	Lobby 1	Slip and fall. Picture of red solo cup and liquid on floor	Tim Alvonnello security shift manager Royce Phung front desk manager J. Buscemi report writer James Johnson security officer Shane Navara facilities
5-12-16	12:56 a.m.	1605V-5069	Lobby 1	Liquid	Amy McCaslin front desk manager Nicolas Coronado security manager John Ballesteros facilities J. Dietrich report writer Joseph Barr-Wilson
5-25-16	12:56 a.m.	1605V-5069	Lobby 1	Slip and fall earlier in day approx. 6:49	Ay McCaslin front desk manager Nicholas Coronado security manager John Ballesteros facilities J. Dietrich report writer Eve Giselbach EMT security officer Joseph Barr-Wilson security officer
7-7-16	12:15 p.m.	1607V-1506	Lobby 1	Slip and fall. Large wet area	Jacob Johnson security manager Michael Chrene security officer R. Overfield report writer Raphel Chavez facilities



7-15-16	11:25 p.m.	1607V-3405	Lobby 1	Slip and fall. Ice cream on floor	Tim Alvonellos security shift manager Jonathan Dereth front desk manager J. De Jesus report writer David Cabada EMT security officer Loren Harper security officer Rosa Estela facilities
8-5-16	11:07	1608V-0995	Casino	Slip and fall. Wet spill extended entire length of pit 9 guest walked into wet area and slipped and fell	Anthony Bersano asst. security manager Nathan Beyers front desk manager D. Cabada report writer Joseph De Jesus EMT security officer Dale Keezer field training officer Amber Platt security officer Laterious Robinson field training officer Eddie Hinton facilities
8-5-16	5:04 p.m.	1608V-0947	Lobby 1	Slip and fall. Large pool of water	Tim Alvonellos security shift manager Monique Heng front desk manager J. De Jesus report writer Justin Vasquez security officer David Cabada EMT security officer Shane Naema facilities



1 RTRAN

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 JOYCE SEKERA,  
9 Plaintiff,

10 vs.

11 VENETIAN CASINO RESORT  
12 LLC, ET AL.,

13 Defendants.

CASE NO.: A-18-772761

DEPT. XXV

14 BEFORE THE HON. ERIN TRUMAN, DISCOVERY COMMISSIONER  
15 WEDNESDAY, MARCH 13, 2019

16 **RECORDER'S TRANSCRIPT OF HEARING**  
17 **DEFENDANT'S MOTION FOR PROTECTIVE ORDER**

18  
19 APPEARANCES:

20 For the Plaintiff:

KEITH E. GALLIHER, JR., ESQ.

21  
22 For the Defendants:

MICHAEL A. ROYAL, ESQ.

23  
24  
25 RECORDED BY: FRANCESCA HAAK, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, March 13, 2019

2 \* \* \*

3 [Case called at 9:06 a.m.]

4 DISCOVERY COMMISSIONER: Sekera versus Venetian.

5 MR. GALLIHER: Good morning, Commissioner. Keith  
6 Galliher, on behalf of the Plaintiff.

7 MR. ROYAL: Mike Royal, on behalf of the Defendants, Your  
8 Honor.

9 DISCOVERY COMMISSIONER: Good morning. All right.  
10 This is on for Plaintiff's motion for protective order.

11 MR. ROYAL: This is Defendant's motion, Your Honor.

12 DISCOVERY COMMISSIONER: All right.

13 MR. ROYAL: This is --

14 DISCOVERY COMMISSIONER: Do I have the wrong -- okay,  
15 no, I got it. Sorry. I had the wrong note on my thing. Sorry about that.  
16 Here we go. Defendant's motion for protective order.

17 MR. ROYAL: Your Honor, this relates to a motion we filed  
18 regarding the disclosure of our incident reports. They were requested by  
19 counsel. Prior to our disclosure of these reports, we requested that  
20 counsel enter into a stipulation for a protective order as relates to the  
21 information that we couldn't get at, counsel wouldn't agree, so we  
22 provided him with redacted copies.

23 DISCOVERY COMMISSIONER: So all the redacted copies of  
24 the incident reports have already been provided.

25 MR. ROYAL: That's correct. They've been provided. There

1 were 65 prior reports, somewhere in the neighborhood of 650 pages that  
2 we produced.

3 Mr. Galliher objected to the fact that they were redacted. We  
4 had some further discussion about how we could resolve this, perhaps  
5 entering again into a -- to get a protective order so that if we disclose the  
6 identities of these people, that they're not going to be passed around to  
7 the world, legal community or the world. We don't know where it's going  
8 to go.

9 And so we had a disagreement. I went ahead and filed this  
10 motion, and while this motion was pending learned that some of the  
11 redacted copies that we've already produced to Mr. Galliher have been  
12 provided to other Plaintiffs' attorneys outside this case, which is exactly  
13 what we were trying to protect against.

14 And so in my reply I just asked the Court to just simply enter  
15 an order that we can have a 26(c) protective order in this case related to  
16 these documents and that they remained in redacted form, and that if  
17 Mr. Galliher has a specific case factually that he believes is potentially  
18 relevant on point where he wants to contact individuals, perhaps use  
19 them as witnesses for whatever reason related to this case, that we can  
20 meet and confer on that, and then if we can't agree, we can bring it to  
21 the Court.

22 But to just give him carte blanche information to everybody at  
23 this point I think is just not something my client wants to provide. It has  
24 concerns about exposing all of these people, prior guests, nonemployee  
25 witnesses, to not just contact from Mr. Galliher's office, but from any



1 other attorney that this information is provided to, any other person, we  
2 believe that there's other privacy issues that are play here, there's  
3 HIPAA related information in these reports, and so just to provide them  
4 to counsel with carte blanche access to all this information, to all these  
5 people, that can be passed around to the world we think is just simply  
6 not reasonable. So for that reason we move the Court for an order -- or  
7 rather a Report and Recommendation granting our motion for protective  
8 order as it relates to the redacted copies that we provided and that Mr. --  
9 and that if Mr. Galliher sees something that he believes is relevant to our  
10 case, that again we meet and confer and we can discuss disclosing  
11 personal information of those particular people.

12 Now, if I can add just one other thing. We contest that this slip  
13 and fall in this case was the result of foreign -- any kind of foreign  
14 substance on the floor. There's no objective evidence that there was, in  
15 fact, any foreign substance on the floor causing her to slip and fall.  
16 Regardless, we still provided Mr. Galliher with 65 prior incidents, and all  
17 of them that I can think of -- I can't think of one that did not involve a  
18 foreign substance. So these are even, in our view, dissimilar cases. We  
19 went ahead in good faith and provided these to counsel, so I only give  
20 that to the Court just to realize or -- so the Court knows that we've acted  
21 in good faith. We're doing everything we can.

22 Our primary issue is protecting the privacy of our prior guests  
23 and our relationship with those guests.

24 DISCOVERY COMMISSIONER: And all those guests and  
25 witnesses, their names have been redacted prior, the reports that were

1 disclosed.

2 MR. ROYAL: That's correct.

3 DISCOVERY COMMISSIONER: And just so that I'm clear,  
4 the allegation is that there was water or some other substance on the  
5 floor so it was a transient condition, is that correct?

6 MR. ROYAL: That's the allegation.

7 DISCOVERY COMMISSIONER: That's the allegation, okay.  
8 That's the -- that's what I meant to ask. Okay.

9 All right. Mr. Galliher.

10 MR. GALLIHER: Thank you, Your Honor.

11 First of all, I don't doubt what Mr. Royal is saying in good faith,  
12 but The Venetian's certainly not in good faith in this case, and I'll explain  
13 why.

14 First of all, you know that prior falls are relevant to the notice  
15 issue, and a foreseeability issue, which, of course, it's our obligation to  
16 prove in this case, so prior falls are always discoverable.

17 Now, the thing that surprises me is that the defense actually  
18 makes the argument late in this argument that they contest that my client  
19 slipped and fell on liquid or water. There's a surveillance video, and  
20 whoever wrote the brief could not have looked at the surveillance video.  
21 The surveillance video shows what is clearly a slip on liquid and a fall.  
22 She hits her head on a big marble post as she falls. There are two  
23 women that see it and are right next to her when she falls.

24 Shortly thereafter we've got three security personnel from The  
25 Venetian at the scene with shirts and ties and radios. Someone's talking

1 to someone upstairs. While they're talking, one of the women who sees  
2 the fall walks over, points to the spill, and the guy, the security officer,  
3 looks at it, then summons porters who come to the scene, one of the  
4 porters takes out a mop, mops up the spill, another walks on with some  
5 towels and wipes up the spill around the very area where my client fell.  
6 That's pretty clear, that this was a slip and fall on water.

7 Now, here's the problem. The Venetian has polished marble  
8 floors throughout its entire ground floor and also on the Bouchon floor,  
9 which I think is floor number 10. They're very pretty, very attractive, and,  
10 as the expert report attached to our opposition shows, also very slippery  
11 when wet.

12 So when we talk about a transitory condition, not really. This  
13 is a marble floor that's been at The Venetian from the get-go.

14 And then we start talking about the number of falls. Well, I  
15 deposed their -- one EMT security officer who said that during the nine  
16 years that he had been there he had personally investigated 100 --  
17 approximately 100 injury falls on the marble floors at The Venetian.

18 Now, there are two EMT security officers per shift, sometimes  
19 three, so if we do the math, we've got at least six security officers  
20 working the three shifts at The Venetian, up to nine. So if we do that  
21 math -- this one's -- this fellow has investigated personally 100 injury  
22 falls, and we assume he's average -- then that means that there are  
23 somewhere between 600 and 900.

24 DISCOVERY COMMISSIONER: Well, didn't three respond to  
25 this one alone, and so that would be a, you know --



1 MR. GALLIHER: Well, no, no. Those weren't the same  
2 security people.

3 DISCOVERY COMMISSIONER: Oh.

4 MR. GALLIHER: See, there -- The Venetian, Commissioner,  
5 has security officers/EMTs. They are the ones that go to the injury  
6 falls -- the other people do not -- because they're trained. Well, that's  
7 who I deposed. So he's the one that told me under oath two security  
8 officers/EMTs per shift, sometimes three, three shifts, very simple math.

9 Now we go from 100 falls investigated by one, to somewhere  
10 around 900, and then we take it and we back out the nine years and  
11 make it five -- 'cause that's what I was looking for. We're somewhere  
12 between five, six hundred falls at The Venetian.

13 Now, what I received was 62 reports for a five-year period.  
14 Well, that doesn't compute with my math, so the other thing that -- and  
15 we talk about sharing information. Peter Goldstein has a case against  
16 Venetian. In that case The Venetian furnished him 26 reports for the  
17 same time frame. Well, how does that happen? Then what we did is we  
18 compared the reports that he received with reports that we received. He  
19 didn't get 26 of ours, we didn't get four of his; well, how does that  
20 happen? Then we find out there's three defense firms representing The  
21 Venetian in these three different cases; they're all different.

22 So what we're finding and what I'm alleging in this situation is  
23 what The Venetian is doing is they're selectively distributing reports to  
24 their defense firm to distribute to the Plaintiffs in individual cases, and  
25 they're not giving everybody all the reports. It's very easy to determine



1 when I get a situation like this and I compare and find that Mr. Goldstein,  
2 who got 26 has four I don't have for the same time frame. A couple of  
3 them were on the same day; I got the one in the afternoon; he got the  
4 one in the morning. Well, sorry, it's not Mr. Royal's fault. The  
5 Venetian's not a good corporate citizen, that's for sure. They are  
6 withholding these reports and selectively giving them to the Plaintiffs'  
7 attorneys through the different defense firms that they're hiring. So  
8 that's why this information needs to be disclosed.

9 But also, when we talk about the identification of the people  
10 who fell -- you have probably tried slip and fall cases, I've tried my  
11 share -- what does a defense attorney normally do in these cases?  
12 They try to establish comparative negligence, particularly if there's liquid  
13 on the floor. Well, weren't you looking where you were walking? Didn't  
14 you see the spill on the floor? Why didn't you see it? It was right there.  
15 Look at it. Comparative negligence, that's what this is about.

16 So if we have the identity of people who previously fell on  
17 these same floors at The Venetian in liquid, we put on five of 'em or ten  
18 of 'em to say -- very simple questioning -- what's your name; did you  
19 stay at The Venetian; were you walking through The Venetian; did you  
20 fall; did you fall on liquid; were you injured; did you see the liquid before  
21 you fell; pass the witness.

22 DISCOVERY COMMISSIONER: Don't you already have an  
23 expert who's going to testify regarding the coefficient of friction or, as  
24 you allege --

25 MR. GALLIHER: Sure.

1 DISCOVERY COMMISSIONER: -- the slipperiness of the --

2 MR. GALLIHER: Absolutely.

3 DISCOVERY COMMISSIONER: -- the floor?

4 MR. GALLIHER: We have. That's attached to our opposition.

5 But that's a separate issue 'cause he's talking about the fact these floors  
6 are slippery when wet; we know that. However, the comparative  
7 negligence issue is a big one because invariably juries will come back  
8 and apportion the negligence in the case. It's a little --

9 DISCOVERY COMMISSIONER: But the comparative  
10 negligence of another party versus your own party wouldn't be relevant  
11 to this action.

12 MR. GALLIHER: Well, I disagree, and I'll tell you why. If  
13 you've got a situation like this where people are slipping on the same  
14 floor on liquid -- and all the floors' identical, it's not like it's different -- and  
15 these people don't see the liquid before they fall, which is why they fall,  
16 why would that not be relevant to the question of comparative  
17 negligence? Because if five people didn't see it, or ten people didn't see  
18 it, why should my client have seen it? Very relevant.

19 I mean, remember, we're not talking just about admissibility,  
20 because that's the call that's going to be made by Judge Delaney.  
21 We're talking about discoverability, that's all.

22 So the bottom line -- and there's this privacy concerns, and  
23 HIPAA violations, and -- these aren't medical records. They're security  
24 reports. The Venetian doesn't have standing to reserve privacy  
25 concerns on behalf of people who fell and were injured in their place, so

1 I'm not even sure where that argument comes from.

2 The question is whether or not it's discoverable. The question  
3 is whether or not it leads to discoverable evidence; certainly does  
4 because Judge Delaney will make the call concerning how many prior  
5 fall victims she will allow to testify; she may say one; she may say five;  
6 she may say ten. I have a case before Judge Crockett --

7 DISCOVERY COMMISSIONER: She may say none.

8 MR. GALLIHER: -- right now where he's -- Judge Crockett's  
9 given us ten.

10 So bottom line is it's still discoverable, and they should be  
11 forced to give us the information, and we'll contact the people, if we  
12 choose to, and they'll talk to us, if they choose to, or not.

13 DISCOVERY COMMISSIONER: Mr. Royal.

14 MR. ROYAL: Just regarding -- I mean, I certainly could give  
15 the Court the video; I don't think it's necessary. But there's issues in this  
16 case regarding her shoes. I have an expert who's going to testify her  
17 shoes are what caused the accident, that there was nothing on the floor,  
18 and certainly everything counsel represented as far as indisputable  
19 evidence regarding something on the floor, they're wiping something up.  
20 She had coffee cup in her hand at the time that she fell.

21 I mean, Your Honor, to me that -- well, let me just get back to,  
22 you know, our position simply is this -- we're happy -- we've given them  
23 the information. They want to make arguments about notice, great,  
24 they've got that. They want to make arguments and extrapolate  
25 information from some -- from an employee who is -- who worked at the

1 property for nine years, great, they have that. They can make all their  
2 notice arguments, their mode of operation arguments, they've already  
3 got all that.

4           Contacting all of these people to march 'em -- just because  
5 they may want to march 'em in, you know what, if there are certain  
6 cases, certain people, certain facts, that are sufficiently related that Mr.  
7 Galliher says, you know what, I'd like to bring the people in for this, or I'd  
8 like to bring the people in for that, that's fine, I can deal with that, and I  
9 think that's fair.

10           But to just give him carte blanche, here's everybody, go ahead  
11 and contact them, share 'em with Mr. Goldstein, Mr. Bochanis, anybody  
12 else that you want I think is -- I just think that's unreasonable.

13           And so I believe, Your Honor, at least it's our position that the  
14 motion for protective order should be granted, that we've already  
15 complied by giving them redacted information. If they want something in  
16 addition to that -- and, by the way, you know, he's already shared this  
17 information with Mr. Goldstein. I don't know who else this information's  
18 been shared with; and counsel's allegation that there has been some  
19 kind of conspiracy associated with The Venetian and how they're  
20 handling one case, another case. These cases are different insofar as  
21 what kind of information is being requested, and I should add that it's my  
22 understanding from defense counsel in the Goldstein case is he got  
23 redacted copies as well, and they were not -- and, in fact, I believe the  
24 Discovery Commissioner even ordered that they could be redacted.

25           Regardless, Your Honor, I think the motion for protective



1 order, in our -- it's our view should be granted.

2 DISCOVERY COMMISSIONER: All right. The motion for  
3 protective order is granted in part as follows -- The Venetian may  
4 continue to provide redacted reports as previously done. However, with  
5 regard to Mr. Galliher's claim that not all have been produced, The  
6 Venetian is recommended to produce all reports that fit within the  
7 requests made by Mr. Galliher, and if there are more, that needs to be --  
8 they need to be supplemented immediately.

9 With regard to the reports that are produced, they are to be  
10 redacted for the names and the contact information for all witnesses and  
11 individuals who reported incidents.

12 With that said, if the Plaintiff goes through the reports and  
13 identifies incidents that occurred in substantially the same location as  
14 this incident occurred or have substantially similar facts as to the  
15 incident at issue -- because The Venetian is a huge place, and so it  
16 needs to be sufficiently identified to be in the same location or under  
17 similar facts -- then I'd ask that the two of you have a 2.34 conference  
18 about disclosing the contact information for those particular incidents  
19 because I'm sure that's a much more narrow scope than all of them.  
20 And if you cannot agree following that 2.34 conference, then bring it  
21 back to the Commissioner's attention and we will have a hearing  
22 regarding the disclosure of the contact and privacy information with  
23 regard to those individuals.

24 I do believe there is -- there are privacy and HIPAA issues that  
25 are to be considered, and so my inclination is not to disclose the names

1 and contact information for all people on all reports. It needs to be much  
2 more narrow than that.

3 And, finally, I am going to issue a protective order that the  
4 reports that are disclosed in this case are not circulated outside of this  
5 case and for use only in this case.

6 Mr. Royal, would you please prepare the Report and  
7 Recommendation?

8 MR. ROYAL: Yes, Your Honor.

9 DISCOVERY COMMISSIONER: Is there anything that I didn't  
10 cover that the two of you wanted me to address, or does that cover all  
11 the issues?

12 MR. GALLIHER: Not that I'm aware of.

13 MR. ROYAL: Think that covers everything.

14 DISCOVERY COMMISSIONER: So if there's any more that  
15 your client has, the entirety, of all of the falls for the -- if there are any  
16 other reports that your client has not disclosed, they are recommended  
17 to produce all reports for the relevant time periods that have been  
18 requested by the Plaintiff in this case.

19 MR. GALLIHER: If they've produced -- well, okay. Certainly.

20 DISCOVERY COMMISSIONER: And this just goes to the  
21 issue he's claiming there are more than what have been produced to  
22 him. And certainly Mr. Galliher can identify the ones that he has gotten  
23 that supposedly were not produced and inquire further into that matter.

24 So if you would please prepare, Mr. Royal, the --

25 MR. ROYAL: Can I just ask, Your Honor --

1 DISCOVERY COMMISSIONER: Certainly.

2 MR. ROYAL: -- as to the scope, I mean, we're talking about  
3 common areas, 'cause what was produced to Mr. Galliher was common  
4 areas on the casino level floor.

5 DISCOVERY COMMISSIONER: Okay. And I don't know.  
6 He's raised the issue that there are reports that he was not given. I think  
7 you said that there were four --

8 MR. GALLIHER: That's pretty obvious.

9 DISCOVERY COMMISSIONER: -- that another attorney  
10 had --

11 MR. ROYAL: Well, I'm not aware of --

12 DISCOVERY COMMISSIONER: Okay.

13 MR. ROYAL: -- of those four.

14 DISCOVERY COMMISSIONER: And so that's something that  
15 the two of you need to discuss in a 2.34 before you bring it back to me,  
16 and --

17 MR. GALLIHER: I think what he was getting at was, I mean,  
18 we have a casino floor that's large, and the floor is identical throughout  
19 this casino floor. It's not like there's anything different. The linoleum's  
20 the same color, the same configuration, same design, same slip  
21 resistance. It's uniform throughout the ground floor of The Venetian, and  
22 also, for that matter, the Bouchon floor.

23 DISCOVERY COMMISSIONER: Okay. Well, I think that the  
24 two of you need to work through the four reports at issue that you  
25 believe you were not provided, have a 2.34 to discuss; if there is a

1 continuing issue regarding that, bring it back.

2 And I'm going to ask, Mr. Royal, can you please provide that  
3 within ten days?

4 MR. ROYAL: Yes, Your Honor.

5 DISCOVERY COMMISSIONER: Thank you very much.

6 MR. GALLIHER: Thank you.

7 [Hearing concluded at 9:25 a.m.]

8 \* \* \* \* \*

9 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
10 audio-video recording of this proceeding in the above-entitled case.

11   
12 FRANCESCA HAAK  
13 Court Recorder/Transcriber  
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*Steven D. Grierson*

**DCRR**

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*Attorneys for Defendants*

**VENETIAN CASINO RESORT, LLC and**

**LAS VEGAS SANDS, LLC**

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a  
THE VENETIAN LAS VEGAS, a Nevada  
Limited Liability Company; LAS VEGAS  
SANDS, LLC d/b/a THE VENETIAN LAS  
VEGAS, a Nevada Limited Liability Company;  
YET UNKNOWN EMPLOYEE; DOES I  
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: XXV

**DISCOVERY COMMISSIONER'S  
REPORT AND RECOMMENDATION**

Hearing Date: March 13, 2019, 9:00 am

**Appearance:**

Keith E. Galliher, Jr., Esq., for Plaintiff, JOYCE SEKERA

Michael A. Royal, Esq., Royal & Miles LLP, for Defendants

VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC  
(collectively "Venetian")

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I.

FINDINGS

1. Defendant Venetian filed *Defendants' Motion for Protective Order* on February 1, 2019 related to the production of redacted prior incident reports in response to an NRCP 34 request by Plaintiff. Plaintiff filed an *Opposition to Defendants' Motion for Protective Order* on February 13, 2019, arguing that there is no basis to redact information in prior incident reports (other than Social Security numbers) or otherwise to afford them protection under NRCP 26(c). Defendant filed a *Reply to Opposition to Defendants' Motion for Protective Order* on March 5, 2019 and an *Addendum to Reply to Opposition to Defendants' Motion for Protective Order* on March 6, 2019 noting, among other things, that Plaintiff's counsel had already been sharing prior incident reports with other attorneys not involved in the present litigation.

2. A hearing on motion was held on March 13, 2019.

3. Venetian counsel argued that prior incident reports have been produced, which represent slip and falls occurring on marble floors in the common areas of the Venetian casino level.

4. Plaintiff's counsel argued that after comparing a production by Venetian in the case of *Smith v. Venetian*, Case No. A-17-753362-C, he discovered four incident reports produced in that case which were not produced by Venetian in this litigation. Defense counsel related that he is unaware of that issue and that he will investigate.

After reviewing the papers and pleadings on file, and consideration of arguments presented by counsel for the parties, the following recommendations are made.

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II.

**RECOMMENDATIONS**

IT IS RECOMMENDED that *Defendants' Motion for Protective Order* is GRANTED IN PART and DENIED IN PART.

IT IS FURTHER RECOMMENDED that the prior incident reports produced by Venetian are to remain in redacted form as originally provided in response to an NRCP 34 request, the Court agreeing that this presents a privacy issue as it pertains to the identity of prior Venetian guests and includes protected HIPPA related information.

IT IS FURTHER RECOMMENDED that all information within the redacted prior incident reports produced by Venetian are to be protected under an NRCP 26(c) order, not to be shared with anyone who is not directly affiliated with the litigation (*i.e.* counsel, counsel's staff, experts, etc.), and when attached as exhibits to any filings with the Court are to be provided under seal.

IT IS FURTHER RECOMMENDED that if Plaintiff identifies a specific prior incident report she feels is sufficiently related to her fall, with substantially similar facts and circumstances, occurring in the same location, that counsel will have an EDCR 2.34 conference to discuss the request and determine whether the identity of those involved in the specific prior incident should be provided before filing a motion.

IT IS FURTHER RECOMMENDED that Venetian be required to review the alleged discrepancy of four prior incident reports produced in the matter of *Smith v. Venetian, supra*, and provide them in redacted form to the extent they are responsive to the Plaintiff's NRCP 34 request, and to provide all reports deemed responsive to Plaintiff's NRCP 34 request no. 7 related to prior incident reports of the Venetian.

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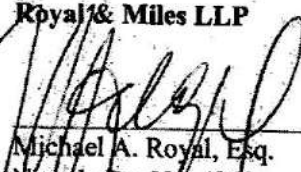
1 IT IS FURTHER RECOMMENDED that the motion is otherwise denied.

2 DATED this 2<sup>nd</sup> day of April, 2019.

3  
4   
5 DISCOVERY COMMISSIONER

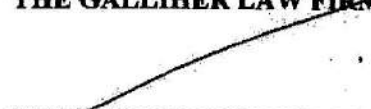
6 Submitted by:

7 **Royal & Miles LLP**

8   
9 Michael A. Royal, Esq.  
10 Nevada Bar No. 4370  
11 1522 W. Warm Springs Road  
Henderson, NV 89014  
12 Attorneys for Defendants  
VENETIAN CASINO RESORT, LLC and  
13 LAS VEGAS SANDS, LLC

Reviewed by:

**THE GALLIHER LAW FIRM**

  
Keith E. Galliher, Jr., Esq.  
Nevada Bar No. 220  
1850 E. Sahara Avenue, Suite 107  
Las Vegas, NV 89014  
Attorney for Plaintiff



1 IT IS FURTHER RECOMMENDED that the motion is otherwise denied.

2 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

3  
4 DISCOVERY COMMISSIONER

5  
6 Submitted by:

7 **Royal & Miles LLP**

8  
9 Michael A. Royal, Esq.  
10 Nevada Bar No. 4370  
11 1522 W. Warm Springs Road  
12 Henderson, NV 89014  
13 *Attorneys for Defendants*  
14 **VENETIAN CASINO RESORT, LLC and**  
15 **LAS VEGAS SANDS, LLC**

Reviewed by:

THE GALLIHER LAW FIRM

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17 Keith E. Galliher, Jr., Esq.  
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19 1850 E. Sahara Avenue, Suite 107  
20 Las Vegas, NV 89014  
21 *Attorney for Plaintiff*

1  
2  
3  
4  
5 **NOTICE**

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

10 **Objection time will expire on April 18 2019.**

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

12 \_\_\_\_\_  
13 Mailed to Plaintiff/Defendant at the following address on the \_\_\_\_\_ day of  
14 \_\_\_\_\_ 2019:

15  
16 ☒ Electronically filed and served counsel on April 4, 2019, Pursuant to  
17 N.E.F.C.R. Rule 9.

18 The Commissioner's Report is deemed received three (3) days after mailing or e-serving  
19 to a party or the party's attorney, or three (3) days after the clerk of the court deposits a  
20 copy of the Report in a folder of a party's lawyer in the Clerk's office. E.D.C.R. 2.34(f).

21  
22 By:   
23 COMMISSIONER DESIGNEE  
24  
25  
26  
27  
28

DISTRICT COURT  
CLARK COUNTY, NEVADA

Joyce Sekera,  
Plaintiff,  
vs.  
Venetian Casino Resort, LLC,  
Defendant.

Case No. A-18-773761  
Dept. No. XXV

Before the Honorable KATHLEEN E. DELANEY  
Tuesday, May 14, 2019, 9:00 A.M.  
Reporter's Transcript of Proceedings

OBJECTION TO DISCOVERY COMMISSIONER'S REPORT

APPEARANCES:

For the Plaintiff: KEITH E. GALLIHER, JR., ESQ.  
KATHLEEN GALLAGHER, ESQ.  
Attorneys at Law

For the Defendant: MICHAEL A. ROYAL, ESQ.  
Attorney at Law

REPORTED BY: RENEE SILVAGGIO, C.C.R. No. 122

1 Las Vegas, Clark County, Nevada

2 Tuesday, May 14, 2019, 9:00 A.M.

3 P R O C E E D I N G S

4 \* \* \* \* \*

5 THE COURT: Page 2, Sekera versus Venetian  
6 Casino Resort from the 9:00 o'clock.

7 MR. GALLIHER: Thankfully, at my age, I'm still  
8 awake.

9 THE COURT: That makes one of us. I, too, drove  
10 in from California this morning and that's all I can do.

11 MR. GALLIHER: Your Honor, Keith Galliher on  
12 behalf of plaintiff. And I'd like to introduce Kathleen  
13 Gallagher to the Court. She is actually not a relative.

14 THE COURT: What?

15 MR. GALLIHER: I know.

16 THE COURT: I thought you were telling me  
17 something --

18 MR. GALLIHER: I know. I know.

19 THE COURT: -- well, you did said Gallagher.

20 MR. GALLIHER: Yeah. Different -- different  
21 spelling.

22 But just by way of background, Kathleen finished  
23 college, two years at the University of Oregon; came to Las  
24 Vegas, attended Boyd School of Law, went to the night program;  
25 worked full time at a law office, receptionist, paralegal, law



1 clerk through law school; finished her law school; just took  
2 the bar, passed; was sworn in last week by Judge Cory. This is  
3 actually her first official appearance in Court as an attorney.

4 THE COURT: Well, welcome to the Eighth Judicial  
5 District Court as an attorney. And congratulations on your  
6 successes.

7 I have some friends who went to the night  
8 program and am very proud of the Boyd Law School night program  
9 because it gives people opportunities they may not otherwise  
10 have; and welcome.

11 Of course, you know you get no special favors  
12 just because you are new.

13 MS. GALLAGHER: Thank you, Your Honor.

14 THE COURT: I hope everybody understands that,  
15 but thank you.

16 And thank you for the introduction.

17 MR. ROYAL: Mike Royal, representing the  
18 defendants.

19 And, Your Honor, my brother went to the night  
20 program and he's a licensed attorney.

21 THE COURT: He's a licensed attorney, too?

22 MR. ROYAL: And a doctor, so --

23 THE COURT: Are you single? Maybe we could set  
24 you up.

25 MR. ROYAL: No. He's a grandpa.

1 THE COURT: Oh.

2 MR. GALLIHER: And she's married. That would be  
3 a problem.

4 MS. GALLAGHER: Yeah.

5 THE COURT: Oh, so it's all bad. The Judge  
6 takes back any, you know, matchmaking efforts.

7 Anyway, in all seriousness, thank you again so  
8 much. Go ahead and have seats.

9 I just want to do a little orientation. I won't  
10 do much. I want to give people a chance to talk this one  
11 through.

12 I've had a few objections coming from the  
13 Discovery Commissioner, and we had a changeover in the  
14 Discovery Commissioner. This is no reflection on, you know,  
15 Commissioner Truman.

16 She's, you know, the -- really the Alternative  
17 Dispute Resolution Commissioner. She's been doubling up and  
18 covering for former Commissioner Bulla, now Judge Bulla.

19 But I am taking the time, when folks ask me to  
20 certainly, but even on the few occasions on some decisions that  
21 have been made either in the, you know, Alternative Dispute  
22 Resolution Commissioner capacity or the Discovery Commissioner  
23 capacity just to make sure that, you know, the benefit of the  
24 Court's view is had, because I think that's important to give  
25 some certainty to the clients and to understand.

1           You know, we have a lot going on here with this  
2 one. Maybe I did a disservice to make you wait until after the  
3 calendar calls, but I really wanted to dig in here and take the  
4 time.

5           Because, you know, technically what we have on  
6 the calendar is the objection to the Discovery Commissioner's  
7 Report. But, of course, what preceded in front of the  
8 Discovery Commissioner had to do with a Protective Order and  
9 certain disclosures that were made and whether they should have  
10 been made more fully when they were made, and then issues with  
11 whether or not the Protective Order should still stand.

12           And we don't typically see that when we see  
13 somebody coming back with just an objection to the Discovery  
14 Commissioner's Report, that we have sort of all this going on.

15           And then, of course, there was a counter motion  
16 to strike related to the objection because it was argued that  
17 facts and arguments that had not been previously briefed before  
18 the Discovery Commissioner, although firm, what I reviewed,  
19 there does seem to be some overlap there, but we can see what  
20 is being pointed out is what was believed to be new and should  
21 not be there.

22           And then another counter motion for sanctions  
23 under Rule 37. So when we go to Rule 37, you know, typically  
24 we're looking at, you know, discovery abuse sanctions there,  
25 but Rule 37 is sort of that catch all. I think it's, you know,

1 7.60 that really is the catch all for if you are trying to get  
2 sanctions based on what you think are things that duplicate or  
3 multiply proceedings. But there is a reference specifically  
4 here to Rule 37 sanctions being asked for.

5               So there's just a lot going on. And I'm going  
6 to take it in its turn and give you the opportunity to  
7 highlight your arguments here today and really have a sort of  
8 dig into the weeds of it.

9               I -- I guess I gave you that background too  
10 about what we're looking at as far as maybe bringing some of  
11 the things here that I'm not a rubber stamp for. I never have  
12 been even with our longtime serving Commissioner Bulla. I'm  
13 not a rubber stamp just because the special master that the  
14 Court has assigned to these matters says to do things a certain  
15 way.

16              And I'm not necessarily looking at this like is  
17 there an abuse of discretion. I'm really looking at it fresh  
18 to try to get it right and try to figure out, you know, how it  
19 should be done.

20              And, of course, we have the frame work of that  
21 the Protective Order was granted, that there was some -- now,  
22 and I guess my last thing I want to say, and, again, I know  
23 this is a lot of background, but it did seem to me like there  
24 was a lot of open-ended things in this Discovery Commissioner's  
25 Report and Recommendation.



1           And what's being challenged, I think, of course,  
2 is just the outcome of the fact that the Protective Order would  
3 stand and -- or be granted in part and denied in part and that  
4 there would be certain things that were still allowed to be  
5 redacted and whatnot.

6           But then there were all these other things  
7 about, like, there was missing incident reports and somebody  
8 was going to try to figure out what that was all about. And  
9 then there was a sort of looking into if there were prior  
10 complaints that were substantially similar and that those would  
11 be provided.

12           And so I just -- I'm looking first and foremost  
13 for a -- where we stand with any of those things or has it all  
14 just been sitting idle, and fair enough if it has, because of  
15 the objection?

16           Mr. Galliher?

17           MR. GALLIHER: Actually, I guess I lead off  
18 since we filed the objection.

19           THE COURT: Yes.

20           MR. GALLIHER: The way this all started is we  
21 sent out a request for production of documents to the Venetian  
22 requesting prior injury incident reports regarding people who  
23 slipped and fell on marble floors.

24           THE COURT: Right.

25           MR. GALLIHER: Pretty simple.

1 THE COURT: Pretty simple except for it's a  
2 giant hotel concern with a lot of marble floors. But otherwise  
3 pretty simple.

4 MR. GALLIHER: Well, pretty simple, but the  
5 marble floors are all uniform. It's not like they're  
6 different. They have the same configuration, the same surface,  
7 the same design. All of that is the same in terms of --

8 THE COURT: And that really wasn't the point of  
9 the Protective Order request; right? It was more of a privacy  
10 and HIPAA and things.

11 MR. GALLIHER: Well, and I'll address that in a  
12 minute, but that's what started things.

13 And, of course, our position with respect to the  
14 request was, okay, this is relevant to the issue of  
15 foreseeability, which, of course, was something we have to  
16 prove as far as our case.

17 It's also very, very important with respect to  
18 the issue of notice. And that is that the Venetian is on  
19 notice of the condition of their floors and the fact they're  
20 exceptionally dangerous when they're wet.

21 And, lastly, it was also very relevant to the  
22 issue of comparative negligence.

23 The Court, I'm sure, has witnessed slip and fall  
24 cases where defense attorneys will approach the plaintiff and,  
25 of course, through questioning by the inmate that the plaintiff

1 was comparatively negligent because the plaintiff did not see  
2 the substance on the floor.

3 Well, our position when we requested this  
4 information was, well, if there are other people who have  
5 slipped and fell on these floors, then we want to know who they  
6 are because we would like to bring those people in, of course,  
7 subject to the Court's discretion, and we would like to present  
8 them to establish the fact that: Hey, I walked through the  
9 Venetian. The floors are identical, and I didn't see anything  
10 on the floor. I fell and got hurt. So that's how it started.

11 And then initially the response from the  
12 Venetian was: Well, we'll give you -- they actually produced  
13 64 reports, but they were redacted. All of the victim  
14 information was deleted from the report.

15 So I called opposing counsel and complained and  
16 said: Look, we need the unredacted reports so we can contact  
17 these people and verify the information contained in these  
18 reports and find out, in fact, if they would be available to  
19 serve as witnesses in this case.

20 Well, the response then was: Well, I'll give  
21 you the redacted reports but I want you to stipulate to a  
22 Protective Order, and that is that you agree that this  
23 information not be disseminated to anybody else.

24 I said: No. I can't do that, nor should I.

25 This is not proprietary information. This is

1 information that should be readily available to anyone who sues  
2 the Venetian.

3 THE COURT: Just to be clear, it wasn't  
4 Attorney's Eyes Only. It was okay to be seen by experts and --

5 MR. GALLIHER: Experts and --

6 THE COURT: -- and the client.

7 MR. GALLIHER: -- and shared with other  
8 attorneys who have lawsuits against Venetian.

9 THE COURT: Yeah. But, no, I'm not talking  
10 about your position.

11 I was talking about -- because when you said  
12 that it was -- the Protective Order was you and no one else, I  
13 just wanted to clarify that it was for litigation purposes in  
14 this litigation.

15 MR. GALLIHER: Yes.

16 THE COURT: So it would have been inclusive of  
17 experts in this litigation and staff of the counsel in this  
18 litigation.

19 It was just not to be shared outside of anybody  
20 necessary for this litigation, because there are -- there's a  
21 difference between an Attorney's Eyes Only request and a  
22 request where the client and the expert can see it.

23 MR. GALLIHER: Understood. No, this is not an  
24 attorney's only request.

25 This was you can use it in litigation but you



1 can't use it outside the litigation. You can't give it to  
2 anybody else who's involved in litigation against the Venetian.  
3 You have to keep it in this litigation.

4 And my response was: I can't agree to that  
5 because I do not think that a Protective Order is proper in  
6 this case given the nature of what we're asking for, injury  
7 incident reports.

8 There are a number of pending lawsuits against  
9 the Venetian as a result of these floors and people slipping on  
10 these floors.

11 And, I mean, the Court should be aware that as  
12 members of the Nevada Justice Association, we all share  
13 information concerning our cases. We share briefing, we share  
14 experts and we share discovery that, in fact, we collected in  
15 our case.

16 And as the Court would note from the objection  
17 that we filed, and by the way, giving credit where credit is  
18 due, Kathleen wrote the objection. She researched it and wrote  
19 it. And I thought she did an excellent job.

20 The bottom line is that the cases in this  
21 country are uniform, that a Protective Order is not proper in a  
22 situation like this because what it does is it increases  
23 discovery costs.

24 For example, in this case, I received 64 prior  
25 fall reports redacted. Attorney Goldstein had another case

1 against the Venetian. He received 32. Same time frames.

2 What happened when I got my redacted reports, I  
3 exchanged them with him. He sent them to me -- and by the way,  
4 there was no Protective Order in place. There was no motion  
5 practice in place, despite what's being represented.

6 THE COURT: I was going to say because I do have  
7 a counter motion for you --

8 MR. GALLIHER: Yeah. I know.

9 THE COURT: -- to comply with the Court order  
10 and a counter motion for sanctions related --

11 MR. GALLIHER: This was done right upfront. The  
12 minute I got the information, I -- I exchanged it with counsel.  
13 George Bochanis also got a set. He exchanged a set.

14 So what we did is we got a set and compared  
15 notes. And lo and behold, what we find is I don't have four of  
16 the reports that Mr. Goldstein has. He doesn't have 35 of the  
17 reports that I have. And Mr. Bochanis has about 11 that I  
18 don't have.

19 So what we're finding is this -- and the  
20 interesting thing about this is that the Venetian, when they  
21 defend these cases, they always retain different defense firms.  
22 So they don't retain the same firm to represent them in  
23 defending these cases.

24 Now, why do I think that's the case?

25 Well, gee, if you have an ethical defense lawyer

1 and in one case you send them 32 reports for the same time  
2 frame and the next case you send them 64 reports, the first  
3 thing he's going to ask is: Well, what are you doing? Why  
4 don't I have all the reports?

5 And the other thing that troubles me in the case  
6 is I took the deposition of EMT Security Guard Larson, and  
7 that's referenced in the motion practice. And Mr. Larson  
8 testified that he had investigated -- his best estimate was a  
9 hundred injury falls himself as an EMT security guard being  
10 employed with the Venetian for a period of nine years.

11 Well, he's one of two or three EMT security  
12 guards per shift. There are three shifts. So if we assume  
13 that he's an average EMT security guard, that means that there  
14 is somewhere between 600 and 900 injury falls on these floors  
15 at the Venetian during the nine-year time frame. If we narrow  
16 it down to the five years that we requested, we'll estimate a  
17 suite of 500 falls.

18 Well, I got 64 reports, and the reports I got  
19 were not the same reports as Mr. Goldstein got, were not the  
20 same reports that Mr. Bochanis got.

21 So obviously from my perspective, it was: Well,  
22 why would I stipulate to a Protective Order in this case given  
23 what we know is the situation? And we argued this before  
24 Commissioner Truman.

25 And, quite frankly, what happened is that the

1 Protective Order argument was made in the reply to the  
2 opposition to the initial motion that was filed. The  
3 Protective Order that was sought at issue was: We want to be  
4 able to submit redacted reports. That was the issue.

5 I responded and said: No, there's no privacy  
6 issue here.

7 And HIPAA certainly doesn't apply. We're not  
8 talking about a medical facility.

9 So -- and the Social Security Numbers are not on  
10 the reports, so that's not at issue.

11 The only thing we want is contact information.  
12 We want a name and address of the person who fell.

13 Well, in response to our opposition for the  
14 first time in the reply, the argument was expanded. Now, it's,  
15 like -- because at that point in time the defense learned that  
16 we had shared information with the other two attorneys and  
17 apparently that upset the Venetian. So now the game changes.

18 Now, it's, like, well, you know what? We want a  
19 Protective Order because we don't want you to be able to  
20 disclose this information to any other attorney that's involved  
21 in litigation against the Venetian.

22 Well, as we pointed out in our objection, that's  
23 completely contrary to the uniform case law throughout the  
24 country. There are no cases that we located in which a Court  
25 upheld a Protective Order of that nature.



1 Well, we didn't get a chance to brief that  
2 because it was a reply in motion practice.

3 So we went in and argued the issue, and we lost  
4 the issue before Commissioner Truman. And, quite frankly,  
5 Commissioner Truman was just flat wrong.

6 So the bottom line is that the order was issued.  
7 And then on top of it, it's now been magnified even further by  
8 the defense because now I'm supposed to go out and I -- and I  
9 violated her order -- it wasn't an order. It was a report and  
10 recommendation.

11 And I had to go out now and I have to request  
12 all that information, all those reports back from counsel. I'm  
13 not sure why because that was never even argued before the  
14 Discovery Commissioner.

15 So all of a sudden, from a situation where we  
16 have a -- a Protective Order that should not have been issued,  
17 period, with respect to sharing information or with respect to  
18 redacted reports, that's now been expanded by the defense into  
19 this -- and I'm a little surprised because Mike Royal and I,  
20 believe it or not, get along quite well.

21 And I'm reading this and it's, like, oh, well, I  
22 had no idea I was so clever. I didn't realize that I was that  
23 smart and that disingenuous; but I guess maybe, perhaps,  
24 Mr. Royal thinks I am.

25 But the bottom line is that the reports that we

1 received, redacted reports, were shared well before there was  
2 any talk about a Protective Order. So I'm not in violation of  
3 anything.

4           The information was also shared well before  
5 there was ever a motion practice filed before the Discovery  
6 Commissioner. And the only reason that was filed was because I  
7 refused to stipulate to a Protective Order which precluded me  
8 from sharing information.

9           So the bottom line is all of this now has been  
10 expanded far beyond -- I'm not even going to address the  
11 Schulman deposition. I think that's a subject of separate  
12 motion, a separate proceeding. I think that Mr. Royal's  
13 position was completely wrong in that situation.

14           I'm addressing right now the proprietary nature  
15 of a Discovery Commissioner Report and Recommendation that  
16 tells me I can't get unredacted reports so I can contact these  
17 people and present them, subject to the Court's discretion at  
18 trial, to show notice, foreseeability and comparative  
19 negligence, or the absence of --

20           THE COURT: But, Mr. Galliher, the order would  
21 let you do that if you just needed the names and the  
22 information for contact purposes for this litigation.

23           But what you're suggesting is, is that it's  
24 really two-fold: Like you could have what you need for this  
25 litigation, but you've already shared it and you want to

1 continue to share it and you want to support your bar by -- by  
2 sharing this information.

3 Is that what you meant by saying it creates some  
4 form of efficiency or judicial or partly economy because then  
5 all of the same information would be out there amongst all the  
6 same plaintiffs attorneys.

7 MR. GALLIHER: Well, actually the  
8 recommendation, of course, is that the reports remain redacted.  
9 The recommendation is not that I get the names and addresses of  
10 the people who fell. The Report and Recommendation denies me  
11 that.

12 THE COURT: Fair enough.

13 As you said, you were talking about negotiating  
14 a Protective Order but you didn't agree, and that would have  
15 been a negotiated matter.

16 MR. GALLIHER: Right.

17 THE COURT: But you got it or you did not get  
18 it?

19 MR. GALLIHER: No, I didn't.

20 I still don't have the names and addresses of  
21 the people who fell.

22 THE COURT: I think that -- okay. And this is  
23 why we have oral argument, because I thought I connected  
24 properly to the fact that you only got a redacted and that was  
25 what was ordered.

1 But then when you started arguing and you said  
2 you shared it and that may have upset them, that struck me as:  
3 Okay. Well, wait a minute. Maybe there was some sharing of it  
4 in an unredacted form and that's what -- you know, to you, and  
5 then that's what -- you know, you're upset because you shared  
6 that with the others. So you only received the redacted.

7 MR. GALLIHER: Yeah. We've never seen an  
8 unredacted report -- Injury Incident Report from the Venetian  
9 as requested.

10 And -- and we go right back to the question  
11 of -- and we've argued this in our -- our objection. Kathleen  
12 did an excellent job of briefing the issue. It violates  
13 NRCP-1, it violates the case law that we cited, which is  
14 universal.

15 The reason that you are allowed to do what we do  
16 is you share the -- share information. Remember, we're suing a  
17 big corporate defendant. And they're being sued a lot.

18 We've -- we've identified five or six pending  
19 lawsuits that we didn't know about, additional reports we  
20 didn't know about in our opposition -- or our objection because  
21 Kathleen did the research and located the information.

22 So our position is that the case law makes it  
23 very clear that this type of sharing of information is  
24 encouraged because it decreases discovery costs.

25 Otherwise, if you allow this situation where we



1 cannot disseminate the information that we've uncovered in this  
2 case to other attorneys who are suing the Venetian, then that  
3 forces us, all of us, to discover information ourselves in each  
4 case unilaterally without sharing information or relying upon  
5 information that's received from other people, other attorneys  
6 involved in the case.

7           And what makes that even worse is that the  
8 second purpose of all of this is to do exactly what we did:  
9 Crosscheck, make sure that the corporate defendant is being  
10 honest and forthright in giving you the information that you've  
11 requested.

12           And the best way for us to determine that is to  
13 compare what we received with what other attorneys suing the  
14 Venetian have received. And what we find in this case is it's  
15 not the same. So --

16           THE COURT: And interestingly, Mr. Royal says  
17 that it's exactly what you did, which is why we need the  
18 Protective Order to begin with because things shouldn't be  
19 shared.

20           No, I appreciate it. I think you covered  
21 everything very well. I think I have a few questions.

22           You -- there was a couple of procedural things.  
23 I didn't know if you wanted to address them now, or we'll just  
24 as we kind of wrap up, we'll go over it. But there was the  
25 challenge that the counter motions really -- that you

1 brought -- the counter motions could not be added here.

2 MR. GALLIHER: Well, in reality, there should  
3 have been an objection. And if the Court ordered, there should  
4 have been a response to the objection. That's all that should  
5 be here.

6 What happened is that the defense filed the  
7 counter motion. They filed a counter motion and we filed a  
8 response to that motion to strike because our argument was --

9 THE COURT: And I have that motion to strike --

10 MR. GALLIHER: -- that that should not have been  
11 filed. That all we should have had here today would have been  
12 the objection and the response to the objection and nothing  
13 else. So that's why we filed a Motion to Strike.

14 THE COURT: Well, and uniquely our rules until  
15 the recent incarnation of the rules I don't think even allowed  
16 for a response to the objection.

17 MR. GALLIHER: Right.

18 THE COURT: But the new rules do. And everybody  
19 always did it, so, you know, it is what it is.

20 MR. GALLIHER: And I'm fine with that.

21 But the rest of the -- the rest of -- everything  
22 after what should have been the response really has no place  
23 here, which is why we filed the Motion to Strike.

24 And the -- for example, the deposition shouldn't  
25 be here. It could be raised before the Discovery Commissioner,

1 if, in fact, the defense really feels they have a valid  
2 argument. I don't think they do.

3 So the bottom line is the Commissioner's Report  
4 and Recommendation, which is flat wrong, she got it wrong. I'm  
5 not blaming her for that because she didn't have all the  
6 briefing that you have before you at the time she made the  
7 decision. It was raised in reply for the first time.

8 So now that we've got the Venetian's position,  
9 which is, you know, you can't distribute this to anybody else,  
10 we've researched the law. The law does not support that  
11 decision as we've cited in our brief.

12 Numerous cases throughout the country have said  
13 we actually encourage this because it reduces discovery costs,  
14 number one. And number two, it enables the attorneys suing the  
15 corporate entity to crosscheck whether or not the information  
16 they're receiving in discovery is accurate.

17 Submitted.

18 THE COURT: All right. Thank you.

19 Ms. Gallagher, did he miss anything? Is there  
20 something else that we should cover?

21 I'm kind of being facetious.

22 MR. GALLIHER: I don't have a problem with that.  
23 I don't mind being reminded.

24 MS. GALLAGHER: I was just going to say --

25 THE COURT: I'm sorry. It was a poor joke. I

1 just -- yeah, because he credited you with writing so much, I  
2 thought in case he missed something.

3 But, of course, it's -- it's just a summary. I  
4 was only joking. But thank you for your efforts and thank you,  
5 Mr. Galliher, for your argument.

6 Mr. Royal, and wherever you want to start.  
7 We've got some procedural, obviously, arguments and I know you  
8 cited to 2.20 for, you know, bringing a counter motion that  
9 relates and some other things that it is.

10 Under the current rules, it does contemplate  
11 that there's an objection that there was either a response to  
12 the objection and that's how you would resolve these issues.

13 I don't know whether I have a ton of heartburn  
14 that you raised the issues the way that you did. It's just  
15 whether or not, you know, we're going to address them here or  
16 not. But however you want to start -- wherever you want to  
17 start.

18 MR. ROYAL: Your Honor, the reason I -- the  
19 reason I filed the counter motion is because it's so closely  
20 connected to -- to the timeline of events that are at issue  
21 here.

22 I mean, when Mr. -- -- when Mr. Galliher says he  
23 -- the way he presents this is that I sandbagged -- that the --  
24 you know, the defendant sandbagged before going before the  
25 Discovery Commissioner.



1           This was -- I actually sent him correspondence  
2 on December 17th, 2018. I let him know from the very beginning  
3 that my client wanted this information to be protected. So I  
4 sent him a letter with a copy of a Protective Order, a draft,  
5 for him to look at. He contacted me and indicated he's not  
6 going to do that. We had a 2.34.

7           I went ahead and I -- you know, and I frankly  
8 just decided I will go ahead and give him redacted copies and  
9 see if that satisfies the situation.

10           He contacted me -- that was on January 4th.

11           He contacted me and said: Okay, I'm not  
12 satisfied. You're not allowed to do this.

13           I -- and I said: Well, why? Why? You've got  
14 the prior incidents. Okay? You've got whatever it is that you  
15 need to make your notice arguments.

16           No, no, no. I need to be able to contact every  
17 one of these people and maybe even their relatives and  
18 witnesses, whatever, and I need to be able to talk to them  
19 about the case. Every one of these people are potential  
20 witnesses.

21           And I said: Well, we're not going to agree to  
22 that. You know, and so we had a -- we had a -- you know, we  
23 had another 2.34. And we agreed that I would file a motion for  
24 Protective Order.

25           Now, I sent him a letter on January 23rd

1 again --

2 THE COURT: You agreed to file a motion for the  
3 Protective Order. You did not agree to the Protective Order.

4 MR. ROYAL: I'm sorry. Thank you, Your Honor.

5 THE COURT: No, no. You said it that way. I  
6 was just confirming for the record that's how I heard it. It  
7 was that the understanding was you couldn't resolve it.

8 MR. ROYAL: Right.

9 THE COURT: So you were going to do a motion and  
10 that's -- we're reconfirming it.

11 MR. ROYAL: Some of the correspondence that  
12 I've -- that I've provided to the Court, e-mailed -- or a  
13 letter, or whatever, e-mail to Mr. Galliher, Mr. Galliher  
14 writes me back and one of the things he said was: Go ahead and  
15 file your motion. I don't believe the Discovery Commissioner  
16 is going to agree with you.

17 Okay. Fine. All right. That's why we file  
18 motions.

19 The motion was then filed on February 1st. So  
20 when Mr. Galliher today represented before the Court, I didn't  
21 provide any of this information -- or rather I provided this  
22 information before there was any motion practice. That's what  
23 he just said.

24 Now, what I -- what I have provided the Court is  
25 an affidavit from Mr. Goldstein, who said he first met with

1 Mr. Galliher on February 7th, 2019. So that would be six days  
2 after we filed the motion. It would be well after the time  
3 that Mr. Galliher and I had a discussion about whether or not  
4 my client wanted this information to be protected.

5 He understood -- he understood from the very  
6 beginning, at least from December 17th, 2018, that this  
7 information was something my client wanted protected. He  
8 understood that.

9 Now, if he shared the information with  
10 Mr. Goldstein, maybe if he could show that he did that between  
11 January 4th and maybe January 23rd, that would be one thing.  
12 But that's not what happened, and that's not what at least the  
13 evidence we have -- the Court has before it shows.

14 We agreed on January 23rd, I would file a  
15 motion. I filed a motion on February 1st. He met with  
16 Mr. Galliher -- or, sorry, Mr. Galliher met with Mr. Goldstein  
17 on February 7th, and that's when they had their exchange.

18 By the way, I didn't know that. I didn't know  
19 that when I filed the motion. I thought that we -- it was just  
20 going to be a simple motion before the Court and we were just  
21 going to try to get this resolved.

22 What it looks like happened from my perspective  
23 is that once Mr. Galliher was aware we were going to be filing  
24 the motion, he wanted to go ahead and do a preemptive exchange  
25 with Mr. Goldstein, Mr. Bochanis and whoever else just to hedge

1 his bets in case the Court granted the motion.

2                   And so then he files his opposition. I filed my  
3 reply. And at the time I filed my reply, I did not know that  
4 Mr. Goldstein had actually used information about this, the  
5 subject of the motion for Protective Order. I didn't know that  
6 until after I filed my reply.

7                   So you'll see, Your Honor, that I actually filed  
8 an addendum to the reply to let the Discovery Commissioner  
9 know: Hey, I just found out, Mr. Goldstein and Mr. -- I mean,  
10 while this motion is pending, they're exchanging information.

11                   So when we got to the hearing, that's when  
12 Mr. Galliher -- that's when Mr. Galliher, for the first time,  
13 is talking about his explanation of why he needs this other  
14 information. Oh, and Mr. Goldstein only got 32, and, of  
15 course, I gave him 64.

16                   So I gave him 64 and I'm the bad guy because I  
17 actually gave him twice as many as whatever Mr. Goldstein got.  
18 And he's trying to suggest to the Discovery Commissioner that  
19 there's some nefarious plan by my client.

20                   And all I can tell, Your Honor, is at the time,  
21 at the time that I argued this, that we argued this before the  
22 Discovery Commissioner on March 13th, 2019, I did not know -- I  
23 did not know that on March 12th, the day before, March 12th,  
24 2019, that Mr. Goldstein had taken all 64, 660 pages of those  
25 documents provided to him by Mr. Galliher while this motion was



1 pending and he filed it with the Court, so it became a public  
2 record.

3 I didn't know that. Do you think I would -- if  
4 I knew that, I would have brought that up before the Discovery  
5 Commissioner?

6 He's saying today: Well, Mr. Royal should have  
7 brought that up. I would have brought that up if he would have  
8 told me. He didn't tell me. He didn't tell me that  
9 Mr. Goldstein had -- had filed this with the Court.

10 I mean, of course, I would have wanted it --  
11 this information back. My understanding at the time of the  
12 hearing was that he met with Mr. Goldstein, there was some  
13 exchange: Hey, you only got 32. Well, I got 64. Oh, this  
14 isn't right.

15 You know, it wasn't my understanding that they  
16 were actually physically providing these to each other or he  
17 was providing it to them.

18 Now, he -- he -- Mr. Galliher said: Well,  
19 Mr. Royal -- Mr. Royal, there were -- there were a couple that  
20 Mr. Goldstein had and Mr. Royal didn't produce or maybe three  
21 or four. And that's why the Discovery Commissioner said:  
22 Well, okay. Mr. Royal, will you, please, go look at that?  
23 Which I did.

24 And I sent correspondence to counsel afterwards:  
25 I looked at these. None of these apply. This is why. I

1 explained to him there's been no other conversation with  
2 Mr. Galliher about that.

3               So here we are -- you know, the question -- the  
4 question I have here is, first of all, as it relates to the  
5 underlying motion, our argument to the Discovery Commissioner  
6 was simple. It was: Look, they want to take this information,  
7 they want names, they want whatever they need, addresses. He  
8 not only wants to contact these people, he wants to share it  
9 with Mr. Goldstein.

10              Mr. Bochanis, he wants to throw it online; he  
11 wants to put it in some repository or deposit -- I don't know  
12 what he's going to do with it. But he wants unfettered access  
13 to these people.

14              Not just so that he and his firm can contact  
15 them for this case to see if maybe there might be some reason  
16 they can call them as a witness for whatever reason,  
17 comparative negligence, which I still don't get. But he wants  
18 to -- he wants to let Mr. Goldstein, Mr. Bochanis and every  
19 other lawyer in town contact these people for whatever reason.

20              And, you know, our argument was, they have  
21 privacy rights too. And regarding HIPAA and so forth, I argued  
22 before the Discovery Commissioner, that there was private  
23 information in each of these.

24              We have EMTs that respond to these -- to these  
25 events. They get medical history information from these

1 people. They -- they do whatever assessments that they do, and  
2 take statements from these people about what was hurt and so  
3 forth.

4 And this information, I argued, at least is --  
5 they deserve some protection. And so --

6 THE COURT: That's more of a general argument;  
7 right?

8 MR. ROYAL: Yes.

9 THE COURT: Because HIPAA --

10 MR. ROYAL: Right.

11 THE COURT: I think we can all agree, does not  
12 apply to lawyers, it does not apply to hotel casinos.

13 MR. ROYAL: I argued -- I argued this as  
14 HIPAA-related information.

15 THE COURT: Okay. So basically it's medical  
16 information that you are concerned with.

17 MR. ROYAL: Yes, yes. Absolutely. And that  
18 these people have privacy rights.

19 Now, I said: Look, if Mr. -- if Mr. Galliher  
20 sees a factual situation where he feels like, okay, that one --  
21 that's on point. We can use that one. Here's case number two,  
22 three, seven, eight. Could you -- and then we talk about that.

23 That's what she said when she said you guys can  
24 sit and meet and confer if you find something factually  
25 similar. That's never happened. We've never had that