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DISTRICT COURT
CLARK COUNTY, NEVADA

KEON KHIABANI, an individual; ARIA
KHIABANI, an individual; SIAMAK
BARIN, as Executor of the Estate of
Kayvan Khiabani, M.D. (Decedent), the
Estate of Kayvan Khiabani, M.D.
(Decedent);
SIAMAK BARIN, as Executor of the Estate
of Katayoun Barin, DDS (Decedent); and
the Estate of Katayoun Barin, DDS
(Decedent);

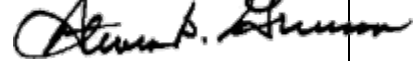
Plaintiffs,

vs.

MOTOR COACH INDUSTRIES, INC.,
A DELAWARE CORPORATION;
MICHELANGELO LEASING INC. D/B/A
RYAN'S EXPRESS, AN ARIZONA
CORPORATION; EDWARD HUBBARD, A
NEVADA RESIDENT; BELL SPORTS INC.
D/B/A GIRO SPORT DESIGN, A DELAWARE
CORPORATION; SEVENPLUS BICYCLES, INC.
D/B/A PRO CYCLERY, A NEVADA
CORPORATION; DOES 1 THROUGH 20; AND
ROE CORPORATIONS 1 THROUGH 20.

Defendants.

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Steven D. Grierson
CLERK OF THE COURT



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Apr 17 2023 01:17 PM
Elizabeth A. Brown
Clerk of Supreme Court

Case No. A-17-755977-C

Dept. No. XIV

NOTICE OF APPEAL

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NOTICE OF APPEAL

Please take notice that Plaintiffs hereby appeal to the Supreme Court of Nevada from:

1. The district court's March 16, 2023 Order Granting Defendant Motor Coach Industries, Inc.'s Motion for Offset. A Notice of Entry of Order was filed on March 24, 2023, and is attached as **Exhibit "1."**
2. Any judgments, rulings, and/or interlocutory orders made appealable by the foregoing.

DATED this 12th day of April, 2023.

KEMP JONES, LLP

/s/ Eric Pepperman

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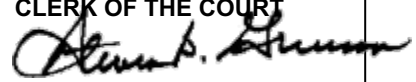
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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April, 2023, I served a true and correct copy of the foregoing **Notice of Appeal** via the Court's electronic filing system only, pursuant to the Nevada Electronic Filing and Conversion Rules, Administrative Order 14-2, to all parties currently on the electronic service list.

/s/ Maria T. San Juan
An Employee of KEMP JONES, LLP

EXHIBIT 1



NEOJ

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DISTRICT COURT

CLARK COUNTY, NEVADA

KEON KHIABANI and ARIA KHIABANI,
minors, by and through their guardian,
MARIE-CLAUDE RIGAUD; SIAMAK
BARIN, as executor of the ESTATE OF
KAYVAN KHIABANI, M.D., (Decedent);
the ESTATE OF KAYVAN KHIABANI, M.D.
(Decedent); SIAMAK BARIN, as executor of
the ESTATE OF KATAYOUN BARIN, DDS
(Decedent); and the Estate of KATAYOUN
BARIN, DDS (Decedent),

Plaintiffs,

vs.

MOTOR COACH INDUSTRIES, INC., a
Delaware corporation; MICHELANGELO
LEASING INC. d/b/a RYAN'S EXPRESS, an
Arizona corporation; EDWARD HUBBARD,
a Nevada resident; BELL SPORTS, INC.
d/b/a GIRO SPORT DESIGN, a Delaware
corporation; SEVENPLUS BICYCLES, INC.
d/b/a PRO CYCLERY, a Nevada
corporation, DOES 1 through 20; and ROE
CORPORATIONS 1 through 20,

Defendants.

Case No. A-17-755977-C

Dept. No. 14

**NOTICE OF ENTRY OF "ORDER
GRANTING DEFENDANT MOTOR
COACH INDUSTRIES, INC.'S
MOTION FOR OFFSET"**

1 Please take notice that on the 16th day of March, 2023, an “Order
2 Granting Defendant Motor Coach Industries, Inc.’s Motion for Offset” was
3 entered in this case. A copy of the order is attached.

4 Dated this 24th day of March, 2023.

5 LEWIS ROCA ROTHGERBER CHRISTIE LLP
6

7 By /s/Joel D. Henriod

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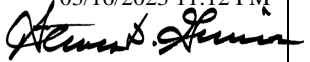
21 *Motor Coach Industries, Inc.*
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/s/ Cynthia Kelley
An Employee of LEWIS ROCA ROTHGERBER CHRISTIE LLP


CLERK OF THE COURT

ORDR

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DISTRICT COURT

CLARK COUNTY, NEVADA

KEON KHIABANI AN INDIVIDUAL;
ARIA KHIABANI, AN INDIVIDUAL;
SIAMAK BARIN, AS EXECUTOR OF THE
ESTATE OF KAYVAN KHIABANI, M.D.
(DECEDENT), THE ESTATE OF KAYVAN
KHIABANI, M.D. (DECEDENT); SIAMAK
BARIN, AS EXECUTOR OF THE ESTATE OF
KATAYOUN BARIN, DDS (DECEDENT);
AND THE ESTATE OF KATAYOUN BARIN
DDS (DECEDENT),

Plaintiffs,

vs.

MOTOR COACH INDUSTRIES, INC.,
A DELAWARE CORPORATION;
MICHELANGELO LEASING INC. D/B/A
RYAN'S EXPRESS, AN ARIZONA
CORPORATION; EDWARD HUBBARD, A
NEVADA RESIDENT; BELL SPORTS INC.
D/B/A GIRO SPORT DESIGN, A
DELAWARE CORPORATION; SEVENPLUS
BICYCLES, INC. D/B/A PRO CYCLERY, A
NEVADA CORPORATION; DOES 1 THROUGH
20; AND ROE CORPORATIONS 1
THROUGH 20.

Defendants.

Case No. A-17-755977-C

Dept. No. XIV

(PROPOSED)

ORDER GRANTING DEFENDANT MOTOR
COACH INDUSTRIES, INC.'S MOTION
FOR OFFSET

Hearing Date: June 28, 2022
Hearing Time: 10:00 a.m.

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Defendant Motor Coach Industries, Inc has moved the Court for an Offset of the settlement proceeds paid by other defendants in its Brief Regarding Offset filed December 13, 2021. In addition to this motion, the corresponding answering brief and responding brief, the Court also heard oral argument June 28, 2022, regarding the offset. The Court now, having considered the briefs and materials submitted by the parties, oral argument, and the record before the Court, the Court orders as follows:

FINDINGS OF FACT

1. The decedent Dr. Khiabani died when his bicycle collided with a motor coach designed by defendant Motor Coach Industries, Inc. ("MCI"). Defendant Edward Hubbard was driving the vehicle for his employer, Michelangelo Leasing Inc. d/b/a Ryan's Express ("Michelangelo"), taking passengers from the airport to the Red Rock Casino Resort.

2. The plaintiff-heirs sued MCI, Michelangelo, and Hubbard, as well as the manufacturer and seller of the helmet that Dr. Khiabani was wearing at the time of the accident. The helmet was manufactured by Bell Sports, Inc. d/b/a Giro Sport Design. The helmet was sold by SevenPlus Bicycles, Inc. d/b/a Pro Cyclery,

3. In their operative Second Amended Complaint ("SAC"), Plaintiffs alleged the following claims: (i) Strict Liability: Defective Condition or Failure to Warn against Defendant MCI, (ii) Negligence against Defendants Michelangelo and Hubbard, (iii) Negligence per se against Defendants Michelangelo and Hubbard, (iv) Negligent Training Against Michelangelo, (v) Strict Liability: Defective Condition or Failure to Warn against Defendants Bell Sports and SevenPlus, and (vi) Breach of Implied Warranty of Fitness for a Particular Purpose against Defendants

Bell Sports and SevenPlus.

4. *Plaintiffs' complaint also alleged claims for punitive damages. With respect to Michelangelo, Plaintiffs alleged that, "[i]n carrying out its responsibility to adequately hire and train its drivers, Michelangelo acted with fraud, malice, oppression, and/or conscious disregard of the safety of others." 11/17/17 SAC, ¶ 62.*

5. *Prior to trial, Plaintiffs settled with everyone but MCI. In exchange for a full release of all possible claims and damages against the settling defendants, Plaintiffs received \$5 million from Michelangelo and Hubbard, \$100,000 from Bell Sports, and \$10,000 from SevenPlus Bicycles. The Court granted motions for good faith settlement determinations with respect to each settlement, and Plaintiffs' claims against MCI proceeded to trial in February 2018.*

6. *The \$5 million settlement proceeds from Michelangelo and Hubbard, were satisfied through Michelangelo's insurance. Although the settlement was reached in principle prior to trial, the \$5 million was not paid until approximately four months after trial. Plaintiffs actually received the settlement proceeds on August 13, 2018.*

7. *Following a several-week trial on Plaintiffs' claims against MCI, the jury returned a verdict in favor of Plaintiffs under their failure-to-warn theory. The jury awarded compensatory damages in the amount of \$18,746,003.62. The jury did not award any punitive damages against MCI. On April 17, 2018, the court entered judgment on the jury's verdict.*

8. *On June 6, 2018, MCI filed a motion to alter or amend the judgment. In its motion, MCI argued that the judgment amount should be offset by the \$5,110,000.00 paid by the settling defendants*

1 pursuant to NRS 17.245(1)(a) and NRS 41.141(3). Plaintiffs opposed
2 the motion on grounds that product_manufacturers are ineligible to offset
3 settlement proceeds from co-defendants. The Court denied the motion
4 and did not offset the judgment by any amounts paid by the settling
5 defendants.

6 9. On April 24, 2019, MCI filed an appeal. In its appeal, MCI
7 challenged the judgment and several of the Court's rulings, including the
8 order denying its motion to offset the judgment by the full
9 \$5,110,000.00 paid by the settling defendants.

10 10. On August 20, 2020, the Nevada Supreme Court issued its
11 opinion in *J.E. Johns & Assoc. v. Lindberg*, 136 Nev.Adv.Op. 55, 470
12 P.3d 204 (2020). The Lindberg opinion was issued after briefing on
13 MCI's appeal was completed but before oral arguments.

14 11. On March 1, 2021, the Nevada Supreme Court heard oral
15 arguments on MCI's appeal. During oral arguments, Plaintiffs conceded
16 that the "same injury" underlies their claims against both the settling
17 and nonsettling defendants and, therefore, NRS 17.245(1)(a) applied to
18 offset their judgment as to MCI under Lindberg. Plaintiffs also argued
19 that Lindberg applied to the offset calculation as well because the
20 settlement proceeds resolved Defendants' exposure to damages that were
21 beyond actual damages and unique to the settling defendants.

22 12. On August 19, 2021, the Nevada Supreme Court issued its *en*
23 *banc* decision in this case. The Supreme Court concluded as follows:

24 The district court properly denied the motions for judgment
25 as a matter of law, for a new trial, and to retax costs, and
26 we affirm the judgment and post-judgment orders as to those
27 matters. However, the district court incorrectly denied the
28 motion to alter or amend the judgment to offset the

1 settlement proceeds paid by other defendants. We therefore
2 reverse the judgment as to its amount and remand to the
3 district court to determine the amount of the offset to
4 which MCI is entitled and enter a corrected judgment thereon.
5 *Motor Coach Indus., Inc. v. Khiabani by & through Rigaud*,
6 137 Nev. Adv. Op. 42, 493 P.3d 1007, 1017 (2021).

7 13. The amount of the offset also affects the calculation of
8 interest on the judgment. On December 13, 2021, the parties filed
9 simultaneous briefs on these two issues—the amount of the offset and
10 the calculation of interest. On January 20, 2022, the parties filed
11 simultaneous answering briefs. A hearing was held on June 28, 2022.

12 CONCLUSIONS OF LAW

13 I.

14 THE OFFSET UNDER NRS 17.245

15 14. NRS 17.245(1)(a) provides as follows:

16 1. When a release or a covenant not to sue or not
17 to enforce judgment is given in good faith to one
18 of two or more persons liable in tort for the
19 same injury or the same wrongful death: (a) It
20 does not discharge any of the other tortfeasors
21 from liability for the injury or wrongful death
22 unless its terms so provide, but it reduces the
23 claim against the others to the extent of any
24 amount stipulated by the release or the
25 covenant, or in the amount of the consideration
26 paid for it, whichever is the greater...

27 15. In *J.E. Johns & Assoc. v. Lindberg*, 136 Nev. Adv. Op. 55,
28 470 P.3d 204, 208 (2020), the Nevada Supreme Court recently
addressed the application of NRS 17.245(1)(a).

16 16. In *Lindberg*, an aggrieved home buyer sued both the home
sellers and the real estate agents of both parties. “The Lindbergs
specifically alleged that the sellers violated their statutory disclosure
obligation under NRS 113.130, for which NRS 113.150(4) permits the

1 recovery of treble damages, and that the sellers' agents and the
2 Lindbergs' agents violated their statutory duties of disclosure pursuant to
3 NRS 645.252, which gave rise to a cause of action under NRS 645.257
4 to recover their actual damages. *Id.* at 206. Before trial, "the
5 Lindbergs settled with the sellers for \$50,000 and with the Lindbergs'
6 agents for \$7,500." *Id.*

7 17. Following a three-day bench trial against the remaining defendants
8 (the sellers' agents), "the district court awarded the Lindbergs
9 \$27,663.95 in damages—the cost of installing the proper-sized septic
10 system [] pursuant to NRS 645.257." *Id.* "The district court also
11 awarded \$48,116.84 in attorney fees and costs, plus interest, for a total
12 award of \$75,780.79." *Id.* at 207.

13 18. "The sellers' agents then filed an NRCP 59(e) motion to
14 amend or alter the judgment," which was granted in part. *Id.* The
15 district court reasoned that "NRS 17.245(1)(a) entitled the sellers'
16 agents to offset the judgment by the settlement amounts, 'finding that
17 all defendants, settling and remaining, were responsible for the same
18 injury.'" *Id.* Following a hearing on the proper calculation of the offset,
19 "the district court offset the \$27,552.95 award [to fix the septic tank]
20 by the entire settlement amount paid by the Lindbergs' agents
21 (\$7,500), and by one-third of the settlement amount paid by the
22 sellers (\$50,000 x 1/3 = \$16,650) in recognition that the Lindbergs
23 'would be entitled to treble damages against the sellers associated with
24 any claim established under NRS 113.250.'" *Id.* at 210.

25 19. Both parties appealed, claiming "that the district erred in
26 determining the amount to be offset from the original judgment under
27 NRS 17.245(1)(a). *Id.* at 207. The Lindbergs argued that NRS
28

17·245(1)(a) did not apply to offset the judgment “because the statute requires a finding of joint tortfeasor liability for all defendants for the same injury.” *Id.* “The sellers’ agents challenge[d] the district court’s offset calculation, arguing that the district court erred by failing to offset the judgment by the full amount paid by the sellers.” *Id.*

20. In rejecting the Lindbergs’ argument, the Nevada Supreme Court held that “NRS 17·245(1)(a) does not require that a party be found liable.” *Id.* at 208 (quotation omitted). “Instead, as the district court properly determined, the relevant question governing the applicability of NRS 17·245(1)(a) for the purposes of settlement offsets is whether both the settling and remaining defendants caused the same injury.” *Id.* (Citation omitted) (italics in original). “To provide additional guidance, [the Supreme Court echo[ed] the district court’s reasoning to further hold that independent causes of action, multiple legal theories, or facts unique to each defendant do not foreclose a determination that both the settling and nonsettling defendants bear responsibility for the same injury pursuant to NRS 17·245(1)(a).” *Id.* (Citation omitted) (italics in original). Because the district court’s “same injury” finding was supported by substantial evidence, the Supreme Court affirmed the application of NRS 17·245(1)(a) in *Lindberg*. *Id.* at 210.

21. “Having concluded that the district court properly determined that NRS 17·245(1)(a) applie[d] to offset the Lindbergs’ judgment as to the sellers’ agents, [the Supreme Court next] consider[ed] whether the district court appropriately calculated the offset amount.” *Id.* “Whether NRS 17·245(1)(a) requires district courts to automatically deduct the entirety of a settlement award, without considering the makeup of the award in relation to the judgment against

1 the nonsettling defendants, present[ed] a question of law that [the
2 Court] review[ed] de novo.” /d/ (Citation omitted). On this issue, the
3 Nevada Supreme Court found as follows:

4 While the plain language of the statute could be interpreted
5 as permitting the reduction of the entire settlement amount
6 obtained—without regard to the type of exposure resolved by
7 the settling defendants—we reason that such an
8 interpretation violates the spirit of NRS 17:245(1)(a).
9 (Citation omitted) (italics in original). The principal purpose
10 of equitable settlement offsets under the statute is to
11 prevent double recovery to the plaintiff—or in other words,
12 to guard against windfalls.

13 Because the principal purpose of equitable settlement offsets
14 is to avoid windfalls, we determine that it would be
15 inconsistent with the legislative intent of NRS 17:245(1)(a)
16 to then permit the blanket deduction of entire settlement
17 amounts without scrutinizing the allocation of damages
18 awarded therein. Specifically, actual damages “redress the
19 concrete loss that the plaintiff has suffered by reason of the
20 defendant's wrongful conduct.” *Cooper Indus., Inc. v.*
21 *Leatherman Tool Grp., Inc.*, 532 U.S. 424, 432, 121 S.Ct.
22 1678, 149 L.Ed.2d 674 (2001); see also *Actual Damages*,
23 *Black's Law Dictionary* (11th ed. 2019) (defining “actual
24 damages” as those “that repay actual losses”). Treble
25 damages, on the other hand, represent “[d]amages that, by
26 statute, are three times the amount of actual damages that
27 the fact-finder determines is owed.” *Treble Damages*, *Black's*
28 *Law Dictionary* (11th ed. 2019). Thus, ensuring that a
plaintiff does not recover twice for the same injury does not
mean that a plaintiff should otherwise be precluded from
receiving the portion of a settlement award that resolves a

1 settling defendant's exposure beyond actual damages—such as
2 treble or punitive damages—if such exposure is unique to the
3 settling defendant. *Cf. Mobil Oil Corp. v. Ellender*, 968
4 S.W.2d 917, 927 (Tex. 1998) (explaining that a nonsettling
5 defendant “cannot receive credit for settlement amounts
6 representing punitive damages” due to their individual
7 nature). To conclude otherwise would penalize the plaintiff,
8 while granting a windfall to the nonsettling defendant. *Id.* at
9 210-11.

10 22. On remand, there is no dispute that MCI is entitled to an
11 offset under NRS 17-245(1)(a), but the parties disagree over the
12 application of *Lindberg* and the proper calculation of the offset amount.

13 23. Plaintiffs contend that *Lindberg* applies to the court's offset
14 calculation in this case. See Plaintiffs' 12/13/21 Brief Regarding Offset,
15 2:5-3:24. They argue that, in paying the \$5 million settlement
16 amount, Michelangelo and Hubbard resolved their exposure to damages
17 beyond actual damages that are unique to Michelangelo and/or Hubbard.
18 *Id.* at 3:25-4:26. Specifically, “the principal settling defendant
19 (Michelangelo) paid \$5 million to settle the compensatory and punitive
20 damages claims asserted against it.” *Id.* at 3:26-27. Plaintiffs also
21 served offers of judgment on each of the settling defendants. Plaintiffs'
22 1/20/22 Ans. Brief, 4:3-4. This created an additional “exposure” to an
23 award of attorneys' fees, which was also resolved as part of the
24 settlement payment. *Id.* at 4:4-5. This attorneys' fees “exposure” was
25 unique to the settling defendants, as Plaintiffs did not serve an offer of
26 judgment on MCI. *Id.* at 4:5-6. As in *Lindberg*, Plaintiffs contend that
27 the offset calculation in this case should account for the resolution of
28

1 *this exposure to punitive damages and attorneys' fees, as these damages*
2 *are beyond actual damages and unique to Michelangelo and/or Hubbard.*
3 *Id. at 4:8-9.*

4 24. *MCI argues that Lindberg does not apply here because the*
5 *Lindberg case involved "a statutory entitlement to treble damages."*
6 *MCI's 12/13/21 Brief Re Offset, 8:16-17. MCI contends that, unlike*
7 *statutory treble damages, "the allowance or denial of exemplary or*
8 *punitive damages rests entirely in the discretion of the trier of fact."*
9 *Id. at 9:6-7, citing Evans v. Dean Witter Reynolds, Inc., 116 Nev. 598,*
10 *5 P.3d 1043 (2000). MCI asserts that the Nevada Supreme Court did*
11 *not instruct this court to calculate the offset under Lindberg but rather*
12 *"unambiguously directed the court to offset all the settlement proceeds."*
13 *Id. at 6:25-26.*

14 25. *The court agrees with MCI. Lindberg does not apply, and the*
15 *judgment will be offset by the entirety of the \$5,110,000.00 in*
16 *settlement proceeds. In Lindberg, there was a clear statute that allowed*
17 *for treble damages. And here, that is not the case. In this court's*
18 *view, the Lindberg case was not about punitive damages, and any*
19 *discussion about punitive damages was dictum.*

20 26. *In this case, the jury found no punitive damages. Without*
21 *the jury making a finding of punitive damages, the settling Defendants*
22 *cannot be charged with punitive damages absent a settlement that*
23 *specifies the amount. When an insurance policy pays an award, the*
24 *settlement generally does not include an apportionment for punitive*
25 *liability on behalf of their insured. The court has not seen any fact or*
26 *case law that would warrant finding punitive damages against the settling*
27 *defendants in this case, as that would be in the area of the jury or*
28

finder of fact, and that did not happen here.

27. MCI also argues that “Plaintiffs are judicially estopped from alleging that Hubbard acted with conscious disregard of danger” because they presented evidence that Hubbard would have taken actions to avoid the accident if warned about the motor coach’s air displacement. MCI’s 12/13/21 Brief Regarding Offset, 13:14-19. Plaintiffs respond that the punitive damages exposure was based on Michelangelo’s “corporate misconduct in driver screening and driver training—not on Hubbard’s actions.” 1/20/22 Ans. Brief, 5:10-11.

28. The Court agrees with MCI. Judicial estoppel prevents a party from taking inconsistent positions when “the party was successful in asserting the first position (i.e., the tribunal adopted the position or accepted it as true).” *In re Frei Irrevocable Tr. Dated Oct. 29, 1996*, 133 Nev. 50, 390 P.3d 646, 652 (2017) (emphasis added). The court does not have to formally “adopt” the party’s argument before judicial estoppel applies. *See id.* Plaintiffs are judicially estopped from alleging that the settling Defendant’s conduct justified punitive damages based on their previous representation to the court and the orders procured from this court.

/ / /

/ / /

II.

Interest Calculation Following Application of Offset

29. The prejudgment interest must be calculated following proper allocation of the settlement proceeds. By defendant’s calculation, the correct amount of prejudgment interest is \$182,826.85. as detailed

below.

THE OFFSET IS APPLIED TO THE VERDICT BEFORE PREJUDGMENT INTEREST IS CALCULATED

30. For the purpose of calculating interest, Plaintiffs argued that the offset should be applied as of the date in which the settlement payments were actually received (August 13, 2018). MCI argued that the offset should be deducted as of the date of judgment and prior to the calculation of prejudgment interest, even though Plaintiffs did not receive the settlement proceeds until several months later.

31. In Nevada, prejudgment interest is calculated after settlement proceeds are deducted from jury's assessment of compensatory damages. *Ramadanis v. Stupak*, 107 Nev. 22, 23-24, 805 P.2d 65, 65-66 (1991); *c.f.* NRS 41.141(3) (directing the court to subtract settlement proceeds "the net sum otherwise recoverable by the plaintiff pursuant to the general and special verdicts," without reference prejudgment interest). Settlements with co-defendants are not presumed to include both principal and interest to date of settlement. *Ramadanis*, 107 Nev. at 23-24, 805 P.2d at 65-66.

32. Additionally, under Nevada law, the appropriate amount of the punitive damages under NRS 42.005 can only be calculated using the net compensatory damages following the offset. *Coughlin*, 879 F. Supp. at 1051 ("[T]he language 'compensatory damages awarded' in the punitive damages statute refers to the reduced [i.e., after-offset,] compensatory damages award Plaintiff . . . is to receive according to Nevada's comparative negligence statute[, NRS 41.141(3)].").

Apportionment of Offset

33. Plaintiffs' past compensatory damages were \$4,546,003.62.

1 The pro rata share of the \$5 million offset attributable to those
2 damages (24.25%)¹ is \$1,239,175.00 bringing the award of past
3 compensatory damages to \$3,306,828.62, on which prejudgment interest
4 accrued.

5 34. Plaintiffs' future compensatory damages were
6 \$14,200,000.00. The pro rata share of the \$5 million offset
7 attributable to those damages (75.75%)² is \$3,870,825.00 bringing the
8 award of future compensatory damages to \$10,329,175.00.

9 *Calculation of Prejudgment Interest*

10 35. The amount of prejudgment interest awardable to plaintiff is
11 \$182,826.85. That represents interest on Plaintiffs' past compensatory
12 damages of \$3,306,828.62 at the statutory rate of 5.75% from June
13 1, 2017 through June 30, 2017 for a total of \$15,628.16; the
14 statutory rate of 6.25% from July 1, 2017 through December 31, 2017
15 for a total of \$104,187.75; the statutory rate of 6.50% from January
16 1, 2018 through April 17, 2018 for a total of \$63,010.94.

17 / / /

18 / / /

26 ¹ Of the total \$18,746,003.62 in compensatory damages found by the jury, the past
27 damages to plaintiffs (\$4,546,003.62) account for %24.25.

28 ² Of the total \$18,746,003.62 in compensatory damages found by the jury, the future
damages to plaintiffs (\$14,200,000.00) account for %75.75.

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ORDER

1. It is therefore ORDERED that the judgment will be offset by \$5,110,000 million.

2. It is further ORDERED that the amount of prejudgment interest awardable to plaintiff is \$182,826.85.

IT IS SO ORDERED.

Dated this 16th day of March, 2023



DISTRICT COURT JUDGE

109 28D F090 04C5
Adriana Escobar
District Court Judge

Submitted by:

Disapproved as to form and content by:

/s/ Eric Pepperman

/s/ Joel Henriod

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(702) 938-3838

Attorneys for Defendant

Motor Coach Industries, Inc.

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Keon Khiabani, Plaintiff(s)

CASE NO: A-17-755977-C

7 vs.

DEPT. NO. Department 14

8 Motor Coach Industries Inc,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 3/16/2023

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2
3 If indicated below, a copy of the above mentioned filings were also served by mail
4 via United States Postal Service, postage prepaid, to the parties listed below at their last
5 known addresses on 3/17/2023

6 Michael Stoberski

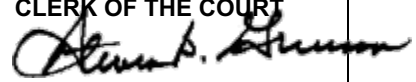
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8 Whitney Welch

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10 William Kemp

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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

KEON KHIABANI, an individual; ARIA
KHIABANI, an individual; SIAMAK
BARIN, as Executor of the Estate of
Kayvan Khiabani, M.D. (Decedent), the
Estate of Kayvan Khiabani, M.D.
(Decedent); SIAMAK BARIN, as Executor
of the Estate of Katayoun Barin, DDS
(Decedent); and the Estate of Katayoun
Barin, DDS (Decedent);

Plaintiffs,

vs.

MOTOR COACH INDUSTRIES, INC.,
A DELAWARE CORPORATION;
MICHELANGELO LEASING INC. D/B/A
RYAN'S EXPRESS, AN ARIZONA
CORPORATION; EDWARD HUBBARD, A
NEVADA RESIDENT; BELL SPORTS INC.
D/B/A GIRO SPORT DESIGN, A DELAWARE
CORPORATION; SEVENPLUS BICYCLES, INC.
D/B/A PRO CYCLERY, A NEVADA
CORPORATION; DOES 1 THROUGH 20; AND
ROE CORPORATIONS 1 THROUGH 20.

Defendants.

Case No. A-17-755977-C

Dept. No. XIV

**PLAINTIFFS'
CASE APPEAL STATEMENT**

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

KEON KHIABANI, an individual; ARIA KHIABANI, an individual; SIAMAK BARIN, as Executor of the Estate of Kayvan Khiabani, M.D. (Decedent), the Estate of Kayvan Khiabani, M.D. (Decedent); SIAMAK BARIN, as Executor of the Estate of Katayoun Barin, DDS (Decedent); and the Estate of Katayoun Barin, DDS (Decedent) (collectively referred to as “Appellants”).

2. Identify the judge issuing the decision, judgment, or order appealed from:

THE HONORABLE ADRIANA ESCOBAR

3. Identify each appellant and the name and address of counsel for each appellant:

KEON KHIABANI, an individual; ARIA KHIABANI, an individual; SIAMAK BARIN, as Executor of the Estate of Kayvan Khiabani, M.D. (Decedent), the Estate of Kayvan Khiabani, M.D. (Decedent); SIAMAK BARIN, as Executor of the Estate of Katayoun Barin, DDS (Decedent); and the Estate of Katayoun Barin, DDS (Decedent)

Represented by:

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4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent’s appellate counsel is unknown, indicate as much and provide the name and address of that respondent’s trial counsel):

The only Respondent is Motor Coach Industries, Inc.

Represented by:

DANIEL F. POLSENBERG, ESQ. (#2376)
JOEL D. HENRIOD, ESQ. (#8492)
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5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

All attorneys identified in response to questions 3 and 4 are licensed to practice law in Nevada.

6. Indicate whether appellant was represented by appointed or retained counsel in the district court:

Appellants were represented by retained counsel in the district court.

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

Appellants are represented by retained counsel on appeal.

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

Appellants did not request and were not granted leave to proceed in forma pauperis.

9. Indicate the date the proceedings commenced in the district court, *e.g.*, date complaint, indictment, information, or petition was filed:

Plaintiffs/Appellants filed their Complaint in the district court on May 25, 2017.

1 10. Provide a brief description of the nature of the action and result in the district court,
2 including the type of judgment or order being appealed and the relief granted by
3 the district court:

4 This wrongful death action arose from the tragic death of Dr. Kayvan Khiabani.
5 On April 18, 2017, Dr. Khiabani was killed in a collision with a motor coach while riding
6 his bicycle in Las Vegas. The motor coach was designed and sold by Motor Coach
7 Industries, Inc. (“MCI”). It was owned and operated by Michelangelo Leasing Inc.

8 On May 25, 2017, Plaintiffs/Appellants filed suit against MCI, Michelangelo
9 Leasing, and other defendants. Prior to trial, Plaintiffs/Appellants settled with all
10 Defendants except MCI. Following a several week trial beginning in February 2018, the
11 jury returned a verdict in favor of Plaintiffs and awarded compensatory damages in the
12 amount of \$18,746,003.62. On April 17, 2018, the district court entered judgment on the
13 jury’s verdict.

14 On June 6, 2018, MCI filed a motion to alter or amend the judgment. In its motion,
15 MCI argued that the judgment should be offset by the combined sum of \$5,110,000.00
16 paid by the settling defendants. Of this amount, \$5 million was paid by Michelangelo.
17 The district court denied MCI’s motion on grounds that, as a strictly liable defendant, MCI
18 was not entitled to an offset under NRS 17.245(1)(a).

19 On April 24, 2019, MCI filed an appeal from the underlying judgment (Docket No.
20 78701). In its appeal, MCI challenged the judgment and several of the district court’s
21 rulings, including the order denying its motion to offset the judgment by the proceeds paid
22 by the settling defendants.

23 On August 20, 2020, the Nevada Supreme Court issued its opinion in *J.E. Johns &*
24 *Assoc. v. Lindberg*, 136 Nev.Adv.Op. 55, 470 P.3d 204 (2020). *Lindberg* addressed
25 offsets under NRS 17.245(1)(a) and involved similar facts and nearly identical issues to
26 those raised by MCI’s appeal. In *Lindberg*, the Nevada Supreme Court held that, when
27 considering settlement offsets under NRS 17.245(1)(a), the relevant question is “whether
28 both the settling and remaining defendants caused the *same injury*.” *Id.* at 208. The Court

1 clarified that “independent causes of action, multiple legal theories, or facts unique to each
2 defendant do not foreclose a determination that both the settling and nonsettling
3 defendants bear responsibility for the *same injury* pursuant to NRS 17.245(1)(a).” *Id.*

4 After establishing the “same injury” test, the *Lindberg* Court addressed “[w]hether
5 NRS 17.245(1)(a) requires district courts to automatically deduct the entirety of a
6 settlement award, without considering the makeup of the award in relation to the judgment
7 against the nonsettling defendants.” *Id.* at 210. The Court found that, “[w]hile the plain
8 language of the statute could be interpreted as permitting the reduction of the entire
9 settlement amount obtained—without regard to the *type* of exposure resolved by the
10 settling defendants—we reason that such an interpretation violates the spirit of NRS
11 17.245(1)(a).” *Id.* The Court held that, under NRS 17.245(1)(a), offsets should not
12 include any “portion of a settlement award that resolves a settling defendant's exposure
13 *beyond* actual damages—such as treble or punitive damages—if such exposure is unique
14 to the settling defendant.” *Id.* at 211 (citation omitted) (italics in original).

15 The *Lindberg* opinion was issued after briefing on MCI’s appeal was completed
16 but before oral arguments, which were held on March 1, 2021. In light of the new
17 *Lindberg* decision, Plaintiffs acknowledged at oral arguments that a portion of
18 Michelangelo’s settlement proceeds resolved Michelangelo’s exposure to actual damages
19 for the “same injury” caused by MCI. Plaintiffs further noted, however, that a portion of
20 Michelangelo’s settlement proceeds also resolved Michelangelo’s exposure beyond actual
21 damages, including punitive damages, which were unique to Michelangelo.

22 On August 19, 2021, the Nevada Supreme Court issued its published *en banc*
23 decision on MCI’s appeal. The Court affirmed the judgment and post-judgment orders as
24 to all matters except the district court’s order denying MCI’s motion for offset. The Court
25 reversed the judgment as to its amount and “remand[ed] to the district court to determine
26 the amount of the offset to which MCI is entitled and enter a corrected judgment thereon.”

27 ///

1 *Motor Coach Indus., Inc. v. Khiabani by & through Rigaud*, 137 Nev. Adv. Op. 42, 493
2 P.3d 1007, 1017 (2021).

3 On remand, Plaintiffs contended that *Lindberg* applied to the court's offset
4 calculation. Michelangelo's settlement payment resolved exposure beyond actual
5 damages, including punitive damages and attorneys' fees, that were unique to
6 Michelangelo. Under *Lindberg*, Plaintiffs argued that the district court's offset calculation
7 must consider and account for the resolution of this exposure.

8 MCI argued that *Lindberg* did not apply and that the district court did not need to
9 consider the exposure beyond actual damages, such as punitive damages, resolved by
10 Michelangelo's settlement payment. MCI asserted that both NRS 17.245(1)(a) and the
11 Supreme Court's decision on its appeal required the court to automatically deduct the
12 entirety of the settlement award, without considering the makeup of the award in relation
13 to the judgment against MCI.

14 On March 16, 2023, the district court entered an order granting MCI's motion for
15 offset. In its order, the district court adopted MCI's arguments and automatically deducted
16 the entirety of the proceeds paid by the settling defendants without considering the makeup
17 of the award in relation to the judgment against MCI. The district court found that
18 *Lindberg* did not apply, that *Lindberg*'s requirement to consider exposure beyond actual
19 damages was limited to statutory treble damages, and that any discussion in *Lindberg*
20 about punitive damages was dictum.

21 Plaintiffs/Appellants appeal from the district court's order granting MCI's motion
22 for offset. They respectfully submit that the district court erred by automatically deducting
23 the entirety of the \$5 million settlement paid by Michelangelo, without considering the
24 makeup of the settlement in relation to the judgment against MCI. Michelangelo's
25 settlement payment resolved exposure beyond actual damages, including punitive
26 damages and attorneys' fees, that were unique to Michelangelo.

27 ///

11. Indicate whether the case has previously been the subject of an appeal or an original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding.

This case has previously been the subject of an appeal filed by Motor Coach Industries, Inc. The Supreme Court docket number of the prior proceeding is Docket No. 78701. The caption was as follows:

| | |
|---|------------------------------|
| MOTOR COACH INDUSTRIES, INC., Appellant, vs. A.K. and K.K., minors, by and through their Guardian, MARIE-CLAUDE RIGAUD; SIAMAK BARIN, as Executor of the Estate of Kayvan Khiabani, M.D. (Decedent); the ESTATE OF KAYVAN KHIABANI, M.D. (Decedent); SIAMAK BARIN, as Executor of the Estate of Katayoun Barin, DDS (Decedent); and the ESTATE OF KATAYOUN BARIN, DDS (Decedent); Respondents. | Supreme Court Case No. 78701 |
|---|------------------------------|

12. Indicate whether this appeal involves child custody or visitation:

This case does not involve child custody or visitation.

///

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///

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///

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///

///

1 13.If this is a civil case, indicate whether this appeal involves the possibility of
2 settlement:

3 Settlement is possible.

4 DATED this 12th of April, 2023

5 KEMP JONES, LLP

6
7 /s/ Eric Pepperman

8 WILL KEMP, ESQ. (#1205)

9 ERIC PEPPERMAN, ESQ. (#11679)

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-and-

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April, 2023, I served a true and correct copy of the foregoing **Plaintiffs' Case Appeal Statement** via the Court's electronic filing system only, pursuant to the Nevada Electronic Filing and Conversion Rules, Administrative Order 14-2, to all parties currently on the electronic service list.

/s/ Maria T. San Juan
An Employee of KEMP JONES, LLP

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-17-755977-C****Keon Khiabani, Plaintiff(s)****vs.****Motor Coach Industries Inc, Defendant(s)**§
§
§
§
§
§
§

Location: **Department 14**
 Judicial Officer: **Escobar, Adriana**
 Filed on: **05/25/2017**
 Case Number History:
 Cross-Reference Case Number: **A755977**
 Supreme Court No.: **75953**
78701

CASE INFORMATION**Statistical Closures**

10/20/2020 Verdict Reached
 10/24/2017 Transferred (before trial)

Case Type: **Product Liability**

Case
Status: **10/20/2020 Closed**

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-17-755977-C
 Court Department 14
 Date Assigned 05/30/2017
 Judicial Officer Escobar, Adriana

PARTY INFORMATION

| | | <i>Lead Attorneys</i> |
|------------------|---|---|
| Plaintiff | Estate of Katayoun Barin | Barrett, Whitney <i>Retained</i> 702-240-7979(W) |
| | Estate of Kayvan Khibani M.D. | Kemp, William Simon <i>Retained</i> 7023856000(W) |
| | Khiabani, Aria | Kemp, William Simon <i>Retained</i> 7023856000(W) |
| | Khiabani, Keon | Kemp, William Simon <i>Retained</i> 7023856000(W) |
| Defendant | Bell Sports Inc Removed: 10/17/2018 Dismissed | Stoberski, Michael E <i>Retained</i> 7023844012(W) |
| | Bell Sports, Inc | Stoberski, Michael E <i>Retained</i> 7023844012(W) |
| | Hubbard, Edward Removed: 08/22/2018 Dismissed | |
| | Hubbard, Edward | |
| | Michelangelo Leasing inc | |
| | Michelangelo Leasing Inc Removed: 08/22/2018 Dismissed | |

CASE SUMMARY**CASE NO. A-17-755977-C****Motor Coach Industries Inc****Polsenberg, Daniel F.***Retained*

702-949-8200(W)

Sevenplus Bicycles Inc**Sevenplus Bicycles Inc**

Removed: 10/17/2018

Dismissed

Nunez, Michael J.*Retained*

7023603956(W)

Vista Outdoor Inc

Removed: 06/06/2017

Inactive

Executor**Barin, Siamak****Estate of Katayoun Barin**

Removed: 07/11/2017

Data Entry Error

Barrett, Whitney*Retained*

702-240-7979(W)

Estate of Katayoun Barin

Removed: 11/17/2017

Inactive

Barrett, Whitney*Retained*

702-240-7979(W)

Guardian**Claude-Rigaud, Marie**

Removed: 08/09/2022

Inactive

Other**Hale, Floyd****New Flyer Industries, Inc.**

Removed: 01/12/2018

Data Entry Error

New Flyer Industries, Inc.**Welch, Whitney L***Retained*

702-792-3773(W)

Special Master**Hale, Floyd****Hale, Floyd A.***Retained*

7023821414(W)

Subject Minor**Khiabani, Aria**

Removed: 08/09/2022

Inactive

Kemp, William Simon*Retained*

7023856000(W)





Khiabani, Keon

Removed: 08/09/2022

Inactive

Kemp, William Simon*Retained*

7023856000(W)

| DATE | EVENTS & ORDERS OF THE COURT | INDEX |
|------------|--|-------|
| | <u>EVENTS</u> | |
| 05/25/2017 |  Complaint With Jury Demand Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin <i>[1] Complaint and Demand for Jury Trial</i> | |
| 05/25/2017 |  Initial Appearance Fee Disclosure <i>[2] Initial Appearance Fee Disclosure (NRS Chapter 19)</i> | |
| 05/26/2017 |  Summons <i>[3] Summons Edward Hubbard</i> | |
| 05/26/2017 |  Summons | |

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|--|
| | <i>[4] Summons Michelangelo Leasing, Inc.</i> |
| 05/26/2017 |  Summons <i>[5] Summons Motor Coach Industries, Inc.</i> |
| 05/26/2017 |  Summons <i>[6] Summons Vista Outdoor, Inc., d/b/a Giro Sport Design</i> |
| 05/26/2017 |  Peremptory Challenge Filed by: Plaintiff Estate of Katayoun Barin <i>[7] Peremptory Challenge</i> |
| 05/30/2017 |  Notice of Department Reassignment <i>[8] Notice of Department Reassignment</i> |
| 05/30/2017 |  Ex Parte Motion Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin <i>[9] Ex Parte Motion for Order Requiring Bus Company and Driver to Preserve and Immediately Turn Over Relevant Electronic Monitoring Information from Bus and Driver Cell Phone</i> |
| 06/06/2017 |  Acceptance of Service <i>[10] Acceptance of Service</i> |
| 06/06/2017 |  Amended Complaint Filed By: Plaintiff Estate of Katayoun Barin <i>[11] Amended Complaint and Demand for Jury Trial</i> |
| 06/06/2017 |  Initial Appearance Fee Disclosure Filed By: Plaintiff Estate of Katayoun Barin <i>[12] Initial Appearance Fee Disclosure (NRS Chapter 19)</i> |
| 06/09/2017 |  Summons Electronically Issued - Service Pending <i>[13] Summons</i> |
| 06/09/2017 |  Summons Electronically Issued - Service Pending <i>[14] Summons Bell Sports, Inc.</i> |
| 06/12/2017 |  Acceptance of Service Filed By: Plaintiff Estate of Katayoun Barin <i>[15] Acceptance of Service for Bell Sports, Inc.</i> |
| 06/12/2017 |  Application Filed By: Plaintiff Khiabani, Keon <i>[16] Application for TRO</i> |
| 06/12/2017 |  Motion for Preferential Trial Setting Filed By: Plaintiff Khiabani, Keon <i>[17] Plaintiffs' Motion for Preferential Trial Setting Under NRS 16.025(2)</i> |
| 06/14/2017 |  Summons Filed by: Plaintiff Khiabani, Keon <i>[18] Summons</i> |

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
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| 06/14/2017 |  Summons Filed by: Plaintiff Khiabani, Keon <i>[19] Summons</i> |
| 06/14/2017 |  Summons Filed by: Plaintiff Khiabani, Keon <i>[20] Summons</i> |
| 06/20/2017 |  Summons Filed by: Plaintiff Khiabani, Keon <i>[21] Summons</i> |
| 06/20/2017 |  Order <i>[22] Order Denying Without Prejudice Plaintiffs' Ex Parte Motion for Order Requiring Bus Company and Bus Driver to Preserve and Immediately Turn Over Relevant Electronic Monitoring Information From Bus and Drive Cell Phone</i> |
| 06/22/2017 |  Notice of Entry <i>[23] Notice of Entry of Order Denying Without Prejudice Plaintiffs' Ex Parte Motion for Order Requiring Bus Company and Bus Driver to Preserve and Immediately Turn Over Relevant Electronic Monitoring Information from BUs and Driver Cell Phone</i> |
| 06/28/2017 |  Answer to Amended Complaint Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward <i>[24] Defendants Michelangelo Leasing Inc. dba Ryan's Express and Edward Hubbard's Answer to Plaintiffs' Amended Complaint</i> |
| 06/28/2017 |  Initial Appearance Fee Disclosure Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward <i>[25] Initial Appearance Fee Disclosure</i> |
| 06/28/2017 |  Demand for Jury Trial Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward <i>[26] Demand for Jury Trial</i> |
| 06/29/2017 |  Opposition Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward <i>[27] Defendants Michelangelo Leasing Inc. dba Ryan's Express and Edward Hubbard's Opposition to Plaintiffs' Motion for Preferential Trial Setting</i> |
| 06/29/2017 |  Opposition to Motion Filed By: Defendant Bell Sports Inc <i>[28] Defendant Bell Sports, Inc.'s Opposition To Plaintiffs' Motion For Preferential Trial Setting Under NRS 16.025(2)</i> |
| 06/30/2017 |  Answer to Amended Complaint Filed By: Defendant Motor Coach Industries Inc <i>[29] Defendant Motor Coach Industries, Inc.'s Answer to Plaintiffs' Amended Complaint</i> |
| 06/30/2017 |  Initial Appearance Fee Disclosure Filed By: Defendant Motor Coach Industries Inc <i>[30] Initial Appearance Fee Disclosure (NRS Chapter 19)</i> |
| 06/30/2017 | |

CASE SUMMARY

CASE NO. A-17-755977-C

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| |  Answer to Amended Complaint Filed By: Defendant Sevenplus Bicycles Inc <i>[31] Defendant Sevenplus Bicycles, Inc d/b/a Pro Cyclery's Answer to Plaintiff's Amended Complaint</i> |
| 06/30/2017 |  Initial Appearance Fee Disclosure <i>[32] Defendant Sevenplus Bicycles Inc. d/b/a Pro Cyclery's Initial Apperance Fee Disclosure</i> |
| 06/30/2017 |  Demand for Jury Trial <i>[33] Defendant Sevenplus Bicycles, Inc . d/b/a Pro Cyclery's Demand for Jury Trial</i> |
| 06/30/2017 |  Opposition to Motion Filed By: Defendant Motor Coach Industries Inc <i>[34] Defendant Motor Coach Industries, Inc.'s Opposition to Plaintiff's Motion for Preferential Trial Setting Under NRS 16.025(2)</i> |
| 06/30/2017 |  Notice of Early Case Conference Filed By: Plaintiff Estate of Katayoun Barin <i>[35] Notice of Early Case Conference</i> |
| 07/03/2017 |  Answer to Amended Complaint Filed By: Defendant Bell Sports Inc <i>[36] Defendant Bell Sports, Inc.'s Answer To Plaintiff's Amended Complaint</i> |
| 07/03/2017 |  Initial Appearance Fee Disclosure Filed By: Defendant Bell Sports Inc <i>[37] Defendant Bell Sports, Inc.'s Initial Appearance Fee Disclosure</i> |
| 07/03/2017 |  Demand for Jury Trial Filed By: Defendant Bell Sports Inc <i>[38] Defendant Bell Sports, Inc.'s Demand For Jury Trial</i> |
| 07/05/2017 |  Order Filed By: Plaintiff Estate of Katayoun Barin <i>[39] Order Granting in Part and Denying in Part Plaintiffs' Application Under NRCP 65(b) for Temporary Restraining Order</i> |
| 07/07/2017 |  Amended Notice of Early Case Conference Filed By: Plaintiff Estate of Katayoun Barin <i>[40] Amended Notice of Early Case Conference</i> |
| 07/07/2017 |  Joinder Filed By: Defendant Sevenplus Bicycles Inc <i>[41] Defendant Sevenplus Bicycles Inc dba Pro Cyclery's Joinder to Defendant Bell Sport Inc's Opposition to Plaintiffs' motion for Preferential Trial Setting Under NRS 16.025(2)</i> |
| 07/07/2017 |  Joinder Filed By: Defendant Sevenplus Bicycles Inc <i>[42] Defendant Sevenplus Bicycles Inc dba pro Cyclery's Joinder to Defendant Motion Coach Industries Inc's Opposition to Plaintiffs' Motion for Preferential Trial Setting Under NRS 16.025(2)</i> |
| 07/07/2017 |  Joinder Filed By: Defendant Sevenplus Bicycles Inc <i>[43] Defendant Sevenplus Bicycles Inc dba Pro Cyclery's Joinder to Defendant michelangelo</i> |

CASE SUMMARY

CASE NO. A-17-755977-C














Leasing Inc dba Ryan's Express and Edward Hubbard's Opposition to Plaintiffs' Motion for Preferential Trial Setting

| | |
|------------|---|
| 07/11/2017 |  Notice of Entry of Order Filed By: Plaintiff Estate of Katayoun Barin <i>[44] Notice of Entry of Order</i> |
| 07/11/2017 |  Order Admitting to Practice Filed By: Defendant Motor Coach Industries Inc <i>[45] Order Admitting to Practice</i> |
| 07/11/2017 |  Motion to Associate Counsel Filed By: Defendant Motor Coach Industries Inc <i>[46] Motion to Associate Counsel on Order Shortening Time (Darrell L Barger, John C Dacus and Brian Rawson)</i> |
| 07/11/2017 |  Notice of Entry of Order Filed By: Defendant Motor Coach Industries Inc <i>[47] Notice of Entry of Order Admitting to Practice</i> |
| 07/13/2017 |  Notice of Early Case Conference Filed By: Plaintiff Estate of Katayoun Barin <i>[48] Notice of Continued Early Case Conference</i> |
| 07/13/2017 |  Reply to Opposition Filed by: Plaintiff Estate of Katayoun Barin <i>[49] Plaintiffs' Combined Reply to Defendants Three Oppositions to Motion for Preferential Trial Setting</i> |
| 07/19/2017 |  Supplemental Brief Filed By: Defendant Motor Coach Industries Inc <i>[50] Defendant Motor Coach Industries, Inc.'s Supplemental Brief in Opposition to Plaintiffs' Request for Preferential Trial Setting</i> |
| 07/20/2017 |  Order <i>[51] Order Granting Plaintiffs' Motion for Preferential Trial Setting</i> |
| 07/20/2017 |  Notice of Entry of Order <i>[52] Notice of Entry of Order Granting Plaintiffs' Motion for Preferential Trial Setting</i> |
| 07/24/2017 |  Special Master Order Filed By: Special Master Hale, Floyd <i>[53] Special Master Report re: July 24, 2017 hearing</i> |
| 07/25/2017 |  Special Master Order <i>[54] Special Master Report</i> |
| 07/25/2017 |  Notice of Special Master Hearing Filed By: Other Hale, Floyd <i>[55] Notice of Special Master Hearing</i> |
| 07/25/2017 |  Application for Issuance of Commission to Take Deposition Party: Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[56] Application for Issuance of Commission to Take Deposition Out of State of Custodian of</i> |

CASE SUMMARY

CASE NO. A-17-755977-C

Records of Keck Hospital of USC (Pathology)

| | |
|------------|---|
| 07/26/2017 |  Commission to Take Deposition Outside the State of Nevada <i>[57] Commission to Take Deposition Out of State Of Custodian Records of Keck Hospital of USC</i> |
| 07/31/2017 |  Commissioners Decision on Request for Exemption - Granted <i>[58] Commissioner's Decision on Request for Exemption - Granted</i> |
| 08/02/2017 |  Disclosure Statement Party: Defendant Bell Sports Inc <i>[59] Defendant Bell Sports, Inc.'s Rule 7.1 Disclosure Statement</i> |
| 08/03/2017 |  Disclosure of Documents and Witnesses Pursuant to NRCP 16.1 Filed By: Defendant Motor Coach Industries Inc <i>[60] Motor Coach Industries, Inc.'s Initial Disclosure Pursuant to NRCP 16.1</i> |
| 08/03/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[61] Objections to Plaintiffs' Early Case Conference Disclosures Pursuant to NRCP 16.1(a)(1)</i> |
| 08/03/2017 |  Motion to Reconsider Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward <i>[62] Defendants Michelangelo Leasing Inc. and Edward Hubbard's Motion for Reconsideration Regarding the Court Granting Plaintiffs' Motion for Preferential Trial Setting</i> |
| 08/07/2017 |  Notice of Special Master Hearing <i>[63] Notice of Special Master Hearing</i> |
| 08/10/2017 |  Disclosure Statement Party: Defendant Motor Coach Industries Inc <i>[64] Motor Coach Industries, Inc.'s NRCP 7.1 Disclosure</i> |
| 08/11/2017 |  Order Admitting to Practice Filed By: Defendant Bell Sports Inc <i>[65] Order Admitting to Practice - Brian Keith Gibson</i> |
| 08/11/2017 |  Order Admitting to Practice Filed By: Defendant Bell Sports Inc <i>[66] Order Admitting to Practice - C. Scott Toomey</i> |
| 08/14/2017 |  Joinder Filed By: Defendant Sevenplus Bicycles Inc <i>[67] Defendant SevenPlus Bicycles, Inc. dba Pro Cyclery's Joinder to Defendant Ryan's Express and Edward Hubbard's Motion for Reconsideration</i> |
| 08/14/2017 |  Joinder Filed By: Defendant Motor Coach Industries Inc <i>[68] Defendant Motor Coach Industries, Inc.'s Joinder to Michelangelo Leasing Inc. and Edward Hubbard's Motion for Reconsideration Regarding the Court Granting Plaintiffs' Motion for Preferential Trial Setting</i> |
| 08/16/2017 |  Notice of Deposition <i>[69] Notice of Deposition of Custodian of Records Only Of Cricket Communications, Inc., In</i> |

CASE SUMMARY

CASE NO. A-17-755977-C

C/O Neustar

| | |
|------------|--|
| 08/16/2017 |  Subpoena Duces Tecum <i>[70] Subpoena Duces Tecum To Custodian of Records of Cricket Communications, Inc., In C/o Neustar</i> |
| 08/16/2017 |  Application for Issuance of Commission to Take Deposition <i>[71] Application for Issuance of Commission TO Take Deposition Out of State Of Custodian Of Records of Cricket Communications, Inc., In C/o Neustar</i> |
| 08/16/2017 |  Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc <i>[72] Motor Coach Industries, Inc.'s First Supplement to Initial Disclosure Pursuant to NRCP 16.1</i> |
| 08/16/2017 |  Case Management Order <i>[73] Case Management Order</i> |
| 08/17/2017 |  Commission to Take Deposition Outside the State of Nevada Filed By: Plaintiff Khiabani, Keon <i>[74] Commission to Take Deposition Out of State Of Custodian of Records of Cricket Communications, Inc., In C/O Neustar</i> |
| 08/18/2017 |  Opposition <i>[75] Plaintiffs' Opposition to Defendants Michelangelo Leasing Inc. and Edward Hubbard's Motion for Reconsideration Regarding the Court Granting Plaintiffs' Motion for Preferential Trial Setting and All Joinders Thereto</i> |
| 08/18/2017 |  Notice of Entry of Order <i>[76] Notice of Entry of Order (CMO)</i> |
| 08/18/2017 |  Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc <i>[77] Motor Coach Industries, Inc.'s Second Supplement to Initial Disclosure Pursuant to NRCP 16.1</i> |
| 08/18/2017 |  Subpoena Electronically Issued Filed by: Defendant Motor Coach Industries Inc <i>[78] Subpoena Duces Tecum to the Custodian of Records of Nevada State Board of Medical Examiners</i> |
| 08/18/2017 |  Special Master Order <i>[79] Special Master Order</i> |
| 08/21/2017 |  Notice of Entry of Order Filed By: Defendant Bell Sports Inc <i>[80] Notice of Entry of Order Admitting to Practice - Gibson</i> |
| 08/21/2017 |  Notice of Entry of Order Filed By: Defendant Bell Sports Inc <i>[81] Notice of Entry of Order Admitting to Practice - Toomey</i> |
| 08/21/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[82] Objections to Defendant Bell Sports, Inc.'s Initial Early Case Conference Disclosure of</i> |

CASE SUMMARY

CASE NO. A-17-755977-C

Witnesses and Documents

| | |
|------------|--|
| 08/22/2017 |  Notice of Special Master Hearing <i>[83] Notice of Special Master Hearing</i> |
| 08/23/2017 |  Order Admitting to Practice Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward <i>[84] Order Admitting to Practice</i> |
| 08/23/2017 |  Amended Subpoena Duces Tecum Filed By: Plaintiff Khiabani, Keon <i>[85] Amended Subpoena Duces Tecum to Custodian of Records of Cricket Communications, Inc., in c/o Neustar</i> |
| 08/23/2017 |  Notice of Entry Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward <i>[86] Notice of Entry of Order</i> |
| 08/24/2017 |  Special Master Order <i>[87] Special Master Report</i> |
| 08/24/2017 |  Stipulation and Order Filed by: Defendant Motor Coach Industries Inc <i>[88] Stipulated Protective Order</i> |
| 08/24/2017 |  Order Filed By: Defendant Motor Coach Industries Inc <i>[89] Order Admitting to Practice</i> |
| 08/24/2017 |  Motion to Associate Counsel Filed By: Defendant Motor Coach Industries Inc <i>[90] Motion to Associate Counsel on Order Shortening Time</i> |
| 08/24/2017 |  Motion to Associate Counsel Filed By: Defendant Bell Sports Inc <i>[91] Motion to Associate Counsel on Order Shortening Time - Ughetta</i> |
| 08/25/2017 |  Order Admitting to Practice Filed By: Defendant Bell Sports Inc <i>[92] Order Admitting to Practice - Ughetta</i> |
| 08/25/2017 |  Notice of Entry of Order Filed By: Defendant Bell Sports Inc <i>[93] Notice of Entry of Order Admitting to Practice - James Ughetta</i> |
| 08/25/2017 |  Notice of Entry of Order Filed By: Defendant Motor Coach Industries Inc <i>[94] Notice of Entry of Stipulated Protective Order</i> |
| 08/25/2017 |  Notice of Entry of Order Filed By: Defendant Motor Coach Industries Inc <i>[95] Notice of Entry of Order Admitting to Practice</i> |
| 08/29/2017 | |

CASE SUMMARY

CASE NO. A-17-755977-C

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|------------|---|
| |  Motion to Associate Counsel Filed By: Defendant Motor Coach Industries Inc <i>[96] Motion to Associate Counsel</i> |
| 08/29/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[97] Objections to Plaintiffs' First Supplemental Disclosures Pursuant to NRCP 16.1(a)(1)</i> |
| 08/30/2017 |  Reply to Opposition Filed by: Defendant Sevenplus Bicycles Inc <i>[98] Defendant SevenPlus Bicycles, Inc. d/b/a Pro Cyclery's Reply to Plaintiffs' Opposition to Ryan's Express and Edward Hubbard's Mtn for Reconsideration</i> |
| 08/31/2017 |  Errata Filed By: Defendant Sevenplus Bicycles Inc <i>[99] Defendant SevenPlus Bicycles, Inc. d/b/a Pro Cyclery's ERRATA to Reply to Plaintiffs' Oppositon to Defendant Ryan's Express and Edward Hubbard's Motion for Reconsideration Regarding the Court Granting Plaintiffs' Motion for Preferential Trial Setting and All Joinders Thereto</i> |
| 08/31/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[100] Objections to Plaintiffs' Second Supplemental Disclosures Pursuant to NRCP 16.1(a)(1)</i> |
| 09/01/2017 |  Notice of Deposition <i>[101] Amended Notice of Videotape/Video-Conference Deposition of Porcia Hubbard</i> |
| 09/01/2017 |  Deposition Subpoena <i>[102] Subpoena</i> |
| 09/01/2017 |  Application for Issuance of Commission to Take Deposition <i>[103] Application for Issuance of Commission to Take Deposition Out of State of Porcia Hubbard</i> |
| 09/01/2017 |  Commission Issued Filed by: Plaintiff Khiabani, Keon <i>[104] Commission to Take Deposition Out of State of Porcia Hubbard</i> |
| 09/01/2017 |  Commission to Take Deposition Outside the State of Nevada <i>[105] Commission to Take Deposition Out of State of Porcia Hubbard</i> |
| 09/06/2017 |  Order Admitting to Practice Filed By: Defendant Motor Coach Industries Inc <i>[106] Order Admitting to Practice</i> |
| 09/06/2017 |  Stipulation and Order Filed by: Defendant Motor Coach Industries Inc <i>[107] Stipulation and Order to Continue Hearing on Motion for Reconsideration</i> |
| 09/07/2017 |  Notice of Entry of Order Filed By: Defendant Motor Coach Industries Inc <i>[108] Notice of Entry of Order Admitting to Practice</i> |
| 09/07/2017 |  Notice of Entry of Order |

CASE SUMMARY

CASE NO. A-17-755977-C

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|------------|---|
| | <p>Filed By: Defendant Motor Coach Industries Inc <i>[109] Notice of Entry of Stipulation and Order to Continue Hearing on Motion for Reconsideration</i></p> |
| 09/08/2017 | <p> Objection Filed By: Defendant Motor Coach Industries Inc <i>[110] Objections to Michaelangelo Leasing, Inc. dba Ryan's Express and Edward Hubbard's Initial 16.1 Disclosure of Witnesses and Documents</i></p> |
| 09/11/2017 | <p> Notice of Change of Address Filed By: Defendant Sevenplus Bicycles Inc <i>[111] Notice of Change of Address</i></p> |
| 09/11/2017 | <p> Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc <i>[112] Motor Coach Industries, Inc.'s Third Supplement to Initial Disclosure Pursuant to NRCP 16.1</i></p> |
| 09/11/2017 | <p> Objection Filed By: Defendant Motor Coach Industries Inc <i>[113] Objections to Plaintiffs' Third Supplemental Disclosures Pursuant to NRCP 16.1(a)(1)</i></p> |
| 09/11/2017 | <p> Objection Filed By: Defendant Motor Coach Industries Inc <i>[114] Objections to Plaintiffs' Notice of Filing Partial Expert Report of Larry D. Stokes, Ph.D.</i></p> |
| 09/12/2017 | <p> Special Master Order <i>[115] Special Master Report and Order Allowing Motor Coach Industries to Commence Edward Hubbard Deposition</i></p> |
| 09/12/2017 | <p> Notice of Special Master Hearing <i>[116] Notice of Special Master Hearing</i></p> |
| 09/14/2017 | <p> Objection Filed By: Defendant Motor Coach Industries Inc <i>[117] Objections to Plaintiffs' Notice of Filing Second Partial Expert Report of Larry D. Stokes, Ph.D.</i></p> |
| 09/14/2017 | <p> Notice of Deposition <i>[118] Notice of Video Conference / Videotape Deposition of Pablo Fierros</i></p> |
| 09/14/2017 | <p> Deposition Subpoena <i>[119] Subpoena</i></p> |
| 09/14/2017 | <p> Application for Issuance of Commission to Take Deposition <i>[120] Application for Issuance of Commission to Take Deposition Out of State of Pablo Fierros</i></p> |
| 09/18/2017 | <p> Objection Filed By: Defendant Motor Coach Industries Inc <i>[121] Objections to Plaintiffs' Notice of Filing Third Partial Expert Report of Larry D. Stokes, Ph.D.</i></p> |
| 09/19/2017 | <p> Supplement <i>[122] Plaintiffs' Supplement to Opposition to Defendants Michaelangelo Leasing Inc. and</i></p> |

CASE SUMMARY

CASE NO. A-17-755977-C

Edward Hubbard's Motion for Reconsideration Regarding the court Granting Plaintiffs' Motion for Preferential Trial Setting and All Joinders Thereto

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|------------|---|
| 09/19/2017 |  Brief Filed By: Defendant Bell Sports Inc <i>[123] Bell Sports, Inc's Brief In Support of Discovery Status</i> |
| 09/19/2017 |  Commission Issued <i>[124] Commission to Take Deposition Out of State of Pablo Fierros</i> |
| 09/20/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[125] Objections to Plaintiffs' Fourth Supplemental Disclosures Pursuant to NRCP 16.1(a)(1)</i> |
| 09/20/2017 |  Supplement Filed by: Defendant Motor Coach Industries Inc <i>[126] Supplement to Motor Coach Industries, Inc.'s Joinder to Michelangelo Leasing Inc. and Edward Hubbard's Motion for Reconsideration Regarding the Court Granting Plaintiffs' Motion for Preferential Trial Setting</i> |
| 09/21/2017 |  Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc <i>[127] Motor Coach Industries, Inc.'s Fourth Supplement to Initial Disclosure Pursuant to NRCP 16.1</i> |
| 09/22/2017 |  Motion for Good Faith Settlement Filed By: Defendant Sevenplus Bicycles Inc <i>[128] Defendant SevenPlus Bicycles, Inc d/b/a Pro Cyclery's Motion for Determination of Good Fiath Settlement</i> |
| 09/25/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[129] Objections to Plaintiffs' Fifth Supplemental Disclosures Pursuant to NRCP 16.1(a)(1)</i> |
| 09/27/2017 |  Special Master Order <i>[130] Special Master Report</i> |
| 09/27/2017 |  Notice of Special Master Hearing <i>[131] Notice of Special Master Hearing</i> |
| 09/28/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[132] Objections to Defendant Bell Sports, Inc.'s First Supplement to Initial Early Case Conference Disclosure of Witnesses and Documents</i> |
| 10/03/2017 |  Special Master Order <i>[133] Special Master Report Regarding Dr. Jack E. Hubbard Deposition</i> |
| 10/05/2017 |  Motion to Compel Filed By: Defendant Motor Coach Industries Inc <i>[134] Defendant Motor Coach Industries, Inc.'s Motion to Compel Production of Documents by Las Vegas Metropolitan Police Department on Order Shortening Time</i> |
| 10/05/2017 |  Reporters Transcript Filed By: Defendant Motor Coach Industries Inc; Plaintiff Estate of Katayoun Barin |

CASE SUMMARY

CASE NO. A-17-755977-C

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| | <i>[135] Reporter's Transcription of Motion for Temporary Restraining Order - June 15, 2017</i> |
| 10/05/2017 |  Reporters Transcript Filed By: Defendant Motor Coach Industries Inc; Plaintiff Estate of Katayoun Barin <i>[136] Reporter's Transcription of Motion for Preferential Trial Setting - July 20, 2017</i> |
| 10/05/2017 |  Reporters Transcript Filed By: Defendant Motor Coach Industries Inc; Plaintiff Estate of Katayoun Barin <i>[137] Reporter's Transcription of Motion of Status Check and Motion for Reconsideration with Joinder - September 21, 2017</i> |
| 10/06/2017 |  Notice of Hearing Filed By: Defendant Motor Coach Industries Inc <i>[138] Notice of Hearing on Defendant Motor Coach Industries, Inc.'s Motion to Compel Production of Documents By Las Vegas Metropolitan Police Department on Order Shortening Time</i> |
| 10/09/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[139] Objections to Defendant Bell Sports, Inc.'s Second Supplement to Initial Early Case Conference Disclosure of Witnesses and Documents</i> |
| 10/09/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[140] Objections to Michelangelo Leasing, Inc. dba Ryan's Express and Edward Hubbard's First Supplemental 16.1 Disclosure of Witnesses and Documents</i> |
| 10/09/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[141] Objections to Plaintiffs' Sixth Supplemental Disclosures Pursuant to NRCP 16.1(a)(1)</i> |
| 10/10/2017 |  Notice of Special Master Hearing Filed By: Other Hale, Floyd <i>[142] Notice of Special Master Hearing</i> |
| 10/10/2017 |  Special Master Order <i>[143] Special Master Report</i> |
| 10/10/2017 |  Motion <i>[144] Plaintiffs' Motion to Allow Plaintiffs To Present a Jury Questionnaire Prior to Voir Dire On Order Shortening Time</i> |
| 10/10/2017 |  Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc <i>[145] Motor Coach Industries, Inc.'s Fifth Supplement to Initial Disclosure Pursuant to NRCP 16.1</i> |
| 10/13/2017 |  Declaration Filed By: Plaintiff Khiabani, Keon <i>[146] Declaration of service Detective Kenneth Salisbury</i> |
| 10/16/2017 |  Notice of Special Master Hearing <i>[147] Notice of Rescheduled Special Master Hearing</i> |
| 10/16/2017 | |

CASE SUMMARY

CASE NO. A-17-755977-C

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| |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[148] Objections to Plaintiffs' Expert Witness Disclosure Pursuant to NRCP 16.1(a)(2) (Damages Only)</i> |
| 10/16/2017 |  Designation of Expert Witness Filed By: Defendant Motor Coach Industries Inc <i>[149] Designation of Expert Witnesses</i> |
| 10/16/2017 |  Special Master Order <i>[150] Special Master Order</i> |
| 10/17/2017 |  Designation of Expert Witness Filed By: Defendant Motor Coach Industries Inc <i>[151] First Supplement to Designation of Expert Witnesses</i> |
| 10/17/2017 |  Notice of Association of Counsel <i>[152] Notice of Association of Counsel</i> |
| 10/17/2017 |  Notice <i>[153] Notice of Submittal</i> |
| 10/17/2017 |  Notice of Removal Filed By: Defendant Motor Coach Industries Inc <i>[154] Defendant's Notice of Filing Notice of Removal</i> |
| 10/24/2017 |  Order to Statistically Close Case <i>[155] Civil Order to Statistically Close Case</i> |
| 10/25/2017 |  Notice of Special Master Hearing Filed By: Other Hale, Floyd <i>[156] Notice of Cancellation of Special Master Hearing</i> |
| 10/27/2017 |  Motion for Summary Judgment Filed By: Plaintiff Estate of Katayoun Barin <i>[157] Motion for Summary Judgment On Foreseeability of Bus Interaction With Pedestrians or Bicyclists (Including Sudden Bicycle Movement)</i> |
| 10/27/2017 |  Motion in Limine Filed By: Plaintiff Estate of Katayoun Barin <i>[158] Motion In Limine No. 1 to Preclude Reference Or Argument Regarding The Alleged Negligence of Third Parties (I.E., Michelangelo and Hubbard)</i> |
| 10/27/2017 |  Motion in Limine <i>[159] Motion In Limine No. 2 To Preclude Any Reference To Settling Defendants (Including Claims, Settlement and Amounts)</i> |
| 10/27/2017 |  Motion in Limine <i>[160] Motion In Limine No. 3 To Preclude Defendant MCI from Arguing That Decedent Was Contributorily Negligent</i> |
| 10/27/2017 |  Motion in Limine Filed By: Plaintiff Estate of Katayoun Barin <i>[161] Motion In Limine No. 4 To Preclude MCI From Making Excessive Reference to the</i> |

CASE SUMMARY

CASE NO. A-17-755977-C

Fact that Plaintiffs Are of Iranian or "Persian" Descent

10/27/2017



Motion in Limine

Filed By: Plaintiff Estate of Katayoun Barin

[162] Motion In Limine No. 5 To Preclude Defendants From Arguing Or Suggesting That Plaintiffs Must Prove That The Bus Had Any Specific Defect

10/27/2017



Motion in Limine

Filed By: Plaintiff Estate of Katayoun Barin

[163] Motion In Limine No. 6 To Preclude Defendants From Mentioning That Defense Expert Dr. Michael Baden ("OJ's Medical Examiner") Worked For the Christiansen Law Firm

10/27/2017



Motion in Limine

Filed By: Plaintiff Estate of Katayoun Barin

[164] Motion In Limine No. 7 To Preclude Defendant MCI From Arguing That The Alleged Lack of Proximity Sensors From A Third party ("Commercial Availability") As A Defense Where the True Issue Is Whether Proximity Sensors Were Technologically "Feasible"

10/27/2017



Motion in Limine

Filed By: Plaintiff Estate of Katayoun Barin

[165] Motion In Limine No. 8 To Pre Instruct THE Jury With Standard Instructions For Product Liability Claims

10/27/2017



Motion in Limine

Filed By: Plaintiff Estate of Katayoun Barin

[166] Motion In Limine No. 9 To Preclude Metro Report And/Or Opinions From Metro Officers

10/27/2017



Motion in Limine

Filed By: Plaintiff Estate of Katayoun Barin

[167] Motion In Limine No. 10 To Pre Admit Funeral Video and Funeral Slide Show

10/27/2017



Motion in Limine

Filed By: Plaintiff Estate of Katayoun Barin

[168] Motion In Limine No. 11 Pre Admit 1993 Generic Bus Wind Testing By MCI

10/27/2017



Motion in Limine

[169] Motion In Limine No. 12 To Preclude MCI Expert Rucoba From Offering Meteorologist Opinions Regarding Wind Speed At The Time Of the Accident (Including But Not Limited To The Wildly Unsupported Claim That Wind Speeds At 10:30 a.m. Were "16 to 17 Mles Per Hours" And "Winds Were Gusting to 30 Miles Per Hour"

10/27/2017



Motion in Limine

[170] Motion In Limine No. 13 Preclude Defendants From Arguing Or Referencing Rigged Air Blast Testing That Is Not Substantially Similar Because It Used Stationary Bike and Not A Moving Bike

10/27/2017



Motion in Limine

[171] Motion In Limine No. 14 To Designate Virgil Hoogestraat As Managing Speaking Agent of MCI

10/27/2017



Motion in Limine

Filed By: Plaintiff Estate of Katayoun Barin

[172] Motion In Limine No. 15 To Designate Bryan Couch as Managing Speaking Agent Of Motor Coach Industries, Inc.

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|--|
| 10/27/2017 |  Motion in Limine <i>[173] Motion In Limine No. 16 To Pre Admit June 2001 Article As Notice of Potential Rear Tire Suction Hazard And Need For Protective Guard</i> |
| 10/30/2017 |  Notice of Hearing Filed By: Defendant Sevenplus Bicycles Inc <i>[174] Notice of Hearing on Defendant SevenPlus Bicycles, Inc d/b/a Pro Cyclery's Motion for Determination of Good Faith Settlement</i> |
| 10/31/2017 |  Motion Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria <i>[175] Plaintiffs' Motion to Amend Complaint to Substitute Parties on Order Shortening Time</i> |
| 11/01/2017 |  Opposition and Countermotion <i>[176] Opposition to Plaintiffs' Motion to Amend Complaint and Countermotion to Set a Reasonable Date Upon Changed Circumstance that Nullifies the Reason for Preferential Trial Setting</i> |
| 11/07/2017 |  Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc <i>[177] Motor Coach Industries, Inc.'s Sixth Supplement to Initial Disclosure Pursuant to NRCP 16.1</i> |
| 11/13/2017 |  Designation of Expert Witness Filed By: Defendant Motor Coach Industries Inc <i>[178] Fourth Supplement to Designation of Expert Witnesses</i> |
| 11/13/2017 |  Application Filed By: Defendant Motor Coach Industries Inc <i>[179] Application to Issue Commission to Serve Subpoena Duces Tecum Outside the State of Nevada</i> |
| 11/14/2017 |  Commission Issued Filed by: Defendant Motor Coach Industries Inc <i>[180] Commission to Serve Subpoena Duces Tecum Outside the State of Nevada</i> |
| 11/14/2017 |  Application Filed By: Defendant Motor Coach Industries Inc <i>[181] Application to Issue Commission to Serve Subpoena Duces Tecum Outside the State of Nevada</i> |
| 11/14/2017 |  Commission Issued Filed by: Defendant Motor Coach Industries Inc <i>[182] Commission to Serve Subpoena Duces Tecum Outside the State of Nevada</i> |
| 11/15/2017 |  Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc <i>[183] Motor Coach Industries, Inc.'s Seventh Supplement to Initial Disclosure Pursuant to NRCP 16.1</i> |
| 11/17/2017 |  Amended Complaint Filed By: Plaintiff Estate of Katayoun Barin <i>[184] Second Amended Complaint And Demand for Jury Trial</i> |
| 11/17/2017 |  Order |

CASE SUMMARY

CASE NO. A-17-755977-C

[185] Order Regarding "Plaintiffs' Motion to Amend Complaint to Substitute Parties" and "Counter-motion to Set a Reasonable Trial Date Upon Changed Circumstance that Nullifies the Reason for Preferential Trial Setting"

11/17/2017



Application

Filed By: Defendant Motor Coach Industries Inc

[186] Application to Issue Commission to Serve Subpoena Duces Tecum Outside the State of Nevada

11/20/2017



Commission Issued

Filed by: Defendant Motor Coach Industries Inc

[187] Commission to Serve Subpoena Duces Tecum Outside the State of Nevada

11/20/2017



Notice of Deposition

[188] Notice of Video tape/Video Conference Deposition of Jose Parada

11/20/2017



Deposition Subpoena

[189] Subpoena to Jose Parada

11/20/2017



Application for Issuance of Commission to Take Deposition

[190] Application for Issuance of Commission to Take Deposition Out of State of Jose Parada

11/20/2017



Commission Issued

[191] Commission to Take Deposition Out of State of Jose Parada

11/20/2017



Objection

Filed By: Defendant Motor Coach Industries Inc

[192] Objections to Plaintiffs' Eighth Supplemental Disclosures Pursuant to NRCP 16.1(a)(1)

11/21/2017



Deposition Subpoena

[193] Amended Subpoena to Jose Parada

11/21/2017



Commission to Take Deposition Outside the State of Nevada

[194] Commission to Take Deposition Out of State of Jose Parada

11/22/2017



Objection

Filed By: Defendant Motor Coach Industries Inc

[195] Objections to Plaintiffs' Addendum to Report of Rebuttal Expert Witness Jay Rosenthal, CCM

12/01/2017



Notice

[196] Notice of Briefing Schedule and Stay of December 8, 2017, Deposition of Glenn Asham and Notice of Special Master Hearing

12/01/2017



Motion for Summary Judgment

Filed By: Defendant Motor Coach Industries Inc

[197] Motion for Summary Judgment on Punitive Damages

12/01/2017



Appendix

Filed By: Defendant Motor Coach Industries Inc

[198] Volume I: Appendix of Exhibits to Motion for Summary Judgment on Punitive Damages

12/01/2017



Appendix

Filed By: Defendant Motor Coach Industries Inc

CASE SUMMARY

CASE NO. A-17-755977-C

[199] Volume II: Appendix of Exhibits to Motion for Summary Judgment on Punitive Damages

12/01/2017



Appendix

Filed By: Defendant Motor Coach Industries Inc

[200] Volume III: Appendix of Exhibits to Motion for Summary Judgment on Punitive Damages

12/04/2017



Motion for Summary Judgment

Filed By: Defendant Motor Coach Industries Inc

[201] Motor Coach Industries, Inc.'s Motion for Summary Judgment on All Claims Alleging a Product Defect

12/06/2017



Notice of Special Master Hearing

[202] Notice of Special Master Hearing

12/07/2017



Designation of Expert Witness

Filed By: Defendant Motor Coach Industries Inc

[203] Fifth Supplement to Designation of Expert Witnesses

12/07/2017



Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[204] Defendant's Motion in Limine No. 2 to Exclude Illustrations by Plaintiffs' Expert Joshua Cohen That Have No Basis in Fact

12/07/2017



Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[205] Defendant's Motion in Limine No. 3 to Preclude Plaintiffs From Making Reference To a "Bullet Train"

12/07/2017



Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[206] Defendant's Motion in Limine No. 13 to Exclude Plaintiffs' Expert Witness Robert Cunitz, Ph.D., or in the Alternative, to Limit His Testimony

12/07/2017



Motion to Dismiss

Filed By: Defendant Motor Coach Industries Inc

[207] Defendant's Motion to Dismiss Wrongful Death Claim for Death of Katayoun Barin, DDS

12/07/2017



Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[208] Defendant's Motion in Limine No. 14 to Exclude Articles Regarding or Reference to Transit Buses

12/07/2017



Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[209] Defendant's Motion in Limine No. 7 to Exclude Any Claims That the Subject Motor Coach Was Defective Based on Alleged Dangerous "Air Blasts"

12/07/2017



Appendix

Filed By: Defendant Motor Coach Industries Inc

[210] Appendix of Exhibits to Defendant's Motion in Limine No. 13 to Exclude Plaintiffs' Expert Witness Robert Cunitz, Ph.D., or in the Alternative, to Limit His Testimony

12/07/2017



Motion in Limine

CASE SUMMARY

CASE NO. A-17-755977-C

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|------------|---|
| | <p>Filed By: Defendant Motor Coach Industries Inc <i>[211] Defendant's Motion in Limine No. 16 to Exclude Opinions by Plaintiffs' Expert Dipak Panigrahy</i></p> |
| 12/07/2017 | <p> Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc <i>[212] Motor Coach Industries, Inc.'s Eighth Supplement to Initial Disclosure Pursuant to NRCP 16.1</i></p> |
| 12/07/2017 | <p> Motion in Limine Filed By: Defendant Motor Coach Industries Inc <i>[213] Defendant's Motion in Limine No. 15 to Exclude Opinion Testimony From Lay Witnesses on Causation and Engineering Principles</i></p> |
| 12/07/2017 | <p> Appendix Filed By: Defendant Motor Coach Industries Inc <i>[214] Appendix of Exhibits to Defendant's Motion in Limine No. 7 to Exclude Any Claims That the Subject Motor Coach Was Defective Based on Alleged Dangerous "Air Blasts"</i></p> |
| 12/08/2017 | <p> Motion in Limine Filed By: Defendant Motor Coach Industries Inc <i>[215] Defendant's Motion in Limine No. 1 to Limit Opinions by Plaintiffs' Expert Robert Caldwell</i></p> |
| 12/08/2017 | <p> Motion in Limine Filed By: Defendant Motor Coach Industries Inc <i>[216] Defendant's Motion in Limine No. 5 to Exclude Any Claim of Defect Based on S-1 Gard</i></p> |
| 12/08/2017 | <p> Motion in Limine Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[217] Plaintiff's Motion in Limine No. 18 to Preclude the Admission of Prejudicial and Irrelevant Information Regarding Unrelated Disputes</i></p> |
| 12/08/2017 | <p> Motion in Limine Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[218] Plaintiffs' Motion in Limine No. 17 To Admit Evidence of Facts Establishing Defendant's Consciousness of Responsibility</i></p> |
| 12/08/2017 | <p> Motion in Limine <i>[219] Motion in Limine No. 4 to Preclude Plaintiffs from Presenting Evidence that Proximity Sensors were a Safer Alternative Design</i></p> |
| 12/08/2017 | <p> Motion in Limine <i>[220] Motion in Limine No. 6 to Exclude Reference to New Flyer Industries, Inc. (NFI Group)</i></p> |
| 12/08/2017 | <p> Motion in Limine <i>[221] Defendant's Motion in Limine No. 11 to Exclude Plaintiffs' Expert Witness David Roger</i></p> |
| 12/08/2017 | <p> Motion in Limine <i>[222] Motion in Limine No. 8 to Exclude Any Reference to Seatbelts</i></p> |
| 12/08/2017 | <p> Motion in Limine <i>[223] Plaintiffs' Motion In Limine To Exclude The Testimony Of Untimely Disclosed Expert</i></p> |

CASE SUMMARY

CASE NO. A-17-755977-C

Witness Robert Stahl, MD

| | |
|------------|---|
| 12/08/2017 |  Appendix Filed By: Defendant Motor Coach Industries Inc <i>[224] Appendix of Exhibits to Defendant's Motion in Limine No. 5 to Exclude Any Claim of Defect Based on S-1 Gard</i> |
| 12/08/2017 |  Exhibits <i>[225] Exhibits to Plaintiffs' Motion In Limine To Exclude The Testimony of Untimely Disclosed Expert Witness Robert Stahl, MD</i> |
| 12/08/2017 |  Motion in Limine Filed By: Defendant Motor Coach Industries Inc <i>[226] Defendant's Motion in Limine No. 17 to Exclude Claim of Lost Income, Including the August 28 Expert Report of Larry Stokes</i> |
| 12/08/2017 |  Motion in Limine <i>[227] Motion in Limine No. 10 to Exclude Speculation as to Decendent's Thoughts About the Motor Coach</i> |
| 12/08/2017 |  Motion in Limine <i>[228] Motion in Limine No. 9 to Exclude Reference to the Ghost Bike Memorial</i> |
| 12/08/2017 |  Motion in Limine <i>[229] Motion in Limine No. 12 to Exclude Reference to the Cost of the S-1 Gard or Proximity Sensors</i> |
| 12/08/2017 |  Motion in Limine <i>[230] Plaintiffs' Motion In Limine To Exclude Any Testimony On The Untimely Supplemental Expert Report Filed By Defense Expert Carhart</i> |
| 12/11/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[231] Objections to Plaintiffs' 8th Supplemental Expert Witness Disclosure of Robert Breidenthal and Joshua Cohen and/or Disclosure of Demonstrative Exhibits</i> |
| 12/13/2017 |  Transcript of Proceedings <i>[232] Transcript of Proceedings taken on November 2, 2017</i> |
| 12/19/2017 |  Application for Issuance of Commission to Take Deposition Party: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria <i>[233] Application for Issuance of Commission to Take Deposition of Steven M. Day, PhD</i> |
| 12/19/2017 |  Commission to Take Deposition Outside the State of Nevada Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria <i>[234] Commission to Take Out of State Deposition of Steven M. Day, PhD</i> |
| 12/20/2017 |  Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc <i>[235] Motor Coach Industries, Inc.'s Ninth Supplement to Initial Disclosure Pursuant to NRCp 16.1</i> |
| 12/21/2017 |  Designation of Expert Witness Filed By: Defendant Motor Coach Industries Inc <i>[236] Sixth Supplement to Designation of Expert Witnesses</i> |

CASE SUMMARY

CASE NO. A-17-755977-C

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|------------|---|
| 12/21/2017 |  Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc <i>[237] Motor Coach Industries, Inc.'s Tenth Supplement to Initial Disclosure Pursuant to NRCP 16.1</i> |
| 12/21/2017 |  Opposition <i>[238] Plaintiffs' Joint Opposition to MCI Motion For Summary Judgment On All Claims Alleging A Product Defect and to MCI Motion for Summary Judgment on Punitive Damages</i> |
| 12/21/2017 |  Appendix <i>[239] Appendix of Exhibits to Plaintiffs' Joint Opposition To MCI Motion For Summary Judgment On All Claims Alleging A Product Defect And to MCI Motion for Summary Judgment On Punitive Damages</i> |
| 12/22/2017 |  Notice of Special Master Hearing <i>[240] Notice of Rescheduled Special Master Hearing</i> |
| 12/22/2017 |  Notice of Hearing Filed By: Defendant Motor Coach Industries Inc <i>[241] Notice of Hearing on Defendant's Motion for Leave to File Third Party Complaint on Order Shortening Time</i> |
| 12/22/2017 |  Motion for Leave to File Party: Defendant Motor Coach Industries Inc <i>[242] Defendant's Motion for Leave to File Third Party Complaint on Order Shortening Time</i> |
| 12/26/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[243] Objections to Plaintiffs' 9th Supplemental Expert Disclosure of Thomas P. Flanagan</i> |
| 12/26/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[244] Objections to Plaintiffs' Amended Rebuttal Report of Alexander Lariviere</i> |
| 12/27/2017 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[245] Objections to Plaintiffs' Ninth Supplemental Disclosures Pursuant to NRCP 16.1(a)(1)</i> |
| 12/27/2017 |  Opposition to Motion For Summary Judgment Filed By: Defendant Motor Coach Industries Inc <i>[246] Opposition to "Motion for Summary Judgment on Foreseeability of Bus Interaction with Pedestrians of Bicyclists (Including Sudden Bicycle Movement)"</i> |
| 01/05/2018 |  Finding of Fact and Conclusions of Law Filed By: Defendant Sevenplus Bicycles Inc <i>[247] Findings of Fact Conclusions of Law and Order on Motion for Determination of Good Faith Settlement</i> |
| 01/08/2018 |  Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Defendant Bell Sports Inc <i>[248] Notice of Entry of Findings of Fact Conslusions of Law and Order on Motion for Determination of Good Faith Settlement</i> |
| 01/08/2018 |  Opposition to Motion in Limine |

CASE SUMMARY

CASE NO. A-17-755977-C

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| | <p>Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Kayvan Khibani M.D. <i>[249] Plaintiffs Opposition to Defendant s Motion in Limine No. 9 To Exclude Reference to the "Ghost Bike" Memorial</i></p> |
| 01/08/2018 | <p> Opposition to Motion in Limine <i>[250] Plaintiffs' Opposition to Defendant's Motion In Limine No. 13 To Exclude Plaintiffs' Expert Witness Robert Cunitz, Ph.D. Or In The Alternative TO Limit His Testimony</i></p> |
| 01/08/2018 | <p> Opposition to Motion in Limine Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Kayvan Khibani M.D. <i>[251] Plaintiffs Opposition to Defendant s Motion in Limine No. 10 to Exclude Speculation as to Decedent s Thoughts About the Motor Coach</i></p> |
| 01/08/2018 | <p> Opposition to Motion in Limine Filed By: Defendant Motor Coach Industries Inc <i>[252] Motor Coach Industries, Inc.'s Partial Opposition to Plaintiffs' Motion in Limine No. 2 to Preclude Any Reference to Settling Defendants (Including Claim Settlement and Amounts)</i></p> |
| 01/08/2018 | <p> Opposition to Motion in Limine Filed By: Defendant Motor Coach Industries Inc <i>[253] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 6 to Preclude Defendants from Mentioning That Defense Expert Dr. Michael Baden ("OJ's Medical Examiner") Worked for the Christiansen Law Firm</i></p> |
| 01/08/2018 | <p> Opposition to Motion in Limine <i>[254] Plaintiffs' Joint Opposition to Defendant's Motion In Limine No. 3 To Preclude Plaintiffs From Making Reference To A "Bullet Train" And To Defendant's Motion In Limine No. 7 To Exclude Any Claims That The Motor Coach Was Defective Based On Alleged Dangerous "Air Blasts"</i></p> |
| 01/08/2018 | <p> Opposition to Motion in Limine Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Kayvan Khibani M.D. <i>[255] Plaintiffs Opposition to Defendant s Motion in Limine No. 11 to Exclude Plaintiffs Expert Witness David Roger</i></p> |
| 01/08/2018 | <p> Opposition to Motion in Limine Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Kayvan Khibani M.D. <i>[256] Plaintiffs Opposition to Defendant s Motion in Limine No. 6 to Exclude Reference to New Flyer Industries, Inc. (NFI Group)</i></p> |
| 01/08/2018 | <p> Opposition to Motion in Limine Filed By: Defendant Motor Coach Industries Inc <i>[257] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 8 to Pre-Instruct the Jury With Standard Instructions for Product Liability Claims</i></p> |
| 01/08/2018 | <p> Opposition to Motion in Limine Filed By: Defendant Motor Coach Industries Inc <i>[258] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 9 to Preclude Metro Report and/or Opinions from Metro Officer</i></p> |
| 01/08/2018 | <p> Opposition to Motion in Limine Filed By: Defendant Motor Coach Industries Inc <i>[259] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 11 to Pre-</i></p> |

CASE SUMMARY

CASE NO. A-17-755977-C

Admit 1993 Generic Bus Wind Testing by MCI

01/08/2018



Opposition to Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[260] Motor Coach Industries, Inc.'s Joint Opposition to Plaintiffs' Motion in Limine No. 14 to Designate Virgil Hoogstraat as Managing Speaking Agent of MCI and Motion in Limine No. 15 to Designate Bryan Couch as Managing Speaking Agent of Motor Coach Industries, Inc.

01/08/2018



Opposition to Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[261] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 18 to Preclude the Admission of Irrelevant Information Regarding Unrelated Disputes

01/08/2018



Opposition to Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[262] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine to Exclude Any Testimony of the Untimely Supplemental Expert Report Filed by Defense Expert Carhart

01/08/2018



Opposition to Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[263] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine to Exclude the Testimony of Untimely Disclosed Expert Witness Robert Stahl, M.D.

01/08/2018



Opposition to Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[264] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 16 to Pre-Admit June 2011 Article as Notice of Potential Rear Tire Suction Hazard and Need for Protective Guard

01/08/2018



Opposition to Motion in Limine

Filed By: Plaintiff Khiabani, Keon

[265] Plaintiffs' Opposition to Defendants' Motion In Limine No. 5 to Exclude Any Claim of Defect Based on S1 Gard

01/08/2018



Opposition to Motion in Limine

Filed By: Plaintiff Khiabani, Keon

[266] Plaintiffs' Opposition to Defendant's Motion In Limine No. 12 to Exclude Reference To The Cost of The S-1 Gard Or Proximity Sensors

01/08/2018



Opposition to Motion in Limine

Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Kayvan Khibani M.D.

[267] Plaintiffs Opposition to Defendant s Motion in Limine No. 14 to Exclude Articles Regarding or Reference to Transit Buses

01/08/2018



Opposition to Motion to Dismiss

Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[268] Plaintiffs Opposition To Defendant s Motion To Dismiss Wrongful Death Claim For Death Of Katayoun Barin, DDS

01/08/2018



Opposition to Motion in Limine

[269] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 1 to Preclude Reference or Argument Regarding the Alleged Negligence of Third Parties (i.e. Michaelangelo and Hubbard)

01/08/2018

CASE SUMMARY

CASE NO. A-17-755977-C

01/08/2018



Opposition to Motion in Limine

[270] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 3 to Preclude Defendant MCI from Arguing that Decedent was Contributorily Negligent



Opposition to Motion in Limine

[271] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 4 to Preclude MCI from Making Excessive Reference to the Fact that Plaintiffs are of Iranian or "Persian" Descent

01/08/2018



Opposition to Motion in Limine

[272] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 5 to Preclude Defendant from Arguing or Suggesting that Plaintiffs Must Prove that the Bus had any Specific Defect

01/08/2018



Opposition to Motion in Limine

[273] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 7 to Preclude Defendant MCI from Arguing that the Alleged Lack of Proximity Sensors from a Third Party ("Commercial Availability") as a Defense where the True Issue is Whether Proximity Sensors were Technologically "Feasible"

01/08/2018



Opposition to Motion in Limine

[274] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 10 (To Pre-Admit the Entire One-And-A-Half-Hour Funeral and Slide Show)

01/08/2018



Opposition to Motion in Limine

[275] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 17 to Admit Evidence of Facts Establishing Defendants' Consciousness of Responsibility

01/08/2018



Opposition to Motion in Limine

Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.
[277] Plaintiffs Opposition to Defendant's Motion in Limine No. 4 to Preclude Plaintiffs From Presenting Evidence that Proximity Sensors Were a Safer Alternative Design

01/09/2018



Errata

Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.
[276] Errata to Plaintiffs Opposition to Defendant's Motion in Limine No. 4 to Preclude Plaintiffs From Presenting Evidence that Proximity Sensors Were a Safer Alternative Design

01/09/2018



Opposition to Motion in Limine

[278] Plaintiffs' Opposition to Defendant's Motion In Limine No. 17 To Exclude Claim of Lost Income, Including The August 28 Expert Report of Larry Stokes

01/09/2018



Opposition to Motion in Limine

[279] Plaintiffs' Opposition to Defendant's Motion In Limine No. 1 to Limit Opinions By Plaintiffs' Expert Robert Caldwell

01/09/2018



Opposition to Motion in Limine

Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.
[280] Plaintiffs Opposition to Defendant's Motion in Limine No. 8 to Exclude Any Reference to Seatbelts

01/10/2018



Media Request and Order

[281] Media Request And Order Allowing Camera Access To Court Proceedings

CASE SUMMARY

CASE NO. A-17-755977-C

01/11/2018



Opposition to Motion in Limine

Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[282] Plaintiffs Opposition to Defendant s Motion in Limine No. 15 to Exclude Opinion Testimony from Lay Witnesses on Causation and Engineering Principles

01/11/2018



Objection

Filed By: Defendant Motor Coach Industries Inc

[283] Objections to Plaintiffs' Tenth Supplemental Disclosures Pursuant to NRCP 16.1(a)(1)

01/11/2018



Opposition to Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[284] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 12 to Preclude Expert Witness Robert Rucoba from Offering Meteorological Opinions Regarding Wind Speed at the Time of the Accident

01/11/2018



Opposition to Motion in Limine

Filed By: Defendant Motor Coach Industries Inc

[285] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Motion in Limine No. 13 to Preclude Defendants from Arguing or Referencing Rigged Air Blast Testing That is Not Substantially Similar Because it Used a Stationary Bike and Not a Moving Bike

01/11/2018



Opposition to Motion in Limine

Filed By: Plaintiff Estate of Katayoun Barin

[286] Plaintiffs' Opposition to Defendant's Motion in Limine No. 2 to Exclude Illustrations by Plaintiffs' Expert Joshua Cohen That Have No Basis in Fact

01/11/2018



Opposition to Motion in Limine

Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[287] Plaintiffs Opposition to Defendant s Motion in Limine No. 16 to Exclude Opinions by Plaintiffs Expert Witness Dipak Panigrahy

01/12/2018



Motion to Seal/Redact Records

Filed By: Defendant Bell Sports Inc

[288] Defendant Bell Sports, Inc.'s Ex Parte Motion To Seal Record

01/12/2018



Opposition to Motion

[289] Plaintiffs' Opposition to Defendant Motorcoach Industries, Inc.'s Motion For Leave To File Third Party Complaint

01/12/2018



Objection

[292] Non-Party New Flyer Industries, Inc.'s Objection to Special Master Hale's January 4, 218 Order

01/12/2018



Initial Appearance Fee Disclosure

Filed By: Other New Flyer Industries, Inc.

[293] Initial Appearance Fee Disclosure - New Flyer Industries, Inc.

01/16/2018



Stipulation and Order

[290] Stipulation and Order Allowing Jury Questionnaire

01/16/2018



Reply to Opposition

[291] Reply to Opposition to Motion for Summary Judgment On Foreseeability Of Bus

CASE SUMMARY

CASE NO. A-17-755977-C

Interaction With Pedestrians Or Bicyclists (Including Sudden Bicycle Movement)

| | |
|------------|---|
| 01/17/2018 |  Notice of Entry of Stipulation and Order <i>[294] Notice of Entry of Stipulation and Order Allowing Jury Questionnaire</i> |
| 01/17/2018 |  Addendum <i>[295] Plaintiffs' Addendum to Reply to Opposition to Motion For Summary Judgment On Foreseeability of Bus Interaction With Pedestrians Or Bicyclists (Including Sudden Bicycle Movement)</i> |
| 01/17/2018 |  Reply to Opposition Filed by: Defendant Motor Coach Industries Inc <i>[296] Reply to Plaintiffs' Opposition to Motion to Dismiss Wrongful Death Claim for Death of Katayoun Barin, DDS</i> |
| 01/17/2018 |  Reply to Opposition Filed by: Defendant Motor Coach Industries Inc <i>[297] Reply to Plaintiffs' Opposition to Motion for Summary Judgment on Punitive Damages</i> |
| 01/17/2018 |  Reply to Opposition Filed by: Defendant Motor Coach Industries Inc <i>[298] Reply to Plaintiffs' Opposition to Motion for Leave to File Third Party Complaint on Order Shortening Time</i> |
| 01/17/2018 |  Reply in Support <i>[299] Motor Coach Industries, Inc.'s Reply in Support of its Motion for Summary Judgment on All Claims Alleging a Product Defect</i> |
| 01/17/2018 |  Declaration <i>[300] Declaration of Service Steven Day PhD</i> |
| 01/17/2018 |  Motion for Determination of Good Faith Settlement Filed By: Defendant Bell Sports Inc <i>[301] Defendant Bell Sports, Inc.'s Motion For Determination Of Good Faith Settlement On Order Shortening Time</i> |
| 01/18/2018 |  Joinder <i>[302] Plaintiffs' Joinder to Defendant Bell Sports, Inc.'s Motion for Determination of Good Faith Settlement On Order Shortening Time</i> |
| 01/18/2018 |  Motion <i>[303] Plaintiffs' Motion for Determination of Good Faith Settlement With Defendants Michelangelo Leasing Inc. d/b/a Ryan's Express and Edward Hubbard Only and Order Shortening Time</i> |
| 01/19/2018 |  Designation of Expert Witness Filed By: Defendant Motor Coach Industries Inc <i>[304] Seventh Supplement to Designation of Expert Witnesses</i> |
| 01/19/2018 |  Pre-Trial Disclosure Party: Defendant Motor Coach Industries Inc <i>[305] Motor Coach Industries, Inc.'s Pre-Trial Disclosure Pursuant to NRCP 16.1(a)(3)</i> |
| 01/19/2018 |  Supplement to List of Witnesses & Documents Party: Defendant Motor Coach Industries Inc |

CASE SUMMARY

CASE NO. A-17-755977-C

[306] Motor Coach Industries, Inc.'s Eleventh Supplement to Initial Disclosure Pursuant to NRCP 16.1

01/21/2018



Opposition

Filed By: Plaintiff Khiabani, Keon

[307] Plaintiffs' Opposition to New Flyer Industries Inc.'s Objection to Special Master Hale's January 4, 2018 Order

01/22/2018



Reply to Opposition

Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[308] Reply to Defendant Motor Coach Industries, Inc. s Opposition to Plaintiffs Motion in Limine No. 9 to Preclude Metro Report and/or Opinions from Metro Officer

01/22/2018



Reply to Opposition

[309] Plaintiffs' Reply to Opposition to Motion In Limine No. 1 to Preclude Reference or Argument Regarding the Alleged Negligence of Third Parties (I.E., Michelangelo and Hubbard)

01/22/2018



Reply to Opposition

[310] Plaintiffs' Reply to Opposition to Motion In Limine No. 2 to Preclude Any Reference To Settling Defendants (Including Claims, Settlement and Amounts)

01/22/2018



Reply to Opposition

[311] Plaintiffs' Reply to Opposition to Motion In Limine No. 3 To Preclude Defendant MCI From Arguing That Decedent Was Contributorily Negligent

01/22/2018



Reply to Opposition

[312] Plaintiffs' Reply to Opposition to Motion In Limine No. 5 To Preclude Defendants From Arguing Or Suggesting That Plaintiffs Must Prove That THE Bus Had Any Specific Defect

01/22/2018



Reply to Opposition

[313] Plaintiffs' Reply to Defendant's Opposition to Motion In Limine No. 8 To Pre-Instruct The Jury With Standard Instructions For Product Liability Claims

01/22/2018



Reply to Opposition

[314] Plaintiffs' Reply to Opposition to Motion In Limine No. 11 To Pre-Admit 1993 Generic Bus Wind Testing by MCI

01/22/2018



Reply to Opposition

[315] Plaintiffs' Reply to Opposition To Motion In Limine No. 13 To Preclude Defendants From Arguing Or Referencing Rigged Air Blast Testing That Is Not Substantially Similar Because It Used Stationary Bike and Not a Moving Bike

01/22/2018



Reply to Opposition

[316] Plaintiffs' Reply to Defendant's Opposition to Motion In Limine To Exclude The Testimony Of Untimely Disclosed Expert Witness Robert Stahl, M.D.

01/22/2018



Reply to Opposition

[317] Plaintiffs' Reply to Defendants' Opposition to Motion In Limine To Exclude Any Testimony On The Untimely Supplemental Expert Report Filed by Defense Expert Carhart

01/22/2018



Reply to Opposition

Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[318] Reply to Defendant Motor Coach Industries, Inc. s (MCI) Opposition to Plaintiffs

CASE SUMMARY

CASE NO. A-17-755977-C

Motion in Limine No. 18 to Preclude the Admission of Irrelevant Information Regarding Unrelated Disputes

01/22/2018



Reply to Opposition

[319] Joint Reply to Joint Opposition to Motion In Limine No. 14 to Designate Virgil Hoogestraat as Managing Speaking Agent and Motion In Limine No. 15 to Designate Bryan Couch As Managing Speaking Agent

01/22/2018



Reply to Opposition

[320] Plaintiffs' Reply to Opposition to Motion In Limine No. 12 To Preclude MCI Expert Rucoba From Offering Meteorologist Opinions Regarding Wind Speed At The Time of the Accident, Etc.

01/22/2018



Reply to Opposition

Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[321] Reply to Defendant Motor Coach Industries, Inc. s (MCI) Opposition to Plaintiffs Motion in Limine No. 4 to Preclude MCI from Making Excessive Reference to the Fact that Plaintiffs Are of Iranian or Persian Descent

01/22/2018



Reply to Opposition

Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[322] Reply to Defendant Motor Coach Industries, Inc. s (MCI) Opposition to Plaintiffs Motion in Limine No. 6 to Preclude Defendants from Mentioning that Defense Expert Dr. Michael Baden (OJ s Medical Examiner) Worked for the Christiansen Law Firm and Opposition to Countermotion to Preclude Reference to O.J. Simpson

01/22/2018



Reply to Opposition

Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[323] Reply to Defendant Motor Coach Industries, Inc. s (MCI) Opposition to Plaintiffs Motion in Limine No. 10 to Pre-Admit Funeral Video and Slide Show

01/22/2018



Reply in Support

Filed By: Defendant Motor Coach Industries Inc

[324] Defendant's Reply in Support of Motion in Limine No. 17 to Exclude Claim of Lost Income, Including the August 28 Expert Report of Larry Stokes

01/22/2018



Reply in Support

Filed By: Defendant Motor Coach Industries Inc

[325] Motor Coach Industries, Inc.'s Reply in Support of Its Motion in Limine No. 10 to Exclude Speculation as to Decedent's Thoughts About the Motor Coach

01/22/2018



Reply to Opposition

Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[326] Reply to Motor Coach Industries, Inc. s (MCI) Opposition to Plaintiffs Motion in Limine No. 16 to Pre-Admit June 2001 Article as Notice of Potential Rear Tire Suction Hazard and Need for Protective Guard

01/22/2018



Reply in Support

Filed By: Defendant Motor Coach Industries Inc

[327] Defendant's Reply in Support of Motion in Limine No. 1 to Limit Opinions by Plaintiffs' Expert Robert Caldwell

01/22/2018



Reply in Support

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CASE NO. A-17-755977-C

Filed By: Defendant Motor Coach Industries Inc
[328] Defendant's Reply in Support of Motion in Limine No. 2 to Exclude Illustrations by Plaintiffs' Expert Joshua Cohen That Have No Basis in Fact

01/22/2018



Reply in Support

Filed By: Defendant Motor Coach Industries Inc
[329] Defendant's Reply in Support of Motion in Limine No. 3 to Preclude Plaintiffs From Making Reference to a "Bullet Train"

01/22/2018



Reply in Support

Filed By: Defendant Motor Coach Industries Inc
[330] Defendant's Reply in Support of Motion in Limine No. 7 to Exclude Any Claims that the Subject Motor Coach Was Defective Based on Alleged Dangerous "Air Blasts"

01/22/2018



Reply in Support

Filed By: Defendant Motor Coach Industries Inc
[331] Defendant's Reply in Support of Motion in Limine No. 13 to Exclude Plaintiffs' Expert Witness Robert Cunitz, Ph.D., or in the Alternative, to Limit His Testimony

01/22/2018



Reply in Support

Filed By: Defendant Motor Coach Industries Inc
[332] Defendant's Reply in Support of Motion in Limine No. 14 to Exclude Articles Regarding or Reference to Transit Buses

01/22/2018



Reply in Support

Filed By: Defendant Motor Coach Industries Inc
[333] Defendant's Reply in Support of Motion in Limine No. 15 to Exclude Opinion Testimony From Lay Witnesses on Causation and Engineering Principles

01/22/2018



Reply in Support

Filed By: Defendant Motor Coach Industries Inc
[334] Defendant's Reply in Support of Motion in Limine No. 16 to Exclude Opinions by Plaintiffs' Expert Dipak Panigrahy

01/22/2018



Reply in Support

[335] Motor Coach Industries, Inc.'s Reply in Support of its Motion in Limine No. 4 to Preclude Plaintiffs from Presenting Evidence that Proximity Sensors were a Safer Alternative Design

01/22/2018



Reply in Support

[336] Motor Coach Industries, Inc.'s Reply in Support of its Motion in Limine No. 6 to Exclude Reference to New Flyer Industries, Inc. (NFI Group)

01/22/2018



Reply in Support

[337] Motor Coach Industries, Inc.'s Reply in Support of its Motion in Limine No. 8 to Exclude Any Reference to Seatbelts

01/22/2018



Reply in Support

[338] Motor Coach Industries, Inc.'s Reply in Support of its Motion in Limine No. 9 to Exclude Reference to the "Ghost Bike" Memorial

01/22/2018



Reply in Support

[339] Motor Coach Industries, Inc.'s Reply in Support of its Motion in Limine No. 11 to Exclude Plaintiffs' Expert Witness David Roger

01/22/2018



Reply in Support

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CASE NO. A-17-755977-C

[340] Motor Coach Industries, Inc.'s Reply in Support of its Motion in Limine No. 12 to Exclude Reference to the Cost of the S-1 Gard or Proximity Sensors

01/22/2018



Reply to Opposition

Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[341] Reply to Defendant Motor Coach Industries, Inc. s (MCI) Opposition to Plaintiffs Motion in Limine No. 17 to Admit Evidence of Facts Establishing Defendant s Consciousness of Responsibility

01/22/2018



Reply to Opposition

[342] Plaintiffs' Reply To Opposition to Motion In Limine No. 7 To Preclude Defendant MCI From Arguing That The Alleged Lack of Proximity Sensors From A THird Party ("Commercial Availability") As A Defense Where The True Issue Is Whether Proximity Sensors Were Technologically "Feasible"

01/22/2018



Joinder

Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward

[343] Defendants Michelangelo Leasing, Inc. dba Ryan's Express and Edward Hubbard's Joinder to Plaintiffs' Motion for Determination of Good Faith Settlement with Michelangelo Leasing, Inc. dba Ryan's Express and Edward Hubbard

01/24/2018



Reply in Support

Filed By: Defendant Motor Coach Industries Inc

[344] Defendant's Reply in Support of Motion in Limine No. 5 to Exclude Any Claim of Defect Based on S-1 Gard

01/25/2018



Supplemental

Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[345] Plaintiffs' Supplemental Reply to Defendant Motor Coach Industries, Inc. s Opposition to Plaintiffs Motion in Limine No. 17 to Admit Evidence of Facts Establishing Defendant s Consciousness of Responsibility

01/29/2018



Response

Filed by: Defendant Motor Coach Industries Inc

[346] MCI's Response to "Supplemental Reply" in Support of Plaintiffs' Motion (MIL#17) Requesting Leave to Inflame the Jury by Demonizing Legitimate Legislation Proceudre

01/29/2018



Objection

Filed By: Defendant Motor Coach Industries Inc

[347] Objections to Plaintiffs' Tenth Supplemental Expert Disclosure

01/29/2018



Objection

Filed By: Defendant Motor Coach Industries Inc

[348] Objections to Plaintiffs' Eleventh Supplemental Disclosures Pursuant to NRCP 16.1(a) (1)

01/30/2018



Designation of Expert Witness

Filed By: Defendant Motor Coach Industries Inc

[349] Eighth Supplement to Designation of Expert Witnesses

01/31/2018



Objection

Filed By: Defendant Motor Coach Industries Inc

[350] Motor Coach Industries, Inc.'s Objection to Media Request

02/02/2018

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|--|
| |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[351] Objections to Plaintiffs' Twelfth Supplemental Disclosures Pursuant to NRCP 16.1(a)(1)</i> |
| 02/02/2018 |  Findings of Fact, Conclusions of Law and Order <i>[352] Findings of Fact, Conclusions of Law, and Order</i> |
| 02/05/2018 |  Findings of Fact, Conclusions of Law and Order <i>[353] Supplemental Findings of Fact, Conclusions of Law and Order</i> |
| 02/06/2018 |  Answer Filed By: Defendant Motor Coach Industries Inc <i>[354] Motor Coach Industries, Inc.'s Answer to Second Amended Complaint</i> |
| 02/08/2018 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[355] Motor Coach Industries, Inc.'s Objections to Plaintiffs' 1st, 2nd and 3rd Supplemental Pretrial Disclosures Pursuant to NRCP 16.1(a)(3)(C)</i> |
| 02/08/2018 |  Joint Pre-Trial Memorandum <i>[356] Joint Pretrial Memorandum</i> |
| 02/09/2018 |  Miscellaneous Filing Filed by: Plaintiff Khiabani, Keon <i>[357] Plaintiffs' Page and Line Designations</i> |
| 02/09/2018 |  Brief Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[358] Plaintiffs Trial Brief Regarding Direct and Cross-Examination of Adverse Witnesses</i> |
| 02/09/2018 |  Brief <i>[359] Plaintiffs' Trial Brief Regarding Voir Dire</i> |
| 02/09/2018 |  Notice of Entry Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[360] Notice of Entry of Order</i> |
| 02/09/2018 |  Errata <i>[361] Errata to Plaintiffs' Trial Brief Regarding Voir Dire</i> |
| 02/13/2018 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[362] Defendant Motor Coach Industries, Inc.'s Objections and Cross-Designations to Plaintiffs' Deposition Designations and Defendant Motor Coach Industries, Inc.'s Deposition Designations</i> |
| 02/14/2018 |  Trial Subpoena Filed by: Defendant Motor Coach Industries Inc <i>[363] Trial Subpoena - Edward Hubbard</i> |
| 02/14/2018 |  Trial Subpoena Filed by: Defendant Motor Coach Industries Inc |

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| | <i>[364] Trial Subpoena - Erica Bradley</i> |
| 02/14/2018 |  Trial Subpoena Filed by: Defendant Motor Coach Industries Inc <i>[365] Trial Subpoena - Dale Horba</i> |
| 02/14/2018 |  Trial Subpoena Filed by: Defendant Motor Coach Industries Inc <i>[366] Trial Subpoena - Tiffany Brown, M.D.</i> |
| 02/14/2018 |  Trial Subpoena Filed by: Defendant Motor Coach Industries Inc <i>[367] Trial Subpoena - Luis Saccarias</i> |
| 02/14/2018 |  Trial Subpoena Filed by: Defendant Motor Coach Industries Inc <i>[368] Trial Subpoena: Det. Kenneth Salisbury</i> |
| 02/15/2018 |  Brief <i>[369] Bench Brief On Contributory Negligence</i> |
| 02/16/2018 |  Response Filed by: Defendant Motor Coach Industries Inc <i>[370] Motor Coach Industries, Inc.'s Response to "Bench Brief on Contributory Negligence"</i> |
| 02/20/2018 |  Brief Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[371] Plaintiffs' Trial Brief Regarding Prospective Juror No. 11-1222</i> |
| 02/20/2018 |  Brief Filed By: Defendant Motor Coach Industries Inc <i>[372] Defendant's Trial Brief in Support of a Level Playing Field</i> |
| 02/20/2018 |  Trial Subpoena <i>[373] Trial Subpoena Erika Bradley</i> |
| 02/20/2018 |  Trial Subpoena <i>[374] Trial Subpoena Luis Fernando Sacarias Pina</i> |
| 02/20/2018 |  Motion to Seal/Redact Records Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward <i>[375] Motion to Seal Findings of Fact and Conclusions of Law and Order on Motion for Determination of Good Faith Settlement</i> |
| 02/20/2018 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[376] Defendant Motor Coach Industries, Inc.'s Supplemental Objections to Plaintiffs' Deposition Designation of Mark Barron</i> |
| 02/21/2018 |  Miscellaneous Filing <i>[377] Plaintiffs' Page and Line Designations of Bryan Couch</i> |
| 02/22/2018 |  Findings of Fact, Conclusions of Law and Order |

CASE SUMMARY

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[378] Findings of Fact, Conclusions of Law and Order

02/22/2018



Brief

Filed By: Plaintiff Estate of Kayvan Khibani M.D.

[379] Bench Brief in Support of Preinstructing the Jury that Contributory Negligence is Not a Defense in a Product Liability Action

02/22/2018



Jury List

[380]

02/23/2018



Objection

Filed By: Defendant Motor Coach Industries Inc

[381] Defendant Motor Coach Industries, Inc.'s Objections and Cross-Designations to Plaintiffs' Page and Line Designations of Bryan Couch

02/23/2018



Miscellaneous Filing

[382] Plaintiffs' Response to Defendants' Objection to Virgil Hoogesraat Page and Line

02/26/2018



Miscellaneous Filing

Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[383] Plaintiffs' Page and Line Designations of Aria Khiabani

02/26/2018



Miscellaneous Filing

Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.

[384] Plaintiffs' Page and Line Designations of Keon Khiabani

02/26/2018



Miscellaneous Filing

Filed by: Plaintiff Khiabani, Keon

[385] Plaintiffs' Response to Defendants' Objections to Page and Lines of Brad Lamothe, Pablo Fierros and Mary Witherell

02/26/2018



Miscellaneous Filing

[386] Plaintiffs' Response to Defendants' Objections to Page and Line of Jose Parada

02/26/2018



Order Granting Motion

Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward

[387] Order Granting Defendants Michelangelo Leasing, Inc. dba Ryan's Express and Edward Hubbard's Motion to Seal Findings of Fact and Conclusions of Law and Order on Motion to for Determination of Good Faith Settlement

02/26/2018



Miscellaneous Filing

[388] Notice of Filing of Plaintiffs' Power Point Slides From Motions for Summary Judgment Hearings Part 1

02/26/2018



Miscellaneous Filing

[389] Notice of Filing of Plaintiffs' Power Point Slides From Motions for Summary Judgment Hearings Part 2

02/26/2018



Miscellaneous Filing

[390] Notice of Filing of Plaintiffs' Power Point Slides From Motions for Summary Judgment Hearings Part 3

02/26/2018



Miscellaneous Filing

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[391] Notice of Filing of Plaintiffs' Power Point Slides From Motions for Summary Judgment Hearings Part 4

02/26/2018



Miscellaneous Filing

Filed by: Plaintiff Khiabani, Keon

[392] Notice of Filing Plaintiffs' Power Point Slides From Defendants' Motions In Limine Hearings Part 1

02/26/2018



Miscellaneous Filing

Filed by: Plaintiff Khiabani, Keon

[393] Notice of Filing Plaintiffs' Power Point Slides From Defendants' Motions In Limine Hearings Part 2

02/26/2018



Miscellaneous Filing

Filed by: Plaintiff Khiabani, Keon

[394] Notice of Filing Plaintiffs' Power Point Slides From Defendants' Motions In Limine Hearings Part 3

02/26/2018



Miscellaneous Filing

Filed by: Plaintiff Khiabani, Keon

[395] Notice of Filing Plaintiffs' Power Point Slides From Defendants' Motions In Limine Hearings Part 4

02/26/2018



Miscellaneous Filing

Filed by: Plaintiff Khiabani, Keon

[396] Notice of Filing Plaintiffs' Power Point Slides From Defendants' Motions In Limine Hearings Part 5

02/26/2018



Miscellaneous Filing

[397] Notice of Filing Plaintiffs' Power Point Slides From Opening Statements Part 1

02/26/2018



Miscellaneous Filing

[398] Notice of Filing Plaintiffs' Power Point Slides From Opening Statements Part 2

02/26/2018



Miscellaneous Filing

[399] Notice of Filing Plaintiffs' Power Point Slides From Opening Statements Part 3

02/26/2018



Miscellaneous Filing

[400] Notice of Filing Plaintiffs' Power Point Slides From Opening Statements Part 4

02/26/2018



Miscellaneous Filing

[401] Notice of Filing Plaintiffs' Power Point Slides From Opening Statements Part 5

02/27/2018



Notice of Entry

Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward

[402] Notice of Entry of Order

02/27/2018



Miscellaneous Filing

Filed by: Plaintiff Khiabani, Keon

[403] Notice of Filing Plaintiffs' Power Point Slides From Plaintiffs' Motions In Limine Hearings

02/27/2018



Brief

Filed By: Plaintiff Khiabani, Keon

[404] Bench Brief on Substantial Similarity of S1 Gard Demonstration Video

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|--|
| 02/28/2018 |  Miscellaneous Filing <i>[405] Notice of Filing Plaintiffs' Power Point Slides From Plaintiffs' Motions In Limine Hearings</i> |
| 02/28/2018 |  Response Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[406] Responses to Defendant's Objections to Plaintiffs' Page and Line Designations of Brad Ellis</i> |
| 02/28/2018 |  Miscellaneous Filing <i>[407] Plaintiffs' Response to Defendants' Objections to Page and Line of Mark Barron</i> |
| 03/01/2018 |  Miscellaneous Filing Filed by: Plaintiff Khiabani, Keon <i>[408] Plaintiffs' Page and Line Designations of David Dorr</i> |
| 03/02/2018 |  Miscellaneous Filing Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[409] Plaintiffs' Page and Line Designations of Robert Anthony Pears</i> |
| 03/03/2018 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[410] Defendant Motor Coach Industries, Inc's Objections to Plaintiffs' Page and Line Designations of Keon Khiabani and Aria Khiabani and Supplemental Objections to Designations of Brad Lamothe</i> |
| 03/05/2018 |  Objection Filed By: Defendant Motor Coach Industries Inc <i>[411] Defendant Motor Coach Industries, Inc.'s Objections and Cross-Designations to Plaintiffs' Page and Line Designations of Dave Dorr</i> |
| 03/05/2018 |  Addendum Filed By: Defendant Motor Coach Industries Inc <i>[412] Addendum to Stipulated Protective Order</i> |
| 03/05/2018 |  Miscellaneous Filing Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[413] Plaintiffs Page and Line Designations of Marie-Claude Rigaud</i> |
| 03/05/2018 |  Miscellaneous Filing Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[414] Plaintiffs Page and Line Designations of Siamak Barin</i> |
| 03/07/2018 |  Miscellaneous Filing Filed by: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[415] Responses to Defendant Motor Coach Industries, Inc. s Objections to Plaintiffs Page and Line Designations of Katayoun Katy Barin</i> |
| 03/07/2018 |  Request |

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Filed by: Plaintiff Khiabani, Keon
[416] Audiovisual Transmission Equipment Appearance Request

03/07/2018



Objection

Filed By: Defendant Motor Coach Industries Inc
[417] Defendant Motor Coach Industries, Inc.'s Objections to Plaintiffs' Page and Line Designations of Marie-Claude Rigaud

03/07/2018



Objection

Filed By: Defendant Motor Coach Industries Inc
[418] Defendant Motor Coach Industries, Inc.'s Objections to Plaintiffs' Page and Line Designations of Siamak Barin

03/07/2018



Amended Notice

Filed By: Plaintiff Khiabani, Keon
[419] Amendment to Notice of Filing Plaintiffs' Power Point Slides from Opening Statements Part 4

03/07/2018



Brief

[422] DEFENDANT S TRIAL BRIEF ON DR. JACK HUBBARD AND ALLOWABILITY OF OPINIONS ON UNCONSCIOUS PAIN

03/08/2018



Response

[420] Plaintiffs' Response to Defendants' Objections to Page and Line of Dave Dorr

03/08/2018



Notice

Filed By: Plaintiff Khiabani, Keon
[421] Notice of Submission of Plaintiffs' Responses to Defendants' Objections to Page and Line

03/11/2018



Brief

Filed By: Plaintiff Khiabani, Keon
[423] Plaintiffs' Bench Brief on the Two-Week Juror Funding Agreement

03/12/2018



Brief

[424] Motor Coach Industries, Inc.'s Brief in Support of Oral Motion for Judgment as a Matter of Law (NRCP 50(a))

03/12/2018



Trial Brief

Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.
[425] Plaintiffs' Trial Brief Regarding Admissibility of Taxation Issues and Gross Versus Net Lost Income

03/13/2018



Brief

[426] Motor Coach Industries, Inc.'s Bench Brief in Support of Jury View of Interior of Motor Coach

03/13/2018



Response

Filed by: Defendant Motor Coach Industries Inc
[427] Defendant Motor Coach Industries, Inc.'s Response to Plaintiffs' Bench on the Two-Week Funding Agreement

03/13/2018



Brief

[428] Plaintiffs' Trial Brief Regarding Jury Bus View

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| | |
|------------|---|
| 03/13/2018 |  Objection Filed By: Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin <i>[429] Plaintiffs Objections and Cross-Designations to Defendant s Page and Line Designations of Robert Pears and Michael Plantz</i> |
| 03/14/2018 |  Brief <i>[430] Plaintiffs Response to Defendant s Trial Brief on Dr. Jack Hubbard and Allowability of Opinions on Unconscious Pain</i> |
| 03/14/2018 |  Filed Under Seal Filed By: Defendant Michelangelo Leasing Inc <i>[431] Findings of Fact and Conclusions of Law and Order on Motion for Determination of Good Faith Settlement</i> |
| 03/14/2018 |  Miscellaneous Filing Filed by: Plaintiff Khiabani, Keon <i>[432] Plaintiff's Page and Line Designations of Claude "Sony" Hildreth</i> |
| 03/18/2018 |  Brief Filed By: Plaintiff Khiabani, Keon <i>[433] Bench Brief Regarding Limitations on the Testimony of Virgil Hoogestraat</i> |
| 03/18/2018 |  Brief Filed By: Defendant Motor Coach Industries Inc <i>[435] MOTOR COACH INDUSTRIES, INC. S OPPOSITION TO PLAINTIFFS TRIAL BRIEF REGARDING ADMISSIBILITY OF TAXATION ISSUES AND GROSS VERSUS NET LOST INCOME</i> |
| 03/19/2018 |  Notice of Entry Filed By: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward <i>[434] Notice of Entry of Order</i> |
| 03/20/2018 |  Miscellaneous Filing Filed by: Plaintiff Estate of Katayoun Barin <i>[436] Plaintiffs Trial Brief Regarding Testimony Of Defendant s Expert Stan Smith, Ph.D</i> |
| 03/20/2018 |  Opposition Filed By: Defendant Motor Coach Industries Inc <i>[437] Motor Coach Industries, Inc.'s Opposition to Plaintiffs' Trial Brief Regarding Virgil Hoogestraat</i> |
| 03/21/2018 |  Brief Filed By: Defendant Motor Coach Industries Inc <i>[438] DEFENDANT MOTOR COACH INDUSTRIES, INC. S TRIAL BRIEF ON LAY WITNESS OPINIONS</i> |
| 03/23/2018 |  Proposed Jury Instructions Not Used At Trial <i>[439] Proposed Jury Instructions Not Given</i> |
| 03/23/2018 |  Amended Jury List <i>[440]</i> |
| 03/23/2018 |  Special Jury Verdict <i>[441] Special Verdict</i> |

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|------------|--|
| 03/23/2018 |  Jury Instructions [442] |
| 03/26/2018 |  Proposed Verdict Forms Not Used at Trial Party: Defendant Motor Coach Industries Inc [443] <i>Proposed Jury Verdict Form Not Used at Trial</i> |
| 03/30/2018 |  Jury Instructions Party: Plaintiff Khiabani, Keon [444] <i>Jury Instructions Reviewed with the Court on March 21, 2018</i> |
| 04/17/2018 |  Judgment [445] <i>Judgment</i> |
| 04/17/2018 |  Notice of Special Master Hearing [446] <i>Notice of Emergency Special Master Hearing</i> |
| 04/18/2018 |  Notice of Entry of Judgment [447] <i>Notice of Entry of Judgment</i> |
| 04/24/2018 |  Special Master Order [448] <i>Special Master Order Staying Post-Trial Discovery Including May 2, 2018, Deposition of the Custodian of Records of the Board of Regents NSHE</i> |
| 04/24/2018 |  Memorandum of Costs and Disbursements Filed By: Plaintiff Khiabani, Keon [449] <i>Plaintiffs' Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005, 18.020, and 18.110</i> |
| 04/24/2018 |  Appendix Filed By: Plaintiff Khiabani, Keon [450] <i>Appendix of Exhibits in Support of Plaintiffs' Verified Memorandum of Costs (Volume 2 of 2)</i> |
| 04/24/2018 |  Appendix Filed By: Plaintiff Khiabani, Keon [451] <i>Appendix of Exhibits in Support of Plaintiffs' Verified Memorandum of Costs (Volume 1 of 2)</i> |
| 04/24/2018 |  Order [452] <i>Order Regarding Deposition Designations and Objections Relating to Brad Ellis, Brad Lamothe and Bryan Couch</i> |
| 04/25/2018 |  Notice of Entry of Order [453] <i>Notice of Entry of Order Regarding Deposition and Objections Relating to Brad Ellis, Brad Lamothe and Bryan Couch</i> |
| 04/25/2018 |  Declaration [454] <i>Amended Declaration of Peter S. Christiansen, Esq. In Support of Plaintiffs' 4/24/18 Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005, 18.020, and 18.110</i> |
| 04/30/2018 |  Motion to Retax |

CASE SUMMARY

CASE NO. A-17-755977-C

[455] Motion to Retax Costs

05/03/2018



Filed Under Seal

Filed By: Defendant Motor Coach Industries Inc

[456] SEALED PER MINUTE ORDER 05/23/18 Objection to Special Master Order Staying Post-Trial Discovery Including May 2, 2018 Deposition of The Custodian of Records of the Board of Regents NSHE and, Alternatively, Motion for Limited Post-Trial Discovery On Order Shortening Time

05/03/2018



Opposition to Motion

[457] Opposition to Motion for Limited Post-Trial Discovery

05/03/2018



Motion to Seal/Redact Records

[458] Motion to Seal "Motor Coach Industries, Inc's Objections to 'Special Master Order Staying Post-Trial Discovery Including May 2, 2018 Deposition of Custodian of Records of the Board of Regents NSHE,' and Alternatively, Motion for Limited Post-Trial Discovery"

05/07/2018



Appendix

Filed By: Defendant Motor Coach Industries Inc

[459] Appendix of Exhibits to: Motor Coach Industries, Inc.'s Motion for New Trial

05/07/2018



Motion to Seal/Redact Records

Filed By: Defendant Motor Coach Industries Inc

[460] Motion to Seal and Redact "Motor Coach Industries, Inc.'s Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendants" and Accompanying Exhibits

05/07/2018



Motion to Amend Judgment

Filed By: Defendant Motor Coach Industries Inc

[464] Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendants (Redacted)

05/07/2018



Motion to Seal/Redact Records

Filed By: Defendant Motor Coach Industries Inc

[465] Motion to Seal and Redact "Motor Coach Industries, Inc.'s Motion for New Trial" and Accompanying Exhibits G-L and O

05/07/2018



Motion for Judgment

Filed By: Defendant Motor Coach Industries Inc

[466] Motor Coach Industries, Inc.'s Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim

05/07/2018



Motion for New Trial

Filed By: Defendant Motor Coach Industries Inc

[467] Motor Coach Industries, Inc.'s Motion for a Limited New Trial (Redacted)

05/08/2018



Filed Under Seal

Filed By: Defendant Motor Coach Industries Inc

[461] Motor Coach Industries Inc's Motion to Alter or Amend Judgment to Offset Settlement Proceedings Paid By Other Defendant's

05/08/2018



Filed Under Seal

Filed By: Defendant Motor Coach Industries Inc

[462] Motor Coach Industries Inc's Motion for a Limited New Trial

05/08/2018

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|---|
| |  Filed Under Seal Filed By: Defendant Motor Coach Industries Inc <i>[463] Appendix of Exhibits to: Motor Coach Industries Inc's Motion for a Limited New Trial</i> |
| 05/08/2018 |  Supplement <i>[468] Supplement to Motor Coach Industries, Inc. s Motion for a Limited New Trial</i> |
| 05/08/2018 |  Notice of Hearing <i>[469] Notice of Hearing</i> |
| 05/09/2018 |  Supplement <i>[470] Plaintiff's Supplemental Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005, 18.020, and 18.110</i> |
| 05/14/2018 |  Opposition to Motion <i>[471] Opposition to Defendant's Motion to Retax Costs</i> |
| 05/18/2018 |  Notice of Appeal Filed By: Defendant Motor Coach Industries Inc <i>[472] Notice of Appeal</i> |
| 05/18/2018 |  Case Appeal Statement <i>[473] Case Appeal Statement</i> |
| 05/23/2018 |  Order <i>[474] Order</i> |
| 06/06/2018 |  Opposition to Motion <i>[475] Plaintiff's Opposition to MCI's Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid By Other Defendants</i> |
| 06/08/2018 |  Petition for Compromise of Minors Claim <i>[476] Verified Petition to Compromise Minors' Claims Against Defendants Michelangelo Leasing, Inc., Edward Hubbard, Bell Sports, Inc., and Sevenplus Bicycles, Inc. Only and to Approve Partial Payment of Attorneys' Fees and Costs</i> |
| 06/08/2018 |  Opposition to Motion <i>[477] Combined Opposition to Motion for A Limited New Trial and MCI's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim</i> |
| 06/13/2018 |  Motion to Seal/Redact Records Filed By: Plaintiff Khiabani, Keon <i>[478] Plaintiff's Motion to Seal and/or Redact: (1) The Exhibits to the Verified Petition to Compromise Minors' Claims Against Defendants Michelangelo Leasing, Inc., Edward Hubbard, Bell Sports, Inc., and Sevenplus Bicycles, Inc. Only and to Approve Partial Payment of Attorney's Fees and Costs, and (2) The Order Compromising the Minors' Claims Against Defendants Michelangelo Leasing, Inc., Edward Hubbard, Bell Sports, Inc., and Sevenplus Bicycles, Inc. Only</i> |
| 06/13/2018 |  Motion <i>[479] Plaintiffs Motion to Exceed Page Limit as to Combined Opposition to Motion for Limited New Trial and MCI s Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim</i> |
| 06/20/2018 | |

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|---|
| |  Motion to Strike <i>[480] Motor Coach Industries, Inc.'s Motion to Strike Plaintiffs' "Combined Opposition to Motion for a Limited New Trial and MCI's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim" and Opposition to Untimely Motion to Exceed Page Limit and Request for Order Shortening Time</i> |
| 06/26/2018 |  Order Granting Motion <i>[481] Order Granting Motion to Seal and/or Redact Exhibits and Order Regarding Minors' Compromise</i> |
| 06/26/2018 |  Transcript of Proceedings <i>[482] Recorder's Transcript of Hearing Defendant's Motion for Summary Judgment on All Claims Alleging A Product Defect heard on January 23, 2018</i> |
| 06/26/2018 |  Notice of Entry of Order <i>[483] Notice of Entry of Order Granting Motion to Seal And/Or Redact Exhibits and Order Regarding Minors' Compromise</i> |
| 06/27/2018 |  Filed Under Seal Filed By: Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[484] Exhibits to Verified Petition to Compromise Minors' Claims Against Defendant s Michaelangelo Leasing, Inc., Edward Hubbard, Bell Sports, Inc., and Sevenplus Bicycles, Inc. Only and to Approve Partial Payment of Attorneys' Fees and Costs (Filed Under Sealed)</i> |
| 06/27/2018 |  Filed Under Seal Filed By: Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[485] Order Compromising Minors' Claims Against Defendants Michaelangelo Leasing, Inc., Edward Hubbard, Bell Sports, Inc., and Sevenplus Bicycles, Inc. Only and Approving Partial Payment of Attorneys' Fees and Costs (Filed Under Seal)</i> |
| 06/28/2018 |  Order Compromising Minors Claim <i>[486] Order Compromising Minors' Claims Against Defendants Michelangelo Leasing, Inc., Edward Hubbard, Bell Sports, Inc., and Sevenplus Bicycles, Inc. Only and Approving Partial Payment of Attorneys' Fees and Costs</i> |
| 06/29/2018 |  Reply <i>[487] Motor Coach Industries, Inc.'s Reply in Support of Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim</i> |
| 06/29/2018 |  Reply <i>[488] Motor Coach Industries, Inc.'s Reply in Support of Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendants (Filed Under Seal)</i> |
| 06/29/2018 |  Reply <i>[489] Reply on Motion to Retax Costs</i> |
| 06/29/2018 |  Reply in Support Filed By: Defendant Motor Coach Industries Inc <i>[490] Reply in Support of Motion for a Limited New Trial (Redacted)</i> |
| 06/29/2018 |  Motion Filed By: Defendant Motor Coach Industries Inc <i>[491] Motion to Seal and Redact "Reply in Support of Motion for a Limited New Trial"</i> |
| 06/29/2018 |  Motion |

CASE SUMMARY

CASE NO. A-17-755977-C

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| | <p>Filed By: Defendant Motor Coach Industries Inc <i>[492] Motion to Seal and Redact "Motor Coach Industries, Inc.'s Reply in Support of Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendants"</i></p> |
| 07/02/2018 | <p> Filed Under Seal <i>[493] Reply in Support of Motion for a Limited New Trial</i></p> |
| 07/02/2018 | <p> Filed Under Seal <i>[494] Motor Coach Industries, Inc.'s Reply in Support of Motion to Alter or Amend Judgment to Offset Settlement Proceed's Paid by Other Defendants</i></p> |
| 07/02/2018 | <p> Opposition to Motion Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D. <i>[495] Plaintiffs Opposition to Motor Coach Industries, Inc. s Motion to Strike Plaintiffs Combined Opposition and Reply to Opposition to Untimely Motion to Exceed Page Limit</i></p> |
| 07/23/2018 | <p> Notice of Entry of Order <i>[496] Notice of Entry of Order Compromising Minors' Claims Against Defendants Michelangelo Leasing, Inc., Edward Hubbard, Bell Sports, Inc., and Sevenplus Bicycles, Inc. Only and Approving Partial Payment of Attorneys' Fees and Costs</i></p> |
| 08/20/2018 | <p> Order Granting Motion <i>[497] Order Granting Motions to Seal and Redact</i></p> |
| 08/22/2018 | <p> Stipulation and Order Filed by: Defendant Michelangelo Leasing Inc; Defendant Hubbard, Edward <i>[498] Stipulation and Order Dismissing Plaintiffs' Claims Against Defendants Michelangelo Leasing, Inc. and Edward Hubbard Only</i></p> |
| 08/23/2018 | <p> Notice of Entry <i>[499] Notice of Entry of Order</i></p> |
| 08/28/2018 | <p> Notice of Withdrawal Filed By: Defendant Motor Coach Industries Inc <i>[500] Notice of Withdrawal of David A. Dial, Esq.</i></p> |
| 08/29/2018 | <p> Request <i>[501] Request for Transcripts</i></p> |
| 09/10/2018 | <p> Transcript of Proceedings <i>[502] 02-12-18 A755977 BARIN V MCI JURY TRIAL TRANSCRIPT</i></p> |
| 09/10/2018 | <p> Transcript of Proceedings <i>[503] Reporter's Transcription of Proceedings 2/13/18</i></p> |
| 09/10/2018 | <p> Transcript of Proceedings <i>[504] Reporter's Transcription of Proceedings 2/14/18</i></p> |
| 09/10/2018 | <p> Transcript of Proceedings <i>[505] Reporter's Transcription of Proceedings 2/21/18</i></p> |
| 09/10/2018 | <p> Transcript of Proceedings <i>[506] Reporter's Transcription of Proceedings 02-15-18</i></p> |

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|---|
| 09/10/2018 |  Transcript of Proceedings <i>[507] Reporter's Transcription of Proceedings 02-16-18</i> |
| 09/10/2018 |  Transcript of Proceedings <i>[508] Reporter's Transcription of Proceedings 02-20-18</i> |
| 09/10/2018 |  Transcript of Proceedings <i>[509] Reporter's Transcription of Proceedings 02-22-18</i> |
| 09/10/2018 |  Transcript of Proceedings <i>[510] Reporter's Transcription of Proceedings 02-23-18</i> |
| 09/10/2018 |  Transcript of Proceedings <i>[511] Reporter's Transcription of Proceedings 02-26-18</i> |
| 09/10/2018 |  Transcript of Proceedings <i>[512] Reporter's Transcription of Proceedings 02-27-18</i> |
| 09/10/2018 |  Transcript of Proceedings <i>[513] Reporter's Transcription of Proceedings 02-28-18</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[514] Reporter's Transcription of Proceedings Heard on 03-01-18</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[515] Reporter's Transcription of Proceedings Heard on 3-2-18</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[516] Reporter's Transcript of Proceedings Heard on 03-05-18</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[517] 03-06-18 A755977 BARIN V MCI JURY TRIAL TRANSCRIPT</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[518] Reporter's Transcription of Proceedings Heard On 03-07-18</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[519] 03-08-18 A755977 BARIN V MCI JURY TRIAL TRANSCRIPT</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[520] Reporter's Transcription of Proceedings Heard on 03-12-18</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[521] 03-13-18 A755977 BARIN V MCI JURY TRIAL TRANSCRIPT</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[522] 03-13-18 A755977 BARIN V MCI JURY TRIAL TRANSCRIPT</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[523] 03-14-18 A755977 BARIN V MCI JURY TRIAL TRANSCRIPT</i> |

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|---|
| 09/12/2018 |  Transcript of Proceedings <i>[524] 03-15-18 A755977 BARIN V MCI JURY TRIAL TRANSCRIPT</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[525] 03-16-18 A755977-C BARIN V MCI JURY TRIAL TRANSCRIPT</i> |
| 09/12/2018 |  Transcript of Proceedings <i>[526] 03-19-18 A755977 BARIN V MCI JURY TRIAL TRANSCRIPT</i> |
| 09/13/2018 |  Transcript of Proceedings <i>[527] Reporter's Transcription of Proceedings March 20, 2018</i> |
| 09/13/2018 |  Transcript of Proceedings <i>[528] Reporter's Transcription of Proceedings March 21, 2018</i> |
| 09/13/2018 |  Transcript of Proceedings <i>[529] 03-22-18 A755977 BARIN V MCI JURY TRIAL TRANSCRIPT</i> |
| 09/13/2018 |  Transcript of Proceedings <i>[530] 03-23-18 A755977 BARIN V MCI JURY TRIAL TRANSCRIPT</i> |
| 09/18/2018 |  Filed Under Seal Filed By: Attorney Kemp, William Simon; Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Kayvan Khibani M.D. <i>[531] Proof of Establishment of Blocked Financial Investments</i> |
| 09/18/2018 |  Supplement to Opposition Filed By: Plaintiff Khiabani, Keon <i>[532] Plaintiffs' Supplemental Opposition to MCI's Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendants</i> |
| 09/24/2018 |  Response <i>[533] Motor Coach Industries, Inc.'s Response to "Plaintiff's Supplemental Opposition to MCI's Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid to Other Defendants"</i> |
| 10/17/2018 |  Stipulation and Order <i>[534] Stipulation and Order Dismissing Plaintiffs' Claims Against Defendant Bell Sports, Inc. Only</i> |
| 10/17/2018 |  Stipulation and Order <i>[535] Stipulation and Order Dismissing Plaintiffs' Claims Against Defendant SevenPlus Bicycles, Inc. Only</i> |
| 10/17/2018 |  Notice of Entry of Stipulation and Order <i>[536] Notice of Entry of Stipulation and Order Dismissing Plaintiffs' Claims Against Defendant SevenPlus Bicycles, Inc. Only</i> |
| 10/17/2018 |  Notice of Entry of Stipulation and Order <i>[537] Notice of Entry of Stipulation and Order Dismissing Plaintiffs' Claims Against Defendant Bell Sports, Inc. Only</i> |
| 10/18/2018 | |

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|---|
| |  Transcript of Proceedings [538] A755977 12-7-17 BARIN V MCI MTN FOR DETER OF GOOD FAITH SETTLEMENT TRANSCRIPT |
| 10/18/2018 |  Transcript of Proceedings [539] A755977 1-18-18 BARIN V MCI CALENDAR CALL TRANSCRIPT |
| 10/18/2018 |  Transcript of Proceedings [540] A755977 2-9-18 BARIN V MCI STATUS CHECK TRANSCRIPT |
| 10/18/2018 |  Transcript of Proceedings [541] A755977 1-29-18 BARIN V MCI MOTIONS IN LIMINE TRANSCRIPTS |
| 10/23/2018 |  Transcript of Proceedings [542] A755977 1-31-18 BARIN VS MCI ALL PENDING MOTIONS TRANSCRIPTS |
| 01/03/2019 |  Finding of Fact and Conclusions of Law [543] Findings of Fact and Conclusion of Law on Defendant's Motion to Retax |
| 01/31/2019 |  Order Granting Motion [544] Order Granting Motion to Dismiss Wrongful Death Claim |
| 02/01/2019 |  Findings of Fact, Conclusions of Law and Order [545] Combined Order 1. Denying Motion for Judgment as a Matter of Law and 2. Denying Motion for Limited New Trial |
| 02/01/2019 |  Notice of Entry of Order Filed By: Plaintiff Khiabani, Keon [546] Notice of Entry of Combined Order (1) Denying Motion for Judgment as a Matter of Law and (2) Denying Motion for Limited New Trial |
| 02/01/2019 |  Findings of Fact, Conclusions of Law and Order Filed By: Defendant Bell Sports, Inc [547] Findings Of Fact Conclusions Of Law And Order On Motion For Determination Of Good Faith Settlement |
| 02/01/2019 |  Notice of Entry of Order Filed By: Defendant Bell Sports, Inc [548] Notice Of Entry Of Findings Of Fact Conclusions Of Law And Order On Motion For Good Faith Settlement |
| 03/21/2019 |  NV Supreme Court Clerks Certificate/Judgment - Dismissed [549] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed |
| 03/26/2019 |  Filed Under Seal [550] Order |
| 04/09/2019 |  Stipulation and Order Filed by: Plaintiff Khiabani, Keon [551] Stipulation and Order Allowing the Order Denying Defendant Motor Coach Industries, Inc.'s Motion to Alter or Amend Judgment to Offset Settlement Proceeds to be Filed with Redactions and Under Seal |
| 04/10/2019 | |

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|---|
| |  Notice of Entry of Stipulation and Order Filed By: Plaintiff Khiabani, Keon <i>[552] Notice of Entry of Stipulation and Order Allowing the Order Denying Defendant Motor Coach Industries, Inc.'s Motion to Alter or Amend Judgment to Alter or Amend Judgment to Offset Settlement Proceeds to Be Filed With Redactions and Under Seal</i> |
| 04/24/2019 |  Notice of Entry Filed By: Defendant Motor Coach Industries Inc <i>[553] Notice of Entry of "Findings of Fact and Conclusions of Law on Defendant's Motion to Retax"</i> |
| 04/24/2019 |  Notice of Appeal <i>[554] Notice of Appeal</i> |
| 04/24/2019 |  Case Appeal Statement <i>[555] Case Appeal Statement</i> |
| 05/03/2019 |  Notice of Entry of Order Filed By: Plaintiff Khiabani, Keon <i>[556] Notice of Entry of Court's Order Denying Defendant's Motion to Alter or Amend Judgment to Offset Settlement Proceeds P by Other Defendants Filed Under Seal on March 26, 2019</i> |
| 05/20/2019 |  Request <i>[557] Request for Transcripts</i> |
| 06/25/2019 |  Transcript of Proceedings <i>[558] A755977 9-25-18 KATAYOUN BARIN VS MCI TRANSCRIPT</i> |
| 12/19/2019 |  Stipulation and Order Filed by: Defendant Motor Coach Industries Inc <i>[559] Stipulation and Order for Stay of Execution</i> |
| 12/19/2019 |  Notice of Entry of Order Filed By: Defendant Motor Coach Industries Inc <i>[560] Notice of Entry of Order for Stay of Execution</i> |
| 09/14/2021 |  NV Supreme Court Clerks Certificate/Judgment - Affd/Rev Part <i>[561] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed in Part, Reversed in Part and Remand</i> |
| 09/21/2021 |  Order <i>[562] Order Setting Further Proceedings Re: Supreme Court Order</i> |
| 10/22/2021 |  Stipulation and Order <i>[563] Stipulation and Order Regarding Post-Appeal Briefing Schedule</i> |
| 11/23/2021 |  Stipulation and Order <i>[564] Stipulation and Order Extending Briefing Schedule</i> |
| 12/13/2021 |  Brief <i>[565] Brief Regarding Offset</i> |
| 12/13/2021 | |

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|---|
| |  Motion to Seal/Redact Records Filed By: Defendant Motor Coach Industries Inc <i>[566] Motion to Seal and Redact Brief Regarding Offset</i> |
| 12/13/2021 |  Brief <i>[567] Brief Regarding Offset (Redacted)</i> |
| 12/13/2021 |  Temporary Seal Pending Court Approval <i>[568] Brief Regarding Offset (Filed Under Seal)</i> |
| 12/14/2021 |  Clerk's Notice of Hearing <i>[569] Notice of Hearing</i> |
| 12/21/2021 |  Stipulation and Order <i>[570] Stipulation and Order Extending Post-Appeal Briefing Schedule</i> |
| 01/20/2022 |  Answering Brief <i>[571] Answering Brief to MCI's Brief Regarding Offset</i> |
| 01/21/2022 |  Brief Filed By: Defendant Motor Coach Industries Inc <i>[572] MCI's Responding Brief Regarding Offset</i> |
| 02/01/2022 |  Notice of Change of Hearing <i>[573] Notice of Change of Hearing</i> |
| 03/09/2022 |  Notice of Hearing <i>[574] Notice of Hearing</i> |
| 04/11/2022 |  Notice of Hearing <i>[575] Notice of Hearing</i> |
| 07/11/2022 |  Court Recorders Invoice for Transcript <i>[576]</i> |
| 07/13/2022 |  Recorders Transcript of Hearing Party: Defendant Motor Coach Industries Inc <i>[577] Recorder's Transcript of Hearing Re: Hearing heard June 28, 2022</i> |
| 08/09/2022 |  Stipulation and Order <i>[578] Stipulation and Order to Substitute Parties and Amend Caption</i> |
| 03/16/2023 |  Order <i>[579] Order Granting Defendant Motor Coach Industries, Inc.'s Motion for Offset</i> |
| 03/24/2023 |  Notice of Entry of Order Filed By: Defendant Motor Coach Industries Inc <i>[580] Notice of Entry of "Order Granting Defendant Motor Coach Industries, Inc.'s Motion for Offset"</i> |
| 04/12/2023 |  Notice of Appeal Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun |

CASE SUMMARY

CASE NO. A-17-755977-C

Barin; Plaintiff Estate of Kayvan Khibani M.D.; Executor Barin, Siamak
[581] Plaintiff's Notice of Appeal

04/12/2023



Case Appeal Statement

Filed By: Plaintiff Khiabani, Keon; Plaintiff Khiabani, Aria; Plaintiff Estate of Katayoun Barin; Plaintiff Estate of Kayvan Khibani M.D.; Executor Barin, Siamak
[582] Plaintiffs' Case Appeal Statement

DISPOSITIONS

02/22/2018

Summary Judgment (Judicial Officer: Escobar, Adriana)

Debtors: Motor Coach Industries Inc (Defendant), Michelangelo Leasing Inc (Defendant), Edward Hubbard (Defendant), Bell Sports Inc (Defendant)

Creditors: Estate of Katayoun Barin (Plaintiff)

Judgment: 02/22/2018, Docketed: 02/22/2018

Comment: In part

03/23/2018

Verdict (Judicial Officer: Escobar, Adriana)

Debtors: Motor Coach Industries Inc (Defendant)

Creditors: Keon Khiabani (Subject Minor)

Judgment: 03/23/2018, Docketed: 03/30/2018

Total Judgment: 9,200,000.00

Debtors: Motor Coach Industries Inc (Defendant)

Creditors: Aria Khiabani (Subject Minor)

Judgment: 03/23/2018, Docketed: 03/30/2018

Total Judgment: 7,000,000.00

Debtors: Motor Coach Industries Inc (Defendant)

Creditors: Keon Khiabani (Subject Minor), Aria Khiabani (Subject Minor), Estate of Kayvan Khibani M.D. (Plaintiff)

Judgment: 03/23/2018, Docketed: 03/30/2018

Total Judgment: 1,000,000.00

Debtors: Motor Coach Industries Inc (Defendant)

Creditors: Estate of Kayvan Khibani M.D. (Plaintiff)

Judgment: 03/23/2018, Docketed: 03/30/2018

Total Judgment: 46,003.62

04/17/2018

Judgment Plus Interest (Judicial Officer: Escobar, Adriana)

Debtors: Motor Coach Industries Inc (Defendant)

Creditors: Keon Khiabani (Subject Minor)

Judgment: 04/17/2018, Docketed: 04/18/2018

Total Judgment: 9,533,333.34

Debtors: Motor Coach Industries Inc (Defendant)

Creditors: Aria Khiabani (Subject Minor)

Judgment: 04/17/2018, Docketed: 04/18/2018

Total Judgment: 7,333,333.33

Debtors: Motor Coach Industries Inc (Defendant)

Creditors: Estate of Katayoun Barin (Plaintiff)

Judgment: 04/17/2018, Docketed: 04/18/2018

Total Judgment: 1,833,333.33

Debtors: Motor Coach Industries Inc (Defendant)

Creditors: Estate of Kayvan Khibani M.D. (Plaintiff)

Judgment: 04/17/2018, Docketed: 04/18/2018

Total Judgment: 46,003.62

Debtors: Motor Coach Industries Inc (Defendant)

Creditors: Keon Khiabani (Subject Minor), Aria Khiabani (Subject Minor), Estate of Katayoun Barin (Plaintiff), Estate of Kayvan Khibani M.D. (Plaintiff)

Judgment: 04/17/2018, Docketed: 04/18/2018

Total Judgment: 246,480.55

06/28/2018

Order Approving Minor's Compromise (Judicial Officer: Escobar, Adriana)

Debtors: Motor Coach Industries Inc (Defendant), Michelangelo Leasing Inc (Defendant), Edward Hubbard (Defendant), Bell Sports Inc (Defendant), Sevenplus Bicycles Inc (Defendant)

Creditors: Keon Khiabani (Subject Minor), Aria Khiabani (Subject Minor)

CASE SUMMARY

CASE NO. A-17-755977-C

Judgment: 06/28/2018, Docketed: 07/05/2018

08/22/2018

Order of Dismissal With Prejudice (Judicial Officer: Escobar, Adriana)
Debtors: Michelangelo Leasing Inc (Defendant), Edward Hubbard (Defendant)
Creditors: Estate of Katayoun Barin (Plaintiff)
Judgment: 08/22/2018, Docketed: 08/22/2018

10/17/2018

Order of Dismissal (Judicial Officer: Escobar, Adriana)
Debtors: Bell Sports Inc (Defendant)
Creditors: Keon Khiabani (Subject Minor), Aria Khiabani (Subject Minor), Estate of Katayoun Barin (Plaintiff), Estate of Kayvan Khibani M.D. (Plaintiff)
Judgment: 10/17/2018, Docketed: 10/17/2018

10/17/2018

Order of Dismissal With Prejudice (Judicial Officer: Escobar, Adriana)
Debtors: Sevenplus Bicycles Inc (Defendant)
Creditors: Keon Khiabani (Subject Minor), Aria Khiabani (Subject Minor), Estate of Katayoun Barin (Plaintiff), Estate of Kayvan Khibani M.D. (Plaintiff)
Judgment: 10/17/2018, Docketed: 10/17/2018

01/31/2019

Order of Dismissal With Prejudice (Judicial Officer: Escobar, Adriana)
Debtors: Estate of Katayoun Barin (Plaintiff), Estate of Kayvan Khibani M.D. (Plaintiff)
Creditors: Motor Coach Industries Inc (Defendant)
Judgment: 01/31/2019, Docketed: 02/01/2019
Comment: Certain Claims

03/21/2019

Clerk's Certificate (Judicial Officer: Escobar, Adriana)
Debtors: Motor Coach Industries Inc (Defendant)
Creditors: Keon Khiabani (Subject Minor), Aria Khiabani (Subject Minor), Estate of Katayoun Barin (Plaintiff), Estate of Kayvan Khibani M.D. (Plaintiff), Marie Claude-Rigaud (Guardian), Siamak Barin (Executor)
Judgment: 03/21/2019, Docketed: 03/28/2019
Comment: Supreme Court No. 75953 Appeal Dismissed

09/14/2021

Clerk's Certificate (Judicial Officer: Escobar, Adriana)
Debtors: Keon Khiabani (Subject Minor), Aria Khiabani (Subject Minor), Estate of Katayoun Barin (Plaintiff), Estate of Kayvan Khibani M.D. (Plaintiff)
Creditors: Motor Coach Industries Inc (Defendant), Bell Sports, Inc (Defendant)
Judgment: 09/14/2021, Docketed: 09/14/2021
Comment: Supreme Court No. 78701 "Appeal Affirmed in Part, Reversed in Part and Remanded"

HEARINGS

06/06/2017



Minute Order (12:30 PM) (Judicial Officer: Escobar, Adriana)

Denied; Ex-Parte Motion for Order Requiring Bus Company and Driver to Preserve and Immediately Turn Over Relevant Electronic Monitoring Information from Bus and Driver Cell Phone

Journal Entry Details:

Plaintiffs ex parte motion for order requiring bus company and driver to preserve and immediately turn over relevant electronic monitoring information from bus and driver cell phone was filed in Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on May 30, 2017. The Court notes that the motion is not the appropriate method for seeking the requested relief, as Plaintiffs are essentially requesting a temporary restraining order and an order compelling production of evidence. Thus, the Court DENIES Plaintiffs motion, as each of these motions require additional procedural steps, such as an attempt at notice to the other party which have apparently not been undertaken here. If Plaintiffs refile the request to preserve evidence as an application for temporary restraining order in line with NRCP 65(b), including making efforts to serve the Defendants with notice of that application, the Court will consider the matter at that time. The Court will not grant a motion to compel on an ex parte basis. Finally, the Court notes that both parties have a common law duty to preserve documents, tangible items, and information relevant to litigation that are reasonably calculated to lead to the discovery of admissible evidence when litigation

CASE SUMMARY

CASE NO. A-17-755977-C

is reasonably foreseeable. See *Bass-Davis v. Davis*, 122 Nev. 442 (2006). Plaintiffs are directed to submit a proposed order denying their motion, and to serve a copy of this minute order on Defendants. CLERK'S NOTE: Copies of this minute order placed in the attorney folders of: William Kemp (KEMP JONES & COULTHARD, LLP) Peter S. Christiansen (CHRISTIANSEN LAW OFFICES);

06/15/2017



Motion for Temporary Restraining Order (9:30 AM) (Judicial Officer: Escobar, Adriana)

Per Pltf's App for TRO requiring Bus Co. & Driver to Preserve & Immediately Turn over Relevant Electronic Monitoring Information from Bus and Driver Cell Phone on OST.

Decision Made; Per Pltf's App for TRO requiring Bus Co. & Driver to Preserve & Immediately Turn over Relevant Electronic Monitoring Information from Bus and Driver Cell Phone on OST.

Journal Entry Details:

Per Pltf's App for TRO requiring Bus Co. & Driver to Preserve & Immediately Turn over Relevant Electronic Monitoring Information from Bus and Driver Cell Phone on OST. Eric Freeman, Esq. appeared by CourtCall on behalf of Defs Michelangelo Leasing Inc. d/b/a Ryan's Express and Edward Hubbard. Judge Escobar disclosed that it had represented Mr. Kemp's firm prior to taking the Bench, but will be fair and impartial. There was no opposition from any counsel to this Court hearing this matter. Following Mr. Kemp's argument in support of the Application for TRO, both Mr. Russell and Mr. Stoberski stated they had no opposition to the proposed changes to the order, but requested to review it prior to signing off. Mr. Freeman presented his objection to the Temporary Restraining Order, arguing it was too broad. He also noted that Sevenplus Bicycles Inc., a defendant that it affects, was served but has made no appearance yet and they need to make an appearance. Mr. Kemp confirmed that Michelangelo and Hubbard were served and argued that they will need to look at the evidence and get started. Mr. Freeman responded that he needs the opportunity to discuss this with his potential client and reiterated his opposition to the TRO at this time, but he will work with counsel. Mr. Kemp reiterated his request for the TRO. COURT STATED it has given a lot of thought to this and did find that the preservation of evidence is critical and required; however, the Court needs to read the changed Order. COURT ORDERED, Application for TRO GRANTED IN PART and DENIED IN PART. COURT STATED it did not find it was something it wanted to come without the other parties being informed. The preservation of evidence is critical and required. COURT STATED it has not yet read the changed order, but at this time read from its notes, citing the electronic information that Mr. Kemp believes the bus has in its possession. COURT ORDERED within five business days, all of the cited items are to be preserved from the accident which occurred on 4/18/17. With respect to the Smart Phone, those items that Plaintiff requested are to be preserved. Under Bass-Davis, a party has the duty to preserve discoverable evidence, within five business days. COURT NOTED that the evidence already discussed may not be discoverable, but it is to be downloaded within five business days and is to be preserved by the Defendants; Mr. Freeman would have a duty to preserve this. Defendants are not to discuss the evidence with Plaintiff's, or anyone else involved in the case, until the appropriate time. Mr. Kemp stated his concern is that all data is downloaded. COURT ADVISED it wants a Declaration from the experts who are proficient to download the data from the date of the accident. It was noted that there are two such experts who would be proficient to do that. COURT ORDERED that the experts are to submit a Declaration to the Court as to what was downloaded and the dates of the data generation from the bus and the cell phone. The information will not be shared with Plaintiff until the appropriate time. Mr. Kemp noted that METRO may request the information. COURT REITERATED that the information is not to be shared with the Plaintiff, but METRO'S requests may be required. Mr. Freeman stated he will cooperate with Mr. Kemp's office and requested Mr. Kemp to forward the proposed revised Order to him along with the information as to whom could download all of this and preserve the data. Mr. Freeman's contact information was provided at this time. COURT SO NOTED. Mr. Kemp advised he will redraft the proposed Order, get it to all counsel, and then get it back to the Court within the next few days. COURT REITERATED, the TEMPORARY RESTRAINING ORDER, GRANTED IN PART; DENIED AS TO IMMEDIATELY TURNING OVER THE INFORMATION/EVIDENCE.;

07/20/2017



Motion for Preferential Trial Setting (9:30 AM) (Judicial Officer: Jones, Tierra)

Plaintiffs' Motion for Preferential Trial Setting Under NRS 16.025(2)


Granted; Plaintiff's Motion for Preferential Trial Setting Under NRS 16.025(2)

Journal Entry Details:

Mr. Kemp argued that parties can be ready for trial in six months. He advised that the widow does not have long to live which necessitates an expedited trial setting. He further stated he listed all witnesses at the early case conference and will provide counsel all documents by




CASE SUMMARY

CASE NO. A-17-755977-C

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| | <p>noon today. Opposition by defense counsel. Colloquy regarding scheduling of depositions, dispositive motions and motions in limine. COURT ORDERED, motion is GRANTED; trial date is SET, with the understanding that it may not go, and a status check regarding trial readiness is SET in sixty days. 9/21/17 9:30 AM STATUS CHECK: TRIAL READINESS 11/2/17 9:30 AM CALENDAR CALL 11/20/17 9:30 AM JURY TRIAL;</p> |
| 08/15/2017 | <p>CANCELED Motion to Associate Counsel (3:00 AM) <i>Vacated - per Order</i> <i>On OST</i></p> |
| 08/22/2017 | <p>CANCELED Motion to Associate Counsel (3:00 AM) <i>Vacated</i></p> |
| 09/21/2017 | <p>Status Check (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Trial Readiness</i> Matter Continued; Removed to USDC 10/17/2017</p> |
| 09/21/2017 | <p>Motion For Reconsideration (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Defendants Michelangelo Leasing Inc. and Edward Hubbard's Motion for Reconsideration Regarding the Court Granting Plaintiffs' Motion for Preferential Trial Setting</i> Matter Continued; Removed to USDC 10/17/2017</p> |
| 09/21/2017 | <p>Joinder (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Defendant SevenPlus Bicycles, Inc. dba Pro Cyclery's Joinder to Defendant Ryan's Express and Edward Hubbard's Motion for Reconsideration</i> Matter Continued; Removed to USDC 10/17/2017</p> |
| 09/21/2017 | <p>Joinder (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Defendant Motor Coach Industries, Inc.'s Joinder to Michelangelo Leasing Inc. and Edward Hubbard's Motion for Reconsideration Regarding the Court Granting Plaintiffs' Motion for Preferential Trial Setting</i> Matter Continued; Removed to USDC 10/17/2017</p> |
| 09/21/2017 | <p> All Pending Motions (9:30 AM) (Judicial Officer: Escobar, Adriana) Matter Heard; Journal Entry Details: TRIAL READINESS ... DEFENDANTS MICHELANGELO LEASING INC. AND EDWARD HUBBARD'S MOTION FOR RECONSIDERATION REGARDING THE COURT GRANTING PLAINTIFFS' MOTION FOR PREFERENTIAL TRIAL SETTING ... DEFENDANT SEVENPLUS BICYCLES, INC. DBA PRO CYCLERY'S JOINDER TO DEFENDANT RYAN'S EXPRESS AND EDWARD HUBBARD'S MOTION FOR RECONSIDERATION ... DEFENDANT MOTOR COACH INDUSTRIES, INC.'S JOINDER TO MICHELANGELO LEASING INC. AND EDWARD HUBBARD'S MOTION FOR RECONSIDERATION REGARDING THE COURT GRANTING PLAINTIFFS' MOTION FOR PREFERENTIAL TRIAL SETTING Scott Tooney, Esq., present on behalf of Bell Sports Inc. Paul Stephen, Esq., appearing Pro Hac Vice on behalf of Motor Coach Industries Inc. Michael G. Terry, Esq., appearing Pro Hac Vice on behalf of Katayoun Barin. Arguments by counsel regarding trial readiness and the Motion for Reconsideration. COURT STATED FINDINGS and ORDERED, trial and discovery is to move forward on the schedule that was set. Court noted the status of each Pro Hac Vice application. COURT FURTHER ORDERED, matter SET for Status Check regarding trial readiness. CLERK'S NOTE: Subsequent to Court, COURT ORDERED, matter SET for Status Check on October 30, 2017 to monitor the progress of discovery closer to the trial date; Motions for Reconsideration CONTINUED. hvp/10/9/17;</p> |
| 10/12/2017 | <p>CANCELED Motion (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Vacated - per Stipulation and Order</i> <i>Plaintiffs' Motion to Allow Plaintiffs to Present a Jury Questionnaire Prior to Voir Dire on OST</i></p> |


CASE SUMMARY

CASE NO. A-17-755977-C

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| 10/24/2017 | <p>CANCELED Motion for Determination of Good Faith Settlement (9:30 AM) (Judicial Officer: Hardcastle, Kathy)</p> <p><i>Vacated</i></p> <p><i>Defendant Sevenplus Bicycles Inc dba Pro Cycler's Motion for Determination of Good Faith Settlement</i></p> |
| 10/24/2017 | <p>CANCELED Motion to Compel (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Vacated</i></p> <p><i>Defendant Motor Coach Industries Inc's Motion to Compel Production of Documents by Las Vegas Metropolitan Police Department on OST</i></p> |
| 11/02/2017 | <p>CANCELED Calendar Call (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Vacated</i></p> |
| 11/02/2017 | <p>Motion to Amend Complaint (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Set On an OST</i></p> <p>Granted;</p> |
| 11/02/2017 | <p>Motion to Amend Complaint (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Plaintiffs' Motion to Amend Complaint to Substitute Parties on Order Shortening Time</i></p> <p>Granted;</p> |
| 11/02/2017 | <p> All Pending Motions (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p>Granted; Plaintiff's Motion to Amend Cojmplaint to Substitute Parties on Order Shortening Time...Defendant's Opposition to Plaintiffs' Motion to Amend Complaint/Counter-motion to Set a Reasonable Trial Date Upon Changed Circumstance that Nullifies the Reason for Preferential Trial Setting</p> <p>Journal Entry Details:</p> <p><i>Mr. Kemp stated that the amendment being sought is to replace the co-guardian into the case. He advised that Defendant's opposition is actually a request to continue the trial. He informed the Court the status of taking of depositions and argued opposition to Defendant's request for trial continuance. Mr. Polsenberg stated he does not want to try a case in which he is not prepared; a continuance is required to fully prepare. Following further arguments, COURT ORDERED, Plaintiff's Motion to Amend Complaint is GRANTED and Defendant's Counter-motion to Set a Reasonable Trial Date is GRANTED. Trial, which is anticipated to take four weeks, is set to a Firm Setting. 1/18/18 9:30 AM CALENDAR CALL 2/12/18 9:30 AM JURY TRIAL - FIRM SETTING;</i></p> |
| 11/20/2017 | <p>CANCELED Jury Trial (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Vacated</i></p> |
| 12/07/2017 | <p> Motion for Determination of Good Faith Settlement (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Notice of Hearing on Defendant SevenPlus Bicycles, Inc d/b/a Pro Cyclery's Motion for Determination of Good Faith Settlement</i></p> <p>Granted;</p> <p>Journal Entry Details:</p> <p><i>COURT FINDS no collusion or fraud and the settlement negotiations were at arms length, and ORDERED, Good Faith Settlement is APPROVED. Ms. Igeleke to prepare the order to include Findings of Fact and Conclusions of Law, circulate proposed order to counsel and provide proposed order to Court's Chambers in Word format.;</i></p> |
| 01/18/2018 | <p> Calendar Call (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Colloquy regarding trial date and the jury questionnaire. COURT ORDERED, trial date STANDS.;</i></p> |
| 01/23/2018 | <p>Motion for Summary Judgment (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Plaintiff's Motion for Summary Judgment On Foreseeability of Bus Interaction With</i></p> |

CASE SUMMARY

CASE NO. A-17-755977-C

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| | <i>Pedestrians or Bicyclists (Including Sudden Bicycle Movement)</i> Mot Granted; |
| 01/23/2018 | Motion for Summary Judgment (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Defendant's Motion for Summary Judgment on Punitive Damages</i> Denied; |
| 01/23/2018 | Motion for Summary Judgment (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Motor Coach Industries, Inc.'s Motion for Summary Judgment on All Claims Alleging a Product Defect</i> Denied; |
| 01/23/2018 | Motion to Dismiss (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Defendant's Motion to Dismiss Wrongful Death Claim for Death of Katavoun Barin DDS</i> Granted; |
| 01/23/2018 | Motion for Leave (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Defendant Motor Coach Industries, Inc. Motion for Leave to File Third Party Complaint on OST</i> Moot; |
| 01/23/2018 | Motion for Leave (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Defendant's Motion for Leave to File Third Party Complaint on Order Shortening Time</i> Moot; |
| 01/23/2018 | Motion for Determination of Good Faith Settlement (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Defendant Bell Sports, Inc.'s Motion for Determination of Good Faith Settlement on OST</i> Granted; |
| 01/23/2018 | Objection (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Non- Party New Flyer Industries Inc's Objection to Special Master Hale's January 4, 2018</i> Granted in Part; |
| 01/23/2018 | Motion for Determination of Good Faith Settlement (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion for Determination of Good Faith Settlement with Defendants Michelangelo Leasing, Inc. d/b/a Ryan's Express and Edward Hubble Only on OST</i> Granted; |
| 01/23/2018 | Joinder (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Joinder to Defendant Bell Sports, Inc.'s Motion for Determination of Good Faith Settlement On Order Shortening Time</i> Matter Heard; |
| 01/23/2018 |  All Pending Motions (9:30 AM) (Judicial Officer: Escobar, Adriana) Granted in Part; Journal Entry Details: <i>Following arguments by counsel, COURT ORDERED, the following: Defendant's Motion for Summary Judgment on Forseeability of Bus Interaction with Pedestrians or Bicyclists (Including Sudden Bicycle Movement) is GRANTED. Plaintiff's Motion for Determination of Good Faith Settlement with Defendants Michelangelo Leasing, Inc. dba Ryan's Express and Edward Hubble Only is GRANTED; Motion to Seal Settlement GRANTED as well. Defendant Bell Sports, Inc.'s Motion for Determination of Good Faith Settlement on OST is GRANTED; Motion to Seal GRANTED as well. Plaintiff's Joinder to Defendant Bell Sports, Inc.'s Motion for Determination of Good Faith Settlement on Order Shortening Time is GRANTED. Defendant's Motion for Summary Judgment on Punitive Damages is DENIED as Plaintiff provided sufficient evidence supporting punitive damages instruction. Motor Coach Industries, Inc." Motion for Summary Judgment on All Claims Alleging a Product Defect is DENIED as the theories have issues of material fact remaining. Defendant's Motion to Dismiss Wrongful Death Claim for Death of Katavoun Brain DDS is GRANTED. Defendant Motor Coach Industries, Inc. Motion for Leave to File Third Party Complaint on OST is MOOT. Defendant's</i> |

CASE SUMMARY

CASE NO. A-17-755977-C

Motion for Leave to File Third Party Complaint on OST is MOOT. Non-Party New Flyer Industries Inc.'s Objection to Special Master Hale's January 23, 2018. Court informed parties that a minute order will issue. Parties to prepare their respective orders.;

01/26/2018



Minute Order (11:00 AM) (Judicial Officer: Escobar, Adriana)

Granted in Part; Non-Party New Flyer Industries, Inc.'s Objection to Special Master Hales's 1/4/18 Order

Journal Entry Details:

Non-party New Flyer Industries, Inc. s Objection to Special Master Hale s January 4, 2018 Order came on for a hearing before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on January 23, 2018. After considering the pleadings and argument of counsel, the Court GRANTS IN PART and DENIES IN PART New Flyer s motion. Plaintiffs will be permitted to conduct a deposition of Mr. Asham by video conference, to last no more than two hours. However, the deposition will be for the limited purpose of discovery of the financial status of the Defendant, Motor Coach Industries. Plaintiffs are directed to prepare a proposed order for the Court s signature, and to submit the proposed order in Microsoft Word format, by e-mail to dept14lc@clarkcountycourts.us Additionally, in regard to the various other motions heard on January 23, 2018, the Court directs Plaintiffs to prepare proposed orders for (1) Bell Sports Inc. s motion for determination of good faith settlement; (2) Michelangelo Leasing Inc. and Edward Hubbard s motion for determination of good faith settlement; (3) Plaintiffs motion for summary judgment on foreseeability of bus interactions with pedestrians or bicyclists; (4) Defendant s motion for summary judgment on punitive damages; and (5) Defendant s motion for summary judgment on all claims alleging a product defect. Defendant is directed to prepare proposed orders for (1) Defendant s motion to dismiss wrongful death claim for death of Katy Brain; and (2) Defendant s motion for leave to file third-party complaint. Each proposed order shall be reviewed by opposing counsel for approval as to form and content, should be submitted in Microsoft word format, by e-mail to dept14lc@clarkcountycourts.us, and must include detailed findings of fact and conclusions of law. CLERK'S NOTE: Counsel notified via e-mail.;

01/29/2018

Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)

Plaintiffs' Motion In Limine No. 1 to Preclude Reference Or Argument Regarding the Alleged Negligence of Third Parties (I.E., Michelangelo and Hubbard)

Matter Heard;

01/29/2018

Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)

Plaintiffs' Motion In Limine No. 2 to Preclude Any Reference to Settling Defendants (Including Claims, Settlement and Amounts)

Matter Heard;

01/29/2018

Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)

Plaintiff's Motion In Limine No. 3 to Preclude Defendant MCI from Arguing That Decedent Was Contributorily Negligent

Matter Heard;

01/29/2018

Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)

Plaintiffs' Motion In Limine No. 4 to Preclude MCI From Making Excessive Reference to the Fact that Plaintiffs Are of Iranian or "Persian" Descent

Matter Heard;

01/29/2018

Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)

Plaintiffs' Motion In Limine No. 5 to Preclude Defendants From Arguing Or Suggesting That Plaintiffs Must Prove That the Bus Had Any Specific Defect

Matter Heard;

01/29/2018

Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)

Plaintiffs' Motion In Limine No. 6 to Preclude Defendants From Mentioning That Defense Expert Dr. Michael Baden ("OJ's Medical Examiner) Worked for the Christiansen Law Firm

Matter Heard;

01/29/2018

Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)

Plaintiffs' Motion In Limine No. 7 to Preclude Defendant MCI From Arguing That the Alleged

CASE SUMMARY

CASE NO. A-17-755977-C

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| | <i>Lack of Proximity Sensors From a Third party ("Commercial Availability") As a Defense Where the True Issue Is Whether Proximity Sensors Were Technologically "Feasible"</i> Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion In Limine No. 8 to Pre Instruct the Jury With Standard Instructions for Product Liability Claims</i> Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion In Limine No. 9 to Preclude Metro Report and/or Opinions From Metro Officers</i> Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion In Limine No. 10 to Pre Admit Funeral Video and Funeral Slide Show</i> Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion In Limine No. 11 Pre Admit 1993 Generic Bus Wind Testing By MCI</i> Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion In Limine No. 12 to Preclude MCI Expert Rucoba From Offering Meteorologist Opinions Regarding Wind Speed At the Time of the Accident (Including But Not Limited to the Wildly Unsupported Claim That Wind Speeds At 10:30 a.m. Were "16 to 17 Mles Per Hours" And "Winds Were Gusting to 30 Miles Per Hour"</i> Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion In Limine No. 13 Preclude Defendants From Arguing Or Referencing Rigged Air Blast Testing That Is Not Substantially Similar Because It Used Stationary Bike and Not a Moving Bike</i> Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion In Limine No. 14 to Designate Virgil Hoogestraat As Managing Speaking Agent of MCI</i> Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion In Limine No. 15 to Designate Bryan Couch as Managing Speaking Agent of Motor Coach Industries, Inc.</i> Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion In Limine No. 16 to Pre Admit June 2001 Article As Notice of Potential Rear Tire Suction Hazard and Need For Protective Guard</i> Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018 <i>Defendant's Motion In Limine No. 2 to Exclude Illustrations by Plaintiffs' Expert Joshua Cohen that Have no Basis In Fact</i> Continued; Matter Heard; Continued; Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018 |

CASE SUMMARY

CASE NO. A-17-755977-C

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| | <p><i>Defendant's Motion In Limine No. 3 to Preclude Plaintiffs From Making Reference to a "Bullet Train"</i></p> <p>Continued; Matter Heard; Continued; Matter Heard;</p> |
| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018</p> <p><i>Defendant's Motion In Limine No 13 to Exclude Plaintiffs' Expert Witness Robert Cunitz, Ph.D. or In the Alternative, to Limit His Testimony</i></p> <p>Continued; Matter Heard; Continued; Matter Heard;</p> |
| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018</p> <p><i>Defendant's Motion In Limine No.14 to Exclude Articles Regarding or Reference to Transit Buses</i></p> <p>Continued; Matter Heard; Continued; Matter Heard;</p> |
| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018</p> <p><i>Defendant's Motion In Limine No 7 to Exclude Any Claims that the Subject Motor Coach was Defective Based On Alleged Dangerous "Air Blasts"</i></p> <p>Continued; Matter Heard; Continued; Matter Heard;</p> |
| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Defendant's Motion in Limine No. 16 to Exclude Opinions by Plaintiffs' Expert Dipak Panigrahy</i></p> <p>Withdrawn;</p> |
| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018</p> <p><i>Defendant's Motion In Limine No. 15 to Exclude Opinion Testimony from LV Witnesses On Causation and Engineering Principles</i></p> <p>Continued; Matter Heard; Continued; Matter Heard;</p> |
| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018</p> <p><i>Defendant's Motion In Limine No 1 to Limit Opinions by Plaintiffs' Expert Robert Caldwell</i></p> <p>Continued; Matter Heard; Continued; Matter Heard;</p> |
| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018</p> <p><i>Defendant's Motion In Limine No 5 to Exclude Any Claims of Defect Based On S-1 Gard</i></p> <p>Continued; Matter Heard;</p> |


CASE SUMMARY

CASE NO. A-17-755977-C

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| | Continued; Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018 <i>Defendants' Motion In Limine No 4 to Preclude Plaintiffs from Presenting Evidence that Proximity Sensors Were a Safer Alternative Design</i> Continued; Matter Heard; Continued; Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018 <i>Defendant's Motion In Limine No 6 to Exclude Reference to New Flyer Industriesc (NFI Group)</i> Continued; Matter Heard; Continued; Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018 <i>Defendant's Motion In Limine No 11 to Exclude Plaintiffs' Expert Witness David Roger</i> Continued; Matter Heard; Continued; Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018 <i>Plaintiff's Motion In Limine No. 17 to Admit Evidence of Facts Establishing Defendant's Consciousness of Responsibility</i> Continued; Matter Heard; Continued; Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018 <i>Defendant's Motion In Limine No 8 to Exclude Any Reference to Seatbelts</i> Continued; Matter Heard; Continued; Matter Heard; |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiffs' Motion In Limine to Exclude the Testimony of Untimely Disclosed Expert Witness Robert Stahl, MD</i> |
| 01/29/2018 | Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana) 01/29/2018, 01/31/2018 <i>Defendant's Motion In Limine No. 17 to Exclude Claim of Lost Income, Including the August 28 Expert Report of Larry Stokes</i> Continued; Matter Heard; Continued; Matter Heard; |

CASE SUMMARY

CASE NO. A-17-755977-C

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| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p>01/29/2018, 01/31/2018</p> <p><i>Defendant's Motion In Limine No. 10 to Exclude Speculation As to Decedent's Thoughts About the Motor Coach</i></p> <p>Continued;</p> <p>Matter Heard;</p> <p>Continued;</p> <p>Matter Heard;</p> |
| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p>01/29/2018, 01/31/2018</p> <p><i>Defendant's Motion In Limine No. 9 to Exclude Reference to the Ghost Bike Memorial</i></p> <p>Continued;</p> <p>Matter Heard;</p> <p>Continued;</p> <p>Matter Heard;</p> |
| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p>01/29/2018, 01/31/2018</p> <p><i>Defendant's Motion In Limine No. 12 to Exclude Reference to the Cost of the S-1 Gard or Proximity Sensors</i></p> <p>Continued;</p> <p>Matter Heard;</p> <p>Continued;</p> <p>Matter Heard;</p> |
| 01/29/2018 | <p>Motion in Limine (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Plaintiff's Motion In Limine to Exclude any Testimony on the Untimely Supplemental Expert Report filed by Defense Expert Carhart</i></p> |
| 01/29/2018 | <p> All Pending Motions (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p>Granted in Part;</p> <p>Journal Entry Details:</p> <p><i>Michael Terry appearing for Motor Coach Industries. Following arguments of counsel, COURT ORDERED, the following. Plaintiff's Motion in Limine No.1 to Preclude Reference or Argument Regarding the Alleged Negligence of Third Parties (i.e.: Michelangelo and Hubbard). Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 2 to Preclude any Reference to settling Defendants (Including Claims, Settlement and Amounts). Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 3 to Preclude Defendant MCI from Arguing that Decedent was Contributory Negligent. Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 4 to Preclude MCI from Making Excessive Reference to the Fact that Plaintiffs are of Iranian or "Persian" Descent. Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 5 to Preclude Defendants from Arguing or Suggesting that Plaintiffs Must Prove that the Bus had any Specific Defect. Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 6 to Preclude Defendants from Mentioning that Defense Expert Dr. Michael Baden (OJ's Medical Examiner) Worked for the Christiansen Law Firm is GRANTED IN PART; Court will allow hypotheticals in for the case he has testified to in the past. Plaintiff's Motion in Limine No. 7 to Preclude Defendant MCI from Arguing that the Alleged Lack of Proximity Sensors from a Third Party ("Commercial Availability") as a Defense Where the True Issue is Whether Proximity Sensors were Technologically "Feasible", Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 8 to Pre-Instruct the Jury with Standard Instructions for Product Liability Claims. Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 9 to Preclude Metro Report and/or Opinions from Metro Officers. Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 10 to Pre-Admit Funeral Video and Funeral Slide Show. Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 11 Pre-Admit 1993 Generic Bus Wind Testing by MCI. Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 12 to Preclude MCI Expert Rucoba from Offering Meteorologist Opinions Regarding Wind Speed at the Time of the Accident (Including but Not Limited to the Wildly Unsupported Claim that Wind Speeds at 10:30 am were (16 to 17 Miles Per Hour" and "Winds were Gusting to 30 MPH". Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 13 Preclude Defendants from Arguing or Referencing Rigged Air Blast Testing that is Not Substantially</i></p> |

CASE SUMMARY**CASE NO. A-17-755977-C**

Similar Because it used Stationary Bike and not a Moving Bike. Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 14 to Designate Virgil Hoogstraat as Managing Speaking Agent of MCI. Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 15 to Designate Bryan Couch as Managing Speaking Agent of Motor. Court informed parties an order will be issued. Plaintiff's Motion in Limine No. 16 Pre-Admit June 2001 Article as Notice of Potential Rear Tire Suction Hazard and Need for Protective Guard is WITHDRAWN. Plaintiff's Motion in Limine No. 17 to Admit Evidence of Fact Establishing Defendant's Consciousness of Responsibility. Court informed parties an order will be issued. Plaintiff's Motion in Limine to Exclude the Testimony of Untimely Disclosed Expert Witness Robert Stahl, MD is MOOT. Plaintiff's Motion in Limine to Exclude any Testimony on the Untimely Supplemental Expert Report Filed by Defense Expert Robert Stahl is irrelevant. Defendant's Motion in Limine No. 1 to Limit Opinions by Plaintiff's Expert Robert Caldwell, CONTINUED to 1/31/18. Defendant's Motion in Limine No. 2 to Exclude Illustrations by Plaintiff's Expert Joshua Cohen that Have No Basis in Fact, CONTINUED to 1/31/18. Defendant's Motion in Limine No. 3 to Preclude Plaintiff's from Making Reference to a "Bullet Train", CONTINUED to 1/31/18. Defendant's Motion in Limine No. 4 to Preclude Plaintiff's from Presenting Evidence that Proximity Sensors were a Safer Alternative Design CONTINUED to 1/31/18. Defendant's Motion in Limine No. 5 to Exclude any Claims of Defect Based on S-1 Gard Motion in Limine, CONTINUED to 1/31/18. Defendant's Motion in Limine NO. 6 to Exclude Reference to New Flyer Industries ((NFI Group), CONTINUED to 1/31/18. Defendant's Motion Limine No. 7 to Exclude any Claims that the Subject Motor Coach was Defective Based on Alleged Dangerous "Air Blasts", CONTINUED to 1/31/18. Defendant's Motion in Limine No. 8 to Exclude any Reference to Seatbelts, CONTINUED to 1/31/18. Defendant's Motion in Limine No. 9 to Exclude Reference to the Ghost Bike Memorial, CONTINUED to 1/31/18. Defendant's Motion in Limine No. 10 to Exclude Speculation as to Descendant's Thoughts about the Motor Coach, CONTINUED to 1/31/18. Defendant's Motion in Limine No. 11 to Exclude Plaintiff's Expert Witness David Roger, CONTINUED to 1/31/18. Defendant's Motion in Limine No. 12 to Exclude Reference to the Cost of the S-1 Gard or Proximity Sensors, CONTINUED to 1/31/18. Defendant's Motion in Limine No. 13 to Exclude Plaintiff's Expert Witness Robert Cunitz, Ph.D. or in the Alternative, to Limit his Testimony, CONTINUED to 1/31/18. Defendant's Motion in Limine No. 14 to Exclude Articles Regarding or Reference to Transit Buses, CONTINUED to 1/31/18. Defendant's Motion in Limine No. 15 to Exclude Opinion Testimony from LV Witnesses on Causation and Engineering Principles, CONTINUED to 1/31/18. Defendant's Motion in Limine No. 16 to Exclude Opinions by Plaintiff's Expert Dipak Panigrahy is WITHDRAWN as request of counsel. Defendant's Motion in Limine No. 17 to Exclude Claim of Lost Income, Including the August 28 Expert Report of Larry Stokes, CONTINUED to 1/31/18.;

01/31/2018

**All Pending Motions (9:30 AM) (Judicial Officer: Escobar, Adriana)**

Matter Heard;

Journal Entry Details:

Following arguments of counsel, COURT ORDERED, the following: Defendant's Motion in Limine No. 1 to Limit Opinions by Plaintiff's Expert Robert Caldwell. Court informed parties an order will be issued. Defendant's Motion in Limine No. 2 to Exclude Illustrations by Plaintiff's Expert Joshua Cohen that have No Basis in Fact. Court informed parties an order will be issued. Defendant's Motion in Limine No. 3 to Preclude Plaintiffs from Making Reference to a "Bullet Train." Court informed parties an order will be issued. Defendant's Motion in Limine No. 4 to Preclude Plaintiffs from Presenting Evidence that Proximity Sensors were a Safer Alternative Design. Court informed parties an order will be issued. Defendant's Motion i Limine No. 5 to Exclude any Claims of Defect Based on S-1 Gard Motion in Limine. Court informed parties an order will be issued. Defendant's Motion in Limine No. 6 to Exclude Reference to New Flyer Industries ((NFI Group). Court informed parties an order will be issued. Defendant's Motion in Limine No. 7 to Exclude any Claims that the Subject Motor Coach was Defective Based on Alleged Dangerous "Air Blasts." Court informed parties an order will be issued. Defendant's Motion in Limine No. 8 to Exclude any Reference to Seatbelts. Court informed parties an order will be issued. Defendant's Motion in Limine No. 9 to Exclude Reference to the Ghost Bike Memorial. Court informed parties an order will be issued. Defendant's Motion in Limine No. 10 to Exclude Speculation as to Decedent's Thoughts about the Motor Coach. Court informed parties an order will be issued. Defendant's Motion in Limine No. 11 to Exclude Plaintiff's Expert Witness David Roger. Court informed parties an order will be issued. Defendant's Motion in Limine No. 12 to Exclude Reference to the Cost of the S-1 Gard of Proximity Sensors. Court informed parties an order will be issued. Defendant's Motion in Limine No. 13 to Exclude Plaintiff's Expert Witness Robert Cunitz, Ph.D. or in the Alternative, to Limit his Testimony. Court informed parties an order will be issued. Defendant's Motion in Limine No. 14 to Exclude Articles Regarding or Reference to Transit Buses. Court informed parties an order will be issued. Defendant's Motion in Limine No. 15 to Exclude

CASE SUMMARY

CASE NO. A-17-755977-C

Opinion Testimony from LV Witnesses on Causation and Engineering Principles. Court informed parties an order will be issued. Defendant's Motion in Limine No. 16 to Exclude Opinions by Plaintiff's Expert Dipak Panigrahy. Court informed parties an order will be issued. Defendant's Motion in Limine No. 17 to Exclude Claim of Lost Income, Including the August 28 Expert Report of Larry Stokes. Court informed parties an order will be issued.;

02/06/2018



Minute Order (3:00 PM) (Judicial Officer: Escobar, Adriana)

Decision Made;

Journal Entry Details:

Defendant Motor Coach Industries, Inc. filed an objection to media request on January 31, 2018, in light of the impending trial and the media request and order filed on January 10, 2018 from Courtroom View Network. Under Supreme Court Rule 230(2), a court considering whether to allow electronic coverage of a trial shall consider several factors. Defendant has asserted that the media request should be denied in consideration of these factors, as the coverage will impact Defendant's right to a fair trial, will impact the Defendant's right of privacy over confidential information, and will likely distract trial participants. The Court notes there is a presumption that court documents be open to the public, but in some cases a significant competing interest may outweigh the public right to access. Howard v. State, 128 Nev. 736, 291 P.3d 137, 139 (2012). Here the Court finds that none of Defendant's claimed prejudices is sufficient to close the courtroom to public access. The Court has limited media access to one camera at a time, so the Court finds there is minimal risk of distracting jurors or witnesses. Further, the Court finds there is little practical danger of jurors viewing pre-trial announcements of the intention to televise the trial, much less any likelihood that viewing such announcements alone would impute sufficient knowledge that a juror should be disqualified, as the trial will not be broadcast by any major media source. Finally, to the extent that the trial will involve confidential information that is subject to a stipulated protective order, the Court finds that concerns of avoiding dissemination of this information is not sufficiently significant to outweigh the presumption of public access. ;

02/07/2018



Minute Order (1:45 PM) (Judicial Officer: Escobar, Adriana)

Plaintiff's Motion in Limine #10

Granted in Part;

Journal Entry Details:

This Court previously ruled on the parties motions in limine, but deferred ruling on Plaintiff's motion in limine #10 (to pre-admit funeral video and funeral slide show), requesting Plaintiff's to submit the specific videos which Plaintiff's desire to use at trial. Plaintiff's counsel submitted a CD-Rom to chambers and opposing counsel on February 6, 2018, containing four proposed videos that Plaintiff's seek to pre-admit. The Court received no further objection or opposition from Defendant beyond the opposition to Plaintiff's motion in limine #10. After reviewing the proposed videos, the Court GRANTS Plaintiff's motion in limine #10 as to the fourth file, titled Kayvan Memorial Aria Speech, which lasts four minutes and twenty-nine seconds, and which shows Aria Khiabani's speech at his father's funeral. The Court finds this video is a fair depiction of the grief and sorrow felt by the two minor Plaintiff's, Aria and Keon, due to the loss of their father, and thus is relevant to prove the damages that Plaintiff's would be able to recover on their wrongful death claim. The Court further finds that the probative value of this testimony is not substantially outweighed by the danger of unfair prejudice, confusion of issues, or misleading the jury. Although Aria and Keon may testify at trial, the video depicts the Plaintiff's grief and sorrow experienced soon after their father's death, and is sufficiently short that the probative value is not substantially outweighed by considerations of waste of time and presentation of cumulative evidence. The Court DENIES Plaintiff's motion in limine #10 as to the other three offered videos. First, the slideshow from Katy Brain's funeral and Aria's speech from Katy's funeral are depictions of the value of Katy Brain's life and the impact of her death on Aria, but these issues are not relevant to the claims at issue, considering the Court dismissed the cause of action for wrongful death of Katy Brain. The remaining video, of the slideshow showed at Kayvan Khiabani's funeral, will not be pre-admitted. The Court finds that some photographs in the slideshow may have probative value of proving the loss of companionship, society, comfort, and consortium felt by the decedent's heirs, however because the slideshow is over sixteen minutes long and shows the value of Kayvan Khiabani's life in general, including his own positive experiences in travel and other activities, to the extent the slideshow is slightly probative of any of these categories, the Court finds any probative value of the slideshow as a whole is substantially outweighed by danger of unfair prejudice, confusion of issues, and undue delay, especially considering the wrongful death statute does not allow recovery based on the quality of the decedent's life generally. If Plaintiff's seek to utilize individual photographs at trial, the Court will entertain requests on an

CASE SUMMARY

CASE NO. A-17-755977-C

individual basis, but the slideshow video will not be pre-admitted. ;

02/09/2018



Status Check: Trial Readiness (2:00 PM) (Judicial Officer: Escobar, Adriana)

Matter Heard;

Journal Entry Details:

Colloquy regarding jury selection and scheduling for the upcoming jury trial. The Court informed counsel that an order will be issued regarding jury selection regarding the order of seating and the alternates. Additionally, the Court directed counsel to provide a list of any jury instructions they have stipulated to.;

02/12/2018



Minute Order (7:00 AM) (Judicial Officer: Escobar, Adriana)

Jury Selection - A755977

Matter Heard;

Journal Entry Details:

The parties appeared before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on February 9, 2018, for a status check on trial readiness. Counsel asked the Court whether the parties would be allowed more than one peremptory challenge in light of the agreement to utilize five alternate jurors. The Court will not allow more than five peremptory challenges per side four which can be used only for potential regular jurors (seats 1 through 16), and one of which can be used only for a potential alternate jurors (seats 17, 18, 19, 20, 21, 22, or 23). If a party does not use all four regular juror challenges, that party may not use one of those challenges as a second alternate juror challenge, and the unused challenge will be waived. CLERK'S NOTE: Parties notified via e-mail.;

02/12/2018



Jury Trial - FIRM (9:30 AM) (Judicial Officer: Escobar, Adriana)

Trial Continues;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Counsel stipulated to waive the reading of potential witnesses to the jurors as they were listed in the jury questionnaire. Exclusionary rule invoked, however counsel stipulated that expert witnesses may remain in court. IN THE PRESENCE OF THE JURY. Roll of jurors called by the clerk. Counsel stipulated to the presence of the jury. OUTSIDE THE PRESENCE OF THE JURY. The Court reminded counsel to keep voir dire relevant and not to use one juror to educate the others. IN THE PRESENCE OF THE JURY. Jury selection. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding jury selection. Evening recess. MATTER CONTINUED.;

02/13/2018



Jury Trial - FIRM (0:00 AM) (Judicial Officer: Escobar, Adriana)

Trial Continues;

Journal Entry Details:

Michael Terry present for Motor Coach Industries. Roll of jurors called. Counsel stipulated to the presence of the jury. Jury selection. Evening recess. MATTER CONTINUED.;

02/14/2018



Jury Trial - FIRM (9:30 AM) (Judicial Officer: Escobar, Adriana)

Trial Continues;

Journal Entry Details:

Michael Terry present for Motor Coach Industries. Roll of jurs called. Voir dire/jury selection commenced. Evening recess. MATTER CONTINUED.;

02/15/2018



Jury Trial - FIRM (1:00 PM) (Judicial Officer: Escobar, Adriana)

Trial Continues;

Journal Entry Details:

Michael Terry present for Motor Coach Industries. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury selection. IN THE PRESENCE OF THE JURY. Roll of jurors called. Jury selection. Evening recess. MATTER CONTINUED.;

02/16/2018



Jury Trial - FIRM (9:30 AM) (Judicial Officer: Escobar, Adriana)

02/16/2018, 02/20/2018-02/23/2018, 02/26/2018-03/02/2018, 03/05/2018, 03/07/2018-03/08/2018, 03/12/2018-03/16/2018, 03/19/2018-03/23/2018

Trial Continues;

CASE NO. A-17-755977-C

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding Mr. Henriod requesting there be two attorneys for closing argument. The Court stated it would consider one attorney arguing compensatory damages and the other liability and punitive damages but, it will not be a cumulative argument. Parties stipulate to closing argument. Mr. Smith made an oral motion regarding 50(b) motion. Mr. Kemp made his objections to the motion. COURT ORDERED, MOTION DENIED. The Court will issue a minute order at a later date. JURY PRESENT The Court gives instruction to the jury. Plaintiff's give closing arguments. Lunch break. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding Defense closing arguments. JURY PRESENT Defendants give their closing arguments. Plaintiff's give rebuttal argument. JURY TO DELIBERATE at 6:15 PM. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding not admitted exhibits being picked up. JURY PRESENT The Court recessed the jury for the evening. COURT ORDERED, TRIAL CONTINUED. 3-23-18 9:00 AM JURY TRIAL (DEPT. XIV) :

CASE SUMMARY
CASE No. A-17-755977-C

Trial Continues:

CASE SUMMARY

CASE NO. A-17-755977-C

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Trial Continues;
Trial Continues;

Verdict;

Journal Entry Details:

Michael Terry, out-of-State counsel for Defense, also present. 9:50 AM OUTSIDE PRESENCE OF THE JURY: Statements by Mr. Christiansen as to the proposed exhibit #579 and feels it is outside the Order of the Court. Statements by Mr. Roberts. Court advised it will allow the statement in question. Continued arguments by Mr. Christiansen, Mr. Kemp and Mr. Roberts. Court noted the exhibit will be admitted. 10:23 AM JURY PRESENT: Roll call by Clerk. Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 10:47 AM BREAK. 11:28 AM OUTSIDE PRESENCE OF THE JURY: Statements by Mr. Roberts in response to the objections by Mr. Kemp and Mr. Christiansen as to exhibit #579. Court stated its findings. Continued arguments by Mr. Henriod and Mr. Kemp. 12:04 PM JURY PRESENT: Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 1:38 PM LUNCH BREAK. 2:48 PM OUTSIDE PRESENCE OF THE JURY: Statements by Ms. Works and Mr. Barger as to video deposition of Mr. Plantz. Court noted it has been resolved. 3:12 PM JURY PRESENT: Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 3:49 PM BREAK. OUTSIDE PRESENCE OF JURY: Ms. Works advised that they had agreed that certain statements would not come in during Mr. Plantz video deposition, however, there was a reference to "left turn" that was not in the written transcript and would request it be stricken. Mr. Barger concurred and had no objection. COURT ORDERED, that portion is STRICKEN. 4:04 PM OUTSIDE PRESENCE OF JURY: Statements by Mr. Kemp, Mr. Barger, Mr. Henriod and Mr. Pepperman as to the testimony of Mr. Hoogestraat. Mr. Kemp argued that Mr. Hoogestraat is not an expert and his testimony should be limited. Mr. Barger argued that Mr. Hoogestraat is an engineer. Continued arguments by counsel. Following, COURT ORDERED, Mr. Hoogestraat can only testify as to personal knowledge as he was not designated as an expert. Mr. Henriod advised at some point they will need to do an offer of proof. Court so noted. 4:47 PM JURY PRESENT: Counsel stipulated to the presence of the Jury. Court admonished Jury who were released and directed to return tomorrow at 1:00 PM. EVENING RECESS. OUTSIDE PRESENCE OF THE JURY: Colloquy as to procedures for next day. Additionally, exhibits #573-576 used during Mr. Granite's testimony were offered by Mr. Roberts. Mr. Kemp had no objection. COURT ORDERED, these exhibits are admitted. Court directed counsel return at 12:30 to discuss any issues prior to the Jury arriving. EVENING RECESS. ... CONTINUED 3/20/18 1:00 PM;

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CASE NO. A-17-755977-C

Court Clerk Denise Husted present. Michael Terry present for Motor Coach Industries. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. Court Clerk Katherine Streuber present: Michael Terry Esq. Pro Hac Vice present on behalf of Defendant Motor Coach Industries Inc. CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. OUTSIDE THE PRESENCE OF THE JURY. Court noted examination and cross examination cannot be cumulative although there are two Plaintiffs with different counsel. Arguments by counsel regarding constitutional right and ethical rules. Court advised it will look into the matter and make a determination. Mr. Kemp argued defense had a "shadow jury" watching the trial and noted a shadow juror had spoken with an actual juror in this trial. Statement by the Court. Court Marshal advised Juror had actually approached the shadow juror in the restroom and asked "How their day was going." Argument by Mr. Barger stating they do not know who the shadow jurors are, advised they do hire an independent company who controls the shadow

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jurors, believed they would have been instructed not to speak with any trial jurors and assured the Court and counsel they would contact the company to have the shadow jury removed. Court believed the discussion between the actual juror and shadow juror did not rise to the level of a mistrial and cautioned there would be sanctions imposed for any rule infractions. Court then advised it would do research and make a ruling in regards to examination and cross examination when there are more than one client with separate counsel. JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. COURT ORDERED, matter CONTINUED. 03-16-18 9:30 AM TRIAL BY JURY;

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Verdict;

Journal Entry Details:

Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling. Evening recess. MATTER CONTINUED.;

Trial Continues;

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Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

CASE SUMMARY

CASE No. A-17-755977-C

Michael Terry present for Motor Coach Industries. OUTSIDE THE PRESENCE OF THE JURY. Arguments by counsel regarding the motion for jury to view the bus. COURT FINDS, there will be no out of Court experiments, such as line of sight experiments allowed, and ORDERED, jury view will be allowed. Counsel agreed to the wording of the admonition to be given to the jury prior to viewing the bus. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. At 3:00 PM, the Court, counsel, jurors and staff left to view the bus. Evening recess. MATTER CONTINUED.;

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Trial Continues;

Verdict;

Journal Entry Details:

Michael Terry present for Motor Coach Industries. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding exhibits. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Roberts stated that during the video testimony of Katy Brain, she stated that her children feared they were broke after the death of their father. He requested that he be allowed to question further and bring in the other settlement amounts as her testimony opened the door regarding this issue. Opposition by Mr. Kemp regarding the motion in limine granted by the Court disallowing mentioning settlement amounts. Additionally, he stated that Ms. Brain's testimony has been available and an objection could have been made by the defense much sooner than this. Mr. Roberts stated the jurors have been misled by this particular statement. COURT FINDS, after reviewing applicable law, and being consistent with Court rules, no discussion about settlement will be allowed. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Plaintiff RESTED. OUTSIDE THE PRESENCE OF THE JURY. Mr. Henriod argued for a directed verdict. COURT FINDS, the Plaintiff has shown sufficient evidence that a jury could decide this case. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.;

Trial Continues;

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CASE SUMMARY
CASE No. A-17-755977-C

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CASE SUMMARY

CASE NO. A-17-755977-C

Trial Continues;

Trial Continues;

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Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding exhibits numbered next in order. Mr. Terry stated objections regarding certain questions being asked of Plaintiff's witness Joshua Cohen. Mr. Kemp advised he wants to show pictures with Mr. Cohen rather than Dr. Stalnecker. COURT ORDERED, objection is SUSTAINED; foundation must be laid in questioning the doctor. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.;

Trial Continues;

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Trial Continues;

Verdict;

Journal Entry Details:

Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Kemp stated objections to exhibits 508, 509 & 510. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.;

Trial Continues;

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CASE SUMMARY

CASE NO. A-17-755977-C

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Michael Terry, Esq. appearing for Motor Coach Industries. OUTSIDE THE PRESENCE OF THE JURY. Upon Court's inquiry, Mr. Pepperman stated he relied on the fact that Mr. Lamont is in Canada and couldn't be subpoenaed to appear. Colloquy regard deposition testimony. IN THE PRESENCE OF THE JURY. Roll of jurors called by the Clerk. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Roberts questioned witness Larry Stokes regarding testimony pertaining to issues concerning taxes. Mr. Henriod asked to clarify the questions he could ask with the upcoming witness. Statement by Mr. Kemp. The Court advised that questioning has to be consistent with previous ruling regarding not discussing any parties involved in the litigation. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.;

Trial Continues;

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Verdict;

Journal Entry Details:

Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding witness depositions and agreement regarding line by line testimony to be allowed. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

CASE SUMMARY
CASE No. A-17-755977-C

9:30 AM - Court Clerk Denise Husted present. **OUTSIDE THE PRESENCE OF THE JURY.** Mr. Kemp moved to admit selected Plaintiff's exhibits (see worksheet). There being no opposition, **COURT ORDERED**, exhibits are admitted. Mr. Barger noted that Plaintiff's exhibit #126 was previously admitted, but requested that his objection to that admission be noted on the record. Court so noted. **IN THE PRESENCE OF THE JURY.** Roll of jurors called by the Clerk. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. **OUTSIDE THE PRESENCE OF THE JURY.** Colloquy regarding the designated deposition selection of Mr. Hoogestraat discussed on the record. Court stated its findings and informed counsel a minute order regarding this issue is forthcoming. **IN THE PRESENCE OF THE JURY.** Testimony and exhibits presented per worksheet. 4:00 PM - Court Clerk Phyllis Irby present. Testimony and exhibits presented (see worksheet). Jury questions asked and answered. The Court thanked and recessed the jury for the evening. **OUTSIDE THE PRESENCE OF THE JURY.** Colloquy between the Court and counsel regarding pre-trial Motions in Limine. Mr. Pepperman requested to have Plaintiff's witness give testimony via video conference. **COURT ORDERED, TRIAL CONTINUED.** **CLERK'S NOTE:** Court's ruling regarding deposition of Mr. Hoogestraat is as follows: After hearing the oral argument of counsel and upon further consideration, the Court has determined that the designated deposition selections between 34:24 and 44:21 are all admissible. Because Mr. Hoogestraat was designated as Defendant's person most knowledgeable on hazard identification and reduction/mitigation/elimination on MCI buses, Mr. Hoogestraat's testimony on the existence of air displacement around a coach bus is within the scope of his 30(b)(6) testimony. Further, the Court finds Mr. Hoogestraat may be designated as managing-speaking agent for Defendant in regard to these statements, and no other reason not to admit the testimony has been

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presented. Thus, in addition to those noted during the hearing, Plaintiff will be permitted to present the video testimony of the following lines: 35:3-24, 36:15-25, 37:1-20, 38:8-25, 39:1-15, 40:18-25, 41:1-25, 42:1-8 and 44:9-21. dh 2/27/18 ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Exclusionary rule invoked.

Opening statements by Mr. Kemp. Opening statements by Mr. Terry. OUTSIDE THE PRESENCE OF THE JURY. Mr. Kemp stated there were procedural violations during Mr. Terry's opening statements. He requested that a curative instruction be given to the jury.

Opposition by Mr. Henriod. COURT FINDS, there were only statements regarding causation and ORDERED, motion DENIED. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling. Evening recess. MATTER CONTINUED.;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Jury SELECTED and SWORN. Evening recess. MATTER CONTINUED.;

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[illegible]

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OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury selection. IN THE PRESENCE OF THE JURY. Jury selection continued. Evening recess. MATTER CONTINUED.;

Michael Terry, representing Motor Coach Industries also present. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury instructions. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.:

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|--|
| 04/03/2018 | <p>CANCELED Motion to Seal/Redact Records (9:30 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Vacated - per Order</i></p> <p><i>Motion to Seal Findings of Fact and Conclusions of Law and Order on Motion for Determination of Good Faith Settlement</i></p> |
| 05/04/2018 | <p> Objection (1:00 PM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Defendant Motor Coach Industries' Objection to "Special Master Order Staying Post-Trial Discovery Including 05/02/18 Depo of the Custodian of Records of the Board of Regents NSHE" and Alternatively, Motion for Limited Post-Trial Discovery on OST</i></p> <p>Denied; Defendant Motor Coach Ind. Objection to Special Master Order Staying Post-Trial Discovery Including 5/2/18 Depo of the Custodian of Records of the Board of Regents NSHE and Alternatively, Motion for Limited Post-Trial Discovery on OST</p> <p>Journal Entry Details:</p> <p><i>Mr. Henriod stated there is a Motion to Seal and under the circumstances of this hearing, he feels that it should be granted. Mr. Kemp concurred. COURT ORDERED, the motion is GRANTED. Arguments by Mr. Henriod in support of the Objection to Special Master's Order Staying Post-Trial Discovery and Motion for Limited Post-Trial Discovery. He stated that recent revelations by the news media undermine the integrity of the judgment. He further advised that the required information would not have been identified by forwarding the releases. Mr. Kemp argued that the releases were signed and executed on 7/26/17. The release for the employment file was not forwarded by the defense and is the same discovery they are now seeking. He further argued that the post judgment discovery standard is exceedingly high and has not been met. The Court STATED ITS FINDINGS, and ORDERED, motion is DENIED. FURTHER, the subpoena is QUASHED and no post judgment discovery will be allowed. The Court informed parties that an order/minute order will follow with full findings.;</i></p> |
| 05/23/2018 | <p> Minute Order (7:00 AM) (Judicial Officer: Escobar, Adriana)</p> <p><i>Motion to Seal</i></p> <p>Granted;</p> <p>Journal Entry Details:</p> <p><i>Defendant Motor Coach Industries filed the following motions to seal: (1) Motion to seal Motor Coach Industries, Inc. s objections to special master order staying post-trial discovery including May 2, 2018 deposition of the custodian of records of the board of regents NSHE, and alternatively, motion for limited post-trial discovery; (2) Motion to seal and redact Motor Coach Industries, Inc s motion to alter or amend judgment to offset settlement proceeds paid by other defendants and accompanying exhibits, particular motions and exhibits; and (3) Motion to seal and redact Motor Coach Industries, Inc. s motion for new trial and accompanying exhibits G-L and O. The matter was subsequently discussed at the hearing on Defendant s objection to special master order and motion for limited post-trial discovery. Plaintiffs have not filed an opposition and indicated at the hearing that they were in agreement with Defendant s suggested sealing and redactions. First, the Court agrees that Defendant s objection to special master order and motion for post-trial discovery contains unconfirmed and scandalous assertions which bear directly on the character of the deceased. The Court finds that the Plaintiffs compelling privacy interests outweigh the presumption that court documents be open to the public. However, under SRCR 3(4)(b), this Court has a duty to protect the Plaintiffs interest by reasonable redaction, rather than outright sealing, when possible, and the Court finds that reasonable redaction is possible here to protect Plaintiffs privacy. The Court therefore GRANTS the first motion, in that Defendants must file a redacted version of the motion, redacting pages 5 8, all of page 9 except lines 7 20, all of page 10 except lines 3 13, all of page 11 except lines 4 20, all of page 12 except lines 22 26, all of page 13 except lines 1 2, page 14, and lines 1 5 of page 15, and omitting all attached exhibits. Additionally, the hearing on this motion is to be sealed for the same reasons. The unredacted version of the motion with all exhibits and the hearing must remain under seal until June 1, 2028. Second, the Court agrees that the motion to alter or amend judgment contains settlement terms that are confidential by agreement of the parties, that the settling defendants have a compelling interest in maintaining the confidentiality of these terms which outweighs the presumption that court documents be open to the public, and that the redacted version of the motion filed on May 7, 2018 is reasonably redacted to balance both the interests of the Defendants and the public. The Court therefore GRANTS the second motion to seal, and orders that the sealed version of the motion to alter or amend judgment, filed on May 8, 2018, remain under seal until June 1, 2028. Third, the Court agrees that Defendant s motion for a limited new trial contains the same unconfirmed and scandalous assertions which bear directly on the character of the deceased as are present in the Defendant s objection to the special master order and motion for post-trial discovery. The Court finds that the Plaintiffs compelling privacy interests outweigh the</i></p> |

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presumption that court documents be open to the public, and that reasonable redaction is possible to protect Plaintiffs privacy. The Court further finds the redacted version of the motion filed by Defendant on May 7, 2018 and the accompanying appendix omitting exhibits G L and O are reasonably redacted to balance both the interests of the Plaintiffs and the public. The Court therefore GRANTS the third motion to seal, and orders that the sealed version of the motion for a limited new trial and accompanying appendix, both filed on May 8, 2018, remain under seal until June 1, 2028. Defendant is directed to prepare a proposed order and to circulate it to opposing counsel for approval as to form and content before submitting it to chambers for signature. CLERK'S NOTE: Counsel notified via e-mail. Joel Henriod (JHenriod@LRRC.com);

07/06/2018

Motion to Retax (10:30 AM) (Judicial Officer: Escobar, Adriana)

Defendant's Motion to Retax Costs

Matter Heard;

07/06/2018

CANCELED Motion to Seal/Redact Records (10:30 AM) (Judicial Officer: Escobar, Adriana)

Vacated - Moot

Motion to Seal "Motor Coach Industries, Inc's Objections to 'Special Master Order Staying Post-Trial Discovery Including May 2, 2018 Deposition of Custodian of Records of the Board of Regents NSHE,' and Alternatively, Motion for Limited Post-Trial Discovery"

07/06/2018

CANCELED Motion to Seal/Redact Records (10:30 AM) (Judicial Officer: Escobar, Adriana)

Vacated - Moot

Motion to Seal and Redact "Motor Coach Industries Inc's Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendant's" and Accompanying Exhibits

07/06/2018

**Motion to Amend** (10:30 AM) (Judicial Officer: Escobar, Adriana)**07/06/2018, 09/25/2018**

Motor Coach Industries, Inc's Motion to Alter or Amend Judgment to Offset Settlement Proceedings Paid By Other Defendants

Matter Continued;

Denied;

Journal Entry Details:

Following arguments, opposition and reply, COURT ORDERED, an order will be issued. Defendant's Motion to Alter or Amend Judgment to Offset Settlement Proceeds paid by other defendants came on for a hearing before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on September 25, 2018. After considering the moving papers and argument of counsel, the Court DENIES Defendants motion. In this matter, the Plaintiffs settled with Defendants Michelangelo Leasing Inc, Edward Hubbard, Bell Sports Inc., and SevenPlus Bicycles Inc. for a total settlement of \$5,110,000.00. Plaintiffs and the remaining defendant, Motor Coach Industries (MCI), proceeded to trial. The jury awarded \$18,746,003.62 in favor of the Plaintiffs. Defendant MCI moved to offset the jury award by the settlement proceeds pursuant to NRS 17.245(1)(a). Specifically, it asked the court to reduce the jury award (\$18,746,003.62) by the total settlement proceeds (\$5,110,000.00) for a total reduced judgment resulting in \$13,636,003.62. Under NRS 17.245(1)(a), when a release ... is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death...it reduces the claim against the others to the extent of any amount stipulated by the release or the covenant... However, MCI is not entitled to an offset under NRS 17.245 because defendants that are liable for strict products liability, such as MCI, have no right to contribution from any other defendants. Norton v. Fergstrom, 2001 WK 1628302 *5 (Nev. Nov. 9, 2001); see also Andrews v. Harley Davidson, 106 Nev. 533, 537-38, 796 P.2d 1092, 1094 (1990); Central Telephone Co. v. Fixtures Mfg., 103 Nev. 298, 299, 738 P.2d 510, 511 (1987); NRS 17.225, NRS 41.141. While the Court understands that Norton is unpublished and cannot be used as precedent because it was decided prior to 2016, the Court finds its rationale persuasive and agrees with the Nevada Supreme Court's rationale. Moreover, this case was decided in 2001, after NRS 17.245 was enacted in 1973 and amended in 1997. Additionally, NRS 41.141 was enacted in 1973, and amended in 1979, 1987, and 1989, which also precedes the Court's decision in Norton. Contributory negligence is not a defense in strict products liability. Andrews v. Harley Davidson, 796 P.2d 1092 (Nev. 1990). Moreover, because contributory negligence is not a defense in products liability, MCI is not entitled to contribution. Id. Here, MCI has no right to contribution from the settling Defendants because plaintiff's judgment against MCI is based on strict products liability failure to warn and strict products liability has no right to contribution. To the extent that MCI would have otherwise been able to assert contribution claims against the settling defendants, those claims would have

CASE SUMMARY

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necessarily been premised on contributory negligence. But, because contributory negligence is not a defense to a strict products liability claim, MCI has no right to receive contribution from the settling defendants. Moreover, NRS 17.245 applies to joint tortfeasors but is silent concerning an offset for defendants found liable in strict products liability. But, it follows logically, that similar to NRS 17.255, which bars intentional tortfeasors from contribution, a defendant found liable in strict products liability would also be barred from receiving contribution from the other defendants. Unlike other products liability cases where defendants receive offsets, here, none of the other defendants in this case acted in concert with MCI in manufacturing the coach. MCI also argues it is entitled to an offset under NRS 41.141. Pursuant to NRS 41.141, defendants are responsible for 100% of plaintiff's injuries if their liability arises from a claim based on strict liability, an intentional tort, or any of the other enumerated categories. *Caf Moda v. Palma*, 272 P.3d 137 (Nev. 2012). However, MCI is not entitled to an offset under NRS 41.141. The jury found against MCI based on strict liability failure to warn. Any alleged fault of the settling defendants had nothing to do with this failure to warn. Thus, MCI is not entitled to apportion any percentage of its responsibility to the settling defendants. Plaintiffs analogized this matter to *Evans v. Dean Witter Reynolds, Inc.*, 5 P.3d 1043 (Nev. 2000). In *Evans*, the Court enforced the principle that although offsets are typically allowed in a case that involves joint tortfeasors, there is a carve out for intentional torts. Intentional tortfeasors may not apply credits from settlements by their joint tortfeasors in reduction of judgments against them arising from their intentional misconduct. *Id.* Moreover, equitable offsets are based on a right to contribution and intentional tortfeasors have no right to contribution under NRS 17.255. *Id.* Similarly here, just like the intentional tortfeasors in *Evans*, MCI has no right to contribution from the settling defendants. As in *Evans*, MCI has no right to receive contribution from the settling defendants either directly through a contribution claim or indirectly through a post-judgment offset. MCI was never entitled to seek contribution or indemnity from any other tortfeasors. NRS 17.245 cannot and did not bar MCI from pursuing contribution claims that never existed in the first place; and MCI is not entitled to indirectly receive a nonexistent right to contribution under the guise of an offset. MCI also asserts that Plaintiffs will receive a double recovery if no offset is granted. However, for the foregoing reasons, an offset is not permissible, thus no double recovery will occur. Finally, MCI argues that Plaintiffs are judicially estopped from asserting that the defendant has no right to offset. Plaintiff's motion for good faith settlement stated: Indeed, the proposed settlement is favorable to any remaining defendants. Plaintiffs remaining claims will be reduced by the settlement amounts contributed by Michelangelo and Hubbard. NRS 17.245(1) (a). As set forth above, the remaining defendants will receive a contribution toward any future judgment entered against them. When considering a claim of judicial estoppel, Nevada's courts look for the following five elements: (1) the same party has taken two positions; (2) the positions were taken in judicial or quasi-judicial administrative proceedings; (3) the party was successful in asserting the first position (i.e., the tribunal adopted the position or accepted it as true); (4) the two positions are totally inconsistent; and (5) the first position was not taken as a result of ignorance, fraud, or mistake. *Matter of Frei Irrevocable Tr.* Dated Oct. 29, 1996, 133 Nev. 8, 390 P.3d 646, 652 (2017). All five elements are necessary to sustain a finding of judicial estoppel. *Id.* Here, element three is not met. The plaintiff did not successfully assert their prior position because the Court granted the motion for good faith settlement based on Plaintiff's assertion that the non-settling defendants will receive an offset. When conducting the analysis of Plaintiff's good faith settlement, the Court considered the relative liability of the defendants and determined that the settlement amount was proper. The Court did not adopt the plaintiff's argument that the non-settling defendant would be entitled to an offset. Further, the jury verdict was based on failure to warn, which has absolutely no bearing on the plaintiff's claim against the other defendants. The settling defendants. Now, considering the jury verdict, it appears that the settling defendants might have paid even more than their fair share of the liability. Collectively, the defendants settled for \$5,110,000.00 which constitutes almost 30% of the total award in this matter. When looking at the potential liability of all defendants, the Court finds that MCI was responsible for a large majority of the damages. Thus, judicial estoppel does not apply here. Counsel for Plaintiff is directed to prepare a proposed order including detailed findings of fact and conclusions of law, which is to be approved by opposing counsel as to form and content prior to submitting the order to chambers in Microsoft word format, by email to dept14lc@clarkcountycourts.us and PowellID@clarkcountycourts.us.

CLERK'S NOTE: Minute order modified on 2/21/19. sdh;

Matter Continued;

Denied;

07/06/2018

CANCELED Motion to Seal/Redact Records (10:30 AM) (Judicial Officer: Escobar, Adriana)

Vacated - Moot

Motion to Seal and Redact "Motor Coach Industries Inc's Motion for New Trial and Accompanying Exhibits G-6 and O

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CASE NO. A-17-755977-C

| | |
|------------|--|
| 07/06/2018 | Motion for Judgment (10:30 AM) (Judicial Officer: Escobar, Adriana) <i>Motor Coach Industries Inc's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim</i> Matter Heard; |
| 07/06/2018 | Motion (10:30 AM) (Judicial Officer: Escobar, Adriana) <i>Motor Coach Industries Inc's Motion for a Limited New Trial</i> Matter Heard; |
| 07/06/2018 | Motion to Strike (10:30 AM) (Judicial Officer: Escobar, Adriana) <i>Motor Coach Industries, Inc.'s (MCI) Motion to Strike Plaintiffs' "Combined Opposition to Motion for a Limited New Trial, and MCI's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim", and Opposition to Untimely Motion to Exceed Page Limited on OST</i> Matter Heard; |
| 07/06/2018 | Motion to Strike (10:30 AM) (Judicial Officer: Escobar, Adriana) <i>Motor Coach Industries, Inc.'s Motion to Strike Plaintiffs' "Combined Opposition to Motion for a Limited New Trial and MCI's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim" and Opposition to Untimely Motion to Exceed Page Limit and Request for Order Shortening Time</i> Matter Heard; |
| 07/06/2018 |  All Pending Motions (10:30 AM) (Judicial Officer: Escobar, Adriana) Matter Heard; Journal Entry Details: <i>Mr. Kemp stated parties have agreed to submit three of the motions now without oral argument, Motor Coach Industries Inc's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim, Motor Coach Industries Inc's Motion for a Limited New Trial, and Defendant's Motion to Retax Costs; as to Motor Coach Industries Inc's Motion to Alter or Amend Judgment to Offset Settlement Proceedings Paid By Other Defendants, it should be put off until after the projected funding date. Upon inquiry by the Court regarding the motions to strike, counsel stated those could be submitted too. COURT ORDERED, Motor Coach Industries Inc's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim, Motor Coach Industries Inc's Motion for a Limited New Trial, Defendant's Motion to Retax Costs, Motor Coach Industries, Inc.'s (MCI) Motion to Strike Plaintiffs' "Combined Opposition to Motion for a Limited New Trial, and MCI's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim", and Opposition to Untimely Motion to Exceed Page Limited on OST, and Motor Coach Industries, Inc.'s Motion to Strike Plaintiffs' "Combined Opposition to Motion for a Limited New Trial and MCI's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim" and Opposition to Untimely Motion to Exceed Page Limit and Request for Order Shortening Time TAKEN UNDER ADVISEMENT; Motor Coach Industries Inc's Motion to Alter or Amend Judgment to Offset Settlement Proceedings Paid By Other Defendants CONTINUED. Motor Coach Industries Inc's Motion to Alter or Amend Judgment to Offset Settlement Proceedings Paid By Other Defendant's CONTINUED TO 8/28/2018 10:30 AM;</i> |
| 07/31/2018 | CANCELED Motion (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Vacated - Moot</i> <i>Plaintiffs Motion to Exceed Page Limit as to Combined Opposition to Motion for Limited New Trial and MCI s Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim</i> |
| 08/09/2018 | CANCELED Motion to Seal/Redact Records (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Vacated - Moot</i> <i>Defendant's Motion to Seal and Redact "Reply In Support of Motion for a Limited New Trial"</i> |
| 08/09/2018 | CANCELED Motion to Seal/Redact Records (9:30 AM) (Judicial Officer: Escobar, Adriana) <i>Vacated - Moot</i> <i>Defendant's Motion to Seal and Redact "Motor Coach Industries, Inc.'s Reply In Support of Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendants"</i> |

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CASE NO. A-17-755977-C

08/27/2018

**Minute Order** (8:00 AM) (Judicial Officer: Escobar, Adriana)

Granted in Part; Defendant MCI's Motion to Retax Costs, Motion to Alter or Amend Judgment to Offset Settlement Proceeds, Motion for Limited New Trial, Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim, Motion to Strike Plaintiffs' Combined Opposition...Plaintiffs' Motion to Exceed Page Limit as to Combined Opposition

Journal Entry Details:

Defendant MCI's motion to retax costs, motion to alter or amend judgment to offset settlement proceeds, motion for limited new trial, renewed motion for judgment as a matter of law regarding failure to warn claim, and motion to strike Plaintiffs combined opposition, as well as Plaintiffs motion to exceed page limit as to combined opposition came on for a hearing before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on July 6, 2018. Upon the stipulation of counsel, all motions were submitted on the briefs without oral argument except for Defendant's motion to alter or amend judgment, which was continued to August 28, 2018, at 10:30 AM. Therefore, after considering the briefs of the parties, the Court holds as follows: A. Motion to strike combined opposition and Plaintiffs motion to exceed page limit First, the Court GRANTS Plaintiffs motion to exceed page limit as to combined opposition and DENIES Defendant's motion to strike Plaintiffs combined opposition. The Court notes that Plaintiffs combined opposition contains one facts section with separate arguments and conclusions responding to two motions (Defendant's motion for limited new trial and Defendant's renewed motion for judgment as a matter of law), that the combined opposition is fifty three pages long, and that Plaintiffs did seek leave of court to file a brief in excess of thirty pages, albeit after the brief was already filed. Considering the complexity of this case and the legal arguments presented by Defendant's motions, as well as the significant factual overlap of these two particular motions, the Court finds an opposition in excess of thirty pages is warranted. The proper procedure would have been for the Plaintiffs to seek leave of court before filing the over-long opposition, or at least to include a motion to exceed page limit at the beginning of the opposition. However, the Court finds Defendant suffered little prejudice from the untimely motion or from Plaintiffs filing their oppositions together so as not to repeat eight pages of facts, and thus the Court will not impose the grave penalty of striking the opposition. B. Renewed motion for judgment as a matter of law The Court DENIES Defendant's renewed motion for judgment as a matter of law regarding failure to warn claim. Defendant first argues that Plaintiffs failed to prove causation on this theory because the facts showed that Dr. Khiabani suddenly appeared in Mr. Hubbard's peripheral vision, and the accident happened too quickly for a reasonable jury to find that Mr. Hubbard could have avoided the accident. This argument ignores the full facts as presented in the Plaintiffs case-in-chief, specifically the testimony of Mr. Hubbard that he observed the bicycle while both Dr. Khiabani and the coach were on Charleston, and saw the bicycle turn onto Pavilion Center before Mr. Hubbard turned the coach onto Pavilion Center. Thus, although Mr. Hubbard testified that he did not see Dr. Khiabani's bicycle for 450 feet before the accident, the split-second that the accident occurred was not the first time Mr. Hubbard was made aware of the bicycle's presence. Taking all inferences in Plaintiffs favor, Plaintiffs elicited sufficient evidence for a reasonable jury to find that, had Mr. Hubbard been adequately warned about the dangerous nature of the coach, he would have driven differently as early as when he turned onto Pavilion Center for example by driving in the left lane instead of the right lane, or by driving slower so as to not pass the bicycle and that this different action would have avoided the accident. Thus, the accident did not happen too quickly for a reasonable jury to find that a warning would have made a difference. The parties next dispute to what extent a plaintiff in a failure to warn claim must prove causation. Defendant argues that insufficient evidence of causation was presented by Hubbard's testimony that he absolutely heeds warnings he is given when he is trained about something relative to safety, because Plaintiffs needed to additionally prove that the accident would have been avoided by the user heeding the warning. Defendant cites to numerous other jurisdictions for this notion, and argues that it is further supported by the Nevada Supreme Court's Rivera v. Philip Morris, Inc. decision. This Court disagrees. It is undisputed that, under Rivera, the Plaintiffs bear the burden of producing evidence demonstrating that, among other things, the defect caused the injury. Rivera also held that the burden of proving causation can be satisfied in failure-to-warn cases by demonstrating that a different warning would have altered the way the plaintiff used the product or would have prompted plaintiff to take precautions to avoid the injury. Taking all inferences in Plaintiffs favor, the Court finds that Hubbard's testimony that he would have complied with a warning, combined with the facts listed above regarding Hubbard's perception of the events leading up to the accident, was sufficient to satisfy Plaintiffs burden of proving causation under Nevada law. Similarly, the Court disagrees with Defendant's suggestion that the open and obvious nature of the danger reinforces the conclusion that a warning would have been superfluous. Mot. at 10. Taking all inferences in Plaintiffs favor, the presence of testimony by Hubbard, Mary Witherell, and some of Defendant's own employees, that they were not aware of the significance of the air displacement created by the coach's design refutes Defendant's

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classification of the danger as open and obvious. Further, even if the evidence enabled this Court to find as a matter of law that Hubbard should have known generally of the risk of driving next to a bicyclist, which this Court has not done, no Nevada law holds that this would prevent a reasonable jury from finding that an adequate warning would have avoided the accident. Next, Defendant suggests that Plaintiffs duty to prove causation required Plaintiffs to craft an adequate warning. Failure-to-warn claims can be classified as one of two types: allegations that the warning given by the defendant was crafted in such a way to be ineffective in preventing the injury; or allegations that the product is dangerous enough that a warning should have been provided but the defendant did not provide any warning. In cases of the first variety, the jury must consider whether the warning was adequate under the factors provided in *Lewis v. Sea Ray Boats, Inc.*, However, in the second category, the warning provided nothing could not possibly be considered adequate under the *Sea Ray* factors, and thus the only required findings are that the product was unreasonably dangerous and that an adequate warning would have avoided the injury. This case falls into the second category, where MCI undisputedly did not provide any warnings about any of the alleged defects which Plaintiffs alleged. In such a case, the Court finds no support for Defendant's assertion that no reasonable jury could find that the product was unreasonably dangerous and that an adequate warning would have avoided the injury without a specific warning being proposed by the plaintiff. While it is true that providing a model warning to show what the defendant could have done to make the product reasonably safe may be a helpful illustration for the plaintiff's case, it is not required for the jury to find in Plaintiffs favor. Cf. *Ford Motor Co. v. Trejo* (in a design defect claim, a plaintiff may choose to support their case with evidence that a safer alternative design was feasible at the time of manufacture.). Plaintiffs need not prove precisely how the facts would have been different had there been an adequate warning, as this would amount to speculation; Plaintiffs need only provide the facts sufficient to allow the jury to draw the conclusion that the presence of an adequate warning would have avoided the accident. As noted above, Plaintiffs did so here. In line with the above, the Court disagrees that the jury's verdict was consistent with judgment as a matter of law on causation, as the jury could have, and evidently did, find that the lack of an adequate warning caused the accident. The Court disagrees with Defendant's suggestion that the jury finding no liability on the defective design claim means when the jury was actually asked whether the allegedly defective design was the legal cause of damage, the jury concluded that it was not. In reality, the jury found no liability after being instructed that liability required both a design defect and causation, so a simple no answer does not necessarily mean the jury found causation to be lacking. Defendant next argues that, MCI was not required to make a coach that does not create air disturbance, and therefore MCI was not required to provide a warning at all. While the Court notes that this argument was not raised in MCI's NRCP 50(a) motion during trial, the argument misstates the question actually posed to the jury. The failure-to-warn claim does not ask whether the coach created an air disturbance, but rather whether the coach was unreasonably dangerous due to the air disturbance it created. Thus, regardless of whether MCI had a duty to minimize or remove any air disturbance from its product, there was sufficient evidence for the jury to find that any air disturbance created by the coach was unreasonably dangerous and that the injury could have been avoided by an adequate warning. Finally, Defendant argues that Nevada's wrongful-death statute requires proof of fault, while the nature of a strict liability claim does not require proving fault, and therefore that the elements of a wrongful death claim could not be satisfied by allegations founded in strict liability. The Court finds no support in Nevada case law for this notion, and indeed finds myriad wrongful death actions founded in strict liability, and thus the Court will not apply the law differently for this case. Moreover, Defendant's interpretation of the wrongful act or neglect language in NRS 41.085(2) would lead to an absurd result: A defendant who, by no intentional act or malice, creates an unreasonably dangerous product would still be held strictly liable if a user were merely injured, but would no longer be held accountable if the injuries were grave enough to end the user's life. C. Motion for limited new trial The Court DENIES Defendant's motion for limited new trial, as none of the arguments presented by Defendant exhibits an issue which materially affect[ed] the substantial rights of an aggrieved party. NRCP 59(a). First, Defendant argues that the jury was excused from considering causation of the failure to warn claim because the verdict form did not mention this step of the analysis, and instead allowed the jury to return a verdict in Plaintiffs favor solely by finding that Defendant failed to provide an adequate warning that would have been heeded. First, as noted above, the Court disagrees with Defendant's position that Plaintiff must prove that an adequate warning would have actually avoided the injury, or that the accident happened too quickly for a jury to find that an adequate warning could have avoided the accident. However, the Court also notes that the jury instructions sufficiently informed the jury on all findings required for the jury to return a verdict in Plaintiffs favor including causation and that this remedied any potential errors with the verdict form. Taking into consideration the totality of the jury instructions and the verdict form, the Court does not find that the absence of causation on the fifth question was prejudicial to Defendant. Finally, the Court finds no support for the notion that the special verdict form was required to include a

CASE SUMMARY

CASE NO. A-17-755977-C

finding for every element of every claim. Second, the Court does not agree that precluding evidence of NRS 484B.270, the statute requiring a motorist to maintain a three-foot distance from a bicyclist, constituted an error of law that warrants a new trial. The safety statute in its current form did not exist at the time the coach was sold, and the version of the statute that did exist at the time the coach was sold contained only a mandate that a motorist passing a bicyclist do so safely, which does not offer any support for Dr. Krauss's opinion that the law already required vehicles to maintain a certain distance from bicycles. Thus, the existence of the statute has no probative value as to why Defendant chose not to provide a warning with the coach. Further, the Court maintains that the JI 32, on nondelegation, was rightfully included due to evidence being presented at trial that at least one of Defendant's employees believed another entity would warn drivers about the danger of the coach. If JI 32 caused any prejudice to Defendant's case, the Court does not agree that it materially affected Defendant's substantial rights. Third, as noted in this Court's order denying Defendant's motion for post-trial discovery, the Court does not agree that any newly discovered evidence warrants a new trial. For the same reasons iterated in that order, the Court has not been convinced that the new evidence could not have been found with reasonable diligence, so NRCP 59(a)(4) is not met here. The Court is also not convinced by Defendant's argument that the difficulty in discovering this evidence is exhibited by Plaintiffs' lack of knowledge, or that Defendant was entitled to rely on Plaintiffs' duty to disclose such information. NRCP 16.1 requires a party to disclose the identity of individuals likely to have discoverable information, but it does not require a party to conduct discovery for the other parties. Here, it appears Plaintiffs disclosed Dr. Khiabani's employer, which was sufficient to satisfy Plaintiffs' duty under NRCP 16.1; Plaintiffs were under no duty to actually discover any information from Dr. Khiabani's employer, just to enable Defendant to do so. As stated in the Court's prior order, Defendant had access to the new evidence had it simply attempted to get it. Moreover, even if the Court were to find that Plaintiffs lapsed on their discovery obligations, this Court does not find that such a finding would render the new evidence undiscoverable with due diligence, so a new trial is not warranted on these grounds. Fourth, the Court does not agree that it erred by precluding evidence of the impact of income taxes. While the Court recognizes the difference between damages for lost wages and damages for loss of probable support, Nevada law is clear that evidence of tax implications is not admissible in a wrongful death case. See, e.g. *Otis Elevator Co. v. Reid*, 101 Nev. 515 (1985). Defendant is correct that certain special circumstances allow jury instructions on tax consequences, but only when tax issues are discussed at trial. *Id.* Here, tax issues were not discussed at trial under the general rule that tax implications are not admissible, and thus there was no indication that the jury would consider tax implications. Therefore, *Otis Elevator Co. v. Reid*'s special circumstances exception does not apply, and Defendant's substantial rights were not materially affected. D. Motion to Retax The Court is unable to award costs under NRS 18.005 unless the prevailing party provides justifying documentation to demonstrate how such [claimed costs] were necessary to and incurred in the present action. *Bobby Berosini, Ltd. v. PETA*, 114 Nev. 1348, 1352 (1998) and *Cadle Co. v. Woods & Erickson, LLP*, 345 P.3d 1049 (Nev. 2015). The Nevada Supreme Court will reverse an award of costs as an abuse of discretion if the party does not provide evidence, such as a declaration of counsel, that explains how the [costs] were necessary and incurred rather than simply telling the district court that the costs were reasonable and necessary. *Matter of DISH Network Derivative Litigation*, 133 Nev. Adv. Op. 16, 401 P.3d 1081 (2017). Here, Plaintiffs provided a detailed and verified memorandum of costs, over 1,300 pages of documentation including itemized lists and invoices, and a declaration of counsel in support of the memorandum of costs which discusses (1) the expert fees being sought; (2) reporter's fees for depositions and deposition transcripts; (3) online legal research; (4) trial support services; and (5) other necessary and unavoidable costs including photocopies, travel expenses for necessary fact and expert witness depositions, postage, witness fees, juror fees, process server fees, official court reporter fees, and run services for delivery of time sensitive documents and filing. Although the Court finds that Plaintiffs' opposition to Defendant's motion to retax provides some argument for why many costs were reasonable or necessary, and further that many of Plaintiffs' claimed costs appear reasonable and necessary based on the Court's own experience and knowledge of this case, binding case law precludes this Court from awarding costs for which Plaintiffs have not provided sufficient documentation. In light of the above, the Court GRANTS Defendant's motion to retax IN PART, as to the following items: 1. \$70.00 cost for a paralegal to file a subpoena. Paralegal time is not a cost of litigation under NRS 18.005, and is more appropriately categorized as legal fees. See, e.g. *Las Vegas Metropolitan Police Department v. Yeghiazarian*, 129 Nev. 760, 770 (2013) (concluding that reasonable attorney's fees includes charges for persons such as paralegals and law clerks). 2. \$22,553.75 for videography services and related expedite fees. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 3. \$5,075.00 for synchronized DVD costs. These costs are not specifically

CASE SUMMARY


CASE NO. A-17-755977-C

allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 4. \$1,736.00 for rough drafts of depositions. NRS 18.005(2) provides for one copy of each deposition, but does not provide for rough drafts, and Plaintiffs have not shown in its declaration how this service was necessary. 5. \$3,450.00 for Live Note and Zoom connection fees. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 6. \$4,550.00 for videoconference costs. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 7. \$100.00 for After 5 PM charges. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 8. \$185.00 for flash drives, apparently for depositions of expert witnesses. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 9. \$300.00 for video files for expert witnesses. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 10. \$1,385.40 for conference rooms for depositions of various witnesses. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 11. \$100.00 for read and sign fees. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 12. \$315.00 for equipment rental. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 13. \$100.00 for non-writing wait time for two witnesses. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 14. \$79.00 for parking for depositions. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 15. \$356.40 for food provided at depositions. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 16. \$1,050.00 for professional fees for Dr. Gavin. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 17. \$140.00 for duplicate service on Portia Hubbard. In examining the documents provided by Plaintiffs, it appears Ms. Hubbard was served with a subpoena on both on 8/26/2017 and on 10/1/2017, with no explanation for why the second subpoena was necessary. NRS 18.005(7) does not allow costs for service which the Court finds to be unnecessary. Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 18. \$35.00 for wait time of process server(s). This cost is not enumerated in NRS 18.005(7), and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 19. \$61.60

CASE SUMMARY

CASE NO. A-17-755977-C




for faxes. While reasonable costs for telecopies are allowed under NRS 18.005(11), under *Bobby Berosini, Ltd. v. PETA*, 114 Nev. 1348, 1352 (1998) and *Cadle Co. v. Woods & Erickson, LLP*, 345 P.3d 1049 (Nev. 2015), the documentation submitted is insufficient for the Court to find that the costs were reasonable or necessary, because Plaintiffs have provided no information stating what documents were faxed, and in most cases provide no information of who the fax was sent to. Further, Plaintiffs have offered no explanation for why certain faxes have a higher per-page cost than others. Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary or reasonable. 20. \$4,141.77 for scanning (internal and outside vendor). NRS 18.005 does not provide for costs of scanning, and Plaintiffs have not provided any information about how costs were incurred at all due to internal scanning, or how each scan was necessary. While the Court agrees that the DISH Network Court found the party in that case provided the district court with sufficient justifying documentation to support the award of costs for photocopying and scanning under NRS 18.005(12), Plaintiffs here have provided no such documentation explaining the reasonableness or necessity of these costs. 21. \$39.00 for an unsubstantiated Las Vegas Metropolitan Police Department cost. Defendant's motion states that this cost appears to be either for a police report or for a subpoena, and Plaintiffs do not offer any opposition to this cost being retaxed. Moreover, while Plaintiffs provided documentation showing that these costs were incurred, these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary. 22. \$1,219.98 for hotels for trial witnesses. NRS 18.005(15) only includes travel and lodging incurred while conducting discovery, and while Plaintiffs provided documentation showing that these costs were incurred, the declaration of counsel only discusses the necessity of costs incurred in travel expenses for depositions. Plaintiffs thus provided no documentation explaining how the costs were necessary. 23. \$30,018.77 in legal research. As stated in *DISH Network*, the reasonable and necessary expenses for computerized services for legal research allowed in NRS 18.005 (17) pertain to costs incurred in the process of electronic discovery. The declaration of Plaintiffs counsel states that these costs were incurred to provide the Court with the most recent applicable caselaw on various points of dispute throughout pre-trial motions and during the course of trial... The argument contained in Plaintiffs opposition to the motion to retax reinforces that these costs were incurred not as a part of discovery, but rather to assist Plaintiffs counsel in making legal arguments in motion practice and at trial. Further, the itemized list of research provided in Plaintiffs appendix of documents provides only the date and cost of each transaction. Thus, under *DISH Network's* holding that this expense does not fall under NRS 18.005(17), this cost is not taxable. In total, the Court reduces Plaintiffs taxable costs by \$77,061.67. As to the remaining specific costs Defendant seeks to retax, the Court finds that each cost falls under NRS 18.005(17) as an expense that is reasonable, necessary, and actually incurred, based on the documentation and declaration of counsel. This conclusion contemplates that the parties conducted discovery on an extremely expedited schedule due to the preferential trial setting. Further, the complex nature of the claims and gravity of damages at issue required Plaintiffs to expend costs that may be considered luxuries in different cases, such as oversize color printing and trial support services. Finally, the Court examined in detail the requested expert fees under *Frazier v. Drake*, 357 P.3d 365 (Nev. App. 2015) and found that the fees in excess of \$1,500 for each witness was warranted in light of the factors enumerated in *Frazier*. Counsel for Plaintiffs is directed to prepare a proposed order including detailed findings of fact and conclusions of law on Defendant's motion for judgment as a matter of law Defendant's motion for new trial, Defendant's motion to strike Plaintiffs opposition, and Plaintiffs motion to exceed page limit. Counsel for Defendant is directed to prepare a separate proposed order including detailed findings of fact and conclusions of law on Defendant's motion to retax. Both proposed orders are to be approved by opposing counsel as to form and content prior to submitting the order to chambers in Microsoft word format, by e-mail to dept14lc@clarkcountycourts.us CLERK'S NOTE: Counsel notified via e-mail: William Kemp (jk@hkj-law.com) Peter S. Christiansen (pete@christiansenlaw.com) Kendalee Works (kworks@christiansenlaw.com) Lee Roberts (lroberts@wwhgd.com) Howard Russell (hrussell@wwhgd.com) Eric Pepperman (e.pepperman@kempjones.com);

| | |
|------------|---|
| 09/26/2018 | CANCELED Status Check: Blocked Account (3:00 AM) (Judicial Officer: Escobar, Adriana) Vacated |
| 02/04/2019 |  Minute Order (11:32 AM) (Judicial Officer: Escobar, Adriana) Defendant's Motion to Alter or Amend Judgment to Offset Settlement Proceeds Minute Order - No Hearing Held; |
| 10/14/2021 | Motion (10:00 AM) (Judicial Officer: Escobar, Adriana) |

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-17-755977-C

| | |
|------------|--|
| | <p><i>Supreme Court Order</i> Matter Heard;</p> |
| 02/24/2022 | <p> Minute Order (3:00 AM) (Judicial Officer: Escobar, Adriana) Minute Order - No Hearing Held; Journal Entry Details: <i>The Court, having reviewed the motion which was set for hearing calendar February 24, 2022, no opposition thereto; and without the need for oral argument from the parties; Defendants' Motion to Seal and Redact Brief Regarding Offset and Seal Exhibit A thereto is GRANTED for the reasons and arguments stated in Defendants' moving papers. Counsel for Defendants shall prepare the written Order for the Court's review in accordance with the local rules. The order must be detailed, and include the substance of the moving papers. The hearing for this motion is hereby VACATED. All parties must submit orders electronically, in both PDF version and Word version, until further notice. You may do so by emailing DC14Inbox@clarkcountycourts.us. All orders must have either original signatures from all parties or an email appended as the last page of the proposed order confirming that all parties approved use of their electronic signatures. The subject line of the e-mail should identify the full case number, filing code and case caption. CLERK'S NOTE: The above minute order has been distributed to all parties by the Court Clerk via electronic service and/or mail. ba//02-24-22;</i></p> |
| 02/24/2022 | <p>CANCELED Hearing (10:00 AM) (Judicial Officer: Escobar, Adriana) <i>Vacated</i> <i>Hearing Re: Post-Appeal Breifing Schedule</i></p> |
| 02/24/2022 | <p>CANCELED Motion to Seal/Redact Records (10:00 AM) (Judicial Officer: Escobar, Adriana) <i>Vacated</i> <i>Defendant's Motion to Seal and Redact Brief Regarding Offset</i></p> |
| 03/11/2022 | <p> Motion (1:00 PM) (Judicial Officer: Escobar, Adriana) Off Calendar; Journal Entry Details: <i>In the absence of the Court, matter taken OFF CALENDAR; as motion will be heard on the pleadings.;</i></p> |
| 06/28/2022 | <p> Hearing (10:00 AM) (Judicial Officer: Escobar, Adriana) Matter Heard; Journal Entry Details: <i>Court advised, the decision of punitive damages is not what the case pertains to and in this matter, the Jury found no punitive damages and does not believe the Defendant should be charged with punitive damages, as there is no evidence of Plaintiff settlement or any of the parties discussing punitive damages. COURT FINDS, the defendant's argument is correct and ORDERED, pre-judgment interest must be calculated in brief from the beginning; and a proposed order is to be submitted. Mr. Polsenberg advised, he will submit the proposed order.;</i></p> |

DATE

FINANCIAL INFORMATION

| | |
|---|-------------|
| Defendant Bell Sports Inc | |
| Total Charges | 223.00 |
| Total Payments and Credits | 223.00 |
| Balance Due as of 4/14/2023 | 0.00 |
| Defendant Michelangelo Leasing Inc | |
| Total Charges | 223.00 |
| Total Payments and Credits | 223.00 |
| Balance Due as of 4/14/2023 | 0.00 |
| Defendant Sevenplus Bicycles Inc | |
| Total Charges | 223.00 |
| Total Payments and Credits | 223.00 |
| Balance Due as of 4/14/2023 | 0.00 |

CASE SUMMARY**CASE NO. A-17-755977-C****Defendant** Motor Coach Industries Inc

Total Charges

1,353.09

Total Payments and Credits

1,353.09

Balance Due as of 4/14/2023**0.00****Other** New Flyer Industries, Inc.

Total Charges

223.00

Total Payments and Credits

223.00

Balance Due as of 4/14/2023**0.00****Plaintiff** Estate of Katayoun Barin

Total Charges

448.50

Total Payments and Credits

448.50

Balance Due as of 4/14/2023**0.00****Plaintiff** Estate of Kayvan Khibani M.D.

Total Charges

3.50

Total Payments and Credits

3.50

Balance Due as of 4/14/2023**0.00****Plaintiff** Khiabani, Keon

Total Charges

1,069.00

Total Payments and Credits

1,069.00

Balance Due as of 4/14/2023**0.00****Defendant** Motor Coach Industries Inc

Appeal Bond Balance as of 4/14/2023

1,000.00

DISTRICT COURT CIVIL COVER SHEET

A-17-755977-C

County, Nevada

Department 31

Case No.

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

| | |
|--|---|
| Plaintiff(s) (name/address/phone): Keon Khiabani, Aria Khiabani and Katayoun Barin | Defendant(s) (name/address/phone): Motor Coach Industries, Inc., Vista Outdoor Inc., d/b/a Giro Sport Design, Michelangelo Leasing, Inc., d/b/a Ryan's Express, and Edward Hubbard |
| Attorney (name/address/phone): Will Kemp, Esq. and Eric Pepperman, Esq., Kemp, Jones & Coulthard LLP 3800 Howard Hughes Pkwy, 17th Fl. Las Vegas 89169 (702) 467-8059 Peter S. Christiansen, Esq. Christiansen Law Firm 810 S. Casino Center Blvd., Las Vegas 89101 (702) 240-7979 | Attorney (name/address/phone): |

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

| | | |
|--|--|--|
| Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property | Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice | Torts Other Torts <input checked="" type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort |
| Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500 | Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract | Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal |
| Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ | | Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters |

Business Court filings should be filed using the Business Court civil coversheet.

5/25/2017

Date

Signature of initiating party or representative

See other side for family-related case filings.

Heather S. Smith
CLERK OF THE COURT

ORDR

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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

KEON KHIABANI AN INDIVIDUAL;
ARIA KHIABANI, AN INDIVIDUAL;
SIAMAK BARIN, AS EXECUTOR OF THE
ESTATE OF KAYVAN KHIABANI, M.D.
(DECEDENT), THE ESTATE OF KAYVAN
KHIABANI, M.D. (DECEDENT); SIAMAK
BARIN, AS EXECUTOR OF THE ESTATE OF
KATAYOUN BARIN, DDS (DECEDENT);
AND THE ESTATE OF KATAYOUN BARIN
DDS (DECEDENT),

Plaintiffs,

vs.

MOTOR COACH INDUSTRIES, INC.,
A DELAWARE CORPORATION;
MICHELANGELO LEASING INC. D/B/A
RYAN'S EXPRESS, AN ARIZONA
CORPORATION; EDWARD HUBBARD, A
NEVADA RESIDENT; BELL SPORTS INC.
D/B/A GIRO SPORT DESIGN, A
DELAWARE CORPORATION; SEVENPLUS
BICYCLES, INC. D/B/A PRO CYCLERY, A
NEVADA CORPORATION; DOES 1 THROUGH
20; AND ROE CORPORATIONS 1
THROUGH 20.

Defendants.

Case No. A-17-755977-C

Dept. No. XIV

(PROPOSED)

ORDER GRANTING DEFENDANT MOTOR
COACH INDUSTRIES, INC.'S MOTION
FOR OFFSET

Hearing Date: June 28, 2022
Hearing Time: 10:00 a.m.

KEMP JONES, LLP
3800 Howard Hughes Parkway
Seventeenth Floor
Las Vegas, Nevada 89169
(702) 385-6000 • Fax (702) 385-6001
kjc@kempjones.com

Defendant Motor Coach Industries, Inc has moved the Court for an Offset of the settlement proceeds paid by other defendants in its Brief Regarding Offset filed December 13, 2021. In addition to this motion, the corresponding answering brief and responding brief, the Court also heard oral argument June 28, 2022, regarding the offset. The Court now, having considered the briefs and materials submitted by the parties, oral argument, and the record before the Court, the Court orders as follows:

FINDINGS OF FACT

1. The decedent Dr. Khiabani died when his bicycle collided with a motor coach designed by defendant Motor Coach Industries, Inc. ("MCI"). Defendant Edward Hubbard was driving the vehicle for his employer, Michelangelo Leasing Inc. d/b/a Ryan's Express ("Michelangelo"), taking passengers from the airport to the Red Rock Casino Resort.

2. The plaintiff-heirs sued MCI, Michelangelo, and Hubbard, as well as the manufacturer and seller of the helmet that Dr. Khiabani was wearing at the time of the accident. The helmet was manufactured by Bell Sports, Inc. d/b/a Giro Sport Design. The helmet was sold by SevenPlus Bicycles, Inc. d/b/a Pro Cyclery,

3. In their operative Second Amended Complaint ("SAC"), Plaintiffs alleged the following claims: (i) Strict Liability: Defective Condition or Failure to Warn against Defendant MCI, (ii) Negligence against Defendants Michelangelo and Hubbard, (iii) Negligence per se against Defendants Michelangelo and Hubbard, (iv) Negligent Training Against Michelangelo, (v) Strict Liability: Defective Condition or Failure to Warn against Defendants Bell Sports and SevenPlus, and (vi) Breach of Implied Warranty of Fitness for a Particular Purpose against Defendants

Bell Sports and SevenPlus.

4. *Plaintiffs' complaint also alleged claims for punitive damages. With respect to Michelangelo, Plaintiffs alleged that, "[i]n carrying out its responsibility to adequately hire and train its drivers, Michelangelo acted with fraud, malice, oppression, and/or conscious disregard of the safety of others." 11/17/17 SAC, ¶ 62.*

5. *Prior to trial, Plaintiffs settled with everyone but MCI. In exchange for a full release of all possible claims and damages against the settling defendants, Plaintiffs received \$5 million from Michelangelo and Hubbard, \$100,000 from Bell Sports, and \$10,000 from SevenPlus Bicycles. The Court granted motions for good faith settlement determinations with respect to each settlement, and Plaintiffs' claims against MCI proceeded to trial in February 2018.*

6. *The \$5 million settlement proceeds from Michelangelo and Hubbard, were satisfied through Michelangelo's insurance. Although the settlement was reached in principle prior to trial, the \$5 million was not paid until approximately four months after trial. Plaintiffs actually received the settlement proceeds on August 13, 2018.*

7. *Following a several-week trial on Plaintiffs' claims against MCI, the jury returned a verdict in favor of Plaintiffs under their failure-to-warn theory. The jury awarded compensatory damages in the amount of \$18,746,003.62. The jury did not award any punitive damages against MCI. On April 17, 2018, the court entered judgment on the jury's verdict.*

8. *On June 6, 2018, MCI filed a motion to alter or amend the judgment. In its motion, MCI argued that the judgment amount should be offset by the \$5,110,000.00 paid by the settling defendants*

1 pursuant to NRS 17.245(1)(a) and NRS 41.141(3). Plaintiffs opposed
2 the motion on grounds that product_manufacturers are ineligible to offset
3 settlement proceeds from co-defendants. The Court denied the motion
4 and did not offset the judgment by any amounts paid by the settling
5 defendants.

6 9. On April 24, 2019, MCI filed an appeal. In its appeal, MCI
7 challenged the judgment and several of the Court's rulings, including the
8 order denying its motion to offset the judgment by the full
9 \$5,110,000.00 paid by the settling defendants.

10 10. On August 20, 2020, the Nevada Supreme Court issued its
11 opinion in *J.E. Johns & Assoc. v. Lindberg*, 136 Nev.Adv.Op. 55, 470
12 P.3d 204 (2020). The Lindberg opinion was issued after briefing on
13 MCI's appeal was completed but before oral arguments.

14 11. On March 1, 2021, the Nevada Supreme Court heard oral
15 arguments on MCI's appeal. During oral arguments, Plaintiffs conceded
16 that the "same injury" underlies their claims against both the settling
17 and nonsettling defendants and, therefore, NRS 17.245(1)(a) applied to
18 offset their judgment as to MCI under Lindberg. Plaintiffs also argued
19 that Lindberg applied to the offset calculation as well because the
20 settlement proceeds resolved Defendants' exposure to damages that were
21 beyond actual damages and unique to the settling defendants.

22 12. On August 19, 2021, the Nevada Supreme Court issued its *en*
23 *banc* decision in this case. The Supreme Court concluded as follows:

24 The district court properly denied the motions for judgment
25 as a matter of law, for a new trial, and to retax costs, and
26 we affirm the judgment and post-judgment orders as to those
27 matters. However, the district court incorrectly denied the
28 motion to alter or amend the judgment to offset the

1 settlement proceeds paid by other defendants. We therefore
2 reverse the judgment as to its amount and remand to the
3 district court to determine the amount of the offset to
4 which MCI is entitled and enter a corrected judgment thereon.
5 *Motor Coach Indus., Inc. v. Khiabani by & through Rigaud*,
6 137 Nev. Adv. Op. 42, 493 P.3d 1007, 1017 (2021).

7 13. The amount of the offset also affects the calculation of
8 interest on the judgment. On December 13, 2021, the parties filed
9 simultaneous briefs on these two issues—the amount of the offset and
10 the calculation of interest. On January 20, 2022, the parties filed
11 simultaneous answering briefs. A hearing was held on June 28, 2022.

12 CONCLUSIONS OF LAW

13 I.

14 THE OFFSET UNDER NRS 17.245

15 14. NRS 17.245(1)(a) provides as follows:

16 1. When a release or a covenant not to sue or not
17 to enforce judgment is given in good faith to one
18 of two or more persons liable in tort for the
19 same injury or the same wrongful death: (a) It
20 does not discharge any of the other tortfeasors
21 from liability for the injury or wrongful death
22 unless its terms so provide, but it reduces the
23 claim against the others to the extent of any
24 amount stipulated by the release or the
25 covenant, or in the amount of the consideration
26 paid for it, whichever is the greater...

27 15. In *J.E. Johns & Assoc. v. Lindberg*, 136 Nev. Adv. Op. 55,
28 470 P.3d 204, 208 (2020), the Nevada Supreme Court recently
addressed the application of NRS 17.245(1)(a).

16 16. In *Lindberg*, an aggrieved home buyer sued both the home
sellers and the real estate agents of both parties. “The Lindbergs
specifically alleged that the sellers violated their statutory disclosure
obligation under NRS 113.130, for which NRS 113.150(4) permits the

1 recovery of treble damages, and that the sellers' agents and the
2 Lindbergs' agents violated their statutory duties of disclosure pursuant to
3 NRS 645.252, which gave rise to a cause of action under NRS 645.257
4 to recover their actual damages. *Id.* at 206. Before trial, "the
5 Lindbergs settled with the sellers for \$50,000 and with the Lindbergs'
6 agents for \$7,500." *Id.*

7 17. Following a three-day bench trial against the remaining defendants
8 (the sellers' agents), "the district court awarded the Lindbergs
9 \$27,663.95 in damages—the cost of installing the proper-sized septic
10 system [] pursuant to NRS 645.257." *Id.* "The district court also
11 awarded \$48,116.84 in attorney fees and costs, plus interest, for a total
12 award of \$75,780.79." *Id.* at 207.

13 18. "The sellers' agents then filed an NRCP 59(e) motion to
14 amend or alter the judgment," which was granted in part. *Id.* The
15 district court reasoned that "NRS 17.245(1)(a) entitled the sellers'
16 agents to offset the judgment by the settlement amounts, 'finding that
17 all defendants, settling and remaining, were responsible for the same
18 injury.'" *Id.* Following a hearing on the proper calculation of the offset,
19 "the district court offset the \$27,552.95 award [to fix the septic tank]
20 by the entire settlement amount paid by the Lindbergs' agents
21 (\$7,500), and by one-third of the settlement amount paid by the
22 sellers (\$50,000 x 1/3 = \$16,650) in recognition that the Lindbergs
23 'would be entitled to treble damages against the sellers associated with
24 any claim established under NRS 113.250.'" *Id.* at 210.

25 19. Both parties appealed, claiming "that the district erred in
26 determining the amount to be offset from the original judgment under
27 NRS 17.245(1)(a). *Id.* at 207. The Lindbergs argued that NRS
28

17·245(1)(a) did not apply to offset the judgment “because the statute requires a finding of joint tortfeasor liability for all defendants for the same injury.” *Id.* “The sellers’ agents challenge[d] the district court’s offset calculation, arguing that the district court erred by failing to offset the judgment by the full amount paid by the sellers.” *Id.*

20. In rejecting the Lindbergs’ argument, the Nevada Supreme Court held that “NRS 17·245(1)(a) does not require that a party be found liable.” *Id.* at 208 (quotation omitted). “Instead, as the district court properly determined, the relevant question governing the applicability of NRS 17·245(1)(a) for the purposes of settlement offsets is whether both the settling and remaining defendants caused the same injury.” *Id.* (Citation omitted) (italics in original). “To provide additional guidance, [the Supreme Court echo[ed] the district court’s reasoning to further hold that independent causes of action, multiple legal theories, or facts unique to each defendant do not foreclose a determination that both the settling and nonsettling defendants bear responsibility for the same injury pursuant to NRS 17·245(1)(a).” *Id.* (Citation omitted) (italics in original). Because the district court’s “same injury” finding was supported by substantial evidence, the Supreme Court affirmed the application of NRS 17·245(1)(a) in *Lindberg*. *Id.* at 210.

21. “Having concluded that the district court properly determined that NRS 17·245(1)(a) applie[d] to offset the Lindbergs’ judgment as to the sellers’ agents, [the Supreme Court next] consider[ed] whether the district court appropriately calculated the offset amount.” *Id.* “Whether NRS 17·245(1)(a) requires district courts to automatically deduct the entirety of a settlement award, without considering the makeup of the award in relation to the judgment against

1 the nonsettling defendants, present[ed] a question of law that [the
2 Court] review[ed] de novo.” /d/ (Citation omitted). On this issue, the
3 Nevada Supreme Court found as follows:

4 While the plain language of the statute could be interpreted
5 as permitting the reduction of the entire settlement amount
6 obtained—without regard to the type of exposure resolved by
7 the settling defendants—we reason that such an
8 interpretation violates the spirit of NRS 17:245(1)(a).
9 (Citation omitted) (italics in original). The principal purpose
10 of equitable settlement offsets under the statute is to
11 prevent double recovery to the plaintiff—or in other words,
12 to guard against windfalls.

13 Because the principal purpose of equitable settlement offsets
14 is to avoid windfalls, we determine that it would be
15 inconsistent with the legislative intent of NRS 17:245(1)(a)
16 to then permit the blanket deduction of entire settlement
17 amounts without scrutinizing the allocation of damages
18 awarded therein. Specifically, actual damages “redress the
19 concrete loss that the plaintiff has suffered by reason of the
20 defendant's wrongful conduct.” *Cooper Indus., Inc. v.*
21 *Leatherman Tool Grp., Inc.*, 532 U.S. 424, 432, 121 S.Ct.
22 1678, 149 L.Ed.2d 674 (2001); see also *Actual Damages*,
23 *Black's Law Dictionary* (11th ed. 2019) (defining “actual
24 damages” as those “that repay actual losses”). Treble
25 damages, on the other hand, represent “[d]amages that, by
26 statute, are three times the amount of actual damages that
27 the fact-finder determines is owed.” *Treble Damages*, *Black's*
28 *Law Dictionary* (11th ed. 2019). Thus, ensuring that a
plaintiff does not recover twice for the same injury does not
mean that a plaintiff should otherwise be precluded from
receiving the portion of a settlement award that resolves a

1 settling defendant's exposure beyond actual damages—such as
2 treble or punitive damages—if such exposure is unique to the
3 settling defendant. Cf. *Mobil Oil Corp. v. Ellender*, 968
4 S.W.2d 917, 927 (Tex. 1998) (explaining that a nonsettling
5 defendant “cannot receive credit for settlement amounts
6 representing punitive damages” due to their individual
7 nature). To conclude otherwise would penalize the plaintiff,
8 while granting a windfall to the nonsettling defendant. *Id.* at
9 210-11.

10 22. On remand, there is no dispute that MCI is entitled to an
11 offset under NRS 17-245(1)(a), but the parties disagree over the
12 application of *Lindberg* and the proper calculation of the offset amount.

13 23. Plaintiffs contend that *Lindberg* applies to the court's offset
14 calculation in this case. See Plaintiffs' 12/13/21 Brief Regarding Offset,
15 2:5-3:24. They argue that, in paying the \$5 million settlement
16 amount, Michelangelo and Hubbard resolved their exposure to damages
17 beyond actual damages that are unique to Michelangelo and/or Hubbard.
18 *Id.* at 3:25-4:26. Specifically, “the principal settling defendant
19 (Michelangelo) paid \$5 million to settle the compensatory and punitive
20 damages claims asserted against it.” *Id.* at 3:26-27. Plaintiffs also
21 served offers of judgment on each of the settling defendants. Plaintiffs'
22 1/20/22 Ans. Brief, 4:3-4. This created an additional “exposure” to an
23 award of attorneys' fees, which was also resolved as part of the
24 settlement payment. *Id.* at 4:4-5. This attorneys' fees “exposure” was
25 unique to the settling defendants, as Plaintiffs did not serve an offer of
26 judgment on MCI. *Id.* at 4:5-6. As in *Lindberg*, Plaintiffs contend that
27 the offset calculation in this case should account for the resolution of
28

1 *this exposure to punitive damages and attorneys' fees, as these damages*
2 *are beyond actual damages and unique to Michelangelo and/or Hubbard.*
3 *Id. at 4:8-9.*

4 24. *MCI argues that Lindberg does not apply here because the*
5 *Lindberg case involved "a statutory entitlement to treble damages."*
6 *MCI's 12/13/21 Brief Re Offset, 8:16-17. MCI contends that, unlike*
7 *statutory treble damages, "the allowance or denial of exemplary or*
8 *punitive damages rests entirely in the discretion of the trier of fact."*
9 *Id. at 9:6-7, citing Evans v. Dean Witter Reynolds, Inc., 116 Nev. 598,*
10 *5 P.3d 1043 (2000). MCI asserts that the Nevada Supreme Court did*
11 *not instruct this court to calculate the offset under Lindberg but rather*
12 *"unambiguously directed the court to offset all the settlement proceeds."*
13 *Id. at 6:25-26.*

14 25. *The court agrees with MCI. Lindberg does not apply, and the*
15 *judgment will be offset by the entirety of the \$5,110,000.00 in*
16 *settlement proceeds. In Lindberg, there was a clear statute that allowed*
17 *for treble damages. And here, that is not the case. In this court's*
18 *view, the Lindberg case was not about punitive damages, and any*
19 *discussion about punitive damages was dictum.*

20 26. *In this case, the jury found no punitive damages. Without*
21 *the jury making a finding of punitive damages, the settling Defendants*
22 *cannot be charged with punitive damages absent a settlement that*
23 *specifies the amount. When an insurance policy pays an award, the*
24 *settlement generally does not include an apportionment for punitive*
25 *liability on behalf of their insured. The court has not seen any fact or*
26 *case law that would warrant finding punitive damages against the settling*
27 *defendants in this case, as that would be in the area of the jury or*
28

finder of fact, and that did not happen here.

27. MCI also argues that “Plaintiffs are judicially estopped from alleging that Hubbard acted with conscious disregard of danger” because they presented evidence that Hubbard would have taken actions to avoid the accident if warned about the motor coach’s air displacement. MCI’s 12/13/21 Brief Regarding Offset, 13:14-19. Plaintiffs respond that the punitive damages exposure was based on Michelangelo’s “corporate misconduct in driver screening and driver training—not on Hubbard’s actions.” 1/20/22 Ans. Brief, 5:10-11.

28. The Court agrees with MCI. Judicial estoppel prevents a party from taking inconsistent positions when “the party was successful in asserting the first position (i.e., the tribunal adopted the position or accepted it as true).” *In re Frei Irrevocable Tr. Dated Oct. 29, 1996*, 133 Nev. 50, 390 P.3d 646, 652 (2017) (emphasis added). The court does not have to formally “adopt” the party’s argument before judicial estoppel applies. *See id.* Plaintiffs are judicially estopped from alleging that the settling Defendant’s conduct justified punitive damages based on their previous representation to the court and the orders procured from this court.

/ / /

/ / /

II.

Interest Calculation Following Application of Offset

29. The prejudgment interest must be calculated following proper allocation of the settlement proceeds. By defendant’s calculation, the correct amount of prejudgment interest is \$182,826.85. as detailed

below.

THE OFFSET IS APPLIED TO THE VERDICT BEFORE PREJUDGMENT INTEREST IS CALCULATED

30. For the purpose of calculating interest, Plaintiffs argued that the offset should be applied as of the date in which the settlement payments were actually received (August 13, 2018). MCI argued that the offset should be deducted as of the date of judgment and prior to the calculation of prejudgment interest, even though Plaintiffs did not receive the settlement proceeds until several months later.

31. In Nevada, prejudgment interest is calculated after settlement proceeds are deducted from jury's assessment of compensatory damages. *Ramadanis v. Stupak*, 107 Nev. 22, 23-24, 805 P.2d 65, 65-66 (1991); *c.f.* NRS 41.141(3) (directing the court to subtract settlement proceeds "the net sum otherwise recoverable by the plaintiff pursuant to the general and special verdicts," without reference prejudgment interest). Settlements with co-defendants are not presumed to include both principal and interest to date of settlement. *Ramadanis*, 107 Nev. at 23-24, 805 P.2d at 65-66.

32. Additionally, under Nevada law, the appropriate amount of the punitive damages under NRS 42.005 can only be calculated using the net compensatory damages following the offset. *Coughlin*, 879 F. Supp. at 1051 ("[T]he language 'compensatory damages awarded' in the punitive damages statute refers to the reduced [i.e., after-offset,] compensatory damages award Plaintiff . . . is to receive according to Nevada's comparative negligence statute[, NRS 41.141(3)].").

Apportionment of Offset

33. Plaintiffs' past compensatory damages were \$4,546,003.62.

1 The pro rata share of the \$5 million offset attributable to those
2 damages (24.25%)¹ is \$1,239,175.00 bringing the award of past
3 compensatory damages to \$3,306,828.62, on which prejudgment interest
4 accrued.

5 34. Plaintiffs' future compensatory damages were
6 \$14,200,000.00. The pro rata share of the \$5 million offset
7 attributable to those damages (75.75%)² is \$3,870,825.00 bringing the
8 award of future compensatory damages to \$10,329,175.00.

9 *Calculation of Prejudgment Interest*

10 35. The amount of prejudgment interest awardable to plaintiff is
11 \$182,826.85. That represents interest on Plaintiffs' past compensatory
12 damages of \$3,306,828.62 at the statutory rate of 5.75% from June
13 1, 2017 through June 30, 2017 for a total of \$15,628.16; the
14 statutory rate of 6.25% from July 1, 2017 through December 31, 2017
15 for a total of \$104,187.75; the statutory rate of 6.50% from January
16 1, 2018 through April 17, 2018 for a total of \$63,010.94.

17 / / /

18 / / /

26 ¹ Of the total \$18,746,003.62 in compensatory damages found by the jury, the past
27 damages to plaintiffs (\$4,546,003.62) account for %24.25.

28 ² Of the total \$18,746,003.62 in compensatory damages found by the jury, the future
damages to plaintiffs (\$14,200,000.00) account for %75.75.

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ORDER

1. It is therefore ORDERED that the judgment will be offset by \$5,110,000 million.

2. It is further ORDERED that the amount of prejudgment interest awardable to plaintiff is \$182,826.85.

IT IS SO ORDERED.

Dated this 16th day of March, 2023



DISTRICT COURT JUDGE

109 28D F090 04C5
Adriana Escobar
District Court Judge

Submitted by:

Disapproved as to form and content by:

/s/ Eric Pepperman

/s/ Joel Henriod

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Keon Khiabani, Plaintiff(s)

CASE NO: A-17-755977-C

7 vs.

DEPT. NO. Department 14

8 Motor Coach Industries Inc,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

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3 If indicated below, a copy of the above mentioned filings were also served by mail
4 via United States Postal Service, postage prepaid, to the parties listed below at their last
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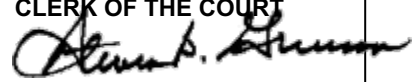
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DISTRICT COURT

CLARK COUNTY, NEVADA

KEON KHIABANI and ARIA KHIABANI,
minors, by and through their guardian,
MARIE-CLAUDE RIGAUD; SIAMAK
BARIN, as executor of the ESTATE OF
KAYVAN KHIABANI, M.D., (Decedent);
the ESTATE OF KAYVAN KHIABANI, M.D.
(Decedent); SIAMAK BARIN, as executor of
the ESTATE OF KATAYOUN BARIN, DDS
(Decedent); and the Estate of KATAYOUN
BARIN, DDS (Decedent),

Plaintiffs,

vs.

MOTOR COACH INDUSTRIES, INC., a
Delaware corporation; MICHELANGELO
LEASING INC. d/b/a RYAN'S EXPRESS, an
Arizona corporation; EDWARD HUBBARD,
a Nevada resident; BELL SPORTS, INC.
d/b/a GIRO SPORT DESIGN, a Delaware
corporation; SEVENPLUS BICYCLES, INC.
d/b/a PRO CYCLERY, a Nevada
corporation, DOES 1 through 20; and ROE
CORPORATIONS 1 through 20,

Defendants.

Case No. A-17-755977-C

Dept. No. 14

**NOTICE OF ENTRY OF "ORDER
GRANTING DEFENDANT MOTOR
COACH INDUSTRIES, INC.'S
MOTION FOR OFFSET"**

1 Please take notice that on the 16th day of March, 2023, an “Order
2 Granting Defendant Motor Coach Industries, Inc.’s Motion for Offset” was
3 entered in this case. A copy of the order is attached.

4 Dated this 24th day of March, 2023.

5 LEWIS ROCA ROTHGERBER CHRISTIE LLP
6

7 By /s/Joel D. Henriod

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Heather S. Smith
CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

KEON KHIABANI AN INDIVIDUAL;
ARIA KHIABANI, AN INDIVIDUAL;
SIAMAK BARIN, AS EXECUTOR OF THE
ESTATE OF KAYVAN KHIABANI, M.D.
(DECEDENT), THE ESTATE OF KAYVAN
KHIABANI, M.D. (DECEDENT); SIAMAK
BARIN, AS EXECUTOR OF THE ESTATE OF
KATAYOUN BARIN, DDS (DECEDENT);
AND THE ESTATE OF KATAYOUN BARIN
DDS (DECEDENT),

Plaintiffs,

vs.

MOTOR COACH INDUSTRIES, INC.,
A DELAWARE CORPORATION;
MICHELANGELO LEASING INC. D/B/A
RYAN'S EXPRESS, AN ARIZONA
CORPORATION; EDWARD HUBBARD, A
NEVADA RESIDENT; BELL SPORTS INC.
D/B/A GIRO SPORT DESIGN, A
DELAWARE CORPORATION; SEVENPLUS
BICYCLES, INC. D/B/A PRO CYCLERY, A
NEVADA CORPORATION; DOES 1 THROUGH
20; AND ROE CORPORATIONS 1
THROUGH 20.

Defendants.

Case No. A-17-755977-C

Dept. No. XIV

(PROPOSED)

ORDER GRANTING DEFENDANT MOTOR
COACH INDUSTRIES, INC.'S MOTION
FOR OFFSET

Hearing Date: June 28, 2022
Hearing Time: 10:00 a.m.

KEMP JONES, LLP
3800 Howard Hughes Parkway
Seventeenth Floor
Las Vegas, Nevada 89169
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Defendant Motor Coach Industries, Inc has moved the Court for an Offset of the settlement proceeds paid by other defendants in its Brief Regarding Offset filed December 13, 2021. In addition to this motion, the corresponding answering brief and responding brief, the Court also heard oral argument June 28, 2022, regarding the offset. The Court now, having considered the briefs and materials submitted by the parties, oral argument, and the record before the Court, the Court orders as follows:

FINDINGS OF FACT

1. The decedent Dr. Khiabani died when his bicycle collided with a motor coach designed by defendant Motor Coach Industries, Inc. ("MCI"). Defendant Edward Hubbard was driving the vehicle for his employer, Michelangelo Leasing Inc. d/b/a Ryan's Express ("Michelangelo"), taking passengers from the airport to the Red Rock Casino Resort.

2. The plaintiff-heirs sued MCI, Michelangelo, and Hubbard, as well as the manufacturer and seller of the helmet that Dr. Khiabani was wearing at the time of the accident. The helmet was manufactured by Bell Sports, Inc. d/b/a Giro Sport Design. The helmet was sold by SevenPlus Bicycles, Inc. d/b/a Pro Cyclery,

3. In their operative Second Amended Complaint ("SAC"), Plaintiffs alleged the following claims: (i) Strict Liability: Defective Condition or Failure to Warn against Defendant MCI, (ii) Negligence against Defendants Michelangelo and Hubbard, (iii) Negligence per se against Defendants Michelangelo and Hubbard, (iv) Negligent Training Against Michelangelo, (v) Strict Liability: Defective Condition or Failure to Warn against Defendants Bell Sports and SevenPlus, and (vi) Breach of Implied Warranty of Fitness for a Particular Purpose against Defendants

Bell Sports and SevenPlus.

4. *Plaintiffs' complaint also alleged claims for punitive damages. With respect to Michelangelo, Plaintiffs alleged that, "[i]n carrying out its responsibility to adequately hire and train its drivers, Michelangelo acted with fraud, malice, oppression, and/or conscious disregard of the safety of others." 11/17/17 SAC, ¶ 62.*

5. *Prior to trial, Plaintiffs settled with everyone but MCI. In exchange for a full release of all possible claims and damages against the settling defendants, Plaintiffs received \$5 million from Michelangelo and Hubbard, \$100,000 from Bell Sports, and \$10,000 from SevenPlus Bicycles. The Court granted motions for good faith settlement determinations with respect to each settlement, and Plaintiffs' claims against MCI proceeded to trial in February 2018.*

6. *The \$5 million settlement proceeds from Michelangelo and Hubbard, were satisfied through Michelangelo's insurance. Although the settlement was reached in principle prior to trial, the \$5 million was not paid until approximately four months after trial. Plaintiffs actually received the settlement proceeds on August 13, 2018.*

7. *Following a several-week trial on Plaintiffs' claims against MCI, the jury returned a verdict in favor of Plaintiffs under their failure-to-warn theory. The jury awarded compensatory damages in the amount of \$18,746,003.62. The jury did not award any punitive damages against MCI. On April 17, 2018, the court entered judgment on the jury's verdict.*

8. *On June 6, 2018, MCI filed a motion to alter or amend the judgment. In its motion, MCI argued that the judgment amount should be offset by the \$5,110,000.00 paid by the settling defendants*

1 pursuant to NRS 17.245(1)(a) and NRS 41.141(3). Plaintiffs opposed
2 the motion on grounds that product_manufacturers are ineligible to offset
3 settlement proceeds from co-defendants. The Court denied the motion
4 and did not offset the judgment by any amounts paid by the settling
5 defendants.

6 9. On April 24, 2019, MCI filed an appeal. In its appeal, MCI
7 challenged the judgment and several of the Court's rulings, including the
8 order denying its motion to offset the judgment by the full
9 \$5,110,000.00 paid by the settling defendants.

10 10. On August 20, 2020, the Nevada Supreme Court issued its
11 opinion in *J.E. Johns & Assoc. v. Lindberg*, 136 Nev.Adv.Op. 55, 470
12 P.3d 204 (2020). The Lindberg opinion was issued after briefing on
13 MCI's appeal was completed but before oral arguments.

14 11. On March 1, 2021, the Nevada Supreme Court heard oral
15 arguments on MCI's appeal. During oral arguments, Plaintiffs conceded
16 that the "same injury" underlies their claims against both the settling
17 and nonsettling defendants and, therefore, NRS 17.245(1)(a) applied to
18 offset their judgment as to MCI under Lindberg. Plaintiffs also argued
19 that Lindberg applied to the offset calculation as well because the
20 settlement proceeds resolved Defendants' exposure to damages that were
21 beyond actual damages and unique to the settling defendants.

22 12. On August 19, 2021, the Nevada Supreme Court issued its *en*
23 *banc* decision in this case. The Supreme Court concluded as follows:

24 The district court properly denied the motions for judgment
25 as a matter of law, for a new trial, and to retax costs, and
26 we affirm the judgment and post-judgment orders as to those
27 matters. However, the district court incorrectly denied the
28 motion to alter or amend the judgment to offset the

1 settlement proceeds paid by other defendants. We therefore
2 reverse the judgment as to its amount and remand to the
3 district court to determine the amount of the offset to
4 which MCI is entitled and enter a corrected judgment thereon.
5 *Motor Coach Indus., Inc. v. Khiabani by & through Rigaud*,
6 137 Nev. Adv. Op. 42, 493 P.3d 1007, 1017 (2021).

7 13. The amount of the offset also affects the calculation of
8 interest on the judgment. On December 13, 2021, the parties filed
9 simultaneous briefs on these two issues—the amount of the offset and
10 the calculation of interest. On January 20, 2022, the parties filed
11 simultaneous answering briefs. A hearing was held on June 28, 2022.

12 CONCLUSIONS OF LAW

13 I.

14 THE OFFSET UNDER NRS 17.245

15 14. NRS 17.245(1)(a) provides as follows:

16 1. When a release or a covenant not to sue or not
17 to enforce judgment is given in good faith to one
18 of two or more persons liable in tort for the
19 same injury or the same wrongful death: (a) It
20 does not discharge any of the other tortfeasors
21 from liability for the injury or wrongful death
22 unless its terms so provide, but it reduces the
23 claim against the others to the extent of any
24 amount stipulated by the release or the
25 covenant, or in the amount of the consideration
26 paid for it, whichever is the greater...

27 15. In *J.E. Johns & Assoc. v. Lindberg*, 136 Nev. Adv. Op. 55,
28 470 P.3d 204, 208 (2020), the Nevada Supreme Court recently
addressed the application of NRS 17.245(1)(a).

16 16. In *Lindberg*, an aggrieved home buyer sued both the home
sellers and the real estate agents of both parties. “The Lindbergs
specifically alleged that the sellers violated their statutory disclosure
obligation under NRS 113.130, for which NRS 113.150(4) permits the

1 recovery of treble damages, and that the sellers' agents and the
2 Lindbergs' agents violated their statutory duties of disclosure pursuant to
3 NRS 645.252, which gave rise to a cause of action under NRS 645.257
4 to recover their actual damages. *Id.* at 206. Before trial, "the
5 Lindbergs settled with the sellers for \$50,000 and with the Lindbergs'
6 agents for \$7,500." *Id.*

7 17. Following a three-day bench trial against the remaining defendants
8 (the sellers' agents), "the district court awarded the Lindbergs
9 \$27,663.95 in damages—the cost of installing the proper-sized septic
10 system [] pursuant to NRS 645.257." *Id.* "The district court also
11 awarded \$48,116.84 in attorney fees and costs, plus interest, for a total
12 award of \$75,780.79." *Id.* at 207.

13 18. "The sellers' agents then filed an NRCP 59(e) motion to
14 amend or alter the judgment," which was granted in part. *Id.* The
15 district court reasoned that "NRS 17.245(1)(a) entitled the sellers'
16 agents to offset the judgment by the settlement amounts, 'finding that
17 all defendants, settling and remaining, were responsible for the same
18 injury.'" *Id.* Following a hearing on the proper calculation of the offset,
19 "the district court offset the \$27,552.95 award [to fix the septic tank]
20 by the entire settlement amount paid by the Lindbergs' agents
21 (\$7,500), and by one-third of the settlement amount paid by the
22 sellers (\$50,000 x 1/3 = \$16,650) in recognition that the Lindbergs
23 'would be entitled to treble damages against the sellers associated with
24 any claim established under NRS 113.250.'" *Id.* at 210.

25 19. Both parties appealed, claiming "that the district erred in
26 determining the amount to be offset from the original judgment under
27 NRS 17.245(1)(a). *Id.* at 207. The Lindbergs argued that NRS
28

17·245(1)(a) did not apply to offset the judgment “because the statute requires a finding of joint tortfeasor liability for all defendants for the same injury.” *Id.* “The sellers’ agents challenge[d] the district court’s offset calculation, arguing that the district court erred by failing to offset the judgment by the full amount paid by the sellers.” *Id.*

20. In rejecting the Lindbergs’ argument, the Nevada Supreme Court held that “NRS 17·245(1)(a) does not require that a party be found liable.” *Id.* at 208 (quotation omitted). “Instead, as the district court properly determined, the relevant question governing the applicability of NRS 17·245(1)(a) for the purposes of settlement offsets is whether both the settling and remaining defendants caused the same injury.” *Id.* (Citation omitted) (italics in original). “To provide additional guidance, [the Supreme Court echo[ed] the district court’s reasoning to further hold that independent causes of action, multiple legal theories, or facts unique to each defendant do not foreclose a determination that both the settling and nonsettling defendants bear responsibility for the same injury pursuant to NRS 17·245(1)(a).” *Id.* (Citation omitted) (italics in original). Because the district court’s “same injury” finding was supported by substantial evidence, the Supreme Court affirmed the application of NRS 17·245(1)(a) in *Lindberg*. *Id.* at 210.

21. “Having concluded that the district court properly determined that NRS 17·245(1)(a) applie[d] to offset the Lindbergs’ judgment as to the sellers’ agents, [the Supreme Court next] consider[ed] whether the district court appropriately calculated the offset amount.” *Id.* “Whether NRS 17·245(1)(a) requires district courts to automatically deduct the entirety of a settlement award, without considering the makeup of the award in relation to the judgment against

1 the nonsettling defendants, present[ed] a question of law that [the
2 Court] review[ed] de novo.” /d/ (Citation omitted). On this issue, the
3 Nevada Supreme Court found as follows:

4 While the plain language of the statute could be interpreted
5 as permitting the reduction of the entire settlement amount
6 obtained—without regard to the type of exposure resolved by
7 the settling defendants—we reason that such an
8 interpretation violates the spirit of NRS 17:245(1)(a).
9 (Citation omitted) (italics in original). The principal purpose
10 of equitable settlement offsets under the statute is to
11 prevent double recovery to the plaintiff—or in other words,
12 to guard against windfalls.

13 Because the principal purpose of equitable settlement offsets
14 is to avoid windfalls, we determine that it would be
15 inconsistent with the legislative intent of NRS 17:245(1)(a)
16 to then permit the blanket deduction of entire settlement
17 amounts without scrutinizing the allocation of damages
18 awarded therein. Specifically, actual damages “redress the
19 concrete loss that the plaintiff has suffered by reason of the
20 defendant's wrongful conduct.” *Cooper Indus., Inc. v.*
21 *Leatherman Tool Grp., Inc.*, 532 U.S. 424, 432, 121 S.Ct.
22 1678, 149 L.Ed.2d 674 (2001); see also *Actual Damages*,
23 *Black's Law Dictionary* (11th ed. 2019) (defining “actual
24 damages” as those “that repay actual losses”). Treble
25 damages, on the other hand, represent “[d]amages that, by
26 statute, are three times the amount of actual damages that
27 the fact-finder determines is owed.” *Treble Damages*, *Black's*
28 *Law Dictionary* (11th ed. 2019). Thus, ensuring that a
plaintiff does not recover twice for the same injury does not
mean that a plaintiff should otherwise be precluded from
receiving the portion of a settlement award that resolves a

1 settling defendant's exposure beyond actual damages—such as
2 treble or punitive damages—if such exposure is unique to the
3 settling defendant. *Cf. Mobil Oil Corp. v. Ellender*, 968
4 S.W.2d 917, 927 (Tex. 1998) (explaining that a nonsettling
5 defendant “cannot receive credit for settlement amounts
6 representing punitive damages” due to their individual
7 nature). To conclude otherwise would penalize the plaintiff,
8 while granting a windfall to the nonsettling defendant. *Id.* at
9 210-11.

10 22. On remand, there is no dispute that MCI is entitled to an
11 offset under NRS 17-245(1)(a), but the parties disagree over the
12 application of *Lindberg* and the proper calculation of the offset amount.

13 23. Plaintiffs contend that *Lindberg* applies to the court's offset
14 calculation in this case. See Plaintiffs' 12/13/21 Brief Regarding Offset,
15 2:5-3:24. They argue that, in paying the \$5 million settlement
16 amount, Michelangelo and Hubbard resolved their exposure to damages
17 beyond actual damages that are unique to Michelangelo and/or Hubbard.
18 *Id.* at 3:25-4:26. Specifically, “the principal settling defendant
19 (Michelangelo) paid \$5 million to settle the compensatory and punitive
20 damages claims asserted against it.” *Id.* at 3:26-27. Plaintiffs also
21 served offers of judgment on each of the settling defendants. Plaintiffs'
22 1/20/22 Ans. Brief, 4:3-4. This created an additional “exposure” to an
23 award of attorneys' fees, which was also resolved as part of the
24 settlement payment. *Id.* at 4:4-5. This attorneys' fees “exposure” was
25 unique to the settling defendants, as Plaintiffs did not serve an offer of
26 judgment on MCI. *Id.* at 4:5-6. As in *Lindberg*, Plaintiffs contend that
27 the offset calculation in this case should account for the resolution of
28

1 *this exposure to punitive damages and attorneys' fees, as these damages*
2 *are beyond actual damages and unique to Michelangelo and/or Hubbard.*
3 *Id. at 4:8-9.*

4 24. *MCI argues that Lindberg does not apply here because the*
5 *Lindberg case involved "a statutory entitlement to treble damages."*
6 *MCI's 12/13/21 Brief Re Offset, 8:16-17. MCI contends that, unlike*
7 *statutory treble damages, "the allowance or denial of exemplary or*
8 *punitive damages rests entirely in the discretion of the trier of fact."*
9 *Id. at 9:6-7, citing Evans v. Dean Witter Reynolds, Inc., 116 Nev. 598,*
10 *5 P.3d 1043 (2000). MCI asserts that the Nevada Supreme Court did*
11 *not instruct this court to calculate the offset under Lindberg but rather*
12 *"unambiguously directed the court to offset all the settlement proceeds."*
13 *Id. at 6:25-26.*

14 25. *The court agrees with MCI. Lindberg does not apply, and the*
15 *judgment will be offset by the entirety of the \$5,110,000.00 in*
16 *settlement proceeds. In Lindberg, there was a clear statute that allowed*
17 *for treble damages. And here, that is not the case. In this court's*
18 *view, the Lindberg case was not about punitive damages, and any*
19 *discussion about punitive damages was dictum.*

20 26. *In this case, the jury found no punitive damages. Without*
21 *the jury making a finding of punitive damages, the settling Defendants*
22 *cannot be charged with punitive damages absent a settlement that*
23 *specifies the amount. When an insurance policy pays an award, the*
24 *settlement generally does not include an apportionment for punitive*
25 *liability on behalf of their insured. The court has not seen any fact or*
26 *case law that would warrant finding punitive damages against the settling*
27 *defendants in this case, as that would be in the area of the jury or*
28

finder of fact, and that did not happen here.

27. MCI also argues that “Plaintiffs are judicially estopped from alleging that Hubbard acted with conscious disregard of danger” because they presented evidence that Hubbard would have taken actions to avoid the accident if warned about the motor coach’s air displacement. MCI’s 12/13/21 Brief Regarding Offset, 13:14-19. Plaintiffs respond that the punitive damages exposure was based on Michelangelo’s “corporate misconduct in driver screening and driver training—not on Hubbard’s actions.” 1/20/22 Ans. Brief, 5:10-11.

28. The Court agrees with MCI. Judicial estoppel prevents a party from taking inconsistent positions when “the party was successful in asserting the first position (i.e., the tribunal adopted the position or accepted it as true).” *In re Frei Irrevocable Tr. Dated Oct. 29, 1996*, 133 Nev. 50, 390 P.3d 646, 652 (2017) (emphasis added). The court does not have to formally “adopt” the party’s argument before judicial estoppel applies. *See id.* Plaintiffs are judicially estopped from alleging that the settling Defendant’s conduct justified punitive damages based on their previous representation to the court and the orders procured from this court.

/ / /

/ / /

II.

Interest Calculation Following Application of Offset

29. The prejudgment interest must be calculated following proper allocation of the settlement proceeds. By defendant’s calculation, the correct amount of prejudgment interest is \$182,826.85. as detailed

below.

THE OFFSET IS APPLIED TO THE VERDICT BEFORE PREJUDGMENT INTEREST IS CALCULATED

30. For the purpose of calculating interest, Plaintiffs argued that the offset should be applied as of the date in which the settlement payments were actually received (August 13, 2018). MCI argued that the offset should be deducted as of the date of judgment and prior to the calculation of prejudgment interest, even though Plaintiffs did not receive the settlement proceeds until several months later.

31. In Nevada, prejudgment interest is calculated after settlement proceeds are deducted from jury's assessment of compensatory damages. *Ramadanis v. Stupak*, 107 Nev. 22, 23-24, 805 P.2d 65, 65-66 (1991); *c.f.* NRS 41.141(3) (directing the court to subtract settlement proceeds "the net sum otherwise recoverable by the plaintiff pursuant to the general and special verdicts," without reference prejudgment interest). Settlements with co-defendants are not presumed to include both principal and interest to date of settlement. *Ramadanis*, 107 Nev. at 23-24, 805 P.2d at 65-66.

32. Additionally, under Nevada law, the appropriate amount of the punitive damages under NRS 42.005 can only be calculated using the net compensatory damages following the offset. *Coughlin*, 879 F. Supp. at 1051 ("[T]he language 'compensatory damages awarded' in the punitive damages statute refers to the reduced [i.e., after-offset,] compensatory damages award Plaintiff . . . is to receive according to Nevada's comparative negligence statute[, NRS 41.141(3)].").

Apportionment of Offset

33. Plaintiffs' past compensatory damages were \$4,546,003.62.

1 The pro rata share of the \$5 million offset attributable to those
2 damages (24.25%)¹ is \$1,239,175.00 bringing the award of past
3 compensatory damages to \$3,306,828.62, on which prejudgment interest
4 accrued.

5 34. Plaintiffs' future compensatory damages were
6 \$14,200,000.00. The pro rata share of the \$5 million offset
7 attributable to those damages (75.75%)² is \$3,870,825.00 bringing the
8 award of future compensatory damages to \$10,329,175.00.

9 *Calculation of Prejudgment Interest*

10 35. The amount of prejudgment interest awardable to plaintiff is
11 \$182,826.85. That represents interest on Plaintiffs' past compensatory
12 damages of \$3,306,828.62 at the statutory rate of 5.75% from June
13 1, 2017 through June 30, 2017 for a total of \$15,628.16; the
14 statutory rate of 6.25% from July 1, 2017 through December 31, 2017
15 for a total of \$104,187.75; the statutory rate of 6.50% from January
16 1, 2018 through April 17, 2018 for a total of \$63,010.94.

17 / / /

18 / / /

26 ¹ Of the total \$18,746,003.62 in compensatory damages found by the jury, the past
27 damages to plaintiffs (\$4,546,003.62) account for %24.25.

28 ² Of the total \$18,746,003.62 in compensatory damages found by the jury, the future
damages to plaintiffs (\$14,200,000.00) account for %75.75.

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ORDER

1. It is therefore ORDERED that the judgment will be offset by \$5,110,000 million.

2. It is further ORDERED that the amount of prejudgment interest awardable to plaintiff is \$182,826.85.

IT IS SO ORDERED.

Dated this 16th day of March, 2023



DISTRICT COURT JUDGE

109 28D F090 04C5
Adriana Escobar
District Court Judge

Submitted by:

Disapproved as to form and content by:

/s/ Eric Pepperman

/s/ Joel Henriod

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Keon Khiabani, Plaintiff(s)

CASE NO: A-17-755977-C

7 vs.

DEPT. NO. Department 14

8 Motor Coach Industries Inc,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

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2
3 If indicated below, a copy of the above mentioned filings were also served by mail
4 via United States Postal Service, postage prepaid, to the parties listed below at their last
5 known addresses on 3/17/2023

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

June 06, 2017

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

| | | | |
|----------------------|-----------------|---------------------|---|
| June 06, 2017 | 12:30 AM | Minute Order | Ex-Parte Motion for Order Requiring Bus Company and Driver to Preserve and Immediately Turn Over Relevant Electronic Monitoring Information from Bus and Driver Cell Phone |
|----------------------|-----------------|---------------------|---|

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Plaintiffs ex parte motion for order requiring bus company and driver to preserve and immediately turn over relevant electronic monitoring information from bus and driver cell phone was filed in Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on May 30, 2017.

The Court notes that the motion is not the appropriate method for seeking the requested relief, as Plaintiffs are essentially requesting a temporary restraining order and an order compelling

production of evidence. Thus, the Court DENIES Plaintiffs motion, as each of these motions require additional procedural steps, such as an attempt at notice to the other party which have apparently not been undertaken here. If Plaintiffs refile the request to preserve evidence as an application for temporary restraining order in line with NRCP 65(b), including making efforts to serve the Defendants with notice of that application, the Court will consider the matter at that time. The Court will not grant a motion to compel on an ex parte basis.

Finally, the Court notes that both parties have a common law duty to preserve documents, tangible items, and information relevant to litigation that are reasonably calculated to lead to the discovery of admissible evidence when litigation is reasonably foreseeable. See *Bass-Davis v. Davis*, 122 Nev. 442 (2006).

Plaintiffs are directed to submit a proposed order denying their motion, and to serve a copy of this minute order on Defendants.

CLERK'S NOTE: Copies of this minute order placed in the attorney folders of:

William Kemp (KEMP JONES & COULTHARD, LLP)
Peter S. Christiansen (CHRISTIANSEN LAW OFFICES)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****June 15, 2017**

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

| | | | |
|----------------------|----------------|---|--|
| June 15, 2017 | 9:30 AM | Motion for Temporary Restraining Order | Per Pltf's App for TRO requiring Bus Co. & Driver to Preserve & Immediately Turn over Relevant Electronic Monitoring Information from Bus and Driver Cell Phone on OST. |
|----------------------|----------------|---|--|

HEARD BY: Escobar, Adriana**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Sharon Chun**RECORDER:** Sandra Anderson**REPORTER:****PARTIES**

| | | |
|-----------------|-------------------------|----------|
| PRESENT: | Christiansen, Peter S | Attorney |
| | Freeman, Eric O. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Russell, Howard J., ESQ | Attorney |
| | Stoberski, Michael E | Attorney |

JOURNAL ENTRIES

- Per Pltf's App for TRO requiring Bus Co. & Driver to Preserve & Immediately Turn over Relevant Electronic Monitoring Information from Bus and Driver Cell Phone on OST.

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Minutes Date: June 06, 2017

Eric Freeman, Esq. appeared by CourtCall on behalf of Defts Michelangelo Leasing Inc. d/b/a Ryan's Express and Edward Hubbard.

Judge Escobar disclosed that it had represented Mr. Kemp's firm prior to taking the Bench, but will be fair and impartial. There was no opposition from any counsel to this Court hearing this matter.

Following Mr. Kemp's argument in support of the Application for TRO, both Mr. Russell and Mr. Stoberski stated they had no opposition to the proposed changes to the order, but requested to review it prior to signing off.

Mr. Freeman presented his objection to the Temporary Restraining Order, arguing it was too broad. He also noted that Sevenplus Bicycles Inc., a defendant that it affects, was served but has made no appearance yet and they need to make an appearance. Mr. Kemp confirmed that Michelangelo and Hubbard were served and argued that they will need to look at the evidence and get started. Mr. Freeman responded that he needs the opportunity to discuss this with his potential client and reiterated his opposition to the TRO at this time, but he will work with counsel. Mr. Kemp reiterated his request for the TRO.

COURT STATED it has given a lot of thought to this and did find that the preservation of evidence is critical and required; however, the Court needs to read the changed Order. COURT ORDERED, Application for TRO GRANTED IN PART and DENIED IN PART. COURT STATED it did not find it was something it wanted to come without the other parties being informed. The preservation of evidence is critical and required. COURT STATED it has not yet read the changed order, but at this time read from its notes, citing the electronic information that Mr. Kemp believes the bus has in its possession.

COURT ORDERED within five business days, all of the cited items are to be preserved from the accident which occurred on 4/18/17. With respect to the Smart Phone, those items that Plaintiff requested are to be preserved. Under Bass-Davis, a party has the duty to preserve discoverable evidence, within five business days. COURT NOTED that the evidence already discussed may not be discoverable, but it is to be downloaded within five business days and is to be preserved by the Defendants; Mr. Freeman would have a duty to preserve this.

Defendants are not to discuss the evidence with Plaintiff's, or anyone else involved in the case, until the appropriate time. Mr. Kemp stated his concern is that all data is downloaded. COURT ADVISED it wants a Declaration from the experts who are proficient to download the data from the date of the accident. It was noted that there are two such experts who would be proficient to do that.

COURT ORDERED that the experts are to submit a Declaration to the Court as to what was downloaded and the dates of the data generation from the bus and the cell phone. The information will not be shared with Plaintiff until the appropriate time. Mr. Kemp noted that METRO may

request the information. COURT REITERATED that the information is not to be shared with the Plaintiff, but METRO'S requests may be required.

Mr. Freeman stated he will cooperate with Mr. Kemp's office and requested Mr. Kemp to forward the proposed revised Order to him along with the information as to whom could download all of this and preserve the data. Mr. Freeman's contact information was provided at this time. COURT SO NOTED.

Mr. Kemp advised he will redraft the proposed Order, get it to all counsel, and then get it back to the Court within the next few days.

COURT REITERATED, the TEMPORARY RESTRAINING ORDER, GRANTED IN PART; DENIED AS TO IMMEDIATELY TURNING OVER THE INFORMATION/EVIDENCE.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****July 20, 2017**

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

| | | | |
|----------------------|----------------|--|--|
| July 20, 2017 | 9:30 AM | Motion for Preferential Trial Setting | Plaintiff's Motion for Preferential Trial Setting Under NRS 16.025(2) |
|----------------------|----------------|--|--|

HEARD BY: Jones, Tierra**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Denise Husted**RECORDER:** Sandra Anderson**REPORTER:****PARTIES**

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Nunez, Michael J. | Attorney |
| | Stoberski, Michael E | Attorney |
| | Works, Kendelee Leascher | Attorney |

JOURNAL ENTRIES

- Mr. Kemp argued that parties can be ready for trial in six months. He advised that the widow does not have long to live which necessitates an expedited trial setting. He further stated he listed all witnesses at the early case conference and will provide counsel all documents by noon today. Opposition by defense counsel. Colloquy regarding scheduling of depositions, dispositive motions and motions in limine. COURT ORDERED, motion is GRANTED; trial date is SET, with the understanding that it may not go, and a status check regarding trial readiness is SET in sixty days.

9/21/17 9:30 AM STATUS CHECK: TRIAL READINESS

A-17-755977-C

11/2/17 9:30 AM CALENDAR CALL

11/20/17 9:30 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

September 21, 2017

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

September 21, 2017 9:30 AM All Pending Motions

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Haly Pannullo

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Christiansen, Peter S | Attorney |
| | Freeman, Eric O. | Attorney |
| | Kemp, William Simon | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Stoberski, Michael E | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- TRIAL READINESS ... DEFENDANTS MICHELANGELO LEASING INC. AND EDWARD HUBBARD'S MOTION FOR RECONSIDERATION REGARDING THE COURT GRANTING PLAINTIFFS' MOTION FOR PREFERENTIAL TRIAL SETTING ... DEFENDANT SEVENPLUS BICYCLES, INC. DBA PRO CYCLERY'S JOINDER TO DEFENDANT RYAN'S EXPRESS AND EDWARD HUBBARD'S MOTION FOR RECONSIDERATION ... DEFENDANT MOTOR COACH INDUSTRIES, INC.'S JOINDER TO MICHELANGELO LEASING INC. AND EDWARD HUBBARD'S MOTION FOR RECONSIDERATION REGARDING THE COURT GRANTING PLAINTIFFS' MOTION FOR PREFERENTIAL TRIAL SETTING

Scott Tooney, Esq., present on behalf of Bell Sports Inc. Paul Stephen, Esq., appearing Pro Hac Vice on behalf of Motor Coach Industries Inc. Michael G. Terry, Esq., appearing Pro Hac Vice on behalf of

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Katayoun Barin.

Arguments by counsel regarding trial readiness and the Motion for Reconsideration. COURT STATED FINDINGS and ORDERED, trial and discovery is to move forward on the schedule that was set. Court noted the status of each Pro Hac Vice application. COURT FURTHER ORDERED, matter SET for Status Check regarding trial readiness.

CLERK'S NOTE: Subsequent to Court, COURT ORDERED, matter SET for Status Check on October 30, 2017 to monitor the progress of discovery closer to the trial date; Motions for Reconsideration CONTINUED. hvp/10/9/17

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

November 02, 2017

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

| | | | |
|-------------------|---------|---------------------|---|
| November 02, 2017 | 9:30 AM | All Pending Motions | Plaintiff's Motion to Amend Cojmplaint to Substitute Parties on Order Shortening Time...Defendant's Opposition to Plaintiffs' Motion to Amend Complaint/Countermotion to Set a Reasonable Trial Date Upon Changed Circumstance that Nullifies the Reason for Preferential Trial Setting |
|-------------------|---------|---------------------|---|

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|-------------------------|----------|
| PRESENT: | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Polsenberg, Daniel F. | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Russell, Howard J., ESQ | Attorney |

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Works, Kendelea Leascher

Attorney

JOURNAL ENTRIES

- Mr. Kemp stated that the amendment being sought is to replace the co-guardian into the case. He advised that Defendant's opposition is actually a request to continue the trial. He informed the Court the status of taking of depositions and argued opposition to Defendant's request for trial continuance. Mr. Polsenberg stated he does not want to try a case in which he is not prepared; a continuance is required to fully prepare. Following further arguments, COURT ORDERED, Plaintiff's Motion to Amend Complaint is GRANTED and Defendant's Countermotion to Set a Reasonable Trial Date is GRANTED. Trial, which is anticipated to take four weeks, is set to a Firm Setting.

1/18/18 9:30 AM CALENDAR CALL

2/12/18 9:30 AM JURY TRIAL - FIRM SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

December 07, 2017

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

| | | |
|-------------------|---------|--|
| December 07, 2017 | 9:30 AM | Motion for Determination of Good Faith Settlement |
|-------------------|---------|--|

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|-----------------|----------|
| PRESENT: | Pepperman, Eric | Attorney |
|-----------------|-----------------|----------|

JOURNAL ENTRIES

- COURT FINDS no collusion or fraud and the settlement negotiations were at arms length, and ORDERED, Good Faith Settlement is APPROVED. Ms. Igeleke to prepare the order to include Findings of Fact and Conclusions of Law, circulate proposed order to counsel and provide proposed order to Court's Chambers in Word format.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

January 18, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

January 18, 2018 9:30 AM Calendar Call

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | |
|-----------------|--|
| PRESENT: | Henriod, Joel D. Attorney |
| | Pepperman, Eric Attorney |
| | Roberts, D Lee, Jr. Attorney |
| | Works, Kendelea Leascher Attorney |

JOURNAL ENTRIES

- Colloquy regarding trial date and the jury questionnaire. COURT ORDERED, trial date STANDS.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

January 23, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) |
| | vs. |
| | Motor Coach Industries Inc, Defendant(s) |

January 23, 2018 9:30 AM All Pending Motions

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Christiansen, Peter S | Attorney |
| | Ferrario, Mark E., ESQ | Attorney |
| | Freeman, Eric O. | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Polsenberg, Daniel F. | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Russell, Howard J., ESQ | Attorney |
| | Stoberski, Michael E | Attorney |
| | Welch, Whitney L | Attorney |
| | Works, Kendelee Leascher | Attorney |

JOURNAL ENTRIES

- Following arguments by counsel, COURT ORDERED, the following:

Defendant's Motion for Summary Judgment on Forseeability of Bus Interaction with Pedestrians or Bicyclists (Including Sudden Bicycle Movement) is GRANTED.

Plaintiff's Motion for Determination of Good Faith Settlement with Defendants Michelangelo Leasing, Inc. dba Ryan's Express and Edward Hubble Only is GRANTED; Motion to Seal Settlement GRANTED as well.

Defendant Bell Sports, Inc.'s Motion for Determination of Good Faith Settlement on OST is GRANTED; Motion to Seal GRANTED as well.

Plaintiff's Joinder to Defendant Bell Sports, Inc.'s Motion for Determination of Good Faith Settlement on Order Shortening Time is GRANTED.

Defendant's Motion for Summary Judgment on Punitive Damages is DENIED as Plaintiff provided sufficient evidence supporting punitive damages instruction.

Motor Coach Industries, Inc." Motion for Summary Judgment on All Claims Alleging a Product Defect is DENIED as the theories have issues of material fact remaining.

Defendant's Motion to Dismiss Wrongful Death Claim for Death of Katavoun Brain DDS is GRANTED.

Defendant Motor Coach Industries, Inc. Motion for Leave to File Third Party Complaint on OST is MOOT.

Defendant's Motion for Leave to File Third Party Complaint on OST is MOOT.

Non-Party New Flyer Industries Inc.'s Objection to Special Master Hale's January 23, 2018. Court informed parties that a minute order will issue.

Parties to prepare their respective orders.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****January 26, 2018**

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

| | | | |
|-------------------------|-----------------|---------------------|--|
| January 26, 2018 | 11:00 AM | Minute Order | Non-Party New Flyer Industries, Inc.'s Objection to Special Master Hales's 1/4/18 Order |
|-------------------------|-----------------|---------------------|--|

HEARD BY: Escobar, Adriana**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Denise Husted**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Non-party New Flyer Industries, Inc. s Objection to Special Master Hale s January 4, 2018 Order came on for a hearing before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on January 23, 2018.

After considering the pleadings and argument of counsel, the Court GRANTS IN PART and DENIES IN PART New Flyer s motion. Plaintiffs will be permitted to conduct a deposition of Mr. Asham by video conference, to last no more than two hours. However, the deposition will be for the limited purpose of discovery of the financial status of the Defendant, Motor Coach Industries. Plaintiffs are directed to prepare a proposed order for the Court s signature, and to submit the proposed order in Microsoft Word format, by e-mail to dept14lc@clarkcountycourts.us

Additionally, in regard to the various other motions heard on January 23, 2018, the Court directs Plaintiffs to prepare proposed orders for (1) Bell Sports Inc. s motion for determination of good faith

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Minutes Date: June 06, 2017

settlement; (2) Michelangelo Leasing Inc. and Edward Hubbard s motion for determination of good faith settlement; (3) Plaintiffs motion for summary judgment on foreseeability of bus interactions with pedestrians or bicyclists; (4) Defendant s motion for summary judgment on punitive damages; and (5) Defendant s motion for summary judgment on all claims alleging a product defect.

Defendant is directed to prepare proposed orders for (1) Defendant s motion to dismiss wrongful death claim for death of Katy Brain; and (2) Defendant s motion for leave to file third-party complaint. Each proposed order shall be reviewed by opposing counsel for approval as to form and content, should be submitted in Microsoft word format, by e-mail to dept14lc@clarkcountycourts.us, and must include detailed findings of fact and conclusions of law.

CLERK'S NOTE: Counsel notified via e-mail.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

January 29, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) |
| | vs. |
| | Motor Coach Industries Inc, Defendant(s) |

January 29, 2018 9:30 AM All Pending Motions

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Polsenberg, Daniel F. | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Russell, Howard J., ESQ | Attorney |
| | Smith, Abraham G. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry appearing for Motor Coach Industries.

Following arguments of counsel, COURT ORDERED, the following.

Plaintiff's Motion in Limine No.1 to Preclude Reference or Argument Regarding the Alleged Negligence of Third Parties (i.e.: Michelangelo and Hubbard). Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 2 to Preclude any Reference to settling Defendants (Including Claims, Settlement and Amounts). Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 3 to Preclude Defendant MCI from Arguing that Decedent was Contributory Negligent. Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 4 to Preclude MCI from Making Excessive Reference to the Fact that Plaintiffs are of Iranian or "Persian" Descent. Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 5 to Preclude Defendants from Arguing or Suggesting that Plaintiffs Must Prove that the Bus had any Specific Defect. Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 6 to Preclude Defendants from Mentioning that Defense Expert Dr. Michael Baden (OJ's Medical Examiner) Worked for the Christiansen Law Firm is GRANTED IN PART; Court will allow hypotheticals in for the case he has testified to in the past.

Plaintiff's Motion in Limine No. 7 to Preclude Defendant MCI from Arguing that the Alleged Lack of Proximity Sensors from a Third Party ("Commercial Availability") as a Defense Where the True Issue is Whether Proximity Sensors were Technologically "Feasible", Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 8 to Pre-Instruct the Jury with Standard Instructions for Product Liability Claims. Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 9 to Preclude Metro Report and/or Opinions from Metro Officers. Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 10 to Pre-Admit Funeral Video and Funeral Slide Show. Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 11 Pre-Admit 1993 Generic Bus Wind Testing by MCI. Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 12 to Preclude MCI Expert Rucoba from Offering Meteorologist Opinions Regarding Wind Speed at the Time of the Accident (Including but Not Limited to the

Wildly Unsupported Claim that Wind Speeds at 10:30 am were (16 to 17 Miles Per Hour" and "Winds were Gusting to 30 MPH". Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 13 Preclude Defendants from Arguing or Referencing Rigged Air Blast Testing that is Not Substantially Similar Because it used Stationary Bike and not a Moving Bike. Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 14 to Designate Virgil Hoogestraat as Managing Speaking Agent of MCI. Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 15 to Designate Bryan Couch as Managing Speaking Agent of Motor. Court informed parties an order will be issued.

Plaintiff's Motion in Limine No. 16 Pre-Admit June 2001 Article as Notice of Potential Rear Tire Suction Hazard and Need for Protective Guard is WITHDRAWN.

Plaintiff's Motion in Limine No. 17 to Admit Evidence of Fact Establishing Defendant's Consciousness of Responsibility . Court informed parties an order will be issued.

Plaintiff's Motion in Limine to Exclude the Testimony of Untimely Disclosed Expert Witness Robert Stahl, MD is MOOT.

Plaintiff's Motion in Limine to Exclude any Testimony on the Untimely Supplemental Expert Report Filed by Defense Expert Robert Stahl is irrelevant.

Defendant's Motion in Limine No. 1 to Limit Opinions by Plaintiff's Expert Robert Caldwell, CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 2 to Exclude Illustrations by Plaintiff's Expert Joshua Cohen that Have No Basis in Fact, CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 3 to Preclude Plaintiff's from Making Reference to a "Bullet Train", CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 4 to Preclude Plaintiff's from Presenting Evidence that Proximity Sensors were a Safer Alternative Design CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 5 to Exclude any Claims of Defect Based on S-1 Gard Motion in Limine, CONTINUED to 1/31/18.

Defendant's Motion in Limine NO. 6 to Exclude Reference to New Flyer Industries ((NFI Group), CONTINUED to 1/31/18.

Defendant's Motion Limine No. 7 to Exclude any Claims that the Subject Motor Coach was Defective Based on Alleged Dangerous "Air Blasts", CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 8 to Exclude any Reference to Seatbelts, CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 9 to Exclude Reference to the Ghost Bike Memorial, CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 10 to Exclude Speculation as to Descendant's Thoughts about the Motor Coach, CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 11 to Exclude Plaintiff's Expert Witness David Roger, CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 12 to Exclude Reference to the Cost of the S-1 Gard or Proximity Sensors, CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 13 to Exclude Plaintiff's Expert Witness Robert Cunitz, Ph.D. or in the Alternative, to Limit his Testimony, CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 14 to Exclude Articles Regarding or Reference to Transit Buses, CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 15 to Exclude Opinion Testimony from LV Witnesses on Causation and Engineering Principles, CONTINUED to 1/31/18.

Defendant's Motion in Limine No. 16 to Exclude Opinions by Plaintiff's Expert Dipak Panigrahy is WITHDRAWN as request of counsel.

Defendant's Motion in Limine No. 17 to Exclude Claim of Lost Income, Including the August 28 Expert Report of Larry Stokes, CONTINUED to 1/31/18.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

January 31, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) |
| | vs. |
| | Motor Coach Industries Inc, Defendant(s) |

January 31, 2018 9:30 AM All Pending Motions

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Polsenberg, Daniel F. | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Russell, Howard J., ESQ | Attorney |
| | Smith, Abraham G. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Following arguments of counsel, COURT ORDERED, the following:

Defendant's Motion in Limine No. 1 to Limit Opinions by Plaintiff's Expert Robert Caldwell. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 2 to Exclude Illustrations by Plaintiff's Expert Joshua Cohen that have No Basis in Fact. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 3 to Preclude Plaintiffs from Making Reference to a "Bullet Train." Court informed parties an order will be issued.

Defendant's Motion in Limine No. 4 to Preclude Plaintiffs from Presenting Evidence that Proximity Sensors were a Safer Alternative Design. Court informed parties an order will be issued.

Defendant's Motion i Limine No. 5 to Exclude any Claims of Defect Based on S-1 Gard Motion in Limine. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 6 to Exclude Reference to New Flyer Industries ((NFI Group). Court informed parties an order will be issued.

Defendant's Motion in Limine No. 7 to Exclude any Claims that the Subject Motor Coach was Defective Based on Alleged Dangerous "Air Blasts." Court informed parties an order will be issued.

Defendant's Motion in Limine No. 8 to Exclude any Reference to Seatbelts. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 9 to Exclude Reference to the Ghost Bike Memorial. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 10 to Exclude Speculation as to Decedent's Thoughts about the Motor Coach. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 11 to Exclude Plaintiff's Expert Witness David Roger. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 12 to Exclude Reference to the Cost of the S-1 Gard of Proximity Sensors. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 13 to Exclude Plaintiff's Expert Witness Robert Cunitz, Ph.D. or in the Alternative, to Limit his Testimony. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 14 to Exclude Articles Regarding or Reference to Transit Buses. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 15 to Exclude Opinion Testimony from LV Witnesses on Causation and Engineering Principles. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 16 to Exclude Opinions by Plaintiff's Expert Dipak Panigrahy. Court informed parties an order will be issued.

Defendant's Motion in Limine No. 17 to Exclude Claim of Lost Income, Including the August 28 Expert Report of Larry Stokes. Court informed parties an order will be issued.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 06, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) |
| | vs. |
| | Motor Coach Industries Inc, Defendant(s) |

February 06, 2018 3:00 PM Minute Order

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Defendant Motor Coach Industries, Inc. filed an objection to media request on January 31, 2018, in light of the impending trial and the media request and order filed on January 10, 2018 from Courtroom View Network.

Under Supreme Court Rule 230(2), a court considering whether to allow electronic coverage of a trial shall consider several factors. Defendant has asserted that the media request should be denied in consideration of these factors, as the coverage will impact Defendant s right to a fair trial, will impact the Defendant s right of privacy over confidential information, and will likely distract trial participants. The Court notes there is a presumption that court documents be open to the public, but in some cases a significant competing interest may outweigh the public right to access. Howard v. State, 128 Nev. 736, 291 P.3d 137, 139 (2012).

Here the Court finds that none of Defendant s claimed prejudices is sufficient to close the courtroom to public access. The Court has limited media access to one camera at a time, so the Court finds there is minimal risk of distracting jurors or witnesses. Further, the Court finds there is little practical danger of jurors viewing pre-trial announcements of the intention to televise the trial, much less any

likelihood that viewing such announcements alone would impute sufficient knowledge that a juror should be disqualified, as the trial will not be broadcast by any major media source. Finally, to the extent that the trial will involve confidential information that is subject to a stipulated protective order, the Court finds that concerns of avoiding dissemination of this information is not sufficiently significant to outweigh the presumption of public access.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****February 07, 2018**

A-17-755977-C Keon Khiabani, Plaintiff(s)
 vs.
 Motor Coach Industries Inc, Defendant(s)

February 07, 2018 1:45 PM Minute Order

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- This Court previously ruled on the parties motions in limine, but deferred ruling on Plaintiffs motion in limine #10 (to pre-admit funeral video and funeral slide show), requesting Plaintiffs to submit the specific videos which Plaintiffs desire to use at trial. Plaintiffs counsel submitted a CD-Rom to chambers and opposing counsel on February 6, 2018, containing four proposed videos that Plaintiffs seek to pre-admit. The Court received no further objection or opposition from Defendant beyond the opposition to Plaintiffs motion in limine #10. After reviewing the proposed videos, the Court GRANTS Plaintiffs motion in limine #10 as to the fourth file, titled Kayvan Memorial Aria Speech, which lasts four minutes and twenty-nine seconds, and which shows Aria Khiabani s speech at his father s funeral. The Court finds this video is a fair depiction of the grief and sorrow felt by the two minor Plaintiffs, Aria and Keon, due to the loss of their father, and thus is relevant to prove the damages that Plaintiffs would be able to recover on their wrongful death claim. The Court further finds that the probative value of this testimony is not substantially outweighed by the danger of unfair prejudice, confusion of issues, or misleading the jury. Although Aria and Keon may testify at trial, the video depicts the Plaintiffs grief and sorrow experienced soon after their father s death, and is sufficiently short that the probative value is not substantially outweighed by considerations of waste of time and presentation of cumulative evidence.

The Court DENIES Plaintiffs motion in limine #10 as to the other three offered videos. First, the slideshow from Katy Brain s funeral and Aria s speech from Katy s funeral are depictions of the value of Katy Brain s life and the impact of her death on Aria, but these issues are not relevant to the claims at issue, considering the Court dismissed the cause of action for wrongful death of Katy Brain. The remaining video, of the slideshow showed at Kayvan Khiabani s funeral, will not be pre-admitted. The Court finds that some photographs in the slideshow may have probative value of proving the loss of companionship, society, comfort, and consortium felt by the decedent s heirs, however because the slideshow is over sixteen minutes long and shows the value of Kayvan Khiabani s life in general, including his own positive experiences in travel and other activities, to the extent the slideshow is slightly probative of any of these categories, the Court finds any probative value of the slideshow as a whole is substantially outweighed by danger of unfair prejudice, confusion of issues, and undue delay, especially considering the wrongful death statute does not allow recovery based on the quality of the decedent s life generally. If Plaintiffs seek to utilize individual photographs at trial, the Court will entertain requests on an individual basis, but the slideshow video will not be pre-admitted.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 09, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

| | | |
|--------------------------|----------------|--|
| February 09, 2018 | 2:00 PM | Status Check: Trial Readiness |
|--------------------------|----------------|--|

| | |
|-----------------------------------|-------------------------------------|
| HEARD BY: Escobar, Adriana | COURTROOM: RJC Courtroom 14C |
|-----------------------------------|-------------------------------------|

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Colloquy regarding jury selection and scheduling for the upcoming jury trial. The Court informed counsel that an order will be issued regarding jury selection regarding the order of seating and the alternates. Additionally, the Court directed counsel to provide a list of any jury instructions they have stipulated to.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 12, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) |
| | vs. |
| | Motor Coach Industries Inc, Defendant(s) |

February 12, 2018 7:00 AM Minute Order

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The parties appeared before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on February 9, 2018, for a status check on trial readiness. Counsel asked the Court whether the parties would be allowed more than one peremptory challenge in light of the agreement to utilize five alternate jurors. The Court will not allow more than five peremptory challenges per side four which can be used only for potential regular jurors (seats 1 through 16), and one of which can be used only for a potential alternate jurors (seats 17, 18, 19, 20, 21, 22, or 23). If a party does not use all four regular juror challenges, that party may not use one of those challenges as a second alternate juror challenge, and the unused challenge will be waived.

CLERK'S NOTE: Parties notified via e-mail.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 12, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

February 12, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Counsel stipulated to waive the reading of potential witnesses to the jurors as they were listed in the jury questionnaire. Exclusionary rule invoked, however counsel stipulated that expert witnesses may remain in court. IN THE PRESENCE OF THE JURY. Roll of jurors called by the clerk. Counsel stipulated to the presence of the jury. OUTSIDE THE PRESENCE OF THE JURY. The Court reminded counsel to keep voir dire relevant and not to use one juror to educate the others. IN THE PRESENCE OF THE JURY. Jury selection. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding jury selection. Evening recess. MATTER CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

February 13, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

February 13, 2018 12:00 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. Roll of jurors called. Counsel stipulated to the presence of the jury. Jury selection. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 14, 2018

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|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

February 14, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. Roll of jurs called. Voir dire/jury selection commenced. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 16, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

February 16, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury selection. IN THE PRESENCE OF THE JURY. Jury selection continued. Evening recess. MATTER CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

February 20, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

February 20, 2018 12:00 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

PRESENT: Barger, Darrell Attorney
Christiansen, Peter S Attorney
Kemp, William Simon Attorney
Pepperman, Eric Attorney
Roberts, D Lee, Jr. Attorney
Works, Kendelea Leascher Attorney

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Jury selection. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 21, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

February 21, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted
Kathy Thomas

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|---|--|
| PRESENT: | Barger, Darrell Christiansen, Peter S Henriod, Joel D. Kemp, William Simon Polsenberg, Daniel F. Roberts, D Lee, Jr. Works, Kendelee Leascher | Attorney Attorney Attorney Attorney Attorney Attorney Attorney |
|-----------------|---|--|

JOURNAL ENTRIES

- IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Jury selection.

2:00 PM -COURT CLERK: Kathy Klein;

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Court explained based on the Court's review of the Summary Judgment on unforeseeability it appears we may need a clear order; It was oral, However not effective until an order is written/submitted. Court was provided the opposition and reply and both trial briefs earlier and suggested we continue the trial and begin in the morning.

PRINT DATE: 04/14/2023

Page 37 of 97

Minutes Date: June 06, 2017

Mr. Roberts requested a brief recess to discuss the Courts suggestion regarding the evening break with each other. Court trailed matter.

Later recalled: Mr. Roberts stated after confiring with his counsel, they would agree not to proceed with the trial until a written order is completed.

PROSPECTIVE JURY PANEL PRESENT: Court informed the jury panel they would return tomorrow and admonished the Jury Panel for the evening recess.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Jurors #1155 (E.M.), 110926 (E.T.) & 110798 (B.L.), upon inqiury of the Court, the Jurors provided phone numbers of their supervisors/ managers and available times to be reached. Jurors to return tomorrow.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Mr. Roberts argued regarding Mr. Christiansen's voir dire of saftey conscience individuals. Colloquy regarding the proposed jury instrcution. Mr. Kemp suggested eliminating the practicality argument in the instruction. Arguments by Counsel. Court noted its concerns and stated the instruction is not to refer to the Doctor being negligent in any way. Counsel to submit the instruction to ask to follow the law or that they would ask for a higher burden. Mr. Roberts to prepare the instruction.

Evening recess.

02/22/18 12:30 PM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

February 22, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

February 22, 2018 12:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Jury SELECTED and SWORN. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 23, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) |
| | vs. |
| | Motor Coach Industries Inc, Defendant(s) |

February 23, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Exclusionary rule invoked. Opening statements by Mr. Kemp. Opening statements by Mr. Terry. OUTSIDE THE PRESENCE OF THE JURY. Mr. Kemp stated there were procedural violations during Mr. Terry's opening statements. He requested that a curative instruction be given to the jury. Opposition by Mr. Henriod. COURT FINDS, there were only statements regarding causation and ORDERED, motion DENIED. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 26, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

February 26, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Russell, Howard J., ESQ | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- 9:30 AM - Court Clerk Denise Husted present.

OUTSIDE THE PRESENCE OF THE JURY. Mr. Kemp moved to admit selected Plaintiff's exhibits (see worksheet). There being no opposition, COURT ORDERED, exhibits are admitted. Mr. Barger noted that Plaintiff's exhibit #126 was previously admitted, but requested that his objection to that admission be noted on the record. Court so noted. IN THE PRESENCE OF THE JURY. Roll of jurors called by the Clerk. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding the designated deposition selection of Mr. Hoogestraat discussed on the record. Court stated its findings and informed counsel a minute order regarding this issue is forthcoming. IN THE PRESENCE OF THE

JURY. Testimony and exhibits presented per worksheet.

4:00 PM - Court Clerk Phyllis Irby present.

Testimony and exhibits presented (see worksheet). Jury questions asked and answered. The Court thanked and recessed the jury for the evening. OUTSIDE THE PRESENCE OF THE JURY. Colloquy between the Court and counsel regarding pre-trial Motions in Limine. Mr. Pepperman requested to have Plaintiff's witness give testimony via video conference. COURT ORDERED, TRIAL CONTINUED.

CLERK'S NOTE: Court's ruling regarding deposition of Mr. Hoogestraat is as follows:

After hearing the oral argument of counsel and upon further consideration, the Court has determined that the designated deposition selections between 34:24 and 44:21 are all admissible. Because Mr. Hoogestraat was designated as Defendant's person most knowledgeable on hazard identification and reduction/mitigation/elimination on MCI buses, Mr. Hoogestraat's testimony on the existence of air displacement around a coach bus is within the scope of his 30(b)(6) testimony. Further, the Court finds Mr. Hoogestraat may be designated as managing-speaking agent for Defendant in regard to these statements, and no other reason not to admit the testimony has been presented. Thus, in addition to those noted during the hearing, Plaintiff will be permitted to present the video testimony of the following lines:

35:3-24, 36:15-25, 37:1-20, 38:8-25, 39:1-15, 40:18-25, 41:1-25, 42:1-8 and 44:9-21. dh 2/27/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 27, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

February 27, 2018 11:00 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Kemp stated opposition to Mr. Robert's questioning of witness Mary Witherell. He argued that the questions asked violated Motion in Limine #1, and the Court's previous ruling. Mr. Lee advised the photograph used was taken from the Plaintiff's exhibits and that he didn't feel he violated the Court's ruling. Following further arguments by counsel, the Court advised that a curative statement will be given to the jury. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling of witnesses. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 28, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) |
| | vs. |
| | Motor Coach Industries Inc, Defendant(s) |

February 28, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding witness depositions and agreement regarding line by line testimony to be allowed. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****March 01, 2018**

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 01, 2018 1:00 PM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

| | | |
|-----------------|-------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendele Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry, Esq. appearing for Motor Coach Industries.

OUTSIDE THE PRESENCE OF THE JURY. Upon Court's inquiry, Mr. Pepperman stated he relied on the fact that Mr. Lamont is in Canada and couldn't be subpoenaed to appear. Colloquy regard deposition testimony. IN THE PRESENCE OF THE JURY. Roll of jurors called by the Clerk. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Roberts questioned witness Larry Stokes regarding testimony pertaining to issues concerning taxes. Mr. Henriod asked to clarify the questions he could ask with the upcoming witness. Statement by Mr. Kemp. The Court advised that questioning has to be consistent with previous ruling regarding not discussing any parties involved in the litigation. IN

THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess.
MATTER CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 02, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 02, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Kemp stated objections to exhibits 508, 509 & 510. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****March 05, 2018**

A-17-755977-C Keon Khiabani, Plaintiff(s)
 vs.
 Motor Coach Industries Inc, Defendant(s)

March 05, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Denise Husted

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding exhibits numbered next in order. Mr. Terry stated objections regarding certain questions being asked of Plaintiff's witness Joshua Cohen. Mr. Kemp advised he wants to show pictures with Mr. Cohen rather than Dr. Stalnecker. COURT ORDERED, objection is SUSTAINED; foundation must be laid in questioning the doctor. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 06, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 06, 2018 12:00 AM Jury Trial

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. OUTSIDE THE PRESENCE OF THE JURY. Mr. Roberts objected to playing the gardener's video during Dr. Gavin's testimony as her testimony should be limited to the scope of her treatment. Arguments by Mr. Kemp. The Court sustained Mr. Robert's objection. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling. Evening recess. MATTER CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 07, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 07, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Russell, Howard J., ESQ | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Court Clerk, Denise Husted present.

Michael Terry, representing Motor Coach Industries also present.

IN THE PRESENCE OF THE JURY: Testimony and exhibits presented per worksheet.

Court Clerk, Louisa Garcia present.

OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel regarding video clips of David Dorr and Mr. Pears.

JURY PRESENT: Plaintiffs called witness David Dorr through video deposition. (See worksheet).

COURT ORDERED, TRIAL CONTINUED.

CONTINUED TO 3/8/18 1:00 P.M.

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 08, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 08, 2018 12:00 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding jury view of the bus. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Discussion regarding the video deposition of Katy Brain. Evening recess. MATTER CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 09, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 09, 2018 9:30 AM Jury Trial

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry, representing Motor Coach Industries also present.

IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding jury instructions. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****March 12, 2018**

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 12, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|-------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendele Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding exhibits. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Mr. Roberts stated that during the video testimony of Katy Brain, she stated that her children feared they were broke after the death of their father. He requested that he be allowed to question further and bring in the other settlement amounts as her testimony opened the door regarding this issue. Opposition by Mr. Kemp regarding the motion in limine granted by the Court disallowing mentioning settlement amounts. Additionally, he stated that Ms. Brain's testimony has been available and an objection could have been made by the defense much sooner than this. Mr. Roberts stated the jurors have been misled by this particular statement. COURT FINDS, after

reviewing applicable law, and being consistent with Court rules, no discussion about settlement will be allowed. IN THE PRESENCE OF THE JURY. Roll of jurors called. Counsel stipulated to the presence of the jury. Plaintiff RESTED. OUTSIDE THE PRESENCE OF THE JURY. Mr. Henriod argued for a directed verdict. COURT FINDS, the Plaintiff has shown sufficient evidence that a jury could decide this case. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. Evening recess. MATTER CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 13, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 13, 2018 12:00 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. OUTSIDE THE PRESENCE OF THE JURY. Arguments by counsel regarding the motion for jury to view the bus. COURT FINDS, there will be no out of Court experiments, such as line of sight experiments allowed, and ORDERED, jury view will be allowed. Counsel agreed to the wording of the admonition to be given to the jury prior to viewing the bus. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. At 3:00 PM, the Court, counsel, jurors and staff left to view the bus. Evening recess. MATTER CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 14, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 14, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry present for Motor Coach Industries. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented per worksheet. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding scheduling. Evening recess. MATTER CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****March 15, 2018**

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 15, 2018 12:00 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Court Clerk Denise Husted present. Michael Terry present for Motor Coach Industries. Roll of jurors called. Counsel stipulated to the presence of the jury. Testimony and exhibits presented per worksheet.

Court Clerk Katherine Streuber present: Michael Terry Esq, Pro Hac Vice present on behalf of Defendant Motor Coach Industries Inc. CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. OUTSIDE THE PRESENCE OF THE JURY. Court noted examination and cross examination cannot be cumulative although there are two Plaintiffs with different counsel. Arguments by counsel regarding constitutional right and ethical rules. Court advised it will look into the matter and make a determination. Mr. Kemp argued

defense had a "shadow jury" watching the trial and noted a shadow juror had spoken with an actual juror in this trial. Statement by the Court. Court Marshal advised Juror had actually approached the shadow juror in the restroom and asked "How their day was going." Argument by Mr. Barger stating they do not know who the shadow jurors are, advised they do hire an independent company who controls the shadow jurors, believed they would have been instructed not to speak with any trial jurors and assured the Court and counsel they would contact the company to have the shadow jury removed. Court believed the discussion between the actual juror and shadow juror did not rise to the level of a mistrial and cautioned there would be sanctions imposed for any rule infractions. Court then advised it would do research and make a ruling in regards to examination and cross examination when there are more than one client with separate counsel. JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. COURT ORDERED, matter CONTINUED.

03-16-18 9:30 AM TRIAL BY JURY

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 16, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 16, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Katrina Hernandez

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry, Esq., out of state Counsel, also present on behalf of Defendant Motor Coach Industries, Inc.

OUTSIDE THE PRESENCE OF THE JURY. Court noted it reviewed its rulings on the motion in limine as it applies to the depositions at issue. Colloquy regarding scheduling settling of jury instructions. Court further noted its comments under the 403 analysis and advised it received trial briefs from Plaintiff and Court noted nothing received from Defense who advised they would file a brief this weekend. Arguments by Ms. Works as to why the issue needs to be decided today. Court stated it would take him outside the presence of the jury. Mr. Kemp and Mr. Terry stipulated to the admittance of Exhibits 263 and 264.

JURY PRESENT. Continued testimony and exhibits presented. (See worksheet.)

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding Dr. Smith's report regarding criticism of Dr. Stokes. Colloquy regarding witness scheduling and settling jury instructions. Court recessed for the evening.

CONTINUED TO: 3/19/18 9:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 19, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 19, 2018 9:30 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Linda Skinner

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- Michael Terry, out-of-State counsel for Defense, also present.

9:50 AM OUTSIDE PRESENCE OF THE JURY: Statements by Mr. Christiansen as to the proposed exhibit #579 and feels it is outside the Order of the Court. Statements by Mr. Roberts. Court advised it will allow the statement in question. Continued arguments by Mr. Christiansen, Mr. Kemp and Mr. Roberts. Court noted the exhibit will be admitted.

10:23 AM JURY PRESENT: Roll call by Clerk. Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 10:47 AM BREAK.

11:28 AM OUTSIDE PRESENCE OF THE JURY: Statements by Mr. Roberts in response to the

objections by Mr. Kemp and Mr. Christiansen as to exhibit #579. Court stated its findings. Continued arguments by Mr. Henriod and Mr. Kemp. 12:04 PM JURY PRESENT: Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 1:38 PM LUNCH BREAK.

2:48 PM OUTSIDE PRESENCE OF THE JURY: Statements by Ms. Works and Mr. Barger as to video deposition of Mr. Plantz. Court noted it has been resolved. 3:12 PM JURY PRESENT: Counsel stipulated to the presence of the Jury. Testimony and exhibits continued (see worksheets). 3:49 PM BREAK. OUTSIDE PRESENCE OF JURY: Ms. Works advised that they had agreed that certain statements would not come in during Mr. Plantz video deposition, however, there was a reference to "left turn" that was not in the written transcript and would request it be stricken. Mr. Barger concurred and had no objection. COURT ORDERED, that portion is STRICKEN.

4:04 PM OUTSIDE PRESENCE OF JURY: Statements by Mr. Kemp, Mr. Barger, Mr. Henriod and Mr. Pepperman as to the testimony of Mr. Hoogestraat. Mr. Kemp argued that Mr. Hoogestraat is not an expert and his testimony should be limited. Mr. Barger argued that Mr. Hoogestraat is an engineer. Continued arguments by counsel. Following, COURT ORDERED, Mr. Hoogestraat can only testify as to personal knowledge as he was not designated as an expert. Mr. Henriod advised at some point they will need to do an offer of proof. Court so noted.

4:47 PM JURY PRESENT: Counsel stipulated to the presence of the Jury. Court admonished Jury who were released and directed to return tomorrow at 1:00 PM. EVENING RECESS.

OUTSIDE PRESENCE OF THE JURY: Colloquy as to procedures for next day. Additionally, exhibits #573-576 used during Mr. Granite's testimony were offered by Mr. Roberts. Mr. Kemp had no objection. COURT ORDERED, these exhibits are admitted. Court directed counsel return at 12:30 to discuss any issues prior to the Jury arriving. EVENING RECESS.

... CONTINUED 3/20/18 1:00 PM

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 20, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 20, 2018 1:00 PM Jury Trial - FIRM

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Phyllis Irby

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Polsenberg, Daniel F. | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY.

Colloquy regarding the 30(b)6 witness an offer of proof.

JURY PRESENT

Testimony and exhibits presented (see worksheet).

Jury recessed for the evening. COURT ORDERED, TRIAL CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY.

Argument of counsel regarding designated witness. Jury instructions proposed verdict forms submitted by both sides to the Court.

3-21-18 9:00 AM JURY TRIAL (DEPT. XIV)

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 21, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 21, 2018 9:00 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Phyllis Irby

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Polsenberg, Daniel F. | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- JURY PRESENT

Testimony and exhibits presented (see worksheet).

OUTSIDE THE PRESENCE OF THE JURY.

Argument of counsel regarding limits on damages and exhibits being admitted.

JURY PRESENT

PRINT DATE: 04/14/2023

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Minutes Date: June 06, 2017

Testimony and exhibits presented (see worksheet). Lunch break.

OUTSIDE THE PRESENCE OF THE JURY

Argument of counsel regarding taxes.

JURY PRESENT

Testimony and exhibits presented (see worksheet). Jury recessed for the evening. COURT ORDERED, TRIAL CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding jury instructions. Colloquy regarding closing arguments. Colloquy regarding special verdict forms, legal cause issue being put on form, Plaintiff's damages will be at the end.

3-22-18 9:00 AM JURY TRIAL (DEPT. XIV)

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 22, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 22, 2018 9:00 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Phyllis Irby

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Polsenberg, Daniel F. | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Smith, Abraham G. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY.

Colloquy regarding Mr. Henriod requesting there be two attorneys for closing argument. The Court stated it would consider one attorney arguing compensatory damages and the other liability and punitive damages but, it will not be a cumulative argument. Parties stipulate to closing argument.

Mr. Smith made an oral motion regarding 50(b) motion. Mr. Kemp made his objections to the motion. COURT ORDERED, MOTION DENIED. The Court will issue a minute order at a later date.

PRINT DATE: 04/14/2023

Page 68 of 97

Minutes Date: June 06, 2017

JURY PRESENT

The Court gives instruction to the jury. Plaintiff's give closing arguments. Lunch break.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding Defense closing arguments.

JURY PRESENT

Defendants give their closing arguments. Plaintiff's give rebuttal argument.

JURY TO DELIBERATE at 6:15 PM.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding not admitted exhibits being picked up.

JURY PRESENT

The Court recessed the jury for the evening. COURT ORDERED, TRIAL CONTINUED.

3-23-18 9:00 AM JURY TRIAL (DEPT. XIV)

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

March 23, 2018

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

March 23, 2018 9:00 AM Jury Trial - FIRM

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Phyllis Irby

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Barger, Darrell | Attorney |
| | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Polsenberg, Daniel F. | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Smith, Abraham G. | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES

- JURY PRESENT

Deliberations continued by the jury at 9:30 am.

VERDICT REACHED at 2:04 pm.

All parties present. Verdict read by the Clerk.

The Court thanked and excused the jury.

TRIAL ENDED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****May 04, 2018**

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

| | | | |
|---------------------|----------------|------------------|--|
| May 04, 2018 | 1:00 PM | Objection | Defendant Motor Coach Ind. Objection to Special Master Order Staying Post- Trial Discovery Including 5/2/18 Depo of the Custodian of Records of the Board of Regents NSHE and Alternatively, Motion for Limited Post-Trial Discovery on OST |
|---------------------|----------------|------------------|--|

HEARD BY: Escobar, Adriana**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Denise Husted**RECORDER:** Sandra Anderson**REPORTER:****PARTIES**

| | | |
|-----------------|--------------------------|----------|
| PRESENT: | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Russell, Howard J., ESQ | Attorney |
| | Works, Kendelea Leascher | Attorney |

JOURNAL ENTRIES**PRINT DATE:** 04/14/2023**Page** 72 of 97**Minutes Date:** June 06, 2017

- Mr. Henriod stated there is a Motion to Seal and under the circumstances of this hearing, he feels that it should be granted. Mr. Kemp concurred. COURT ORDERED, the motion is GRANTED. Arguments by Mr. Henriod in support of the Objection to Special Master's Order Staying Post-Trial Discovery and Motion for Limited Post-Trial Discovery. He stated that recent revelations by the news media undermine the integrity of the judgment. He further advised that the required information would not have been identified by forwarding the releases. Mr. Kemp argued that the releases were signed and executed on 7/26/17. The release for the employment file was not forwarded by the defense and is the same discovery they are now seeking. He further argued that the post judgment discovery standard is exceedingly high and has not been met. The Court STATED ITS FINDINGS, and ORDERED, motion is DENIED. FURTHER, the subpoena is QUASHED and no post judgment discovery will be allowed. The Court informed parties that an order/minute order will follow with full findings.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****May 23, 2018**

A-17-755977-C Keon Khiabani, Plaintiff(s)
 vs.
 Motor Coach Industries Inc, Defendant(s)

May 23, 2018 7:00 AM Minute Order

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Defendant Motor Coach Industries filed the following motions to seal: (1) Motion to seal Motor Coach Industries, Inc. s objections to special master order staying post-trial discovery including May 2, 2018 deposition of the custodian of records of the board of regents NSHE, and alternatively, motion for limited post-trial discovery; (2) Motion to seal and redact Motor Coach Industries, Inc s motion to alter or amend judgment to offset settlement proceeds paid by other defendants and accompanying exhibits, particular motions and exhibits; and (3) Motion to seal and redact Motor Coach Industries, Inc. s motion for new trial and accompanying exhibits G-L and O. The matter was subsequently discussed at the hearing on Defendant s objection to special master order and motion for limited post-trial discovery. Plaintiffs have not filed an opposition and indicated at the hearing that they were in agreement with Defendant s suggested sealing and redactions.

First, the Court agrees that Defendant s objection to special master order and motion for post-trial discovery contains unconfirmed and scandalous assertions which bear directly on the character of the deceased. The Court finds that the Plaintiffs compelling privacy interests outweigh the presumption that court documents be open to the public. However, under SRCR 3(4)(b), this Court has a duty to protect the Plaintiffs interest by reasonable redaction, rather than outright sealing, when possible,

and the Court finds that reasonable redaction is possible here to protect Plaintiffs' privacy. The Court therefore GRANTS the first motion, in that Defendants must file a redacted version of the motion, redacting pages 5-8, all of page 9 except lines 7-20, all of page 10 except lines 3-13, all of page 11 except lines 4-20, all of page 12 except lines 22-26, all of page 13 except lines 1-2, page 14, and lines 1-5 of page 15, and omitting all attached exhibits. Additionally, the hearing on this motion is to be sealed for the same reasons. The unredacted version of the motion with all exhibits and the hearing must remain under seal until June 1, 2028.

Second, the Court agrees that the motion to alter or amend judgment contains settlement terms that are confidential by agreement of the parties, that the settling defendants have a compelling interest in maintaining the confidentiality of these terms which outweighs the presumption that court documents be open to the public, and that the redacted version of the motion filed on May 7, 2018 is reasonably redacted to balance both the interests of the Defendants and the public. The Court therefore GRANTS the second motion to seal, and orders that the sealed version of the motion to alter or amend judgment, filed on May 8, 2018, remain under seal until June 1, 2028.

Third, the Court agrees that Defendant's motion for a limited new trial contains the same unconfirmed and scandalous assertions which bear directly on the character of the deceased as are present in the Defendant's objection to the special master order and motion for post-trial discovery. The Court finds that the Plaintiffs' compelling privacy interests outweigh the presumption that court documents be open to the public, and that reasonable redaction is possible to protect Plaintiffs' privacy. The Court further finds the redacted version of the motion filed by Defendant on May 7, 2018 and the accompanying appendix omitting exhibits G, L, and O are reasonably redacted to balance both the interests of the Plaintiffs and the public. The Court therefore GRANTS the third motion to seal, and orders that the sealed version of the motion for a limited new trial and accompanying appendix, both filed on May 8, 2018, remain under seal until June 1, 2028.

Defendant is directed to prepare a proposed order and to circulate it to opposing counsel for approval as to form and content before submitting it to chambers for signature.

CLERK'S NOTE: Counsel notified via e-mail.

Joel Henriod (JHenriod@LRRC.com)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability**COURT MINUTES****July 06, 2018**

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

July 06, 2018 10:30 AM All Pending Motions

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Nicole McDevitt

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|-------------------------|----------|
| PRESENT: | Barrett, Whitney | Attorney |
| | Christiansen, Peter S | Attorney |
| | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Polsenberg, Daniel F. | Attorney |
| | Roberts, D Lee, Jr. | Attorney |
| | Russell, Howard J., ESQ | Attorney |

JOURNAL ENTRIES

- Mr. Kemp stated parties have agreed to submit three of the motions now without oral argument, Motor Coach Industries Inc's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim, Motor Coach Industries Inc's Motion for a Limited New Trial, and Defendant's Motion to Retax Costs; as to Motor Coach Industries Inc's Motion to Alter or Amend Judgment to Offset Settlement Proceedings Paid By Other Defendants, it should be put off until after the projected funding date. Upon inquiry by the Court regarding the motions to strike, counsel stated those could be submitted too. COURT ORDERED, Motor Coach Industries Inc's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim, Motor Coach Industries Inc's Motion for a Limited New Trial, Defendant's Motion to Retax Costs, Motor Coach Industries, Inc.'s (MCI) Motion to Strike Plaintiffs' "Combined Opposition to Motion for a Limited New Trial, and MCI's Renewed

Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim", and Opposition to Untimely Motion to Exceed Page Limited on OST, and Motor Coach Industries, Inc.'s Motion to Strike Plaintiffs' "Combined Opposition to Motion for a Limited New Trial and MCI's Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim" and Opposition to Untimely Motion to Exceed Page Limit and Request for Order Shortening Time TAKEN UNDER ADVISEMENT; Motor Coach Industries Inc's Motion to Alter or Amend Judgment to Offset Settlement Proceedings Paid By Other Defendants CONTINUED.

Motor Coach Industries Inc's Motion to Alter or Amend Judgment to Offset Settlement Proceedings Paid By Other Defendant's CONTINUED TO 8/28/2018 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

August 27, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

| | | | |
|-----------------|---------|--------------|---|
| August 27, 2018 | 8:00 AM | Minute Order | Defendant MCI's Motion to Retax Costs, Motion to Alter or Amend Judgment to Offset Settlement Proceeds, Motion for Limited New Trial, Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim, Motion to Strike Plaintiffs' Combined Opposition...Plaintiff s' Motion to Exceed Page Limit as to Combined Opposition |
|-----------------|---------|--------------|---|

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

PRINT DATE: 04/14/2023

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Minutes Date: June 06, 2017

- Defendant MCI's motion to retax costs, motion to alter or amend judgment to offset settlement proceeds, motion for limited new trial, renewed motion for judgment as a matter of law regarding failure to warn claim, and motion to strike Plaintiffs' combined opposition, as well as Plaintiffs' motion to exceed page limit as to combined opposition came on for a hearing before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on July 6, 2018. Upon the stipulation of counsel, all motions were submitted on the briefs without oral argument except for Defendant's motion to alter or amend judgment, which was continued to August 28, 2018, at 10:30 AM. Therefore, after considering the briefs of the parties, the Court holds as follows:

A. Motion to strike combined opposition and Plaintiffs' motion to exceed page limit

First, the Court GRANTS Plaintiffs' motion to exceed page limit as to combined opposition and DENIES Defendant's motion to strike Plaintiffs' combined opposition. The Court notes that Plaintiffs' combined opposition contains one facts section with separate arguments and conclusions responding to two motions (Defendant's motion for limited new trial and Defendant's renewed motion for judgment as a matter of law), that the combined opposition is fifty-three pages long, and that Plaintiffs did seek leave of court to file a brief in excess of thirty pages, albeit after the brief was already filed. Considering the complexity of this case and the legal arguments presented by Defendant's motions, as well as the significant factual overlap of these two particular motions, the Court finds an opposition in excess of thirty pages is warranted. The proper procedure would have been for the Plaintiffs to seek leave of court before filing the over-long opposition, or at least to include a motion to exceed page limit at the beginning of the opposition. However, the Court finds Defendant suffered little prejudice from the untimely motion or from Plaintiffs filing their oppositions together so as not to repeat eight pages of facts, and thus the Court will not impose the grave penalty of striking the opposition.

B. Renewed motion for judgment as a matter of law

The Court DENIES Defendant's renewed motion for judgment as a matter of law regarding failure to warn claim.

Defendant first argues that Plaintiffs failed to prove causation on this theory because the facts showed that Dr. Khiabani suddenly appeared in Mr. Hubbard's peripheral vision, and the accident happened too quickly for a reasonable jury to find that Mr. Hubbard could have avoided the accident. This argument ignores the full facts as presented in the Plaintiffs' case-in-chief, specifically the testimony of Mr. Hubbard that he observed the bicycle while both Dr. Khiabani and the coach were on Charleston, and saw the bicycle turn onto Pavilion Center before Mr. Hubbard turned the coach onto Pavilion Center. Thus, although Mr. Hubbard testified that he did not see Dr. Khiabani's bicycle for 450 feet before the accident, the split-second that the accident occurred was not the first time Mr. Hubbard was made aware of the bicycle's presence. Taking all inferences in Plaintiffs' favor, Plaintiffs elicited sufficient evidence for a reasonable jury to find that, had Mr. Hubbard been adequately warned about the dangerous nature of the coach, he would have driven differently as early as when he turned onto Pavilion Center for example by driving in the left lane instead of the right lane, or by driving slower so as to not pass the bicycle and that this different action would have

avoided the accident. Thus, the accident did not happen too quickly for a reasonable jury to find that a warning would have made a difference.

The parties next dispute to what extent a plaintiff in a failure to warn claim must prove causation.

Defendant argues that insufficient evidence of causation was presented by Hubbard's testimony that he absolutely heeds

warnings he is given when he is trained about something relative to safety, because Plaintiffs needed to additionally prove that the accident would have been avoided by the user heeding the warning.

Defendant cites to numerous other jurisdictions for this notion, and argues that it is further supported by the Nevada Supreme Court's *Rivera v. Philip Morris, Inc.* decision. This Court disagrees. It is undisputed that, under *Rivera*, the Plaintiffs bear the burden of producing evidence demonstrating that, among other things, the defect caused the injury. *Rivera* also held that the burden of proving causation can be satisfied in failure-to-warn cases by demonstrating that a different warning would have altered the way the plaintiff used the product or would have prompted plaintiff to take precautions to avoid the injury. Taking all inferences in Plaintiffs' favor, the Court finds that Hubbard's testimony that he would have complied with a warning, combined with the facts listed above regarding Hubbard's perception of the events leading up to the accident, was sufficient to satisfy Plaintiffs' burden of proving causation under Nevada law.

Similarly, the Court disagrees with Defendant's suggestion that the open and obvious nature of the danger reinforces the conclusion that a warning would have been superfluous. Mot. at 10. Taking all inferences in Plaintiffs' favor, the presence of testimony by Hubbard, Mary Witherell, and some of Defendant's own employees, that they were not aware of the significance of the air displacement created by the coach's design refutes Defendant's classification of the danger as open and obvious. Further, even if the evidence enabled this Court to find as a matter of law that Hubbard should have known generally of the risk of driving next to a bicyclist, which this Court has not done, no Nevada law holds that this would prevent a reasonable jury from finding that an adequate warning would have avoided the accident.

Next, Defendant suggests that Plaintiffs' duty to prove causation required Plaintiffs to craft an adequate warning. Failure-to-warn claims can be classified as one of two types: allegations that the warning given by the defendant was crafted in such a way to be ineffective in preventing the injury; or allegations that the product is dangerous enough that a warning should have been provided but the defendant did not provide any warning. In cases of the first variety, the jury must consider whether the warning was adequate under the factors provided in *Lewis v. Sea Ray Boats, Inc.*, However, in the second category, the warning provided nothing could not possibly be considered adequate under the *Sea Ray* factors, and thus the only required findings are that the product was unreasonably dangerous and that an adequate warning would have avoided the injury. This case falls into the second category, where MCI undisputedly did not provide any warnings about any of the alleged defects which Plaintiffs alleged. In such a case, the Court finds no support for Defendant's assertion that no reasonable jury could find that the product was unreasonably dangerous and that an adequate warning would have avoided the injury without a specific warning being proposed by the plaintiff. While it is true that providing a model warning to show what the defendant could have done to make the product reasonably safe may be a helpful illustration for the plaintiff's case, it is not required for the jury to find in Plaintiffs' favor. Cf. *Ford Motor Co. v. Trejo* (in a design defect claim,

a plaintiff may choose to support their case with evidence that a safer alternative design was feasible at the time of manufacture.). Plaintiffs need not prove precisely how the facts would have been different had there been an adequate warning, as this would amount to speculation; Plaintiffs need only provide the facts sufficient to allow the jury to draw the conclusion that the presence of an adequate warning would have avoided the accident. As noted above, Plaintiffs did so here. In line with the above, the Court disagrees that the jury's verdict was consistent with judgment as a matter of law on causation, as the jury could have, and evidently did, find that the lack of an adequate warning caused the accident. The Court disagrees with Defendant's suggestion that the jury finding no liability on the defective design claim means when the jury was actually asked whether the allegedly defective design was the legal cause of damage, the jury concluded that it was not. In reality, the jury found no liability after being instructed that liability required both a design defect and causation, so a simple "no" answer does not necessarily mean the jury found causation to be lacking.

Defendant next argues that, MCI was not required to make a coach that does not create air disturbance, and therefore MCI was not required to provide a warning at all. While the Court notes that this argument was not raised in MCI's NRCP 50(a) motion during trial, the argument misstates the question actually posed to the jury.

The failure-to-warn claim does not ask whether the coach created an air disturbance, but rather whether the coach was unreasonably dangerous due to the air disturbance it created. Thus, regardless of whether MCI had a duty to minimize or remove any air disturbance from its product, there was sufficient evidence for the jury to find that any air disturbance created by the coach was unreasonably dangerous and that the injury could have been avoided by an adequate warning. Finally, Defendant argues that Nevada's wrongful-death statute requires proof of fault, while the nature of a strict liability claim does not require proving fault, and therefore that the elements of a wrongful death claim could not be satisfied by allegations founded in strict liability. The Court finds no support in Nevada case law for this notion, and indeed finds myriad wrongful death actions founded in strict liability, and thus the Court will not apply the law differently for this case. Moreover, Defendant's interpretation of the "wrongful act or neglect" language in NRS 41.085(2) would lead to an absurd result: A defendant who, by no intentional act or malice, creates an unreasonably dangerous product would still be held strictly liable if a user were merely injured, but would no longer be held accountable if the injuries were grave enough to end the user's life.

C. Motion for limited new trial

The Court DENIES Defendant's motion for limited new trial, as none of the arguments presented by Defendant exhibits an issue which materially affect[ed] the substantial rights of an aggrieved party. NRCP 59(a).

First, Defendant argues that the jury was excused from considering causation of the failure to warn claim because the verdict form did not mention this step of the analysis, and instead allowed the jury to return a verdict in Plaintiffs' favor solely by finding that Defendant failed to provide an adequate warning that would have been heeded. First, as noted above, the Court disagrees with Defendant's position that Plaintiff must prove that an adequate warning would have actually avoided the injury, or that the accident happened too quickly for a jury to find that an adequate warning could have

avoided the accident. However, the Court also notes that the jury instructions sufficiently informed the jury on all findings required for the jury to return a verdict in Plaintiffs favor including causation and that this remedied any potential errors with the verdict form. Taking into consideration the totality of the jury instructions and the verdict form, the Court does not find that the absence of causation on the fifth question was prejudicial to Defendant. Finally, the Court finds no support for the notion that the special verdict form was required to include a finding for every element of every claim.

Second, the Court does not agree that precluding evidence of NRS 484B.270, the statute requiring a motorist to maintain a three-foot distance from a bicyclist, constituted an error of law that warrants a new trial. The safety statute in its current form did not exist at the time the coach was sold, and the version of the statute that did exist at the time the coach was sold contained only a mandate that a motorist passing a bicyclist do so safely, which does not offer any support for Dr. Krauss's opinion that the law already required vehicles to maintain a certain distance from bicycles. Thus, the existence of the statute has no probative value as to why Defendant chose not to provide a warning with the coach. Further, the Court maintains that the JI 32, on nondelegation, was rightfully included due to evidence being presented at trial that at least one of Defendant's employees believed another entity would warn drivers about the danger of the coach. If JI 32 caused any prejudice to Defendant's case, the Court does not agree that it materially affected Defendant's substantial rights.

Third, as noted in this Court's order denying Defendant's motion for post-trial discovery, the Court does not agree that any newly discovered evidence warrants a new trial. For the same reasons iterated in that order, the Court has not been convinced that the new evidence could not have been found with reasonable diligence, so NRCP 59(a)(4) is not met here. The Court is also not convinced by Defendant's argument that the difficulty in discovering this evidence is exhibited by Plaintiffs' lack of knowledge, or that Defendant was entitled to rely on Plaintiffs' duty to disclose such information. NRCP 16.1 requires a party to disclose the identity of individuals likely to have discoverable information, but it does not require a party to conduct discovery for the other parties.

Here, it appears Plaintiffs disclosed Dr. Khiabani's employer, which was sufficient to satisfy Plaintiffs' duty under NRCP 16.1; Plaintiffs were under no duty to actually discover any information from Dr. Khiabani's employer, just to enable Defendant to do so. As stated in the Court's prior order, Defendant had access to the new evidence had it simply attempted to get it. Moreover, even if the Court were to find that Plaintiffs lapsed on their discovery obligations, this Court does not find that such a finding would render the new evidence undiscoverable with due diligence, so a new trial is not warranted on these grounds.

Fourth, the Court does not agree that it erred by precluding evidence of the impact of income taxes. While the Court recognizes the difference between damages for lost wages and damages for loss of probable support, Nevada law is clear that evidence of tax implications is not admissible in a wrongful death case. See, e.g. *Otis Elevator Co. v. Reid*, 101 Nev. 515 (1985). Defendant is correct that certain special circumstances allow jury instructions on tax consequences, but only when tax issues are discussed at trial. *Id.* Here, tax issues were not discussed at trial under the general rule that tax implications are not admissible, and thus there was no indication that the jury would consider tax implications. Therefore, *Otis Elevator Co. v. Reid*'s special circumstances exception does not apply, and Defendant's substantial rights were not materially affected.

D. Motion to Retax

The Court is unable to award costs under NRS 18.005 unless the prevailing party provides justifying documentation to demonstrate how such [claimed costs] were necessary to and incurred in the present action. *Bobby Berosini, Ltd. v. PETA*, 114 Nev. 1348, 1352 (1998) and *Cadle Co. v. Woods & Erickson, LLP*, 345 P.3d 1049 (Nev. 2015). The Nevada Supreme Court will reverse an award of costs as an abuse of discretion if the party does not provide evidence, such as a declaration of counsel, that explains how the [costs] were necessary and incurred rather than simply telling the district court that the costs were reasonable and necessary. *Matter of DISH Network Derivative Litigation*, 133 Nev. Adv. Op. 16, 401 P.3d 1081 (2017).

Here, Plaintiffs provided a detailed and verified memorandum of costs, over 1,300 pages of documentation including itemized lists and invoices, and a declaration of counsel in support of the memorandum of costs which discusses (1) the expert fees being sought; (2) reporter s fees for depositions and deposition transcripts; (3) online legal research; (4) trial support services; and (5) other necessary and unavoidable costs including photocopies, travel expenses for necessary fact and expert witness depositions, postage, witness fees, juror fees, process server fees, official court reporter fees, and run services for delivery of time sensitive documents and filing. Although the Court finds that Plaintiffs opposition to Defendant s motion to retax provides some argument for why many costs were reasonable or necessary, and further that many of Plaintiffs claimed costs appear reasonable and necessary based on the Court s own experience and knowledge of this case, binding case law precludes this Court from awarding costs for which Plaintiffs have not provided sufficient documentation.

In light of the above, the Court GRANTS Defendant s motion to retax IN PART, as to the following items:

1. \$70.00 cost for a paralegal to file a subpoena. Paralegal time is not a cost of litigation under NRS 18.005, and is more appropriately categorized as legal fees. See, e.g. *Las Vegas Metropolitan Police Department v. Yeghiazarian*, 129 Nev. 760, 770 (2013) (concluding that reasonable attorney s fees includes charges for persons such as paralegals and law clerks).
2. \$22,553.75 for videography services and related expedite fees. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.
3. \$5,075.00 for synchronized DVD costs. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.
4. \$1,736.00 for rough drafts of depositions. NRS 18.005(2) provides for one copy of each deposition, but does not provide for rough drafts, and Plaintiffs have not shown in its declaration how this service was necessary.
5. \$3,450.00 for Live Note and Zoom connection fees. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the

declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

6. \$4,550.00 for videoconference costs. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel.

Plaintiffs thus provided no documentation explaining how the costs were necessary.

7. \$100.00 for After 5 PM charges. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel.

Plaintiffs thus provided no documentation explaining how the costs were necessary.

8. \$185.00 for flash drives, apparently for depositions of expert witnesses. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

9. \$300.00 for video files for expert witnesses. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

10. \$1,385.40 for conference rooms for depositions of various witnesses. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

11. \$100.00 for read and sign fees. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

12. \$315.00 for equipment rental. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

13. \$100.00 for non-writing wait time for two witnesses. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

14. \$79.00 for parking for depositions. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

15. \$356.40 for food provided at depositions. These costs are not specifically allowed under NRS

18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

16. \$1,050.00 for professional fees for Dr. Gavin. These costs are not specifically allowed under NRS 18.005, and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

17. \$140.00 for duplicate service on Portia Hubbard. In examining the documents provided by Plaintiffs, it appears Ms. Hubbard was served with a subpoena on both on 8/26/2017 and on 10/1/2017, with no explanation for why the second subpoena was necessary. NRS 18.005(7) does not allow costs for service which the Court finds to be unnecessary. Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

18. \$35.00 for wait time of process server(s). This cost is not enumerated in NRS 18.005(7), and thus would only be recoverable under NRS 18.005(17). Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

19. \$61.60 for faxes. While reasonable costs for telecopies are allowed under NRS 18.005(11), under Bobby Berolini, Ltd. v. PETA, 114 Nev. 1348, 1352 (1998) and Cadle Co. v. Woods & Erickson, LLP, 345 P.3d 1049 (Nev. 2015), the documentation submitted is insufficient for the Court to find that the costs were reasonable or necessary, because Plaintiffs have provided no information stating what documents were faxed, and in most cases provide no information of who the fax was sent to. Further, Plaintiffs have offered no explanation for why certain faxes have a higher per-page cost than others. Plaintiffs provided documentation showing that these costs were incurred, but these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary or reasonable.

20. \$4,141.77 for scanning (internal and outside vendor). NRS 18.005 does not provide for costs of scanning, and Plaintiffs have not provided any information about how costs were incurred at all due to internal scanning, or how each scan was necessary. While the Court agrees that the DISH Network Court found the party in that case provided the district court with sufficient justifying documentation to support the award of costs for photocopying and scanning under NRS 18.005(12), Plaintiffs here have provided no such documentation explaining the reasonableness or necessity of these costs.

21. \$39.00 for an unsubstantiated Las Vegas Metropolitan Police Department cost. Defendant's motion states that this cost appears to be either for a police report or for a subpoena, and Plaintiffs do not offer any opposition to this cost being retaxed. Moreover, while Plaintiffs provided documentation showing that these costs were incurred, these costs are not discussed in the declaration of counsel. Plaintiffs thus provided no documentation explaining how the costs were necessary.

22. \$1,219.98 for hotels for trial witnesses. NRS 18.005(15) only includes travel and lodging incurred while conducting discovery, and while Plaintiffs provided documentation showing that these costs were incurred, the declaration of counsel only discusses the necessity of costs incurred in travel

expenses for depositions. Plaintiffs thus provided no documentation explaining how the costs were necessary.

23. \$30,018.77 in legal research. As stated in *DISH Network*, the reasonable and necessary expenses for computerized services for legal research allowed in NRS 18.005(17) pertain to costs incurred in the process of electronic discovery. The declaration of Plaintiffs' counsel states that these costs were incurred to provide the Court with the most recent applicable caselaw on various points of dispute throughout pre-trial motions and during the course of trial... The argument contained in Plaintiffs' opposition to the motion to retax reinforces that these costs were incurred not as a part of discovery, but rather to assist Plaintiffs' counsel in making legal arguments in motion practice and at trial. Further, the itemized list of research provided in Plaintiffs' appendix of documents provides only the date and cost of each transaction. Thus, under *DISH Network*'s holding that this expense does not fall under NRS 18.005(17), this cost is not taxable.

In total, the Court reduces Plaintiffs' taxable costs by \$77,061.67.

As to the remaining specific costs Defendant seeks to retax, the Court finds that each cost falls under NRS 18.005(17) as an expense that is reasonable, necessary, and actually incurred, based on the documentation and declaration of counsel. This conclusion contemplates that the parties conducted discovery on an extremely expedited schedule due to the preferential trial setting. Further, the complex nature of the claims and gravity of damages at issue required Plaintiffs to expend costs that may be considered luxuries in different cases, such as oversize color printing and trial support services. Finally, the Court examined in detail the requested expert fees under *Frazier v. Drake*, 357 P.3d 365 (Nev. App. 2015) and found that the fees in excess of \$1,500 for each witness was warranted in light of the factors enumerated in *Frazier*.

Counsel for Plaintiffs is directed to prepare a proposed order including detailed findings of fact and conclusions of law on Defendant's motion for judgment as a matter of law, Defendant's motion for new trial, Defendant's motion to strike Plaintiffs' opposition, and Plaintiffs' motion to exceed page limit. Counsel for Defendant is directed to prepare a separate proposed order including detailed findings of fact and conclusions of law on Defendant's motion to retax. Both proposed orders are to be approved by opposing counsel as to form and content prior to submitting the order to chambers in Microsoft word format, by e-mail to dept14lc@clarkcountycourts.us

CLERK'S NOTE: Counsel notified via e-mail:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

September 25, 2018

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) |
| | vs. |
| | Motor Coach Industries Inc, Defendant(s) |

September 25, 2018 10:30 AM Motion to Amend

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

PARTIES

| | | |
|-----------------|-----------------------|----------|
| PRESENT: | Henriod, Joel D. | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Polsenberg, Daniel F. | Attorney |
| | Roberts, D Lee, Jr. | Attorney |

JOURNAL ENTRIES

- Following arguments, opposition and reply, COURT ORDERED, an order will be issued.

Defendant s Motion to Alter or Amend Judgment to Offset Settlement Proceeds paid by other defendants came on for a hearing before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on September 25, 2018.

After considering the moving papers and argument of counsel, the Court DENIES Defendants motion.

In this matter, the Plaintiffs settled with Defendants Michelangelo Leasing Inc, Edward Hubbard, Bell Sports Inc., and SevenPlus Bicycles Inc. for a total settlement of \$5,110,000.00. Plaintiffs and the remaining defendant, Motor Coach Industries (MCI), proceeded to trial. The jury awarded \$18,746,003.62 in favor of the Plaintiffs.

Defendant MCI moved to offset the jury award by the settlement proceeds pursuant to NRS

17.245(1)(a). Specifically, it asked the court to reduce the jury award (\$18,746,003.62) by the total settlement proceeds (\$5,110,000.00) for a total reduced judgment resulting in \$13,636,003.62.

Under NRS 17.245(1)(a), when a release ... is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death...it reduces the claim against the others to the extent of any amount stipulated by the release or the covenant...

However, MCI is not entitled to an offset under NRS 17.245 because defendants that are liable for strict products liability, such as MCI, have no right to contribution from any other defendants.

Norton v. Fergstrom, 2001 WK 1628302 *5 (Nev. Nov. 9, 2001); see also Andrews v. Harley Davidson, 106 Nev. 533, 537-38, 796 P.2d 1092, 1094 (1990); Central Telephone Co. v. Fixtures Mfg., 103 Nev. 298, 299, 738 P.2d 510, 511 (1987); NRS 17.225, NRS 41.141. While the Court understands that Norton is unpublished and cannot be used as precedent because it was decided prior to 2016, the Court finds its rationale persuasive and agrees with the Nevada Supreme Court's rationale. Moreover, this case was decided in 2001, after NRS 17.245 was enacted in 1973 and amended in 1997. Additionally, NRS 41.141 was enacted in 1973, and amended in 1979, 1987, and 1989, which also precedes the Court's decision in Norton. Contributory negligence is not a defense in strict products liability. Andrews v. Harley Davidson, 796 P.2d 1092 (Nev. 1990). Moreover, because contributory negligence is not a defense in products liability, MCI is not entitled to contribution. Id.

Here, MCI has no right to contribution from the settling Defendants because plaintiff's judgment against MCI is based on strict products liability failure to warn and strict products liability has no right to contribution. To the extent that MCI would have otherwise been able to assert contribution claims against the settling defendants, those claims would have necessarily been premised on contributory negligence. But, because contributory negligence is not a defense to a strict products liability claim, MCI has no right to receive contribution from the settling defendants.

Moreover, NRS 17.245 applies to joint tortfeasors but is silent concerning an offset for defendants found liable in strict products liability. But, it follows logically, that similar to NRS 17.255, which bars intentional tortfeasors from contribution, a defendant found liable in strict products liability would also be barred from receiving contribution from the other defendants. Unlike other products liability cases where defendants receive offsets, here, none of the other defendants in this case acted in concert with MCI in manufacturing the coach.

MCI also argues it is entitled to an offset under NRS 41.141. Pursuant to NRS 41.141, defendants are responsible for 100% of plaintiff's injuries if their liability arises from a claim based on strict liability, an intentional tort, or any of the other enumerated categories. Caf. Moda v. Palma, 272 P.3d 137 (Nev. 2012).

However, MCI is not entitled to an offset under NRS 41.141. The jury found against MCI based on strict liability failure to warn. Any alleged fault of the settling defendants had nothing to do with this failure to warn. Thus, MCI is not entitled to apportion any percentage of its responsibility to the settling defendants.

Plaintiffs analogized this matter to Evans v. Dean Witter Reynolds, Inc., 5 P.3d 1043 (Nev. 2000). In Evans, the Court enforced the principle that although offsets are typically allowed in a case that involves joint tortfeasors, there is a carve out for intentional torts. Intentional tortfeasors may not apply credits from settlements by their joint tortfeasors in reduction of judgments against them arising from their intentional misconduct. Id. Moreover, equitable offsets are based on a right to

contribution and intentional tortfeasors have no right to contribution under NRS 17.255. Id. Similarly here, just like the intentional tortfeasors in Evans, MCI has no right to contribution from the settling defendants. As in Evans, MCI has no right to receive contribution from the settling dependents either directly through a contribution claim or indirectly through a post-judgment offset. MCI was never entitled to seek contribution or indemnity from any other tortfeasors. NRS 17.245 cannot and did not bar MCI from pursuing contribution claims that never existed in the first place; and MCI is not entitled to indirectly receive a nonexistent right to contribution under the guise of an offset.

MCI also asserts that Plaintiffs will receive a double recovery if no offset is granted. However, for the foregoing reasons, an offset is not permissible, thus no double recovery will occur.

Finally, MCI argues that Plaintiffs are judicially estopped from asserting that the defendant has no right to offset. Plaintiff's motion for good faith settlement stated:

Indeed, the proposed settlement is favorable to any remaining defendants. Plaintiffs remaining claims will be reduced by the settlement amounts contributed by Michelangelo and Hubbard. NRS 17.245(1)(a). As set forth above, the remaining defendants will receive a contribution toward any future judgment entered against them.

When considering a claim of judicial estoppel, Nevada's courts look for the following five elements: (1) the same party has taken two positions; (2) the positions were taken in judicial or quasi-judicial administrative proceedings; (3) the party was successful in asserting the first position (i.e., the tribunal adopted the position or accepted it as true); (4) the two positions are totally inconsistent; and (5) the first position was not taken as a result of ignorance, fraud, or mistake. Matter of Frei Irrevocable Tr. Dated Oct. 29, 1996, 133 Nev. 8, 390 P.3d 646, 652 (2017). All five elements are necessary to sustain a finding of judicial estoppel. Id.

Here, element three is not be met. The plaintiff did not successfully assert their prior position because the Court granted the motion for good faith settlement based on Plaintiff's assertion that the non-settling defendants will receive an offset. When conducting the analysis of Plaintiff's good faith settlement, the Court considered the relative liability of the defendants and determined that the settlement amount was proper. The Court did not adopt the plaintiff's argument that the non-settling defendant would be entitled to an offset. Further, the jury verdict was based on failure to warn, which has absolutely no bearing on the plaintiffs claim against the other defendants. The settling defendants. Now, considering the jury verdict, it appears that the settling defendants might have paid even more than their fair share of the liability. Collectively, the defendants settled for \$5,110,000.00 which constitutes almost 30% of the total award in this matter. When looking at the potential liability of all defendants, the Court finds that MCI was responsible for a large majority of the damages. Thus, judicial estoppel does not apply here.

Counsel for Plaintiff is directed to prepare a proposed order including detailed findings of fact and conclusions of law, which is to be approved by opposing counsel as to form and content prior to submitting the order to chambers in Microsoft word format, by email to dept14lc@clarkcountycourts.us and PowellD@clarkcountycourts.us.

CLERK'S NOTE: Minute order modified on 2/21/19. sdh

THE SEALED PORTION
OF THESE MINUTES
WILL FOLLOW VIA
U.S. MAIL.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

February 24, 2022

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) |
| | vs. |
| | Motor Coach Industries Inc, Defendant(s) |

February 24, 2022 3:00 AM Minute Order

HEARD BY: Escobar, Adriana **COURTROOM:** Chambers

COURT CLERK: Brittany Ates

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The Court, having reviewed the motion which was set for hearing calendar February 24, 2022, no opposition thereto; and without the need for oral argument from the parties; Defendants' Motion to Seal and Redact Brief Regarding Offset and Seal Exhibit A thereto is GRANTED for the reasons and arguments stated in Defendants' moving papers. Counsel for Defendants shall prepare the written Order for the Court's review in accordance with the local rules. The order must be detailed, and include the substance of the moving papers.

The hearing for this motion is hereby VACATED.

All parties must submit orders electronically, in both PDF version and Word version, until further notice. You may do so by emailing DC14Inbox@clarkcountycourts.us. All orders must have either original signatures from all parties or an email appended as the last page of the proposed order confirming that all parties approved use of their electronic signatures. The subject line of the e-mail should identify the full case number, filing code and case caption.

CLERK'S NOTE: The above minute order has been distributed to all parties by the Court Clerk via electronic service and/or mail. ba/ /02-24-22

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

March 11, 2022

| | |
|---------------|--|
| A-17-755977-C | Keon Khiabani, Plaintiff(s) vs. Motor Coach Industries Inc, Defendant(s) |
|---------------|--|

March 11, 2022 1:00 PM Motion

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Brittany Ates

RECORDER: Stacey Ray

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- In the absence of the Court, matter taken OFF CALENDAR; as motion will be heard on the pleadings.

DISTRICT COURT
CLARK COUNTY, NEVADA

Product Liability

COURT MINUTES

June 28, 2022

A-17-755977-C Keon Khiabani, Plaintiff(s)
vs.
Motor Coach Industries Inc, Defendant(s)

June 28, 2022 **10:00 AM** **Hearing**

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Reina Villatoro
Louis Johnson

RECORDER: Stacey Ray

REPORTER:

PARTIES

| | | |
|-----------------|-----------------------|----------|
| PRESENT: | Christiansen, Peter S | Attorney |
| | Kemp, William Simon | Attorney |
| | Pepperman, Eric | Attorney |
| | Polsenberg, Daniel F. | Attorney |

JOURNAL ENTRIES

- Court advised, the decision of punitive damages is not what the case pertains to and in this matter, the Jury found no punitive damages and does not believe the Defendant should be charged with punitive damages, as there is no evidence of Plaintiff settlement or any of the parties discussing punitive damages. COURT FINDS, the defendant's argument is correct and ORDERED, pre-judgment interest must be calculated in brief from the beginning; and a proposed order is to be submitted. Mr. Polsenberg advised, he will submit the proposed order.

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| | | | |
|---|--|---|--|
| Trial Date: February 12, 2018 9:30 a.m. | | Clerk: Denise Husted | |
| Dept. No. XIV Judge: Adriana Escobar | | Recorder: Sandra Anderson | |
| Plaintiffs: KEON KHIABANI and ARIA KHIABANI, minors, by and through their Guardian, MARIE-CLAUDE RIGAUD; SIAMAK BARIN, as Executor of the Estate of Kayvan Khiabani, M.D. (Decedent), the Estate of Kayvan Khiabani, M.D. (Decedent); SIAMAK BARIN, as Executor of the Estate of Katayoun Barin, DDS (Decedent); and the Estate of Katayoun Barin, DDS (Decedent); | | Counsel for Plaintiff: WILL KEMP, ESQ. ERIC M. PEPPERMAN, ESQ. PETER J. CHRISTIANSEN, ESQ. KENDELEE L. WORKS, ESQ. | |
| vs. Defendants: MOTOR COACH INDUSTRIES, INC., a Delaware corporation; MICHELANGELO LEASING INC. d/b/a RYAN'S EXPRESS, an Arizona corporation; EDWARD HUBBARD, a Nevada resident; BELL SPORTS, INC. d/b/a GIRO SPORT DESIGN, a Delaware corporation; SEVENPLUS BICYCLES, INC. d/b/a PRO CYCLERY, a Nevada corporation, DOES 1 through 20; and ROE CORPORATIONS 1 through 20. | | Counsel for Motor Coach Industries: | |

ALL EXHIBITS NOT ADMITTED RETURNED

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|--|--------------|----------|---------------|
| 1 | 4/18/17 - Certificate of Death of Kayvan Taghipour Khiabani. P00001 | 2/26/18 | No | 2/26/18 |
| 2 | 4/18/17 - Medical Records from University Medical Center of Kayvan Khiabani (identified as Lubbock Doe). P00002-P00050 | | | RETURNED |
| 3 | 4/18/17 - Videotape from Red Rock Casino. P00051 | 2/23/18 | No | 2/23/18 |
| 4 | 4/18/17 - Videotape of post-accident. P00052 | 2/23/18 | No | 2/23/18 |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------|
| 5 | Videotape involving Truck sideswiping Bicyclist. P00053 | 2/28/18 | No | 2/28/18 |
| 6 | Stills of Truck sideswiping Bicyclist. P00053A (1-85) | | | |
| 7 | Videotape – behind the Scenes – Bell Helmet Test Lab. P00054 | | | |
| 8 | Videotape – GIRO and MIPS. P00055 | | | |
| 9 | 6/7/07 - Giro Owner's Manual. P00056-P00091 | | | |
| 10 | 2/26/14 - Giro Owner's Manual. P00092-P00127 | | | |
| 11 | 12/25/15 - Giro Owner's Manual. P00128-P00148 | | | |
| 12 | 10/4/16 - Receipt from Pro Cyclery in the amount of \$3,460.79 for the purchase of a Scott Solace 10 Disc Bicycle and bag. P00149 | | | |
| 13 | Scott Bike User Manual 2016. P00150-P00175 | | | |
| 14 | 6/10/17 - Kayvan Memorial Ride Flyer. P00176 | | | |
| 15 | 5/00/17 - Letter from Mayor. P00177 | | | |
| 16 | 6/17/17 - June 2017 Ghost Bike Memorial Ceremony. P00178 | | | |
| 17 | 6/19/17 - Letter from Governor. P00179 | | | |
| 18 | 12/15/16 - Article entitled "Bus & Motor Coach News." P00180-P00181 | | | |
| 19 | 2015 - New Flyer Industries, Inc. 2015 Annual Report. P00182-P00247 | | | |
| 20 | 2016 - New Flyer Industries, Inc. 2016 Report. P00248-P00286 | | | |

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 to clerk.
 3/7/18 No 3/7/18
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PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------|
| 21 | 2008 Tour Bus manufactured by Motor Coach Industries, Inc., VIN 2M93JMH428W064555. Artifact | 2/26/18 | No | 2/26/18 |
| 22 | Bicycle. Artifact | 2/26/18 | No | 2/26/18 |
| 23 | Helmet. Artifact <i>Helmet bag</i> | 2/26/18 | No | 2/26/18 |
| 24 | Bus engine module control data from subject bus. Artifact <i>1 Disc</i> | 2/26/18 | No | 2/26/18 |
| 25 | Bus brake data from subject bus. Artifact <i>Marked 24-25</i> | 2/26/18 | No | 2/26/18 |
| 26 | 06/28/17 - Videotape of bus download | | | |
| 27 | Photographs of subject Bicycle and Miscellaneous taken by Kemp, Jones and Coulthard. P00287-P00352 | 2/26/18 | No | 2/26/18 |
| 28 | Photographs of subject Helmet taken by Kemp, Jones and Coulthard. P00353-P00382 | 2/26/18 | No | 2/26/18 |
| 29 | 6/1/16 - Safety Corner Article "Still Blaming Bus-Pedestrian contact on A-Pillar/Mirror Design? P00383-P00390 | | | |
| 30 | Brochure -Motor Coach Industries - MCI J4500. P00391-P00397 | 2/26/18 | No | 2/26/18 |
| 31 | 7/00/15 - July 2015 MCI Operators Manual 03-26-1035B. P00398-P00520 | | | |
| 32 | Video entitled "Mass Transmit-Stuntman." P00521 | 2/28/18 | Yes | 2/28/18 |
| 33 | Video entitled "Terrifying moment baby's buggy blown onto Tube tracks." P00522 | | | |

HA 23 A *Helmet* 2/26/18 *No* 2/26/18

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------|
| 34 | Video entitled "CNN Headline News." P00523 | | | |
| 35 | Video entitled "Fox News - New York." P00524 | | | |
| 36 | Video entitled "NY DOT." P00525 | | | |
| 37 | Video entitled "S-1 Gard Barrier." P00526 | | | |
| 38 | Video entitled "Plastic Surgery." P00527 | | | |
| 39 | Video entitled "Washington, D.C. - People Catchers." P00528 | | | |
| 40 | Video entitled "Sweden ABC." P00529 | | | |
| 41 | Video entitled "Cycle Eye Alerts Bus Driver." P00530 | | | |
| 42 | Video entitled "Volvo Cyclist Detection with Full Auto Brake." P00531 | | | |
| 43 | Brochure Volvo 9700. P00532-P00543 | | | |
| 44 | 12/2/08 - New Flyer letter from Brad Ellis to Ken Lutkus re Integrity of Chassis and Suspension with S-1 Gard Installed. P00544 | 3-7-18 | no | 3-7-18 |
| 45 | 1/8/08 - Letter from Tom Barrio to Ken Lutkus re S-1 Gard's Montebello Bus Lines. P00545-P00546 | | | |
| 46 | 06/20/07 - Memo from Frederick Goodline, Safety and Risk Management re S1-Gard. P00547 | | | |
| 47 | 11/21/06 - Memo from Daniel Holter, GM of Rochester City Lines re S-1 Guard. P00548 | | | |
| 48 | 6/21/11 - Nevada Bicycle Coalition - Promoting Safe Bicycling in Nevada | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|------------------|---|---------------------|-----------------|----------------------|
| | – "Three Foot Passing rule becomes law in Nevada." P00549-P00554 | | | |
| 49 | 5/18/17 - Nevada Bicycle and Pedestrian Advisory Board – Announcing meeting date of May 18, 2017. P00555-P00556 | | | |
| 50 | Nevada Department of Motor Vehicle – SWAP – Safe Walking and Pedaling - Bicycles Share the Road, Rules for Motorists, Rules for Cyclists, etc. P00557 | | | |
| 51 | 03/16/11 - Senate Bill No. 248-Senators Parks, Lee; Breeden, Copening, Denis, Horsford, Kihuen, Leslie, Manendo, Schneider and Wiener. P00558-P00560 | | | |
| 52 | 11/5/15 - Article "Many buses have built-in blind spots that make driving them dangerous." P00561-P00571 | | | |
| 53 | AB328 Information. P00572-P00573 | | | |
| 54 | 3/21/11 - Assembly Bill No. 328. P00574-P00585 | | | |
| 55 | 4/5/11 - Assembly Committee on Transportation Minutes. P00586-P00610 | | | |
| 56 | 4/12/11 - Assembly Committee on Transportation Minutes. P00611-P00619 | | | |
| 57 | Pages from Journal of Assembly AB328. P00620-P00638 | | | |
| 58 | 5/5/11 - Senate Committee on Transportation Minutes. P00639-P00678 | | | |
| 59 | 5/19/11 - Senate Committee on Transportation Minutes. P00679-P00681 | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------|
| 60 | Video - Simple Bus in Wind Tunnel Simulation (previously produced). P00682 | | | |
| 61 | Video - Duluth Barge Heading out (previously produced). P00683 | | | |
| 62 | Exemplar - S-1 Gard. Artifact <i>Box 15</i> | 3/12/18 | No | 3/12/18 |
| 63 | Photo of Volvo - Right side door (previously produced). P00684 | | | |
| 64 | 6/9/17 - Photos from front right bench of subject bus (previously produced). P00685 (1-4) | 2/26/18 | No | 2/26/18 |
| 65 | 6/9/17 - Photos of front left bench of subject bus (previously produced). P00686 | 2/26/18 | No | 2/26/18 |
| 66 | 6/9/17 - Miscellaneous photos of subject bus (previously produced). P00687 (1-5) | 2/26/18 | No | 2/26/18 |
| 67 | 2010-2016 - U.S. Individual Income Tax Returns for Kayvan Taghipour-Khiabani and Katayoun Barin from 2010 through 2016. P00688-P01184 | | | |
| 68 | 4/19/17 - Clark County Coroner/Medical Examiner's records. P01185-P01197 | | | |
| 69 | 4/18/17 - American Medical Response Billing and Medical Records. P01198-P01215 | | | |
| 70 | 8/9/17 - Inspection photographs taken August 9, 2017 by Robert Caldwell. P01216 (1-180) | 2/26/18 | No | 2/26/18 |
| 71 | 8/9/17 - Inspection photographs and videos taken August 9, 2017 by Joshua Cohen. P01217 (1-127) | | | |

AS 62 A - GARD - Piece 1 3/12/18 No 3/12/18
AS 62 B - GARD - Piece 2 " " " 6
AS 62 C - Bag of Bolts " " " "

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------|
| 72 | Three-D Bus diagrams of subject bus by Joshua Cohen. P01218 (1-2) | 2/26/18 | No | 2/26/18 |
| 73 | Clark County Coroner/Medical Examiner's Autopsy Photographs (1-76), Scene Photographs (1-99) and X-rays (1-18). P01219 | | | |
| 74 | Clark County Coroner's Records (toxicology). P01220-P01259 | | | |
| 75 | Clark County Fire Department Medical records. P01260-P01263 | 3/14/18 | No | 3/14/18 |
| 76 | University Medical Center Medical and Billing Records. P01264-P01301 | | | |
| 77 | 5/3/17 - Final Check stub for Kayvan Khiabani from University Medical Center for pay period ending April 30, 2017. P01302 | | | |
| 78 | Thermo Fisher Scientific Inc. document production. KHIABANI_TMO_Sub000001-Sub000016 | | | |
| 79 | 7/19/17 - FoundationOne Report for Katayoun Barin. K-BARIN00001-K-BARIN00038 | | | |
| 80 | 10/31/95 - United States Patent No. 5,462,324 Safety Guard. P01303-P01315 | | | |
| 81 | S-1 Gard Dangerzone Deflector Brochure. P01316-P01321 | | | |
| 82 | 06/00/01 - Journal of the National Academy of Forensic Engineers - Article entitled "The Causal Factor of Bus Wheel Injuries and a Remedial Method for Prevention of These Accidents - by James M. Green. P01322-P01326 | | | |
| 83 | 2011-2016 - W-2 Wage and Tax Statements for 2011-2016 for Kayvan Khiabani and Katy Barin. P01327-P01342 | | | |

hr 81 A Redacted S-1 Brochure 3/8/18 No 3/8/18
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PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|--|--------------|----------|---------------|
| 84 | 2000 - 2000 Mercedes Operator's Manual. P01343-P01763 | | | |
| 85 | 2004 - 2004 Mercedes Operator's Manual. P01764-P02197 | | | |
| 86 | 4/23/17 - Receipt for Celebration of Life for Kayvan Khiabani. P02198-P02199 | 3/12/18 | No | 3/12/18 |
| 87 | 4/30/17 - Air Canada Flight Receipt in the amount of \$2,094.57. P02200-P02204 | 3/12/18 | No | 3/12/18 |
| 88 | 4/28/17 - Air Canada Flight Receipt in the amount of \$855.92. P02205-P02208 | 3/12/18 | No | 3/12/18 |
| 89 | 4/25/17 - Receipt from Montreal Gazette - Notice of Posting Obituary in the amount of \$862.08. P02209 | 3/12/18 | No | 3/12/18 |
| 90 | 4/25/17 - Air Canada Flight Receipt in the amount of \$2,736.00. P02219 (a-e) | 3/12/18 | No | 3/12/18 |
| 91 | 50-1 Detail Map of accident site, intersection and vicinity. P02219 (a-e) | 2/26/18 | No | 2/26/18 |
| 92 | Comprehensive Cancer Center medical records for Katy Barin. K-BARIN00039-K-BARIN00157 | | | |
| 93 | Driver's License of Katayoun Barin. K-BARIN00158-K-BARIN00159 | | | |
| 94 | Driver's License of Kayvan Khiabani. P02220 | | | |
| 95 | 4/26/17 - The Mount Royal Cemetery Receipt in the amount of \$7,939.02. P02221 | 3/12/18 | No | 3/12/18 |
| 96 | 07/20/17 - Mount Royal Commemorative Services Receipt in the | 3/12/18 | No | 3/12/18 |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------|
| | amount of \$5,173.88. P02222-P02224 | | | |
| 97 | 07/20/17 - Mount Royal Commemorate Services Receipt - Monument Inscription in the amount of \$2,926.11. P02225-P02227 | 3/12/18 | No | 3/12/18 |
| 98 | 12/15/98 - Marriage Certificate of Kayvan Taghipour-Khiabani and Katayoun Barin. P02228 | 2/26/18 | No | 2/26/18 |
| 99 | 02/02/01 - Birth Certificate of Aria Khiabani. P02229 | 2/26/18 | No | 2/26/18 |
| 100 | 05/08/03 - Birth Certificate of Keon Khiabani. P02230 | 2/26/18 | No | 2/26/18 |
| 101 | 4/22/17 - Palm Mortuary Contract-Statement of Funeral Good and Services Selected/Purchase Agreement. P02231-P02234 | 3/12/18 | No | 3/12/18 |
| 102 | 4/24/17 - Single Cash Receipt from Palm Southwest Mortuary in the amount of \$11,645.57. P02235 | 3/12/18 | No | 3/12/18 |
| 103 | 5/9/17 - Single Cash Receipt from Palm Southwest Mortuary in the amount of \$372.90. P02236 | 3/12/18 | No | 3/12/18 |
| 104 | 5/25/17 - Single Cash Receipt from Palm Southwest Mortuary in the amount of \$297.69. P02237 | 3/12/18 | No | 3/12/18 |
| 105 | 8/30/17 - State of New York DMV - License System for Edward Hubbard. P02238-P02243 | | | |
| 106 | 04/18/17 - Clark County Incident Detail Report-Incident No. 041817-7115073. P02244-P02246 | | | |
| 107 | 04/18/17 - Clark County 911 Audio tape. P02247 | | | |
| 108 | 04/18/17 - State of Nevada Department of Motor Vehicle - Records | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------|
| | Division – Edward Hubbard. P02248-P02249 | | | |
| 109 | 04/18/17 - Billing records from University Medical Center for Kayvan Khiabani. P02250-P02251 | 3/12/18 | No | 3/12/18 |
| 110 | 7/25/12 - Article "World Premiere of the New Setra Comfort Class 500. P02252-P02270 | | | |
| 111 | SAE Technical Paper Series – A Field Evaluation of the S-1 Pedestrian Gard: Transit and Shuttle Bus Applications. P02271-P02275 | | | |
| 112 | 9/20/17 - Photo Stills from Red Rock Surveillance Video (28.jpg, 29.jpg, 30.jpg, 31.jpg, 32.jpg, 33.jpg, 34.jpg and 35.jpg). P02276 | | | |
| 113 | 9/17/17 - Las Vegas Metropolitan Police Department Photographs (159) | 2/26/18 | No | 2/26/18 |
| 114 | 8/9/17 - Inspection photographs (210) taken August 9, 2017 by Tom Flanagan. P02277 | 2/26/18 | No | 2/26/18 |
| 115 | AT&T Cell Phone and Land Line records for Edward Hubbard (previously produced). ATT00001-ATT01218 | | | |
| 116 | 6/17/17 - Ghost Bike Photographs (258). P02278 | | | |
| 117 | Kayvan Khiabani Funeral video. P02279 | | | |
| 118 | Photo of Headstone of Kayvan Khiabani and Katy Barin. P02280 | 2/26/18 | No | 2/26/18 |
| 119 | Family Photos of the Khiabani Family. P02281 | | | |
| 120 | Memo from North American Bus Industries, Inc. – "NABI has not been informed thru our warranty group of any structural damage due to impact of S1 guard." Also the S1 attaches to the NABI structure without | | | |

117 A > b1sc
 117 B - PROVIDED TO CLEK 3/23/18
 10
 2/7/18
 2/6/18 NO
 2/7/18
 2/7/18

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------------|
| | any effect on the bus frame structure." Signed by Ronnie O'Byrne. P02282 | | | |
| 121 | 11/21/06 - Letter from Holter of Rochester City Lines regarding S-1 Gard performance in snow and ice. P02283 | | | |
| 122 | Article "Prevention of Accidents Caused by Rotating Transit Bus Wheels by James M. Green, P.E., DEE. P02284-P02292 | | | |
| 123 | 2008 - TCRP Report 125 - Transit Cooperative Research Program-Guidebook for Mitigating Fixed-Route Bus-and-Pedestrian Collisions. P02293-P02368 | | | |
| 124 | S-1 Guard - Important Installation Instructions for Dangerzone Deflector and Maintenance of the S-1 Gard Dangerzone Deflector. P02369-P02373 | 3/12/18 | No | 3/12/18 |
| 125 | Brochure "Setra presents new US coach in Florida." P02374-P02376 | | | |
| 126 | 8/00/93 - MCI Engineering Test Report - Wind Tunnel (produced by Defendant MCI). MCI 039853-MCI 039950 | 2/23/18 | Stip. | Admitted 2/23/18 |
| 127 | 4/00/13 - Bendix Blindspotter Installation Guide (produced by Defendant MCI). MCI 002964-MCI 002992 | | | |
| 128 | 9/20/07 - Certificate of Origin for a Vehicle - MCI J4500 2008 and Agreement to Purchase between MCI and Ryan's Holdings, Inc. (produced by Defendant MCI). MCI 000001-MCI 000042 | | | |
| 129 | File Folder of Claude Sonny Hildreth (produced by Defendant MCI). Hildreth-000001-Hildreth-000201 | | | |
| 130 | Witness statement of Michael Plantz (produced by Defendant MCI). | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|--|--------------|----------|---------------|
| | PLANTZ-00001-PLANTZ-00004 | | | |
| 131 | Witness Statement of Robert Pears (produced by Defendant MCI). PEARs-000001-PEARs-000003 | | | |
| 132 | 8/25/16 - Email from Brad Lamothe to Larry Garstick re Blind Spot Detection System (produced by Defendant MCI). MCI 003022-MCI 003025 | | | |
| 133 | 6/8/17 - Email from Justin Miller re Blindspotter Installation Guide (produced by Defendant MCI). MCI 002963 | | | |
| 134 | A D R Systems Documents (produced by Defendant MCI). MCI 39554-MCI 39578 | | | |
| 135 | 2006 - MCI J4500/E4500 Operator's Manual (produced by Defendant MCI). MCI 000043-MCI 000202 | 2/26/18 | No | 2/26/18 |
| 136 | 8/20/98 - MCI - Daily Test Notes (produced by Defendant MCI). MCI 002960 | | | |
| 137 | 9/8/98 - MCI - Daily Test Notes (produced by Defendant MCI). MCI 002961-MCI 002962 | | | |
| 138 | 1985 - Article The Effect of Front Edge Rounding and Rear Edge Shaping on the Aerodynamic Drag of Bluff Vehicles in Ground Proximity. Kevin R. Cooper. P02377-P02412 | 3/5/18 | yes | 3/5/18 |
| 139 | 1981 - Aerodynamic Effects to a Bicycle Caused by a Passing Vehicle - Y. Kato. P02413-P02419 | 3/9/18 | No | 3/9/18 |
| 140 | 5/10/17 - Letter from Katy Barin to UMC re death of husband, Kayvan Khiabani, M.D. P02420-P02422 | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|------------------|---|---------------------|-----------------|----------------------|
| 141 | 5/3/17 - Letter from Dr. John Fildes, M.D./University Medical Center to Katy Barin. P02423 | | | |
| 142 | Demonstrative Slide of MCI Bus and Tesla Semi-Truck (Joshua Cohen and Robert Breidenthal). P02424-P02427 | | | |
| 143 | Article "Anheuser-Busch Orders 40 of Tesla's All Electric Trucks. P02428 | | | |
| 144 | Photo of Tesla Rating. P02429 | | | |
| 145 | 8/00/17 - Consumer Reports -Blind-Spot Warning. P02430-P02432 | | | |
| 146 | Cars: Collision Avoidance Safety Features Chart (from Tom Flanagan Expert file). P02433-P02436 | | | |
| 147 | Traffic Collision Report involving Jose Parada. P02437-P02441 | | | |
| 148 | US Department of Transportation - Quick Facts 2016. P02442-P02447 | | | |
| 149 | US Department of Transportation "Traffic Safety Facts 2015 Data - Bicyclists and Other Cyclists." P02448-P02456 | | | |
| 150 | 2017 - Autocar - First for Car News and Reviews - 2017 Volvo buses to gain pedestrian and cyclist detection tech. P02457-P02459 | | | |
| 151 | Fatality Analysis Report System (FARS) Encyclopedia. P02460-P02461 | | | |
| 152 | 2015 - Pedestrian & Bicycle Information Center "Pedestrian and Bicyclist Crash Statistics." P02462-P02467 | | | |
| 153 | List of Cyclist deaths in U.S. by year. P02468-P02469 | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|------------------|---|---------------------|-----------------|----------------------|
| 154 | 2005 - Pedestrian Detection in Transit Bus Application: Sensing Technologies and Safety Solutions – Fanping Bu - Conference Paper, July 2005. P02470-P02475 | | | |
| 155 | 6/4/07 - Press Release – Model Overview: 2008 Volvo S80. P02476-P02477 | | | |
| 156 | 6/4/07 - Video – Model Overview: 2008 Volvo S80. P02476A | | | |
| 157 | 2001 - Eaton Vorad Collision Warning System EVT-300 with Smartcruise: The System. P02478 | | | |
| 158 | 2007 - Bus & Motorcoach News, September 15, 2007 –Eliminate Dangerous Blind Spots with Voyager, the #1 Name in Bus Vision Safety. P02479 | | | |
| 159 | Billing and Medical Records of Katy Barin from Jennifer Baynosa, M.D. K-BARIN00160-K-BARIN00212 | | | |
| 160 | Photographs of CAT Irisbus Civis (2). P02480-P02481 | | | |
| 161 | MERITOR WABCO Onside Blind Spot Detection (produced by Defendant MCI). MCI 035108-MCI 035124 | | | |
| 162 | 12/1/15 - Security and Safety Article "New Collision avoidance technology for buses increases pedestrian, cyclist safety." P02482-P02486 | | | |
| 163 | 4/17/07 - United State Patent No: 7,206,678 B2. Motor Vehicle with a Pre-safe-System. Assignee: Daimler Chrysler AG. P02487-P02496 | | | |
| 164 | 3/27/14 - National Highway Traffic Safety Administration – New Manufacturers Handbook – Requirements for Manufacturers of Motor | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------|
| | Vehicles and Motor Vehicle Equipment. P02497-P02500 | | | |
| 165 | 10/18/16 - National Highway Traffic Safety Administration - New Manufacturers Handbook - Requirements for Manufacturers of Motor Vehicles and Motor Vehicle Equipment. P02501-P02520 | | | |
| 166 | 2001 - Eaton VORAD Collision Warning System - EVT-300 Technical Highlights. P02521-P02522 | | | |
| 167 | 8/9/17 - New Flyer 2017 Second Quarter Report. P02523-P02564 | | | |
| 168 | 10/1/17 - New Flyer 2017 Third Quarter Report. P02565-P02582 | | | |
| 169 | 8/22/17 - Co-Letters Testamentary in re <i>The Matter of the Estate of Kayvan Toghipour Khiabani</i> , Case No. P-17-091906-E. P02583-P02585 | 2/26/18 | No | 2/26/18 |
| 170 | 10/6/17 - Order Granting Ex Parte Petition for Appointment of Special Administrator, for Issuance of Letters of Special Administration, and Authority to Retain Counsel and Pursue Wrongful Death Action in re <i>The Matter of the Estate of Katayoun Katy Barin</i> , Case No. P-17-093373-E. P02586-P02588 | | | |
| 171 | 10/26/17 - Application for Custody of Minor Children, Parental Authority and Safeguard Order in re Katayoun (Katy) Barin and Babak Barin and Marie-Claude Rigaud, Case No. 2:17-cv-02674-RFB-CWH. P02589-P02595 | | | |
| 172 | 10/10/17 - Judgment for Custody of Minor Children, Parental Authority and Safeguard Order in re Katayoun (Katy) Barin and Babak Barin and Marie-Claude Rigaud, Case No. 2:17-cv-02674-RFB-CWH. P02596-P02597 | | | |
| 173 | 10/24/17 - Judgment for Custody of Minor Children, Parental Authority | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|------------------|--|---------------------|-----------------|----------------------|
| | and Safeguard Order in re Katayoun (Katy) Barin and Babak Barin and Marie-Claude Rigaud, Case No. 2:17-cv-02674-RFB-CWH. P02598-P02599 | | | |
| 174 | 11/1/17 - Letter from Steven Kalas, M.Th. of Character Way Counseling, Coaching & Consulting. P02600-P02600 | | | |
| 175 | 9/20/17 - Letter from Steven Day, PhD to D. Lee Roberts, Esq. re Survival in Stage IV Colon Cancer (Katayoun Barin) | | | |
| 176 | Video of Alexander LaRiviere riding a Penny Farthing bike. P02601 | | | |
| 177 | Article "A bus to Meet all Needs -The New Setra S531 DT of the TopClass 500 - Daimler ad. P02602-P02605 | | | |
| 178 | Brochure - Setra - The Upgraded Top Class S 417TC. P02606-P02625 | | | |
| 179 | 1/15/18 - 2018 MCI J4500- Bus & Motorcoach News. P02626 | | | |
| 180 | 1/2008 - Article "Pain Assessment and Management in Disorders of Consciousness". Current Opinions in Neurology. Schnaekers and Zasler. P02627-P02634 | | | |
| 181 | 9/2012 - Article "What about Pain in Disorders of Consciousness? The AAPs Journal, Vol. 14, No. 3. P02635-P02641 | | | |
| 182 | 1/17/18 - Trucks.Com - New Flyer Partners with L.A. Transit to Test Crash Avoidance Technology. P02642-P02647 | | | |
| 183 | 2012 - New Flyer Industries, Inc. 2012 Annual Report. P02648-P2711 | | | |
| 184 | 2013 - New Flyer Industries, Inc. 2013 Annual Report. P02712-P02784 | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|--|--------------|----------|---------------|
| 185 | 2014 - New Flyer Industries, Inc. 2014 Annual Report. P02785-P02853 | | | |
| 186 | 2017 - Katy Barin's Funeral Expenses in Las Vegas, Nevada in the amount of \$29,521.84. P02854-P02862 | | | |
| 187 | 2017 - Katy Barin's Funeral Expenses in Montreal, Canada in the amount of \$32,562.82. P02863-P02880 | | | |
| 188 | 2017 - Additional Travel and Funeral Costs for Kayvan Khiabani. P02881-P02887 | 3/12/18 | No | 3/12/18 |
| 189 | Fadi Braiteh, M.D. medical records for Katy Barin (produced by defendants). CCCN-00009-CCCN-00015, CCCN-00023-CCCN-00035, U - 00033-U - 00039 | | | |
| 190 | 6/20/17 - Stoberski Helmet Photos (produced by Defendant Bell). BELL000259-BELL000299 | | | |
| 191 | 7/18/17 - JCU Photos - Accident, location, helmet, bicycle and gear. (produced by Defendant Bell). BELL000300-BELL000352 | | | |
| 192 | 9/13/17 - Photographs taken by David Thom of Collision Dynamics on September 13, 2017 at the Helmet Inspection by Bell Sports. DRT_05527 - DRT_05633 | | | |
| 193 | 11/3/17 - Hand Drawing of Robert Breidenthal (Ex. 3) | 3/9/18 | No | 3/9/18 |
| 194 | 10/9/17 - Handwritten calculations of James Green (Ex. No. 7) | | | |
| 195 | Defendant's Expert Granat Vehicle Dimensions for MCI J4500 Coach ((4 pages produced with expert job file) | 2/26/18 | No | 2/26/18 |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------|
| 196 | Claude "Sonny" Hildreth Privilege log. | | | |
| 197 | 7/2005 - Eaton VORAD Installation Guide VOIG-0035. P02888-P02917 | 3/2/18 | Obj | |
| 198 | 10/15/07 - Bus & Motorcoach News - "Findings the Answers...BCI Falcon 45." P02918-P02937 | 3/2/18 | Obj | 3/2/18 |
| 199 | 9/2009 - Motor Coach Industries Organizational Chart (produced by Defendant MCI). MCI 003556-MCI 003558 | | | |
| 200 | 1/2006 - Motor Coach Industries Organizational Chart (produced by Defendant MCI). MCI 003535-MCI 003555 | | | |
| 201 | Bicycle Accident Reconstruction for the Forensic Engineer by James Green, P.E. - Chapter 31 - The Causal Factor of Bus Wheel Injuries and a Remedial method for Prevention of These Accidents (Ex. 7) | 3/5/18 | Obj | 3/5/18 |
| 202 | 2015 - Motor Coach Industries 2015 Annual Report | | | |
| 203 | Motor Coach Industries 2016 Annual Report | | | |
| 204 | Video of Katy Barin's Funeral | | | |
| 205 | Reports, any and all Supplemental Reports, and any reliance documents of Alexander LaRiviere. SEE EXPERT LARIVIERE RELIANCE MATERIALS CD | | | |
| 205 | Certificate of Calibrations (4) (produced with Alex LaRiviere job file). SEE EXPERT EXPERT LARIVIERE RELIANCE MATERIALS CD | | | |
| 205 | Photographs taken by Alexander LaRiviere testing on exemplar Scott Racing bicycle (Expert Report of Alexander LaRiviere dated December 8, | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|------------------|---|---------------------|-----------------|----------------------|
| | 2017). SEE EXPERT LARIVIERE RELIANCE MATERIALS CD | | | |
| 205 | 1/9/18 - Video and photographs taken of testing performed by Alexander LaRiviere regarding Handlebar Leverage Testing of subject bike. SEE EXPERT LARIVIERE RELIANCE MATERIALS CD | | | |
| 205 | Photographs taken by Alex LaRiviere (197) (produced with Alex LaRiviere job file) | | | |
| 206 | Reports, any and all Supplemental Reports, and any reliance documents of Robert Caldwell (previously produced by Plaintiffs). SEE EXPERT CALDWELL RELIANCE MATERIALS CD | | | |
| 206 | 10/16/17 - Slides prepared for Robert Caldwell (9) by Fat Pencil Studio (produced with expert job file). SEE EXPERT CALDWELL RELIANCE MATERIALS CD | | | |
| 206 | Robert Caldwell attachments to Report: Attachment 2 Aerial photo of the location of the event. Attachment 3. Contact mark located on the right side of the MCI bus. Attachment 4. 2017 Scott Solace 10 Disc post-accident photograph. Attachment 5. Southbound S Pavilion Center Drive. Attachment 6. Ponderosa scene scan. Attachment 7. Scene Investigation photo. Attachment 8. Ponderosa evidence diagram. Attachment 9. Red Rock Casino Resort & Spa security video screen shot. Attachment 10 – Graphic by Fat Pencil Studio (produced with expert job file). SEE EXPERT CALDWELL RELIANCE MATERIALS CD | | | |
| 206 | Robert Caldwell files: Aerial Photos, Drawings (with measurements), Cell Phone Video clips, Field Notes, Photo Modeler, Scan data, measurements of Scott Solace Bike, Security Video stills. (produced with expert job file). SEE EXPERT CALDWELL RELIANCE MATERIALS CD | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|------------------|---|---------------------|-----------------|----------------------|
| 206 | Demonstrative Power Point Presentation prepared by Robert J. Caldwell, P.E. SEE EXPERT CALDWELL RELIANCE MATERIALS CD | | | |
| 207 | Reports, any and all Supplemental Reports, and any reliance documents of Joshua Cohen (previously produced by Plaintiffs). SEE EXPERT COHEN RELIANCE MATERIALS CD | | | |
| 207 & 210 | Demonstrative proximity sensor slides prepared by Joshua Cohen for Tom Flanagan (16 jpg and 10 pdf). SEE EXPERT COHEN RELIANCE MATERIALS CD | | | |
| 207 | Demonstrative slides from Joshua Cohen Report of October 6, 2017 - Exhibit 1a, 1b, Exhibit 6, Exhibit 7a, Exhibit 7b, Exhibit 7c, Exhibit 7d, Exhibit 8a, Exhibit 8b, Exhibit 9a, Exhibit 9b, Exhibit 10a, Exhibit 10b, Exhibit 11, Exhibit 12A, Exhibit 12b, Exhibit 13a, b, c, d, e, Exhibit 14a, b, c, d, e, f, Exhibit 15a and b, Exhibit 16 a, b, c, Exhibit 17, Exhibit 18a, b, c, Exhibit 19, Exhibit 20. Additional slides, Lane change photos, stills from Red Rock Hotel Surveillance video, detailed map. SEE EXPERT COHEN RELIANCE MATERIALS CD | | | |
| 207 | Side by Side video of Red Rock Surveillance video and Sacarias accident video (produced with expert job file of Joshua Cohen. SEE EXPERT COHEN RELIANCE MATERIALS CD | | | |
| 208 | Reports, any and all Supplemental Reports, and any reliance documents of Brian Sherlock, Safety Specialist. SEE EXPERT SHERLOCK RELIANCE MATERIALS CD | | | |
| 208 | Demonstrative slides of Brian Sherlock Report of October 6, 2017 - Figure 1-10 (produced with expert Brian Sherlock job file). SEE EXPERT SHERLOCK RELIANCE MATERIALS CD | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|------------------|--|---------------------|-----------------|----------------------|
| 208 | Transit Bus Interior Air Quality – Respiratory Health Impacts on Passengers and Operators Power Point (produced with expert Brian Sherlock job file). SEE EXPERT SHERLOCK RELIANCE MATERIALS CD | | | |
| 208 | Transit Bus Structure and Operator Vision Power Point (produced with expert Brian Sherlock job file). SEE EXPERT SHERLOCK RELIANCE MATERIALS CD | | | |
| 208 | Rhode Island Accident file (produced with expert Brian Sherlock job file). SEE EXPERT SHERLOCK RELIANCE MATERIALS CD | | | |
| 209 | Reports, any and all Supplemental Reports, and any reliance documents of Jay Rosenthal, CCM. SEE EXPERT ROSENTHAL RELIANCE MATERIALS CD | | | |
| 209 | 10/2017 – Local Climatological Data Hourly Observations Phoenix Deer Valley Municipal Airport, AZ US 03184 (produced with expert Jay Rosenthal report). SEE EXPERT ROSENTHAL RELIANCE MATERIALS CD | | | |
| 210 | Reports, any and all Supplemental Reports, and any reliance documents of Tom Flanagan, BSME. SEE EXPERT FLANAGAN RELIANCE MATERIALS CD | | | |
| 210 | Proximity Sensor Charts and Backup (produced with expert Tom Flanagan job file). SEE EXPERT FLANAGAN RELIANCE MATERIALS CD | | | |
| 210 | Proximity Sensor Information (1992-2017) (produced with expert Tom Flanagan job file). SEE EXPERT FLANAGAN RELIANCE MATERIALS CD | | | |
| 211 | Reports, any and all Supplemental Reports, and any reliance documents of Larry Stokes, Ph.D (previously produced by Plaintiffs). SEE EXPERT STOKES RELIANCE MATERIALS | | | |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|----------------------------|--------------|----------|---------------|
| 218 | Photo - Accident Scene | 2/23/18 | No | 2/23/18 |
| 219 | Photo - Accident Scene | 2/23/18 | No | 2/23/18 |
| 220 | Photo - RR 1 | 2/26/18 | No | 2/26/18 |
| 221 | Photo - RR 2 | " | " | " |
| 222 | Photo - RR 3 | " | " | " |
| 223 | Photo - RR 4 | " | " | " |
| 224 | Photo - RR 5 | " | " | " |
| 225 | Photo | " | " | " |
| 226 | Photo - Manual Speed Aval. | " | " | " |
| 216 A | Photo - From 216 Slide | " | " | " |
| 216 B | Photo - | 2/27/18 | No | 2/27/18 |
| 227 | Photo - Bus | 2/28/18 | No | 2/28/18 |
| 228 | Photo - Bus | 2/28/18 | No | 2/28/18 |
| 229 | Photo - Bus | 2/28/18 | No | 2/28/18 |
| 230 | Photo | 3/1/18 | " | 3/1/18 |
| 231 | Photo | " | " | " |
| 232 | Photo | " | " | " |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---------------------------------------|-------------------|---------------|-------------------|
| 233 | Photo | 3/1/18 | No | 3/1/18 |
| 234 | Photo | " | " | " |
| 235 | Photo | " | " | " |
| 236 | Photo | " | " | " |
| 237 | Photo | " | " | " |
| 208 A | Not Provided | | | |
| 208 B | " | | | |
| 208 C | " | | | |
| 238 | Photo - Bus No exhibit 238 | 3/5/18 | No | 3/5/18 |
| 239 | Photo - Bus | 3/5/18 | No | 3/5/18 |
| 240 | Photo | 3/5/18 | No | 3/5/18 |
| 241 | Photo | 3/5/18 | No | 3/5/18 |
| 242 | Photo | 3/5/18 | No | 3/5/18 |
| 243 | Photo | 3/5/18 | No | 3/5/18 |
| 244 | Photo | 3/5/18 | No | 3/5/18 |
| 245 | Photo | 3/5/18 | Yes | 3/5/18 |
| 246 | Photo | 3/6/18 | No | 3/6/18 |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|---|--------------|----------|---------------|
| 212 | Reports, any and all Supplemental Reports, and any reliance documents of Jack Hubbard, PhD, M.D. (previously produced by Plaintiffs). CD | | | |
| 213 | Reports, any and all Supplemental Reports, and any reliance documents of Robert Edward Breidenthal, Jr. (previously produced by Plaintiffs). CD | | | |
| 214 | Reports, any and all Supplemental Reports, and any reliance documents of Robert J. Cuntz, Ph.D (previously produced by Plaintiffs). CD | | | |
| 215 | Reports, any and all Supplemental Reports, and any reliance documents of James Green, P.E. (previously produced by Plaintiffs). CD | | | |
| 216 | Reports, any and all Supplemental Reports, and any reliance documents of Richard Stalnaker, Ph.D (previously produced by Plaintiffs). CD | | | |
| 217 | MCI Engineering Drawings & Documents. MCI-003794-MCI004381 | | | |

218 Photo - Accident Scene 2/23/18 No 2/23/18
 219 Photo - Accident Scene 2/23/18 No 2/23/18
 220 Photo RR1 2/26/18 2/26/18
 221 Photo RR2 TRANSFERRED to page 23 2/26/18 2/26/18
 222 Photo RR3 2/26/18 2/26/18
 223 Photo RR4 2/26/18 2/26/18
 224 Photo RR5 2/26/18 2/26/18
 225 Photo 2/26/18 2/26/18
 226 Photo MCI Speed Analysis 2/26/18 2/26/18
 216 A - Photo (from slide) 2/26/18 2/26/18

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|-----------------------------|--------------|----------------------|----------------|
| 247 | Photo | 3/6/18 | No | 3/6/18 |
| 248 | Photo Upper Torso | " | " | " |
| 249 | Photo Withdrawn | " | Withdrawn | --- |
| 250 | Photo | " | " | " |
| 251 | Photo | " | " | " |
| 252 | Photo | " | " | " |
| 253 | Photo | " | " | " |
| 254 | Photo | " | " | " |
| 255 | Illustration Photo | 3/6/18 | " | 3/6/18 |
| 256 | Illustration Photo | 3/6/18 | " | 3/6/18 |
| 257 | Photo - Helmet Tire Pattern | 3/6/18 | " | 3/6/18 |
| 258 | Photo - Illustration | 3/6/18 | " | 3/6/18 |
| 259 | Thumb Drive | | | |
| 259A | Photo - Barin Family | 3/9/18 | No | 3/9/18 |
| 259B | " | " | " | " |
| 259C | " | " | " | " |
| 259D | " | " | " | " |

PLAINTIFFS' EXHIBIT LIST

Case No. A-17-755977

| Exhibit # | Description of Documents | Date Offered | Objected | Date Admitted |
|-----------|--------------------------------|--------------|----------|---------------|
| 259 E | Photo - Barrio Family | 3/9/18 | No | 3/9/18 |
| 259 F | " " | " | " | " |
| 260 | Deirion Summary | 3/9/18 | yes | 3/9/18 |
| 259 G | Photo - Family | 3/12/18 | No | 3/12/18 |
| 259 H | " " | | | |
| 259 I | " " | | | |
| 259 J | " " | | | |
| 259 K | " " | | | |
| 259 L | " " | | | |
| 259 M | " " | | | |
| 259 N | " " | | | |
| 259 O | " " | | | |
| 259 P | " " | ✓ | ✓ | ✓ |
| 261 | Med + Funeral Exp. | 3/12/18 | No | 3/12/18 |
| 262 | Kateral Force Measurement Doc. | " | | |
| 263 | Local Climatological Data 10/7 | 3/16/18 | Stip | 3/16/18 |
| 264 | Local Climatological Data 10/8 | 3/16/18 | Stip | 3/16/18 |

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|----------------------------------|---|
| CASE NO: A755977 | TRIAL: February 12, 2018 |
| DEPT. NO. 14 | JUDGE : Honorable Adriana Escobar |
| | CLERK : Denise Husted |
| | RECORDER : Sandy Anderson |
| PLAINTIFF: Khiabani et al | |
| | |
| | COUNSEL FOR PLAINTIFF: Kemp / Christiansen |
| DEFENDANT: MCI; et al. | |
| | COUNSEL FOR DEFENDANT: Roberts / Barger |
| | |

DEFENSE EXHIBITS*

ALL NOT ADMITTED EXHIBITS RETURNED

| TX# | DOCUMENT DESCRIPTION | Bates | Date Offered | Objection | Date Admitted |
|------|--|---------------------------------|--------------|-----------|---------------|
| D# | | TX - PG-PG | | | |
| | | | | | |
| 401. | LVMPD report | LVMPD 13-92 | | | |
| 402. | LVMPD Photos | LVMPD 93 - DISK | | | |
| 403. | Photos taken by Salisbury | SALISBURY 1-5 | | | |
| 404. | Dispatch Incident Report | MICH 0205-MICH00206); P2244-47. | | | |
| 405. | 50-1 Detail Map of accident site, intersection and vicinity | P 2219 (a-e) | | | |
| 406. | Photo Stills from Red Rock Surveillance video | P2276 | | | |
| 407. | Red Rock Casinos c/o Station Casinos response to Subpoena Duces Tecum, | RRC 1-2 + DISK | | | |
| 408. | Videotape from Red Rock Casino | P 0051 - DISK | | | |
| 409. | Photographs of subject bicycle and Misc. taken by KJC | P 0287-352 | | | |
| 410. | Photographs of subject Helmet taken by KJC | P 0353-382 | | | |

* Defendants reserve the right to supplement this list prior to trial. Defendants do not represent that they *will* use any of said exhibits at trial, only that they may. In addition, Defendants reserve the right to use any document identified in the exhibit list of any other party. Exhibits included on the list may become admissible if a proper foundation is laid for admissibility at trial. The presence of a document on this exhibit list does not constitute an admission that a document is admissible.

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| | COUNSEL FOR PLAINTIFF: Kemp / Christiansen |
| DEFENDANT: MCI; et al. | |
| | COUNSEL FOR DEFENDANT: Roberts / Barger |
| | |

DEFENSE EXHIBITS*

| TX# | DOCUMENT DESCRIPTION | Bates | Date Offered | Objection | Date Admitted |
|------|--|----------------------------------|--------------|-----------|---------------|
| 411. | Ughetta photos - accident location, helmet, bicycle and gear | BELL 0300-352 | | | |
| 412. | Stoberski Bus Inspection Photos | BELL 0799-838 | | | |
| 413. | Thirteen color photographs of the bus and accident scene | MICH 0192-MICH00204 | | | |
| 414. | Photos from front right bench of subject bus | P 0685 (1-4) | | | |
| 415. | Photos of front left bench of subject bus | P 0686 | | | |
| 416. | Clark County Coroner response to Subpoena Duces Tecum, | CCC 1-58 + DISK | | | |
| 417. | Clark County Fire Department response to Subpoena Duces Tecum, | CCFD 1-6; P 1260-1263. | | | |
| 418. | AMR billing and records | P 1198-1215; AMR 1-11 | | | |
| 419. | UMC billing and medical records | P 1264-1301; P2250-51; UMC 1-144 | | | |
| 420. | Certificate of Death | P 0001 | | | |
| 421. | Bus Download by Rimkus Consulting | DISK | | | |
| 422. | Trimble Report | MICH 0207-MICH00212 | | | |

412A Photo bus 3/7/18 No 3/7/18 ✓

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| | COUNSEL FOR PLAINTIFF: Kemp / Christiansen |
| DEFENDANT: MCI; et al. | |
| | COUNSEL FOR DEFENDANT: Roberts / Barger |
| | |

DEFENSE EXHIBITS*

| TX# | DOCUMENT DESCRIPTION | Bates | Date Offered | Objection | Date Admitted |
|------|--|--------------------------------------|--------------|-----------|---------------|
| 423. | Silverado Stages NV Work Ticket | MICH 1230 | | | |
| 424. | Title | MCI 0001. | | | |
| 425. | Final Vehicle Record | MCI 0002-3 | | | |
| 426. | Agreement to Purchase | MCI 0004-10 | | | |
| 427. | Coach Specification, J08-FT-3, | MCI 0013-15. | | | |
| 428. | Final Vehicle Record | MCI 0030-31. | | | |
| 429. | Customer Order Option Report, | MCI 0032-38. | | | |
| 430. | Coach Delivery Record, | MCI 0039. | | | |
| 431. | Driver Pickup Sheet, | MCI 0040. | | | |
| 432. | Physical Inspection Form, | MCI 0041-42. | | | |
| 433. | Operators Manual for MCI 2008 J4500, | MCI 0043-202. | | | |
| 434. | Parts Manual for MCI 2008 J4500, | MCI 0203-1770 - DISK | | | |
| 435. | Maintenance Manual for MCI 2008 J4500, | MCI 1771-2955 - DISK | | | |
| 436. | Materials disclosed via RSPN to RfP | MCI 2956-35107 and the excel sheet - | | | |

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| | COUNSEL FOR DEFENDANT: Roberts / Barger |
| | |

DEFENSE EXHIBITS*

| TX# | DOCUMENT DESCRIPTION | Bates | Date Offered | Objection | Date Admitted |
|------|---|---------------------|--------------|-----------|---------------|
| | | MCI 333333 - DISK | | | |
| 437. | MCI Daily Test Notes | MCI 2960 | | | |
| 438. | MCI Daily Test Notes | MCI 2962 | | | |
| 439. | No Records from TPC | TPC 1 | | | |
| 440. | ATT Cell Phone and Land Line Records for E. Hubbard | ATT 1-1218 | | | |
| 441. | Michael Angelo Leasing's Incident File | MICH 0025-43 | | | |
| 442. | Classroom Learning Curriculum | MICH 0222-MICH00288 | | | |
| 443. | Driver Training and Employee New Hire Training | MICH 0289-MICH00367 | | | |
| 444. | Ergonomics Analysis Program | MICH 0368-MICH00375 | | | |
| 445. | Michelangelo Grounds Up Training-Driver without CDL | MICH 0376-MICH00532 | | | |
| 446. | Safety Policies and Procedures | MICH 0533-MICH00573 | | | |
| 447. | Safety Posters - Ex K to RFP | MICH 0574-588 | | | |
| 448. | Training Videos | MICH 0589-MICH00612 | | | |
| 449. | Operator Development Program | MICH 0613- | | | |

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|------|---|------------------------------|--------------|-----------|---------------|
| | | MICH00809 | | | |
| 450. | Personnel File for Edward Hubbard | MICH 0810-MICH00931 | | | |
| 451. | Michelangelo Employee Handbook | MICH 0932-MICH01023 | | | |
| 452. | Safety Articles | MICH 1199-1228 | | | |
| 453. | DEPO EX - Hubbard, Edward - Photo - EX 05 | | | | |
| 454. | DEPO EX - Hubbard, Edward - Photo - EX 06 | | | | |
| 455. | DEPO EX - Hubbard, Edward - Photo - EX 07 | | | | |
| 456. | Letter from Barin to UMC re death of husband | P 2420-2422 | | | |
| 457. | Ltr from Fildes / UMC to Barin | P 2423 | | | |
| 458. | Response from M. Barron to Subpoena DT | | | | |
| 459. | DEPO EX - Gavin - Coroner's file, EXHIBIT-00001 | | | | |
| 460. | DEPO EX - Hoogestraat, Virgil - Hand drawn diagram, EXHIBIT-00005 | | | | |
| 461. | Kayvan Khiabani cell phone records for April 2017 | Supboena DT Response pending | | | |

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| ✓ 462. | DEPO EX - Kolch, Samantha, Copy of Photograph, EX 01 | | 2/27/18 | No | 2/27/18 |
| 463. | DEPO EX - Nguyen - Declaration | | | | |
| 464. | DEPO EX - Pears - picture of bicycle - EXHIBIT-00007 | | | | |
| 465. | DEPO EX - Sacarias, Luis Fernando Pina, Exhibit 1, Drawing | | | | |
| 466. | DEPO EX - Sacarias, Luis Fernando Pina , Exhibit 2, Drawing | | | | |
| 467. | DEPO EX - Salisbury, Diagram, EXHIBIT-00021 | | | | |
| 468. | DEPO EX - Salisbury, Flashdrive, EXHIBIT-00022 | DISK | | | |
| 469. | DEPO EX - Wesson, Robert - G388 Labels, drawings, BOMs, EXHIBIT-00007 | | | | |
| 470. | Expert Report dated October 16, 2017 of Michael Baden, MD | | | | |
| 471. | Inspection photographs taken 08/09/17 by Robert Caldwell | P 1216 (1-180) - DISK | | | |
| 472. | Expert Report dated October 13, 2017 of Michael Carhart, PhD | | | | |
| 473. | Curriculum Vitae, List of Testimony and Fee Schedule of Michael Carhart, PhD | | | | |

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| 474. | Expert Job file: Carhart(1) ^{474 of 479} | DISK | 3-21-18 | STIP | 3-21-18 |
| 475. | Expert Report dated October 19, 2017 of James Funk | | | | |
| 476. | Curriculum Vitae, List of Testimony and Fee Schedule of James Funk | | | | |
| 477. | Expert Job File: Funk | DISK | | | |
| 478. | DEPO EX - Granat, Aerodynamic Disturbance Testing EXHIBIT-00003 | | 3/14/18 | No | 3/14/18 |
| 479. | DEPO EX - Granat, article, 'Air Blast and the Science of Dynamic Pressure Measurements,' Walter EXHIBIT-00009 | | | | |
| 480. | DEPO EX - Granat, article, 'Prevention of Accidents Caused by Rotating Transit Bus Wheels,' Green EXHIBIT-00012 | | | | |
| 481. | DEPO EX - Granat, Granat report, Vehicle Dimensions MCI J4500 Coach EXHIBIT-00006 | | | | |

I Note that Expert Job Files will be attached as flashdrives, any materials expected to be used at the time of testimony will be provided to counsel prior to use with bates numbering and trial exhibit number applied as noted.

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EXHIBIT(S) LIST

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Hearing / Trial Date: 2/12/18

Dept. No.: XIV

Judge: ADRIANA ESCOBAR

Court Clerk: Denise Husted

Plaintiff: Khiabani

Recorder / Reporter: Sandra Anderson

Counsel for Plaintiff: Kemp/Christiansen/Works

VS.

Defendant: Motor Coach Industries

Counsel for Defendant: Roberts/Barger/Terry

TRIAL BEFORE THE COURT

DEFT'S EXHIBITS

[illegible]

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|------|---|-------|--------------|-----------|---------------|
| 482. | DEPO EX - Granat, Kistler, Blast Pressure Measurement EXHIBIT-00008 | | | | |
| 483. | DEPO EX - Granat, 'Protecting Those Who Serve The Blast Gauge System* EXHIBIT-00007 | | | | |
| 484. | Expert Report dated October 18, 2017 of Kevin Granat | | | | |
| 485. | Curriculum Vitae, List of Testimony and Fee Schedule of Kevin Granat | | | | |
| 486. | Expert Job File: Granat | DISK | | | |
| 487. | DEPO EX - Krauss - Article, Travel in a whole new light, EXHIBIT-00006 | | | | |
| 488. | Expert Report dated October 16, 2017 of David Krauss, PhD | | | | |
| 489. | Curriculum Vitae, List of Testimony and Fee Schedule of David Krauss, PhD | | | | |
| 490. | Expert Job File: Krauss | DISK | | | |
| 491. | Expert Report dated October 16, 2017 of Robert Rucoba | | | | |
| 492. | Curriculum Vitae, List of Testimony and Fee Schedule of | | | | |

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|------|---|---------------|--------------|-----------|---------------|
| | Robert Rucoba | | | | |
| 493. | Expert Job File: Rucoba | DISK | | | |
| 494. | Smith CV / Fee K / Testimony | | | | |
| 495. | Smith report | | | | |
| 496. | G388 Design drawings and product specifications | BELL 0384-411 | | | |
| 497. | Bicycle | Demonstrative | | | |
| 498. | Helmet | Demonstrative | | | |
| 499. | Bus engine module control data from subject bus | Demonstrative | | | |
| 500. | Bus brake data from subject bus | Demonstrative | | | |
| 501. | Exemplar - S-1 Guard <i>Box</i> | Demonstrative | 3/12/18 | No | 3/12/18 |
| 502. | Videotape of bus download | Demonstrative | | | |
| 503. | Photo | | 3/11/18 | No | 3/11/18 |
| 504. | Photo | | " | " | " |
| 505. | Photo | | " | " | " |
| 506. | Photo | | " | " | " |

M 501 A S-1 Guard 3/12/18
 B * Screws + Manual " " 3/12/18

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|------|--|-------------------------------|--------------|-----------|---------------|
| 507. | Photo | | 3/1/18 | No | 3/1/18 |
| 508. | Photo | | 3/2/18 | No | 3/2/18 |
| 509. | Photo | | " | " | " |
| 510. | Photo | | " | " | " |
| 511. | Photos from 511 ^{Admitted separately} | | | | |
| 512. | Photo | | 3/6/18 | No | 3/6/18 |
| 513. | Photo | | 3/6/18 | No | 3/6/18 |
| 514. | Photos (3) | 514.001 514.002 514.003 | 3/7/18 | No | 3/7/18 |
| 515. | Photo | | 3/12/18 | No | 3/12/18 |
| 516. | Photo | | ↓ | ↓ | ↓ |
| 517. | Photo | | ↓ | ↓ | ↓ |
| 518. | Photo | | ↓ | ↓ | ↓ |
| 519. | Photo | | ↓ | ↓ | ↓ |
| 520. | Photo | | ↓ | ↓ | ↓ |

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DEFENSE EXHIBITS*

| TX# | DOCUMENT DESCRIPTION | Bates | Date Offered | Objection | Date Admitted |
|----------------|----------------------|-------------|-------------------|---------------|-------------------|
| 511-2 | Photos from # 511 | | 3/5/18 | No | 3/5/18 |
| 511-3 | " | | " | " | " |
| 511-4 | " | | " | " | " |
| 511-5 | " | | " | " | " |
| 511-6 | " | | " | " | " |
| 511-7 | " | | " | " | " |
| 511-8 | " | | " | " | " |
| 511-9 | " | | " | " | " |
| 511-10 | " | | " | " | " |
| 511-11 | " | | " | " | " |
| 511-12 | " | | " | " | " |
| 511-13 | " | | " | " | " |
| 512 | Photo | | 3/6/18 | No | 3/6/18 |
| 513 | Photo | | 3/6/18 | No | 3/6/18 |
| | | | | | |

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|-----|----------------------|-------|--------------|-----------|---------------|
| 521 | Photo | | 3/12/18 | No | 3/12/18 |
| 522 | Photo | | | | |
| 523 | Photo | | | | |
| 524 | Photo | | | | |
| 525 | Photo | | | | |
| 526 | Photo | | | | |
| 527 | Photo | | | | |
| 528 | Photo | | | | |
| 529 | Photo | | | | |
| 530 | Photo | | | | |
| 531 | Photo | | | | |
| 532 | Photo | | | | |
| 533 | Photo | | | | |

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|-------|----------------------|-------|--------------|-----------|---------------|
| ✓ 534 | Photo | | 3/12/18 | No | 3/12/18 |
| ✓ 535 | Photo | | | | |
| ✓ 536 | Photo | | | | |
| ✓ 537 | Photo | | | | |
| ✓ 538 | Photo | | | | |
| ✓ 539 | Photo | | | | |
| ✓ 540 | Photo | | | | |
| ✓ 541 | Photo | | | | |
| ✓ 542 | Photo | | | | |
| ✓ 543 | Photo | | | | |
| ✓ 544 | Photo | | | | |
| ✓ 545 | Photo | | | | |
| ✓ 546 | Photo | | ✓ | ✓ | ✓ |

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|-----|----------------------|-------|--------------|-----------|---------------|
| 547 | Photo | | 3/12/18 | No | 3/12/18 |
| 548 | Photo | | | | |
| 549 | Photo | | | | |
| 550 | Photo | | | | |
| 551 | Photo | | | | |
| 552 | Photo | | | | |
| 553 | Photo | | | | |
| 554 | Photo | | | | |
| 555 | Photo | | | | |
| 556 | Photo | | | | |
| 557 | Photo | | | | |
| 558 | Photo | | | | |
| 559 | Photo | | ✓ | ✓ | ✓ |

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|-----|----------------------|-------|---------------------|-----------|---------------|
| 560 | Photo | | 3/12/18 | No | 3/12/18 |
| 561 | Photo | | | | |
| 562 | Photo | | | | |
| 563 | Photo | | | | |
| 564 | Photo | | | | |
| 565 | Photos- 4-61 | | | | |
| 566 | Photos- 4-71 | | | | |
| 567 | Thumb Drive | | Returned to Counsel | | |
| 568 | Photo- Int of Bus | | | | |
| 569 | Photo- " " " | | | | |
| 570 | Photo- Bus/Cycle | | | | |
| 571 | Photo- OPINIONS | | | | |
| 572 | Photo- ANGLE/TRAVEL | | | | |

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| 573 | CONCLUSIONS | | 3/19/18 | N/O | 3/19/18 |
| 574 | Bus Dimensions | | 3/19/18 | N/O | 3/19/18 |
| 575 | Stand. MCI QJ3 | | 3/19/18 | N/O | 3/19/18 |
| 576 | Thumb Drive (52, 69, 113, 119, 122, 135, 145, 137, 147) <i>Handy Drive only</i> | | 3/19/18 | N/O | 3/19/18 |
| 577 | EXRAY - Dr. Khiabani | | 3/15/18 | NO | 3/15/18 |
| 578 | DR. BANCOS OPINIONS | | 3/15/18 | OBJ | 3/15/18 |
| 579 | OPINIONS: DR. KRAUSS | | 3/19/18 | OBJ | 3/19/18 |
| 580 | PHOTO - BUS | | 3/19/18 | N/O | 3/19/18 |
| 581 | PHOTO - BUS w/ SEATS | | 3/19/18 | N/O | 3/19/18 |
| 582 | PLANTZ - EXHIBIT 12 | | 3/19/18 | N/O | 3/19/18 |
| 583 | EXHIBIT 17 - TO Depo - PLANTZ | | 3/19/18 | N/O | 3/19/18 |
| 584 | EXHIBIT 18 - TO Depo - PLANTZ | | 3/19/18 | N/O | 3/19/18 |
| 585 | PHOTO - BUS | | 3-20-18 | NO | 3-20-18 |
| 586 | PHOTO - BUS w/ SEATS | | 3-20-18 | NO | 3-20-18 |
| 587 | PHOTO - WINDOW / CAR | | 3-20-18 | NO | 3-20-18 |

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|--------|--|---|----------------------------------|-----------|------------------|
| 592. | Photo - Exponent Test and Engineering Center, Phoenix, AZ (1 pg) | DEMONSTRATIVE ONLY | 03/21/2018 | STIP | RETURNS |
| 593. | Summary of Work Performed and Summary of Opinions of Dr. M. Carhart (3 pgs) | 593 A. DEMONSTRATIVE 593 B. ADMITTED | 03/21/2018 RETURNS TO COUNSEL | | 3-21-18 593 B |
| ✓ 594. | Photo Right Front Side of Subject Coach and Photo of Scuff Mark on Right Front Side of Subject Coach (2 pgs) | | 03/21/2018 | | |
| ✓ 595. | 3 Photos of the Subject Bicycle (Handlebars) | | 03/21/2018 | | |
| ✓ 596. | 3 Photos of the Subject Bicycle (Body of Bicycle) | | 03/21/2018 | | |
| ✓ 597. | Diagram of Kayvan Khiabani's Injuries (1 pg) | | 03/21/2018 | | |
| ✓ 598. | 4 Photos of Kayvan Khiabani's Injuries | | 03/21/2018 | | |
| ✓ 599. | Kayvan Khiabani Head Injury Diagram (1 pg) | | 03/21/2018 | ↓ | ↓ |

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|-------|--|-------|--------------|-----------|---------------|
| 600. | 2 Autopsy photos of Kayvan Khiabani | | 03/21/2018 | STIP | 3-21-18 |
| 601. | Bicycle Riding Demonstrations - Instrumentation (1 pg) | | 03/21/2018 | | |
| 602. | Video - Motorcoach Passby THUMB DRIVE | | 03/21/2018 | | |
| 603. | Video - Bicyclist THUMB DRIVE Disturbance Wind Rider 2 | | 03/21/2018 | | |
| 604. | Video - Bicyclist THUMB DRIVE Disturbance Impulse Rider 2 THUMB DRIVE | | 03/21/2018 | | |
| 605. | Video - Turning Evaluation Combined THUMB DRIVE | | 03/21/2018 | | |
| 605 A | Video Still of Exhibit 605 | | 03/21/2018 | | |
| 605 B | Video Still of Exhibit 605 | | 03/21/2018 | | |
| 606. | Photos of Rider Next to Coach (t=0 sec, t=-1.2 sec) (5 pgs) | | 03/21/2018 | | |
| 607. | Inspection photographs of the subject helmet (9 pgs) | | 03/21/2018 | | |

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| | |
|----------------------------------|---|
| CASE NO: A755977 | TRIAL: February 12, 2018 |
| DEPT. NO. 14 | JUDGE : Honorable Adriana Escobar |
| | CLERK : Denise Husted |
| | RECORDER : Sandy Anderson |
| PLAINTIFF: Khiabani et al | |
| | |
| | COUNSEL FOR PLAINTIFF: Kemp / Christiansen |
| DEFENDANT: MCI; et al. | |
| | COUNSEL FOR DEFENDANT: Roberts / Barger |
| | |

PROPOSED DEFENSE EXHIBITS*

| TX# | DOCUMENT DESCRIPTION | Bates | Date Offered | Objection | Date Admitted |
|-------|--|-------|--------------|-----------|---------------|
| 608. | Helmet CT Scans - X-ray Computed Tomography (CT) in Natick (1 pg) | | 03/21/2018 | STP | 3-21-18 |
| 609. | Video - 3D Exemplar Helmet THUMB DRIVE | | 03/21/2018 | | |
| 609 A | Video Still of Exhibit 609 | | 03/21/2018 | | |
| 610. | Video - Subject Helmet THUMB DRIVE | | 03/21/2018 | | |
| 610 A | Video Still of Exhibit 610 | | 03/21/2018 | | |
| 611. | Video - Subject and Exemplar Helmet Overlay T DRIVE | | 03/21/2018 | | |
| 611 A | Video Still of Exhibit 611 | | 03/21/2018 | | |
| 612. | Video - Subject and Exemplar Helmet Overlay (Lower View) THUMB DRIVE | | 03/21/2018 | | |
| 612 A | Video Still of Exhibit 612 | | 03/21/2018 | | |
| 613. | Graphic of Subject and Exemplar Helmet Overlay | | 03/21/2018 | ↓ | ↓ |

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| | |

PROPOSED DEFENSE EXHIBITS*

| TX# | DOCUMENT DESCRIPTION | Bates | Date Offered | Objection | Date Admitted |
|-------|--|--------------------|--------------|-----------|---------------|
| 614. | Box Containing Carhart Exemplar Helmet with Markings | DEMONSTRATIVE ONLY | 03/21/2018 | STIP | RETURNED |
| 614 A | Carhart Exemplar Helmet with Markings | DEMONSTRATIVE ONLY | 03/21/2018 | | RETURNED |
| 615. | Digital Exemplar with Markings (5 pgs) | | 03/21/2018 | | 3-21-18 |
| 616. | Helmet Alignment per Stalnaker (3 pgs) | DEMONSTRATIVE ONLY | 03/21/2018 | | RETURNED |
| 617. | Box Containing Carhart Sectioned Exemplar Helmet | DEMONSTRATIVE ONLY | 03/21/2018 | | RETURNED |
| 617 A | Carhart Sectioned Exemplar Helmet | DEMONSTRATIVE ONLY | 03/21/2018 | | RETURNED |
| 618. | Digital Liner Overlay (3 pgs) | | 03/21/2018 | | 3-21-18 |
| 619. | Digital Helmet Alignment with Pavement (6 pgs) | | 03/21/2018 | | |
| 620. | Video - Align Exemplar Helmet to Tire | DEMONSTRATIVE ONLY | 03/21/2018 | | RETURNED |
| 620 A | Video Still of Exhibit 620 | | 03/21/2018 | ↓ | 3-21-18 |

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| | CLERK : Denise Husted |
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| | |
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| DEFENDANT: MCI; et al. | |
| | COUNSEL FOR DEFENDANT: Roberts / Barger |
| | |

PROPOSED DEFENSE EXHIBITS*

| TX# | DOCUMENT DESCRIPTION | Bates | Date Offered | Objection | Date Admitted |
|--------------|---|---------------------------|--------------|-------------|----------------|
| 621. | Video - Align Subject Helmet to Tire | <i>DEMONSTRATIVE ONLY</i> | 03/21/2018 | <i>STIP</i> | |
| <i>621 A</i> | Video Still of Exhibit 621 | | 03/21/2018 | | <i>3-21-18</i> |
| 622. | Video - Align Both (Exemplar and Subject Helmets) with Tire Rolling Forward | <i>DEMONSTRATIVE ONLY</i> | 03/21/2018 | | |
| <i>622 A</i> | Video Still of Exhibit 622 | | 03/21/2018 | | <i>3-21-18</i> |
| 623. | Helmet Interaction Filmstrip (10 pgs) | | 03/21/2018 | | |
| 624. | Carhart Inspection Photo Showing Dual Rear Wheels (2 pgs) | | 03/21/2018 | | |
| 625. | Loading Mechanism (10 pgs) | | 03/21/2018 | | |
| 626. | S-1 Gard Helmet Alignment (2 pgs) | | 03/21/2018 | | |
| 627. | S-1 Gard Installation Instructions with Diagram (3 pgs) | | 03/21/2018 | | |

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| DEFENDANT: MCI; et al. | |
| | COUNSEL FOR DEFENDANT: Roberts / Barger |
| | |

PROPOSED DEFENSE EXHIBITS*

| TX# | DOCUMENT DESCRIPTION | Bates | Date Offered | Objection | Date Admitted |
|-------|---|-------|--------------|-----------|---------------|
| 628. | Illustration of S-1 Gard Would Not Alter Helmet Overlap (4 pgs) | | 03/21/2018 | STIP | 3-21-18 |
| 629. | Stuntman Video Assessment STILL | | 03/21/2018 | | |
| 630. | Video - S-1 Gard Stuntman Video - Segment 3 - "Bicyclist hit. . ." THUMB DRIVE | | 03/21/2018 | | |
| 630 A | Video Still of Exhibit 630 | | 03/21/2018 | | |
| 631. | TCRP Report 215 - Guidebook for Mitigating Fixed-Route Bus-and-Pedestrian Collisions | | 03/21/2018 | | |
| 632. | Video - Exponet Sled Test with Helmet PURPLE THUMB DRIVE DEMONSTRATIVE | | 03/21/2018 | OBJ | RETURNED |
| 633. | Video - Exponet Sled Test without Helmet PURPLE THUMB DRIVE DEMONSTRATIVE | | 03/21/2018 | OBJ | RETURNED |
| 634. | S-1 Gards Hazards (Bolt) (4 pgs) DEMONSTRATIVE | | 03/21/2018 | OBJ | RETURNED |
| 635. | S-1 Gards Hazards (Entrapment) (6 pgs) DEMONSTRATIVE | | 03/21/2018 | OBJ | RETURNED |

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COURT'S EXHIBIT LIST

Case No.: A755977

Hearing / Trial Date: 2/12/18

Dept. No.: 14

Judge: Adriana Escobar

Court Clerk: Denise Husted

Plaintiff: Katayoun Barin

Recorder / Reporter: Sandra Anderson

Counsel for Plaintiff: W. Kemp, P. Christiansen, K. Works, E. Pepperman

vs.

Defendant: Motor Coach Industries

Counsel for Defendant: L. Roberts, D. Barger, M. Terry

TRIAL BEFORE THE COURT

COURT'S EXHIBITS

| Exhibit Number | Exhibit Description | Date Offered | Objection | Date Admitted |
|----------------|--|--------------|-----------|---------------|
| 1 | Note from juror #11-0830 | 2/23/18 | No | 2/23/18 |
| 2 | QUESTION FROM JUROR #11-830 | 2-26-18 | NO | 2-26-18 |
| 3 | " #11-926 | " | " | " |
| 4 | Question from Juror #11-0885 | 2/27/18 | No | 2/27/18 |
| 5 | Question from Juror #11-0830 | 2/28/18 | No | 2/28/18 |
| 6 | Question from Juror #11-1127 | 3/1/18 | No | 3/1/18 |
| 7 | Question from Juror #11-1229 | 3/1/18 | No | 3/1/18 |
| 8 | Question from Juror #11-1127 | 3/1/18 | No | 3/1/18 |
| 9 | Question from Juror #11-1127 (Not asked) | 3/1/18 | No | 3/1/18 |
| 10 | M. TERRY'S Opening Pictures | 3/2/18 | No | 3/2/18 |
| 11 | Plaintiff's Power Point-Opening | 3/2/18 | No | 3/2/18 |
| 12 | Question from Juror 11-1229 | 3/2/18 | No | 3/2/18 |
| 13 | Question from Juror 11-1229 | 3/2/18 | No | 3/2/18 |
| 14 | Question from Juror 11-0830 | 3/2/18 | No | 3/2/18 |
| 15 | Question from Juror 11-1229 | 3/2/18 | No | 3/2/18 |
| 16 | Question from Juror 11-1047 | 3/2/18 | No | 3/2/18 |
| 17 | Question from Juror 11-0926 | 3/2/18 | No | 3/2/18 |

COURT'S EXHIBIT LIST

Case No: A 755 977

Barin

VS.

MCI

Courts

EXHIBITS

| Exhibit Number | Exhibit Description | Date Offered | Objection | Date Admitted |
|----------------|------------------------------------|--------------|-----------|---------------|
| 18 | Question from Juror 11-1047 | 3/2/18 | No | 3/2/18 |
| 19 | Question from Juror 11-0937 | 3/2/18 | No | 3/2/18 |
| 20 | Question from Juror 11-0937 | 3/2/18 | No | 3/2/18 |
| 21 | Power Point (Christiansen) | 3/5/18 | No | 3/5/18 |
| 22 | Question from Juror 11-0830 | 3/6/18 | No | 3/6/18 |
| 23 | Question from Juror 11-0802 | 3/6/18 | No | 3/6/18 |
| 24 | Question from Juror 11-0830 | 3/7/18 | No | 3/7/18 |
| 25 | Question from Juror 11-0853 | 3/7/18 | No | 3/7/18 |
| 26 | Question from Juror 11-0937 | 3/7/18 | No | 3/7/18 |
| 27 | Euro Cyclist Analysis | 3/12/18 | No | 3/12/18 |
| 28 | Question from Juror 11-1229 | 3/13/18 | No | 3/13/18 |
| 29 | Question from Juror 11-0830 | 3/13/18 | No | 3/13/18 |
| 30 | JURY View Admonition | 3/13/18 | No | 3/13/18 |
| 31 | Question from Juror 11-0830 | 3/14/18 | No | 3/14/18 |
| 32 | Question from Juror - Not asked | 3/14/18 | No | 3/14/18 |
| 33 | Question from Juror - 11-0926 | 3/15/18 | No | 3/15/18 |
| 34 | Question from 11-1127 | 3/15/18 | No | 3/15/18 |
| 35 | Smith Economics Group Ltd. 1-20-16 | 3-16-18 | No | 3/16/18 |
| 36 | QUESTION BY JUROR #11-0830 | 3-21-18 | No | 3-21-18 |
| 37 | QUESTION BY JUROR #11-1127 | 3-21-18 | No | 3-21-18 |
| 38 | QUESTION BY JUROR #11-1229 | 3-21-18 | No | 3-21-18 |
| 39 | QUESTION BY JUROR #11-1127 | 3-21-18 | No | 3-21-18 |
| 40 | QUESTION BY JUROR #11-1127 | 3-21-18 | No | 3-21-18 |
| | | | | |
| | | | | |



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

WILL KEMP, ESQ.
3800 HOWARD HUGHES PKWY, 17TH FL
LAS VEGAS, NV 89169

DATE: April 14, 2023
CASE: A-17-755977-C

RE CASE: KEON KHIABANI; ARIA KHIABANI; SIAMAK BARIN; THE ESTATE OF KAYVAN KHIABANI, M.D. (DECEDENT); THE ESTATE OF KATAYOUN BARIN, DDS (DECEDENT) vs. MOTOR COACH INDUSTRIES, INC.; MICHELANGELO LEASING INC., D/B/A RYAN'S EXPRESS; EDWARD HUBBARD; BELL SPORTS, INC., D/B/A GIRO SPORT DESIGN; SEVENPLUS BICYCLES, INC., D/B/A PRO CYCLERY

NOTICE OF APPEAL FILED: April 12, 2023

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; PLAINTIFFS' CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; (PROPOSED) ORDER GRANTING DEFENDANT MOTOR COACH INDUSTRIES, INC.'S MOTION FOR OFFSET; NOTICE OF ENTRY OF "ORDER GRANTING DEFENDANT MOTOR COACH INDUSTRIES, INC.'S MOTION FOR OFFSET"; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

KEON KHIABANI; ARIA KHIABANI;
SIAMAK BARIN; THE ESTATE OF
KAYVAN KHIABANI, M.D. (DECEDENT);
THE ESTATE OF KATAYOUN BARIN, DDS
(DECEDENT),

Plaintiff(s),

vs.

MOTOR COACH INDUSTRIES, INC.;
MICHELANGELO LEASING INC., D/B/A
RYAN'S EXPRESS; EDWARD HUBBARD;
BELL SPORTS, INC., D/B/A GIRO SPORT
DESIGN; SEVENPLUS BICYCLES, INC.,
D/B/A PRO CYCLERY,

Defendant(s),

Case No: A-17-755977-C

Dept No: XIV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 14 day of April 2023.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

April 14, 2023

Elizabeth A. Brown
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: KEON KHIABANI; ARIA KHIABANI; SIAMAK BARIN; THE ESTATE OF KAYVAN KHIABANI, M.D. (DECEDENT); THE ESTATE OF KATAYOUN BARIN, DDS (DECEDENT) vs. MOTOR COACH INDUSTRIES, INC.; MICHELANGELO LEASING INC., D/B/A RYAN'S EXPRESS; EDWARD HUBBARD; BELL SPORTS, INC., D/B/A GIRO SPORT DESIGN; SEVENPLUS BICYCLES, INC., D/B/A PRO CYCLERY
D.C. CASE: A-17-755977-C

Dear Ms. Brown:

Please find enclosed a Notice of Appeal packet, filed April 12, 2023. Due to extenuating circumstances minutes from the date(s) listed below have not been included:

October 14, 2021

We do not currently have a time frame for when these minutes will be available.

If you have any questions regarding this matter, please contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton
Amanda Hampton, Deputy Clerk