

IN THE COURT OF COMMON PLEAS

HAMILTON COUNTY, OHIO

CASE NUMBER: A1402190

JUDGE STEVEN E. MARTIN

MCKENZIE DAVIS

PLAINTIFF

vs.

DELHI TOWNSHIP OHIO DBA  
DUNGEONS OF DELHI, ET AL.

DEFENDANTS

\* \* \* \* \*

DEPONENT:

MCKENZIE DAVIS

DATE:

JUNE 18, 2015

\* \* \* \* \*

ORIGINAL

Mindy Davis

Certified Court Reporter

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1           The deposition of MCKENZIE DAVIS, taken for the  
2 purpose of discovery and/or use as evidence in the  
3 within action, pursuant to notice, heretofore taken  
4 at the office of Law Offices of Blake Maislin, 2260  
5 Francis Lane, Cincinnati, Ohio , on June 18, 2015,  
6 at 9:00 a.m., upon oral examination, and to be used  
7 in accordance with the Ohio Rules of Civil  
8 Procedure.

9   \* \* \* \* \*

10   APPEARANCES

11   ATTORNEY FOR PLAINTIFF:

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30   ALSO PRESENT:                           Jennifer Blum

31   \* \* \* \* \*

1 MCKENZIE DAVIS,  
2 called on behalf of the Defendants, after having  
3 been first duly sworn, was examined and deposed as  
4 follows:

5 CROSS-EXAMINATION

6 BY MR. POWELL:

7 Q. Would you state your name for the record,  
8 please?

9 A. McKenzie Davis.

10 Q. May I call you McKenzie?

11 A. Yes.

12 Q. My name is Brad Powell, and I work with  
13 Rick Rinear who represents one of the defendants in  
14 this case. What I'm going to do today is ask you  
15 some questions. I'm going to try to obtain  
16 information about your medical history, meaning your  
17 conditions and your injuries and treatment before  
18 this accident, you know, what was going on in your  
19 life before this accident, talk to you a little bit  
20 about the accident, what happened, then I'm going to  
21 talk to you about the injuries and the problems that  
22 you've experienced since this accident. If I ask  
23 you a question that you do not understand, tell me  
24 you don't understand.

25 A. Okay.

1 Q. And I'll probably do that. If I ask you a  
2 question and you didn't hear it or wasn't sure of  
3 what I asked you, ask me to repeat it and I'll do  
4 that as well, okay?

5 A. Okay.

6 Q. We're going to be here for a while. We've  
7 got a lot of information to talk about. If you need  
8 to take a break at any point in time, just tell me,  
9 hey, I need to take a break. We'll try to go an  
10 hour-ish and if you're doing okay, we'll keep going.  
11 But if you to need to take a break for whatever  
12 reason, just say I need take a break. Once we get  
13 going, we're going to be, you know, flowing together  
14 with our conversation. You may be anticipating what  
15 I'm going to ask you. Don't anticipate. I don't  
16 even know what I'm going to ask you until it comes  
17 out. Let me finish my question and then when I'm  
18 finished with a question, you answer it. I'll try  
19 to do the same for you. It's not a courtesy issue,  
20 it's for the court reporter so that she accurately  
21 takes down your response and my question. If I ask  
22 you a question that calls for a yes or no response,  
23 please tell me yes, no, I don't know, I don't  
24 remember, and then if you need to explain it, go  
25 ahead and explain it. In normal conversation we

1 shake our head or we say uh-huh or huh-uh. Again,  
2 the accuracy of the record, okay?

3 A. Okay.

4 Q. If I ask you a question and you don't know  
5 the answer to it, just tell me you don't know and  
6 I'll move on to another question, okay? If I think  
7 it's important, it's my job to see if I can provide  
8 you with more information to refresh your memory.  
9 And if it doesn't refresh your memory, we just move  
10 on, okay? Where do you live?

11 A. I live in Delhi, at 818 Gilcrest Lane.

12 Q. And who do you live there with?

13 A. I live with my mother Jennifer Blum and my  
14 stepfather Mike Blum.

15 Q. How long have you lived there?

16 A. I've lived there since about seventh  
17 grade.

18 Q. Well, how old are you?

19 A. Twenty.

20 Q. So that puts us about seven years-ish,  
21 something like that?

22 A. Roughly.

23 Q. Your mother's name is Jennifer?

24 A. Jennifer Blum, yes.

25 Q. What does she do in terms of occupation?

1           A.     She is a paralegal with Steve Adams and  
2 she works at a country club in Hyde Park part-time.

3           Q.     And what does your stepfather do?

4           A.     He is PR work through Kenton County Public  
5 Library and he also does some work on the side as  
6 well. I'm not exactly sure.

7           Q.     Fair enough. Do you have any siblings?

8           A.     No.

9           Q.     Where did you go to high school?

10          A.     I went to Seton High School.

11          Q.     And what year did you graduate?

12          A.     '13.

13          Q.     2013?

14          A.     Uh-huh.

15          Q.     Yes?

16          A.     Oh, sorry.

17          Q.     That's okay. We'll be doing that. That's  
18 not a problem. Were you active in any sports?

19          A.     Uh-huh, I was very active.

20          Q.     In what sports?

21          A.     I played basketball. I played JV my  
22 freshman year. I played soccer my freshman year and  
23 my sophomore year. I also do German dancing as  
24 well.

25          Q.     What years did you do German dancing?

1           A.     German dancing I did my, I want to say --  
2 I don't remember exactly, but I either started my  
3 freshman year or sophomore year up until the injury.

4           Q.     Other than soccer or basketball or German  
5 dancing, any other activities?

6           A.     I exercised on the side and then I ran  
7 around the neighborhood and would go to the gym. I  
8 also would go out back and shoot basketball. Also I  
9 would -- just normal stuff, exercise and that's  
10 pretty much --

11          Q.     You would run to keep in shape, is that  
12 what you're telling me?

13          A.     Uh-huh.

14          Q.     Not on a track team?

15          A.     No, I would just run to keep in shape, and  
16 then I would also condition with the basketball team  
17 and the soccer team in the off-season.

18          Q.     Other than high school related sports,  
19 were you involved in what I'll call select soccer or  
20 SAY soccer or any other type of recreational  
21 basketball teams or any other sports, for that  
22 matter?

23          A.     The German dance team was not through high  
24 school. It was a youth group, so that wasn't  
25 through high school. So that was my recreational



1 team, but the basketball and soccer I didn't do any  
2 select or recreational.

3 Q. So with respect to soccer and/or  
4 basketball, when it was soccer season for high  
5 school, you participated with the high school team.  
6 When it was basketball season, you participated with  
7 the high school team, but the rest of the year you  
8 did not compete or participate in soccer or  
9 basketball; is that correct?

10 A. Correct.

11 Q. Other than sports or athletics, any other  
12 type of activities?

13 A. I was in the National Honor Society.

14 Q. Very good. Now, that's kind of like an  
15 honor. Did your National Honor Society have  
16 meetings and activities?

17 A. Uh-huh.

18 MR. MAISLIN: Yes?

19 A. Yes.

20 Q. And tell me about that.

21 A. We would meet not very often but maybe  
22 once a month, once every two months during the  
23 school year and just talk about different things.  
24 And we'd have to do service hours. Also we would  
25 have to do service hours for the school as well, so

1 it just kind of tied in together.

2 Q. Other activities, clubs, groups?

3 A. I would show up for the Anime club just to  
4 be with my friends. I wasn't very much into Anime.  
5 That's about it. I wasn't very involved in high  
6 school clubs.

7 Q. Tell me about your grades.

8 A. My grades were great. I graduated high  
9 school I believe with a 3.8 to a 3.9 GPA.

10 Q. Congratulations. So from your freshman,  
11 and I'm just going to make an assumption, from your  
12 freshman year through your senior year, at least  
13 your grades were consistent in that area of a 3.8,  
14 above or below, but in that area?

15 A. Uh-huh, maybe a slight drop my sophomore  
16 year.

17 Q. It's a hard year, isn't it?

18 A. Yeah.

19 Q. Hard year for everybody.

20 A. Yes.

21 Q. You went on to college?

22 A. Uh-huh.

23 Q. Yes?

24 A. Yes.

25 Q. Where did you go to college?

1           A.    I'm currently at Good Samaritan College of  
2 Nursing & Health Science and University of  
3 Cincinnati for pre-med.

4           Q.    Did you obtain a college degree?

5           A.    Not yet, currently working on.

6           Q.    And what degree are you pursuing?

7           A.    I am pursuing my nursing degree, my  
8 associate's, so my RN.  And I'll graduate with that,  
9 if all goes well, March -- sorry, next May 2016.  
10 And then I am working on pre-med as well so I can  
11 get into med school.

12          Q.    What year did you graduate from high  
13 school?

14          A.    2013.

15          Q.    So you're progressing as you should be  
16 progressing with respect to your school?

17          A.    No, I am actually graduating nursing  
18 school a semester late because I had to get ankle  
19 surgery due to my injury.  I had to take a semester  
20 off from clinical.  I should have been graduating  
21 this December, but I am back a semester.

22          Q.    Okay.  And you'll become an RN in May of  
23 2016?

24          A.    Yes.

25          Q.    In addition to that, you're also pursuing

1 a pre-med degree?

2 A. Yes. And after my RN, I'll get my BSN.

3 So I'll have my bachelor's so I can get into med

4 school.

5 Q. How are your grades?

6 A. I have a 3.8 -- no, sorry, overall a 3.4

7 GPA, but this last semester I had a 4.0.

8 Q. Congratulations.

9 A. Thank you.

10 Q. What are your plans? What do you want to

11 do once you get your bachelor's? You said you want

12 to be a doctor?

13 A. Yes.

14 Q. Tell me about that.

15 A. I want to get my bachelor's and hopefully

16 I'll be done with pre-med medicine by then and take

17 the MCAT and become a pediatric oncologist and do

18 research and hopefully help find a cure for cancer.

19 MR. MAISLIN: Off the record for a

20 second.

21 (OFF THE RECORD)

22 BY MR. POWELL:

23 Q. So since you've been in nursing school and

24 you attend classes, you also participate in

25 training?

1           A.    Yes.

2           Q.    Tell me about that.

3           A.    We do clinical.  It gets more rigorous as  
4 we go up.  We have Nursing 1, 2, 3.  Four and 5 are  
5 mixed together.  Nursing 1, we had clinicals once a  
6 week.  Nursing 2 is twice a week.  Nursing 3, which  
7 is what I'll be interning in August, we have it  
8 twice a week.  And then we'll just do different  
9 rotations and different activities on the floor and  
10 we'll train.

11          Q.    You have to explain that to me.  When you  
12 say the word clinical, you're assuming I know what  
13 that is.  So go ahead, explain that.

14          A.    Basically what we do is we will get our  
15 patient information the night before.  We'll go on  
16 the floor and we will get assigned a patient.  And  
17 we will look up everything about that patient from  
18 past medical history, current medical problems,  
19 medications, course of treatment, what the nursing  
20 interventions are, and then we will have a sheet  
21 that our teacher will assign us to look up the  
22 pathophysiology of a certain disease or the disease  
23 process that our patient has.  We'll look up the  
24 signs and symptoms, all of our patients'  
25 medications, and we'll look up the nursing

1 interventions for all the medications, basically  
2 everything about the medications we should know, and  
3 then we'll come to the clinical prepared. And we'll  
4 have a pre-conference and a post-conference,  
5 sometimes we'll have a pre-conference, we don't  
6 normally, and we will just do certain nursing tasks.  
7 We will do a head to toe assessment most of the  
8 time. We'll basically assess the patient, give  
9 injections, pass medications. If the patient needs  
10 a feeding tube and we haven't done one yet and we  
11 have been checked off in the skills lab, we'll get  
12 to put one in. So, basically just doing different  
13 nursing tasks.

14 Q. When you say floor, are you talking about  
15 a hospital floor?

16 A. Uh-huh.

17 Q. Yes?

18 A. With actual patients, yes.

19 Q. And what hospital is that?

20 A. We rotate, so it's -- Good Sam is our --  
21 we get first pick at Good Sam. So we'll do  
22 med-surgical at Good Sam this semester, we'll do OB  
23 rotation at Good Sam, but we're doing our pediatric  
24 rotations this semester at Children's.

25 Q. And this one day, two day, three day of

1 clinical, does that take the -- for that day, is  
2 that your day of class, is that your day of  
3 instruction?

4 A. Yes.

5 Q. And is that a full day?

6 A. Eight hours, roughly.

7 Q. Now, with respect to your goal of going to  
8 medical school, are you planning on going around  
9 here? I mean, have you looked into it yet?

10 A. My dream is to go to Johns Hopkins.

11 Q. Baltimore, Maryland.

12 A. If that doesn't work out, I'd like to go  
13 to University of Cincinnati Medical School.

14 Q. Let's talk about -- any other education?  
15 I don't want to miss -- any other education that you  
16 participated in or enrolled in?

17 A. No, that's it.

18 Q. Okay. How about work, have you had jobs?

19 A. I've had jobs.

20 Q. Tell me about those.

21 A. I worked as a patient transporter through  
22 a summer program through TriHealth that was set up  
23 through Seton. And they hired me on full-time  
24 through Good Sam -- not full-time, sorry, part-time,  
25 but they hired me on as an actual patient

1 transporter through Good Sam. I had to quit that  
2 job because of my injury. I couldn't walk and I  
3 could not keep up with that job. So I was looking  
4 for another job that was a sit-down job, and I  
5 worked at LaRosa's call center. I could not do that  
6 job either, so I had to quit that job as well  
7 because I was still in too much pain to even  
8 function at the time to keep up with that job as  
9 well.

10 Q. When did you get the patient transporter  
11 job?

12 A. I can't remember. I'd have to check.

13 Q. Do you know the year?

14 A. I want to say it was 2013, summer,  
15 roughly.

16 Q. How about the LaRosa's call center?

17 A. Maybe winter of 2013, 2014. It didn't  
18 last long.

19 Q. Prior to the summer of 2013 -- and I'm not  
20 going to hold you to specific dates. If I want a  
21 specific date, I'll look through the records. You  
22 giving me time frames is fantastic, okay? Let's  
23 just call it the summer of 2013. You had this  
24 patient transporter job through Good Samaritan  
25 Hospital. Prior to that, did you ever have any



1 jobs?

2 A. No. I'm sorry, I did the summer -- the  
3 transporter thing the summer before as well. And I  
4 signed up to do it again, the summer program again,  
5 and then they hired me on.

6 Q. So that job was a summer job?

7 A. Uh-huh.

8 Q. Yes?

9 A. Yes.

10 Q. And the summer of 2013 is when you  
11 couldn't do it?

12 A. Yes.

13 Q. The LaRosa's call center job that was a  
14 sit-down job, and I think you said because of pain  
15 you could not do that?

16 A. Yes.

17 Q. Tell me what was it about the pain that  
18 prevented you from being able to perform this job.  
19 It was a part-time job, right?

20 A. Uh-huh.

21 Q. Yes?

22 A. Yes.

23 Q. Tell me about the pain that prevented you  
24 from doing that job.

25 A. With my condition, the RSD, my foot gets

1 extremely cold and it's extremely painful to the  
2 point where I couldn't function. It makes it hard  
3 to concentrate. So when my foot gets extremely  
4 cold, the only thing that I can do to heat it up is  
5 to put something hot around it, like a heated  
6 blanket, which is what I use at home. So if it gets  
7 to that point where it's extremely cold, it feels  
8 like it's about to -- like frostbite. And it gets  
9 to the point where it's so painful that I just -- I  
10 sit there and I just stare at the blank screen and I  
11 can't focus. And I wasn't doing anybody any good  
12 and it wasn't fair to keep calling off, so I stepped  
13 back.

14 Q. Any other jobs?

15 A. No.

16 Q. With respect to your nursing education, is  
17 that year-round?

18 A. No.

19 Q. You're off in the summers?

20 A. Yes.

21 Q. You're 20 years old, right?

22 A. Uh-huh.

23 Q. What's your date of birth?

24 A. 1/18/95.

25 Q. Did you have a boyfriend in high school?

1 A. Uh-huh.

2 Q. Yes?

3 A. Sorry, yes.

4 Q. And boyfriend or boyfriends?

5 A. Boyfriends. I had one, sorry.

6 Q. What was his name?

7 A. I had one from sophomore year to the  
8 summer. His name was Kyle.

9 Q. Sophomore to when?

10 A. Sophomore to the summer.

11 Q. This summer?

12 A. No, to the summer before junior year. His  
13 name was Kyle.

14 Q. What was his last name?

15 A. Boeh, B-O-E-H. And then I had one from  
16 the summer of junior year -- sorry, the summer  
17 before junior year, so August to current. His name  
18 is Joe.

19 Q. Joe what?

20 A. Giovanetti, G-I-O-V-A-N-E-T-T-I.

21 Q. Is he still your boyfriend?

22 A. Yes.

23 Q. When I use the word serious, I mean, do  
24 you have future plans --

25 A. Yes.

1 Q. -- or are you just casually dating?

2 A. We have future plans.

3 Q. What I'd like to do now is talk to you,  
4 and I have a chronology about some of your medical  
5 issues before October 2012. I want to tell you how  
6 I ask the questions. And I do it -- I ask what's  
7 called leading questions. And I do it not to pin  
8 you to some response, I do it to make sure this  
9 deposition doesn't take 10 hours. So I will tell  
10 you that if I ask a question and the information  
11 contained in my question is wrong, tell me.

12 A. Okay.

13 Q. I'm not trying to trick you. I'm just  
14 trying to move this deposition along by asking you  
15 the information. And if I need to go through the  
16 medical record and show it to you, I will. All I  
17 want to know is if you remember something. If you  
18 do, we'll talk about it. If you don't, we'll go on  
19 to something else, okay?

20 A. Okay.

21 Q. Now, this one goes back a long ways. Do  
22 you recall as a child having an issue that was  
23 called head drops?

24 A. Yes.

25 Q. Tell me about that.

1           A.     It was diagnosed as a nervous twitch, and  
2 I don't have it anymore.

3           Q.     And just tell me about -- a twitch would  
4 cause your head to drop.  What was that about?

5           A.     Alls I remember is there was -- they  
6 thought it was seizures, and they ran me through  
7 some tests.  And apparently there was a video of it  
8 when we went through the records, and Mr. Maislin  
9 and I were discussing it and --

10          Q.     Hold on a second.

11                 MR. MAISLIN:  We don't have anything to  
12 hide.  That's attorney/client privilege.  
13 Let's not talk about what we talked about.  I  
14 mean, if you said that -- just what you  
15 recall.  I mean, I don't have any problem with  
16 you saying you looked in the records and saw  
17 that your mom turned in a video or something.  
18 Just what you remember is what he's asking.  
19 He's trying to fill in the gaps of what he  
20 already has with what's in your mind, okay?

21                 THE WITNESS:  Okay.

22           A.     Alls I remember is my head would drop,  
23 that's it.

24           Q.     Okay.  Did you take medication for that?

25           A.     No.

1 Q. So is it something you grew out of, I  
2 presume?

3 A. Uh-huh.

4 MR. MAISLIN: Yes?

5 A. Yes.

6 Q. Do you recall having issues with your  
7 heart racing?

8 A. Yes.

9 Q. Tell me about that.

10 A. My heart would just beat really fast and  
11 it still does that now.

12 Q. Is that A fib?

13 A. No, it was diagnosed as anxiety.

14 Q. So it's not a problem with your heart --

15 A. No.

16 Q. -- that's causing it, it's anxiety?

17 A. Anxiety.

18 MR. MAISLIN: I'm sorry, just so the  
19 record is clear, you did have a heart murmur  
20 when you were little, right?

21 THE WITNESS: Yes.

22 Q. Is that heart murmur related to the  
23 problem of your heart racing when you were younger,  
24 do you know?

25 A. I don't know.

1 Q. Yeah. And I guess since you are in the  
2 medical profession, one of the things that I'm going  
3 to try -- I mean, if you can provide me some insight  
4 based on your knowledge and experience with medical  
5 issues, fine, but a lot of this is what the doctors  
6 did or said or how they treated you, okay?

7 A. (WITNESS NODS HEAD.)

8 Q. Yes?

9 A. Yes.

10 Q. Do you recall receiving medication for  
11 your heart racing?

12 A. No.

13 Q. Any problems relating to your heart racing  
14 other than just the experience of feeling that  
15 sensation?

16 A. Can you repeat that?

17 Q. Well, I mean, did it require you to not  
18 become, you know, active or the fact that you  
19 couldn't participate in sports or you had to refrain  
20 from doing various things?

21 A. No.

22 Q. How long did this heart racing problem  
23 last?

24 A. I don't recall. I just know that I still  
25 get it off and on today as well.

1 Q. And your understanding is it's due to  
2 anxiety issues?

3 A. Yes.

4 Q. Do you recall -- and, again, I know  
5 there's been some falls in the past -- and you  
6 treated with West Side Pediatrics, correct?

7 A. Uh-huh.

8 Q. Yes?

9 A. Yes.

10 Q. In 2005, how old would you have been?

11 A. Around 10.

12 Q. Do you recall falling, catching yourself  
13 and injuring your left wrist?

14 A. Yes.

15 Q. Tell me about that.

16 A. If I remember correctly, I was at an  
17 after-school program at school. We were playing  
18 soccer on concrete, and I fell and caught myself  
19 with my wrist and bent it backwards. I believe they  
20 took me to the doctor to see if I was okay and they  
21 sent me to get x-rays.

22 Q. And other than getting x-rays, do you  
23 recall receiving any treatment for that left wrist  
24 pain?

25 A. I believe they recommended a splint to buy



1 to wear for a few days. Other than that, it was  
2 just a sprain.

3 Q. Do you recall in 2006, towards the end of  
4 2006, that you were experiencing chest pain?

5 A. Yes.

6 Q. Tell me about that.

7 A. I have a history of acid reflux, and I  
8 believe that's what it was.

9 Q. Yeah. I have in the latter part of 2006  
10 and into 2007 that you would have complaints of  
11 chest pain. In fact, one time you were grabbing  
12 your chest and screaming in pain, it was that  
13 painful. Do you remember that happening?

14 A. Yes, it was very painful, and I still have  
15 acid reflux now.

16 Q. Do you recall that the pain that you were  
17 experiencing in your chest in 2006, 2007, being told  
18 that it was due to acid reflux?

19 A. Yes.

20 Q. Do you receive treatment for acid reflux?

21 A. Yes.

22 Q. What?

23 A. I take Protonix as needed and then just  
24 over-the-counter antacids.

25 Q. Do you recall going to Children's Hospital

1 after falling and injuring your back in 2007?

2 A. I don't remember.

3 Q. It would have been an emergency room visit  
4 where you fell and --

5 MR. MAISLIN: At the water park?

6 Q. I don't know. If you don't remember,  
7 that's fine. You don't remember injuring your lower  
8 back?

9 A. I don't remember.

10 Q. That's fine.

11 MR. MAISLIN: It's whatever you remember.

12 Q. Exactly. It would have been perhaps on  
13 your tailbone?

14 A. Oh, yes at a water park. We were at --

15 Q. What water park? I'm sorry, to interrupt  
16 you? What water park?

17 A. The Beach Water Park.

18 Q. Go ahead.

19 A. We were coming off of a ride and the steps  
20 were slippery and I slipped down them and I hit my  
21 tailbone pretty hard. They took me to the hospital  
22 to get x-rays to make sure it wasn't broken.

23 Q. When you say they, who are they?

24 A. My grandma, my friend and my mom.

25 Q. Okay. Other than going to the emergency

1 room getting x-rays, any other treatment for your  
2 low back injury?

3 A. Rest.

4 Q. Other than the acid reflux and your heart  
5 racing due to anxiety attacks, any other chest pain  
6 that you would have experienced for any other reason  
7 besides acid reflux and/or heart racing?

8 A. No.

9 Q. So if you would have gone to the hospital  
10 in October of -- Children's Hospital emergency room  
11 in October of 2007 for chest pain, it would have  
12 been because of acid reflux; is that correct?

13 A. Yes.

14 Q. Do you recall in August of 2008 injuring  
15 your right ankle and your right thigh? August of  
16 2008, going to West Side Pediatrics, having x-rays  
17 at Children's Hospital for your right femur and your  
18 right ankle?

19 A. Do you have any more history?

20 MR. MAISLIN: I think it was a soccer  
21 injury.

22 THE WITNESS: Soccer?

23 MR. MAISLIN: I believe so, where you got  
24 kicked as goalie.

25 Q. You can probably read this better than I

1 since people like you write like this. Looks like  
2 no known injury, then I do see soccer. I'm showing  
3 you a note from West Side Pediatrics in August of  
4 2008.

5 A. I don't recall.

6 Q. No problem. Then a week later you went  
7 back to the hospital, again, I'm basing this off the  
8 records, indicating a complaint of left-hand pain.  
9 Do you recall stubbing your left pinkie finger into  
10 the ground?

11 A. I was a soccer goalie, so it was probably  
12 due to being -- playing soccer and stubbing my  
13 finger into the ground. I was very aggressive and  
14 was diving all the time.

15 Q. Do you remember that incident or do you  
16 just assume that's probably what it was?

17 A. Not clearly, but it sounds --

18 Q. You were getting beat up playing soccer?

19 A. Yes.

20 Q. You don't recall receiving any  
21 medication --

22 A. No.

23 Q. -- or any treatment or being in a splint  
24 or anything like that?

25 A. I might have been in a finger splint, but

1 other than that...

2 Q. And do you recall having a bug bite a few  
3 weeks later on your left ankle causing it to swell?

4 A. Yes. And I am like hypersensitive to  
5 mosquitoes. My bug bites swell up, so...

6 Q. Do you recall having injured your knee,  
7 your right knee, in October of 2008?

8 A. Yes.

9 Q. Tell me about that.

10 A. I'm sorry, can we go back to the injury  
11 for the finger?

12 Q. Yes.

13 A. I believe it was for basketball, not  
14 soccer. I had my timeline wrong in my mind. It was  
15 for basketball, yes, not soccer.

16 Q. And so what did you think, you broke it?

17 A. Yeah, I stubbed it on a basketball.

18 Q. And then you were taken to Children's  
19 Hospital emergency room?

20 A. Was I? I don't know.

21 Q. You don't recall that?

22 A. No. But I know I stubbed it on a  
23 basketball, not playing soccer.

24 Q. Okay. No problem. October of 2008, do  
25 you recall going to the doctor complaining of right

1 knee pain?

2 A. Yes, but I do not remember what happened.  
3 I believe it was due to the activities.

4 Q. The records I've read indicates that she  
5 really has no particular injury, you played a lot of  
6 sports and competitive double dutch?

7 A. Yes.

8 Q. Do you recall being either diagnosed or  
9 discussing with the doctor or hearing about  
10 patellofemoral disease?

11 A. No.

12 Q. And you don't recall any treatment for the  
13 right knee at that time?

14 A. Not at that time.

15 Q. And in January of 2009, do you remember  
16 going to Children's Hospital for right upper  
17 quadrant pain?

18 A. Yes.

19 Q. Tell me about that.

20 A. I believe that was also for my heartburn.

21 Q. They prescribed -- well, it says you were  
22 taking a proton pump inhibitor. It's November 2007.

23 A. Yes, that's Protonix.

24 Q. Do you still do that?

25 A. Uh-huh.

1 Q. Yes?

2 A. Yes. I'm sorry, can we go back to the  
3 knee?

4 Q. Absolutely.

5 A. I have heard what the doctor said, the  
6 disease, yeah, I've heard of it.

7 Q. Patellofemoral?

8 A. Yes, I remember that now.

9 Q. In 2008, how old would you have been?

10 A. Thirteen.

11 Q. So that could have just been growth issues  
12 maybe?

13 A. Yeah, but I did do competitive double  
14 dutch, yes.

15 Q. In February of 2009, do you recall having  
16 additional problems with your right knee and going  
17 to Group Health Associates?

18 A. I don't recall going to Group Health  
19 Associates, but I recall having problems with my  
20 knee, yes.

21 Q. You had an MRI?

22 A. Oh, is that where the MRI was done?

23 Q. Well, I don't know where it was done, but  
24 I mean you had an MRI for your right knee?

25 A. Yes, I remember the MRI.

1 Q. And did they tell you that structurally  
2 your knee looks okay?

3 A. Yes.

4 Q. And, again, discussing the fact that you  
5 were a girl --

6 A. Yes.

7 Q. -- teenager and active in sports?

8 A. Yes.

9 Q. So what did you do -- do you recall doing  
10 anything particularly with respect to leg exercises  
11 or knee exercises to make certain you would  
12 strengthen your knee?

13 A. I might have done some physical therapy.

14 Q. Okay. Did the pain in your knee improve?

15 A. Uh-huh.

16 Q. Yes?

17 A. Eventually.

18 Q. Do you recall taking any medicine for it?

19 A. No.

20 Q. How about in June of 2009 where you had  
21 chest pain, struck over the sternum by another  
22 player; do you remember that?

23 A. Yes, I was playing basketball this time  
24 again and I was elbowed extremely hard into the  
25 chest and then I couldn't breathe.



1 Q. Was this in junior high?

2 A. No.

3 Q. Fourteen, freshman?

4 A. What was the date?

5 Q. June 30, 2009, Children's Hospital  
6 emergency room.

7 A. This was the summer going into my freshman  
8 year.

9 Q. Okay. So you were playing?

10 A. It was like a summer league.

11 Q. Any other problems other than after you  
12 went to the emergency room? Did that problem go  
13 away with your sternum?

14 A. After a few days. It was very sore.

15 Q. Do you remember in October of 2009  
16 complaining of right leg pain, having a softball  
17 injury?

18 A. I don't recall.

19 Q. You had a large bruise down the lateral  
20 aspect of your leg. You had an MRI for it. Do you  
21 remember that?

22 A. (Witness shakes head).

23 Q. Whether it was softball -- I mean, they  
24 could have taken something down wrong, but do you  
25 remember going to the Children's Hospital emergency

1 room for an injury to your right leg?

2 A. What was the date on this?

3 Q. October of 2009.

4 A. And it was the lateral side?

5 Q. That's what it says.

6 A. I remember going to -- no, I didn't go to  
7 the ER for that.

8 Q. They called it a medial -- well, this one  
9 said a low grade strain, medial gastrocnemius  
10 muscle?

11 A. I don't remember.

12 Q. That's the lower leg, right?

13 A. Yeah. Yeah. I don't remember.

14 Q. Do you remember in March of 2010  
15 complaining of left hand and right leg tingling  
16 following injuries? You were kicked in the right  
17 lower leg in October, so it must have been a  
18 continuation. So perhaps it was soccer, not  
19 softball?

20 A. Okay. If it was soccer, I do remember  
21 that. I was playing goalie. If this is the correct  
22 record, I was playing goalie and I went to go out  
23 and like get the ball and I was kicked in the leg by  
24 another player, and I did end up getting injured  
25 decently bad. So, yeah, that's what happened.

1 Q. And you were taken to the emergency room?

2 A. I guess so. I don't remember that part.

3 Q. And then that lingered for a while; do you  
4 remember that?

5 A. Uh-huh.

6 Q. Yes?

7 A. Yes.

8 Q. I mean, that was into March. I'm just  
9 reading. This is information I've read off the  
10 records. It references kicked in right lower leg in  
11 October, and it said still had ongoing pain?

12 A. Yes.

13 Q. Increased pain after skiing, so perhaps  
14 you might have had an injury skiing and  
15 re-aggravated it perhaps?

16 A. I didn't have an injury skiing, no. It  
17 was the boot hitting the area where I was kicked,  
18 aggravated it a little bit.

19 Q. And did they tell you that it was soft  
20 tissue, meaning muscle issues versus a bone issue?

21 A. They say it was microfractures.

22 Q. That's what they told you?

23 A. Uh-huh.

24 Q. Yes?

25 A. Yes.

1 Q. Who is they?

2 A. The physical therapist.

3 Q. Because the records indicate no evidence  
4 of stress fracture or bone reaction, which would be  
5 a microfracture. Other than the physical therapist,  
6 anybody else tell you that it was a microfracture?

7 A. No.

8 Q. Or a bone burst, nothing like that?

9 A. No.

10 Q. July of 2010, do you recall injuring your  
11 neck and falling and hitting your head?

12 A. Is there more to it?

13 Q. Neck injury at soccer, fell and hit head.  
14 Neck hurts on right side, then after basketball,  
15 pain?

16 A. Okay. I remember.

17 Q. No accidents, no numbness or tingling. I  
18 don't know if that's head or heart pain?

19 A. Yes. And I believe I went and got x-rays  
20 and everything was fine. They told me to rest, take  
21 some ibuprofen and heat.

22 Q. Any other follow-up care regarding your  
23 neck injury?

24 MR. MAISLIN: You got to say --

25 A. No.

1 Q. Then a month later, actually two weeks  
2 later, back pain, started hurting at practice, right  
3 side of back, pain in neck, right arm feels weak; do  
4 you remember that?

5 A. Yes.

6 Q. Tell me about it.

7 A. That was the start, I believe, of all my  
8 shoulder problems. I fell -- from when I fell at --  
9 from the neck injury when all that started, from  
10 that fall, that actually continued into my shoulder  
11 and my back. So that gets into all of the shoulder  
12 problems.

13 Q. Then you followed up in October of 2010 at  
14 Children's Hospital. They did an MRI of your  
15 shoulder, correct?

16 A. Dr. Burger did.

17 Q. An MRI was done?

18 A. Yes.

19 Q. And that MRI was reported as negative,  
20 meaning that there was no damage seen, correct?

21 A. It showed inflammation of the scapular  
22 muscles. It showed that there was a treatment plan  
23 that needed to be done or what needed to be done,  
24 basically.

25 Q. The MRI here that's referenced said the

1 MRI was negative. You know negative means that it  
2 wasn't showing any injury, correct?

3 A. Yes.

4 Q. But you're telling me that somebody told  
5 you that the MRI showed a scapular injury?

6 A. Just inflammation of scapular muscles.

7 Q. Then in October of 2010, and I believe  
8 that was Beacon Orthopaedics --

9 A. Yes.

10 Q. -- it said that you were having right  
11 posterior shoulder pain and it was discomfort after  
12 soccer tryouts. Is that what we're referencing back  
13 in the summer?

14 A. Uh-huh.

15 Q. Yes?

16 A. Yes.

17 Q. So the reference is to a neck injury at  
18 soccer. July/August, that's when you try out for  
19 the team?

20 A. Yes.

21 Q. And you were still having problems with  
22 your shoulder?

23 A. Yes.

24 Q. You made the team?

25 A. Yes.

1 Q. Do you recall talking to him, was that  
2 Dr. Burger?

3 A. Yes.

4 Q. That you didn't have a franc injury, just  
5 soreness; do you recall that?

6 A. Yes.

7 Q. Tell me about your shoulder in October of  
8 2010, if you recall.

9 A. It was just very, very sore. It kind of  
10 felt tight. I couldn't really move it. And back  
11 when I was talking to Dr. Burger, I really -- I  
12 didn't have the pieces of the puzzle in front of me  
13 to go and connect the dots, but now thinking about  
14 it, I did fall. And that's kind of what set  
15 everything off, was the fall at soccer.

16 Q. You made Seton's, did you say, JV team?

17 A. Uh-huh.

18 Q. Yes?

19 A. Yes.

20 Q. And did you play in games?

21 A. No.

22 Q. You didn't play in games because of the  
23 injury to your shoulder?

24 A. Yes.

25 Q. Did you play at all that year?

1 A. No.

2 Q. So when you fell in the summer of 2010 and  
3 injured your shoulder, the coach picked you to make  
4 the team but you did not recover from your injury?

5 A. No.

6 Q. That's correct?

7 A. Yes, that's correct.

8 Q. That's my fault. Did you have a  
9 discussion with Dr. Burger as to what was causing  
10 your pain, do you recall?

11 A. I'm sorry?

12 Q. Do you recall having a discussion with  
13 Dr. Burger as to what was causing your shoulder pain  
14 in October of 2010?

15 A. No.

16 Q. Did he say to you, McKenzie, we're looking  
17 at this MRI, we're looking at these x-rays, they  
18 look normal, we can't explain physiologically why  
19 you're having this pain, did he have that type of  
20 conversation with you?

21 A. No.

22 Q. Do you remember having an arthrogram of  
23 right shoulder?

24 A. Is that an EMG?

25 Q. No, an MR arthrogram. Did they inject



1 some dye in you maybe?

2 A. Yes.

3 Q. Did you remember having an EMG?

4 A. Yes.

5 Q. Was that normal?

6 A. Yes.

7 Q. Do you remember having an MR arthrogram  
8 where they inject the dye into your shoulder?

9 A. Yes.

10 Q. Did they tell you that that was normal?

11 A. They did an MRI after that following the  
12 dye, and they told me that it was not normal.

13 Q. What did they tell you was wrong with it?

14 A. They told me that there was inflammation.

15 Q. Okay. Did they tell you what was causing  
16 the inflammation?

17 A. No.

18 Q. Did they tell you it was an intact rotator  
19 cuff?

20 A. Yes.

21 Q. It was a normal labrum?

22 A. Uh-huh.

23 Q. There was no tears?

24 A. Right.

25 Q. What you're saying is you recall the

1 doctors telling you that you had inflammation in  
2 your shoulder area?

3 A. Yes, and tendinitis of the rotator cuff.

4 Q. Did they prescribe physical therapy?

5 A. Yes.

6 Q. Did you undergo physical therapy?

7 A. Yes.

8 Q. Did it help?

9 A. Yes, and a cortisone injection.

10 Q. Do you recall in early November 2010 where  
11 you were in a lot of pain due to your shoulder and  
12 you went back to see Dr. Burger about your shoulder,  
13 about your shoulder pain?

14 A. Yes.

15 Q. Do you recall talking to Dr. Burger or  
16 learning that at that point the reason for your  
17 shoulder pain was sympathetic mediated or maintained  
18 pain?

19 A. No.

20 Q. At any point in time prior to this  
21 accident of October 2012, did you know or understand  
22 or hear about having reflex sympathetic dystrophy?

23 A. No.

24 MR. MAISLIN: Are you asking if she  
25 knew it as --

1 MR. POWELL: At the time.

2 MR. MAISLIN: Knew even what the concept  
3 was?

4 Q. Just hearing that word. The phrase, the  
5 RSD, reflex sympathetic pain or dystrophy or having  
6 any type of complex regional pain syndrome, any of  
7 that?

8 A. No.

9 Q. So if that information is contained in  
10 your medical records, as of today you did not know  
11 that?

12 A. No.

13 Q. Correct?

14 A. Correct.

15 Q. In April of 2011 I see a letter from a  
16 Dr. Campbell of Children's Hospital. And that's  
17 really the first time I came across issues regarding  
18 anxiety, is that right, in April of 2011; does that  
19 sound right to you?

20 A. That sounds fair, yes.

21 Q. Tell me about your anxiety and depression,  
22 panic attacks.

23 A. That sounds about the time when my mom  
24 started to have severe migraines, and she started to  
25 get sick and could hardly get out of bed. She could

1 hardly open her eyes. They didn't know what was  
2 wrong with her. And my stepdad and I didn't really  
3 get along well, so of course my mom is my main  
4 person. So seeing her like that didn't help, and  
5 that pretty much set it off.

6 Q. Okay. And you just said that that set it  
7 off, that being seeing your mother suffer through  
8 migraines?

9 A. Yes.

10 Q. Any other issues going on with you in  
11 April of 2011 or that time period that was causing  
12 you to have anxiety?

13 A. Not that I can recall. I know school  
14 wasn't the best, but it was more --

15 Q. Was that your sophomore year?

16 A. Yes.

17 Q. So that was freshman, spring of freshman,  
18 right? Sophomore?

19 MR. MAISLIN: If you don't remember,  
20 don't try to fill in the gap.

21 A. Yeah, I don't remember.

22 Q. You graduated in '13?

23 A. Yeah.

24 Q. All right. That would have been your  
25 sophomore year?

1 A. I don't recall.

2 Q. Do you recall going back to Beacon in May  
3 of 2011 complaining of pain in your shoulder because  
4 you were roughhousing over the weekend and had some  
5 increased soreness?

6 A. Yes, and they gave me another cortisone  
7 shot and it was gone.

8 Q. Tell me about your roughhousing.

9 A. I don't recall exactly what was going on.

10 Q. Was your pain gone in May of 2011 in your  
11 shoulder?

12 A. Yes.

13 Q. So whatever treatment you received through  
14 physical therapy or prior to cortisone injections,  
15 it resolved your shoulder pain?

16 A. Yes.

17 Q. Were you playing basketball that year,  
18 your sophomore year?

19 A. No, I only played my freshman year due to  
20 my shoulder injury.

21 Q. In June of 2011, do you recall straining  
22 your right shoulder in a tug of war at school?

23 A. Yes.

24 Q. Tell me about that.

25 A. We had a -- what was the date?

1 Q. June of 2011.

2 A. June?

3 Q. In early May.

4 A. That makes sense. We had a, what's that  
5 called, spirit day at school and we have just  
6 different field events. And I -- tug of war was one  
7 of them, and I participated and strained my shoulder  
8 since it was weak to begin with.

9 Q. Then you slid down a fire pole and  
10 aggravated your shoulder; do you remember that?

11 A. Yeah. We were at a firehouse and I slid  
12 down a fire pole.

13 Q. And it hurt your shoulder?

14 A. Yeah.

15 Q. And it hurt enough for you to go to the  
16 doctor?

17 A. Yes.

18 Q. Did you get any treatment for that?

19 A. I think like -- kind of like an  
20 anti-inflammatory.

21 MR. MAISLIN: Don't guess.

22 Q. Do you recall taking an anti-inflammatory?

23 A. No.

24 Q. And then in July, do you recall having  
25 some serious psychological issues?

1           A.    Yes.

2           Q.    Tell me about that.

3           A.    I had a breakup with a boyfriend, and that  
4 was a big part.  But, oh, school was very rough that  
5 year and my mom going through all her migraines and  
6 everything that started, so I just kind of had a  
7 rough psychological time.

8           Q.    Well, it indicates here that you had  
9 called your mother home because you were feeling  
10 suicidal?

11          A.    I --

12          Q.    First of all, do you recall that?

13          A.    Yeah.

14          Q.    All right.  Go ahead and explain your  
15 answer.

16          A.    I kind of like cut myself.  It was more of  
17 a scratch, but I told a friend about it who I knew  
18 would tell my mom because I didn't want to tell my  
19 mom because I was ashamed of myself.  And she came  
20 home and she took me to Children's because we've --  
21 my stepdad had a suicide in the family so she  
22 doesn't take that lightly.  So she wanted to get the  
23 point across to me that she's not fooling around.  
24 So that's why she -- and I learned my lesson clearly  
25 and it never happened again.

1 Q. The first question I have is, did you  
2 receive psychological counseling or psychiatric  
3 counseling following this incident?

4 A. Part day counseling. They didn't admit me  
5 to a psychiatric ward. They did half day  
6 counseling.

7 Q. Who is they?

8 A. Children's.

9 Q. Just on that particular day?

10 A. No, they did like a follow-up. It was a  
11 two-day -- not two-day, it was a program. It's a  
12 half day, so you go from 8:00 in the morning until  
13 4:00 in the afternoon. And typically it's supposed  
14 to be like at least minimum, or two weeks, but they  
15 only did me for two days. And they're like, okay,  
16 she doesn't need to be here.

17 Q. Is that from Children's?

18 A. Uh-huh.

19 Q. Yes?

20 A. Yes.

21 Q. Okay.

22 A. Like she doesn't need to be here.

23 Q. And was this "suicide attempt" really just  
24 an act out of, hey, I need attention?

25 A. No, it wasn't a suicide attempt.



1 Q. It was or was not?

2 A. Was not. It was not a suicide attempt.

3 It was not I need attention, it was I am very upset  
4 and I just kind of lost my mind.

5 Q. The cuts to your upper thigh, it says it  
6 was superficial?

7 A. Yes, it wasn't deep enough to do any harm.

8 Q. Okay. Did you take medication after this?

9 A. Yes.

10 Q. What?

11 A. Prozac.

12 Q. Are you still on Prozac?

13 A. I'm on Cymbalta.

14 Q. And what is that for? What is Cymbalta  
15 for?

16 A. The Cymbalta helps nerves and helps  
17 anxiety. So instead of being on two different  
18 medications, one for anxiety and one for nerves,  
19 they're kind of doing both just because RSD and --  
20 because the RSD is nerve related and Cymbalta can  
21 help nerves and anxiety. They're kind of knocking  
22 out two birds with one stone.

23 Q. You just said RSD is nerve related. Who  
24 told you that?

25 A. The doctors.

1 Q. Which doctor?

2 A. My doctors that I have, my pain doctors  
3 now.

4 Q. Who?

5 A. Dr. Lee.

6 Q. Lee?

7 A. Lee.

8 Q. Dr. Lee told you that RSD is nerve  
9 related?

10 A. Yes.

11 Q. Any other doctor tell you that RSD is  
12 nerve related?

13 A. Every doctor that I've been to.

14 Q. Well, I need to know that. Tell me who  
15 has told you that RSD is nerve related.

16 A. Like sympathetic nervous system related,  
17 not --

18 Q. That's what I need to know.

19 A. Okay.

20 Q. What exactly did they tell you that RSD  
21 is? You said nerve related.

22 A. They told me that sympathetic -- reflex  
23 sympathetic dystrophy is related to the sympathetic  
24 nervous system, so I just in short said that it's  
25 related to nerves.

1 Q. Okay. We'll get into that in a little  
2 bit, okay? We'll hold off on that. In January of  
3 2012, do you recall going to Beacon Orthopaedic for  
4 right shoulder pain because you were kicked in the  
5 shoulder by a friend?

6 A. Yes.

7 Q. Tell me about that.

8 A. I was sitting on the couch and my friend  
9 kicked me in the shoulder, and it was my bad  
10 shoulder so, again, my shoulder flared up.

11 Q. And at that point in time, do you recall  
12 having a conversation -- was that Dr. Burger, I  
13 assume?

14 A. Uh-huh.

15 Q. Do you recall having a conversation with  
16 Dr. Burger about the pain that you were experiencing  
17 was probably related to RSD?

18 A. No.

19 Q. Sympathetically mediated pain or any of  
20 the terminology that's used to describe RSD?

21 A. No.

22 Q. Did you ever talk to your mother about  
23 having RSD at this time?

24 A. No.

25 Q. In May of 2012, do you recall going to the

1 emergency room for right-sided neck and shoulder  
2 pain?

3 A. Yes, my shoulder pain got extremely bad, I  
4 do remember that.

5 Q. What was causing the shoulder pain to get  
6 really bad?

7 A. It was just very tight. It just felt like  
8 muscle spasms.

9 Q. Was there any particular incident that  
10 caused your shoulder to cause you this much pain?

11 A. No.

12 Q. I mean, it was severe enough for you to go  
13 to the emergency room?

14 A. Yes.

15 Q. Which emergency room did you go to?

16 A. I believe Western Ridge.

17 Q. Western Ridge?

18 A. Uh-huh.

19 Q. Yes?

20 A. Yes. Yes.

21 Q. And there was no direct trauma to the  
22 shoulder in May of 2012, you just were in a lot of  
23 pain?

24 A. Yes.

25 Q. In your shoulder area?

1 A. Yes.

2 Q. But you don't know why?

3 A. No.

4 Q. In June of 2012, do you recall having  
5 right hip pain?

6 A. Yes.

7 Q. Tell me about that.

8 A. I believe -- I know it was from dance and  
9 dancing, so I just went to the doctor to get it  
10 looked at it to make sure nothing was wrong. And he  
11 said nothing was wrong, you can get some physical  
12 therapy if you want to, but it should go away.

13 Q. It's a workout video or dancing for fun,  
14 is that what that was?

15 A. Yes.

16 Q. At the time you were still taking Prozac  
17 for anxiety and depression?

18 A. Yes.

19 Q. He just told you to take ibuprofen and ice  
20 it?

21 A. Uh-huh.

22 Q. Yes?

23 A. Yes.

24 Q. Did you take any physical therapy for it?

25 A. No.

1 Q. In September of 2012, do you recall going  
2 back to a doctor for low back because you fell off  
3 of a fence?

4 A. Yes.

5 Q. Tell me about that.

6 A. We were -- my dog got out and she -- we  
7 have a fence and then a ravine. She was in the  
8 ravine, so I tried to climb the fence to get her and  
9 I fell off backwards and landed on my back.

10 Q. What part of your back?

11 A. My whole back, and I like blacked out. So  
12 we definitely --

13 Q. Did you go to the emergency room?

14 A. Yes, and they said I sprained my back.

15 Q. And then after that, you went to Canada  
16 for a dance competition?

17 A. Yes.

18 Q. Tell me about that.

19 A. It was my German dance competition. It  
20 was a pretty rigorous weekend, a lot of prepping.  
21 We were dancing. And after the competition, my back  
22 started to hurt real bad. They gave me some  
23 medicine that is only used in Canada, but they said  
24 it will work really well.

25 Q. Did it?

1           A.    No, and it was disastrous.  And then I  
2  came -- I came home and they -- I think I went to  
3  the doctor, but I remember my back was hurting very  
4  badly.

5           Q.    Was it up in your neck as well?

6           A.    Yeah, it was -- I don't know.  I know for  
7  sure it was in the middle of my back.  And I  
8  remember I did come home and I went and I saw  
9  Wellington Orthopaedics.

10          Q.    If they diagnosed you, Family Medical  
11  Group, with lumbar, cervical and thoracic strain;  
12  does that sound about right?

13          A.    Yes.

14          Q.    From the top of your -- from your neck  
15  down to your low back?

16          A.    Uh-huh.

17          Q.    Yes?

18          A.    Yes.

19          Q.    And now one thing I saw, that you were  
20  complaining of numbness and tingling into your  
21  fingers into your right hand; do you recall that?

22          A.    That was a while ago, yeah.

23          Q.    Well, during that time frame?

24          A.    A long time ago, yeah.

25          Q.    No, during that note in September of 2012.

1 A. Oh, that note. Really?

2 Q. Yes. That you were complaining of  
3 occasional numbness and tingling in your fingers; do  
4 you recall that?

5 A. No.

6 Q. Now, we've gone over quite a bit.

7 A. Is there more?

8 Q. Can you recall any other incidents, other  
9 than what we just discussed, where you were going to  
10 the emergency room as a result of being injured  
11 other than what we've discussed?

12 A. Not at the moment.

13 Q. Do you recall going to the emergency room  
14 or hospitals for any illnesses, sicknesses or  
15 conditions unrelated to a fall or some type of an  
16 accident?

17 A. Not at the moment.

18 Q. And do you recall, other than what we've  
19 talked about, any extended medical treatment and  
20 care for any particular condition that we haven't  
21 talked about, medical or psychological?

22 A. Not at the moment.

23 MR. POWELL: Okay. We've been going for  
24 a while. Why don't we take a break?

25 (OFF THE RECORD)



1 BY MR. POWELL:

2 Q. McKenzie, what is a haunted house?

3 A. In my definition, a haunted house is a  
4 place that you go to in Halloween time to I guess  
5 get frightened once you're in the haunted house.

6 Q. Do you know what occurs at a haunted  
7 house? I mean, how do you get frightened?

8 A. People pop out at you from corners.  
9 There's frightening scenes set up, people with  
10 chainsaws, the typical clowns with knives, things  
11 like that, but it's all inside the setting.

12 Q. Okay. And you agree that -- I think  
13 you've testified that these haunted houses usually  
14 occur around Halloween?

15 A. Yes.

16 Q. And you agree that they're designed to  
17 scare and frighten patrons?

18 A. Yes, when they're expecting it inside.

19 Q. They use Halloween themes to do so?

20 A. I'm sorry.

21 Q. They use Halloween themes to do so?

22 A. Yes.

23 Q. You understand that -- did you understand  
24 that the individuals who pop out from corners and  
25 are trying to scare you are actually people who

1 dress up in costumes?

2 A. Of course.

3 Q. And they make themselves look scary?

4 A. Yes.

5 Q. And they're acting?

6 A. Yes.

7 Q. They're not really ghosts or ghouls or  
8 skeletons, right?

9 A. Yes.

10 Q. Prior to October of 2012, had you been to  
11 a haunted house?

12 A. Yes.

13 Q. How many times?

14 A. Once.

15 Q. Which one?

16 A. Dent.

17 Q. And when was that?

18 A. It was when I was, God, still in grade  
19 school maybe, 12-ish. I don't exactly remember the  
20 age.

21 Q. Who did you go with?

22 A. My two friends and my dad and my mom and  
23 my friend's mom, but my mom stayed outside and I  
24 went with my -- so technically I went and stood in  
25 line with my two friends, my stepdad and friend's

1 mom.

2 Q. You've told me about your dad, your  
3 stepdad. When did your parents get divorced?

4 A. I should have clarified. I interchange  
5 the word stepdad and dad. They're the same person.  
6 I don't know my real father.

7 Q. Your biological father?

8 A. Correct.

9 Q. There you go. You answered my questions.  
10 So you've been to a haunted house one time before  
11 October of 2012?

12 A. Yes.

13 Q. You believe you were around 12 years old?

14 A. Roughly.

15 Q. How old were you when this incident  
16 occurred in October of 2012? That's three years  
17 ago.

18 A. Seventeen.

19 Q. You were 17. Okay. So let's describe  
20 your experience at the haunted house in Dent. Tell  
21 me about that.

22 A. I didn't want to go in, so we were waiting  
23 in line. We got into the graveyard type area, I  
24 decided I didn't want to go in, and we left. I --

25 Q. Why did you not want to go in?

1           A.    I was frightened.

2           Q.    Was the graveyard area outside the haunted  
3 house?

4           A.    Yes, but it was still a scene set up with  
5 people.

6           Q.    These two friends of yours, what were  
7 their names?

8           A.    Emma and Kara.  I know Kara for sure, but  
9 I don't know the second one.  It was either Emma or  
10 Katie.

11          Q.    Were either of these individuals with you  
12 in October of 2012?

13          A.    No.

14          Q.    When you were in the graveyard area at  
15 this Dent schoolhouse, you said there was a scene.  
16 It was a graveyard scene?

17          A.    Yeah.

18          Q.    Did it frighten you?

19          A.    Yes.

20          Q.    Did you encounter any of the characters  
21 outside?

22          A.    Yes.

23          Q.    Did these characters frighten you?

24          A.    Yes, but they didn't taunt me.

25          Q.    What did they do to scare you?

1           A.    I just -- I was young, so I saw them and I  
2 got frightened and I didn't want to go any further.

3           Q.    So you did not go into the house, correct?

4           A.    Not into the house, but the graveyard was  
5 part of the haunted house. Does that make sense?

6           Q.    I think I know what you're saying, but  
7 just for the record, let's make certain we're clear.  
8 The graveyard was not inside the house?

9           A.    Right. Right.

10          Q.    But it was part of the production, it was  
11 part of the scene?

12          A.    Right. Correct.

13          Q.    And I assume you've never worked at a  
14 haunted house?

15          A.    No.

16          Q.    Did any of your friends or family work at  
17 a haunted house?

18          A.    My not close friend now but close friend  
19 at the time, Sydney Terry, worked at Dungeons of  
20 Delhi.

21          Q.    Is she the one who talked you into going?

22          A.    No.

23          Q.    Did she talk to you about what she did at  
24 the haunted house?

25          A.    Yes.

1 Q. Tell me about that.

2 A. She told me she worked as a zombie and she  
3 told she was kind of like behind a gate. And she  
4 told me that at the end of the night the zombies are  
5 allowed to chase people to their cars if those  
6 people are the last people going through the haunted  
7 house, and they're allowed to bang on their cars  
8 until they leave. To go back to your previous  
9 statement, did she have any influence on me going to  
10 the haunted house. She told me I should come, but  
11 she didn't really influence me to go. She just kind  
12 of put the message out there, like people do, to  
13 just say, hey, but she didn't influence me to.

14 Q. When she provided you with this  
15 information that she worked at the Dungeons of Delhi  
16 as a zombie, did she provide you with this  
17 information prior to October of 2012 or was it  
18 after?

19 A. She told me prior to the accident.

20 Q. What was Cindy's last name?

21 A. Sydney Terry.

22 MR. MILLIGAN: I'm sorry, can you repeat  
23 that?

24 A. Sydney Terry.

25 Q. Sydney or Cindy?

1           A.    Sydney.

2           Q.    So Sydney worked as a zombie at the  
3 Dungeons of Delhi prior to October of 2012?

4           A.    Yes.

5           Q.    She told you that she was a zombie behind  
6 the gate.  And what would she do, pop out?

7           A.    I'm not exactly sure if she would pop out  
8 or if she would just kind of be on a scary display  
9 and kind of like reach through the gate or try to  
10 scare people.  I'm not exactly sure 100 percent, but  
11 I do know she told me that they would chase people  
12 to their car if they were the last people through  
13 the haunted house.

14          Q.    Okay.  And did you tell her, well, I'm  
15 afraid of haunted houses, did you tell her that?

16          A.    I didn't say that, no, not that I can  
17 recall.

18          Q.    Did she tell you that no matter what would  
19 happen, the actors would not touch a patron?

20          A.    I know that no matter what happens, that  
21 they shouldn't touch you.  But I also know that  
22 things happen, it happens.

23          Q.    How do you know this?

24          A.    I hear stories all the time.

25          Q.    You know that they shouldn't touch you?

1 A. Yes.

2 Q. And you said that, but you know some  
3 things happen?

4 A. Uh-huh.

5 Q. Such as what?

6 A. I hear stories of my friends who go through  
7 the haunted house and they get touched by people.  
8 They get their hair grabbed, they get their ankles  
9 grabbed, their feet touched.

10 Q. Did you hear those stories before October  
11 of 2012?

12 A. Yes. It wasn't from Dungeons of Delhi, it  
13 was from Dent, but that, you know...

14 Q. Any other friends or family work at a  
15 haunted house?

16 A. I had a family member who worked at Dent.  
17 He passed away.

18 Q. Did you talk to him about the haunted  
19 house?

20 A. Not really.

21 Q. Just in terms of what goes on at a haunted  
22 house or things like that?

23 A. No.

24 Q. Any other source of information in terms  
25 of what goes on at a haunted house other than what



1 you've learned from Sydney?

2 A. My friend Allison used to work in a  
3 haunted house, but I never really talked to her  
4 about what went on. And if I did talk to her about  
5 what went on, I don't remember.

6 Q. Okay. Fair enough. So you go to the Dent  
7 haunted house as a younger kid and you were so  
8 scared you didn't even go inside, right?

9 A. Not inside the haunted house.

10 Q. I'm sorry, inside the structure, the  
11 haunted house structure, correct?

12 A. Correct.

13 Q. So what made you decide to go to the  
14 Dungeons of Delhi?

15 A. I was older and my anxieties had calmed  
16 down since I was 12, and I figured that it was time  
17 to, you know, why not.

18 Q. Did anybody talk you into it?

19 A. No.

20 Q. So it was your decision. How was the  
21 issue even brought up?

22 A. My cousin, my friend, Allison, and my  
23 boyfriend and I wanted to do something related to  
24 Halloween. And I said there is a haunted house, you  
25 know, five minutes away from my house so we can go

1 there after the Elder football game. It's open  
2 until about 11:00.

3 Q. So your friend Allison?

4 A. Yes.

5 Q. Your boyfriend Joe?

6 A. Yes.

7 Q. What's your cousin's name?

8 A. Elizabeth.

9 Q. Was this a decision made that day or did  
10 you talk about it --

11 A. I think we talked about it like the night  
12 before maybe.

13 Q. And was this your idea?

14 A. I don't remember exactly. I think it was  
15 kind of collaborated on between Elizabeth and I and  
16 Allison.

17 Q. So you wanted to do something Halloween  
18 related?

19 A. Yes.

20 Q. And you or somebody brought up, hey,  
21 there's a haunted house --

22 A. Yes.

23 Q. -- close by?

24 A. Yes.

25 Q. And in collaboration with Elizabeth, Joe

1 and Allison, you decided to go to the Dungeons of  
2 Delhi after the Elder football game?

3 A. Yes.

4 Q. Did you obtain any information about the  
5 Dungeons of Delhi before you went?

6 A. What exactly do you mean?

7 Q. Brochures, websites, any information about  
8 the Dungeons of Delhi or talking to anybody about  
9 the Dungeons of Delhi before you went.

10 A. Just information I got from Sydney Terry  
11 about the zombies chasing them out, chasing people  
12 out to their cars. So I didn't want to be the last  
13 people in there because I didn't want to get chased  
14 to my car. I don't think that's exactly fun. And I  
15 did know about the character who's named Mad Matt.  
16 Sydney told me about him. And so I did have  
17 knowledge about Mad Matt and about his kind of  
18 setup.

19 Q. So when did you have this conversation  
20 with Sydney?

21 A. In high school. It was before  
22 October 2012.

23 Q. That year, that season --

24 A. Yes.

25 Q. -- you had a conversation with Sydney

1 about the Dungeons of Delhi?

2 A. Yes.

3 Q. She told you about zombies being behind  
4 gates?

5 A. Yes.

6 Q. If you were the last patron to go through  
7 that evening, the Dungeons of Delhi allowed the  
8 zombies or characters to chase people to their car?

9 A. Yes.

10 Q. And she also told you about Mad Matt?

11 A. Yes.

12 Q. What did she tell you about Mad Matt?

13 A. She said that he was pretty cool. They  
14 were friends. She said that he did some tricks or  
15 something. I don't exactly remember. It was a  
16 while ago and I've kind of just pushed it aside.

17 Q. Well, did she tell you what he was dressed  
18 up as?

19 A. She said he kind of just had some stuff  
20 covering his face, maybe white, but I don't --  
21 that's...

22 Q. Did she tell you what his role was in the  
23 haunted house?

24 A. I don't remember.

25 Q. Or what he did, how he interacted with the

1 patrons?

2 A. Maybe he was supposed to be in the psych  
3 ward, but I don't remember exactly.

4 Q. Okay. Other than the information provided  
5 to you by Sydney sometime in the fall of 2012, any  
6 other information that you were presented with  
7 regarding the Dungeons of Delhi?

8 A. No.

9 Q. Had Elizabeth, Joe or Allison been to the  
10 Dungeons of Delhi before?

11 A. No, I don't believe so.

12 Q. And you didn't conduct any Internet  
13 research?

14 A. No.

15 Q. So I believe this happened on October 12;  
16 is that right?

17 A. If that's the night I went to the ER.

18 Q. You purchased the ticket --

19 A. Yes.

20 Q. -- to the Dungeons of Delhi. What were  
21 your expectations?

22 A. My expectations were to go in the haunted  
23 house and go through it, maybe get a little spooked,  
24 come out the other side and go home.

25 Q. Was your expectation to be scared? Did

1 you expect that you were going to be scared --

2 A. Yes.

3 Q. -- or frightened to some extent?

4 A. To some extent.

5 Q. And you knew that the Dungeons of Delhi  
6 were going to have characters attempting to scare or  
7 frighten you?

8 A. Yes.

9 Q. And how they would do that, I think you  
10 told me before, they would jump out at you, they  
11 would reach out at you, correct?

12 A. They would pop out at you and, you know,  
13 reach, but not necessarily run or chase.

14 Q. Now, you've made that comment. That's the  
15 fourth time you've said that. Now, I want to ask  
16 you, what do you base your understanding on haunted  
17 houses in terms of the nature and extent of the  
18 interaction between these characters and patrons,  
19 such as yourself, what do you base that on?

20 A. I just -- like research or what do you --

21 Q. Anything. I don't know. You've said that  
22 you expected to be frightened once you're inside the  
23 house. You expect --

24 A. Yes.

25 Q. -- that they would pop out or do things

1 once you're inside the house. And then --

2 A. I -- I'm sorry.

3 Q. That they would not necessarily run after  
4 you or chase you, anything in the house, but other  
5 than the house, you kind of separate that. And I'm  
6 trying to figure out where do you come up with this  
7 information?

8 A. I don't assume any risk of being chased  
9 outside of a haunted house. I expect the haunting  
10 to start once I enter the haunted house.

11 Q. And I understand that part of it. You do  
12 not assume the risk of anything in terms of being  
13 frightened or scared outside of the house, but once  
14 you're inside the house you do. Where do you get  
15 that belief or that assumption? Where do you come  
16 up with that?

17 A. I just thought it was understood.

18 Q. It's not a trick question. In your head,  
19 I want to know, did you read something, did you talk  
20 to somebody? What source of information told you  
21 that the activities associated with a haunted house  
22 would not begin until you entered the haunted house?

23 A. Nothing.

24 Q. Just what your expectations were, correct?

25 A. Correct.

1 Q. Did you have a discussion with Elizabeth,  
2 Joe or Allison anytime prior to this incident on  
3 October 12, 2012 as to what your expectations were  
4 that, hey, we're not going to get scared until we're  
5 inside the house, guys, right, anything like that?

6 A. No.

7 Q. Did you have any communications whatsoever  
8 with respect to your expectations of not being  
9 frightened once inside the house or did they  
10 communicate with you their expectations that the  
11 scaring and the frightening would not occur until  
12 the house?

13 A. No.

14 Q. Okay. We talked about you believed or  
15 understood that the characters shouldn't touch you,  
16 but that Sydney, I assume it was Sydney, told you  
17 that sometimes they'll grab for your ankles or touch  
18 your hair or something like that?

19 A. No, it was just stories that my friends  
20 have passed along from them going to different  
21 haunted houses.

22 Q. Okay. And that's just growing up --

23 A. Hearsay, yeah.

24 Q. Did you know that the characters of the  
25 Dungeons of Delhi would not, you know, harm you by



1 pushing you or touching you or grabbing you or  
2 anything like that? They weren't going to hurt you;  
3 did you understand that?

4 MR. MAISLIN: You mean at the moment or  
5 leading up to that?

6 Q. At any point in time once you purchased  
7 your ticket until the time you left, that the  
8 characters that were associated with the Dungeons of  
9 Delhi were not going to hurt you?

10 MR. MAISLIN: Objection. Do you  
11 understand what he's asking you?

12 THE WITNESS: No.

13 Q. These characters act to scare or frighten  
14 you, correct?

15 A. Correct.

16 Q. They don't push you, they don't jump on  
17 you, they don't hit you, correct?

18 MR. MAISLIN: Objection.

19 Q. Is that correct? Was that your  
20 understanding?

21 MR. MAISLIN: If I object, I'm objecting  
22 for the record. I'll tell you if I don't want  
23 you to answer. Just ignore me objecting  
24 unless I tell you.

25 Q. Okay. I want to know what your

1 understanding in your head was prior to October 12,  
2 2012 when you entered the premise of the Dungeons of  
3 Delhi, okay? And we talked about your belief in  
4 terms of being touched by these characters. My  
5 question is a little different. Did you have an  
6 understanding or belief that these characters would  
7 not harm you?

8 A. Sure. I didn't expect to be harmed.

9 Q. Have you ever heard of a haunted house  
10 where the characters actually hurt somebody?

11 A. Yes, by accident.

12 Q. Tell me.

13 A. I'm not sure where it was, but they  
14 accidentally got the chainsaw wrapped in her hair  
15 and yanked it out.

16 Q. They had a real chainsaw?

17 A. I don't know how it happened. I just  
18 heard it and stories get, you know, missed --

19 Q. Embellished?

20 A. Yes.

21 Q. What haunted house was this?

22 A. I heard it was Dent. But like I said, I'm  
23 not exactly sure.

24 Q. Other than hearing about a chainsaw  
25 getting wrapped in somebody's hair at Dent, any

1 other instances where you heard that somebody was  
2 injured by the actions of a character?

3 A. I heard someone was accidentally cut a  
4 little bit with a knife, but other than that --

5 Q. Which haunted house was that?

6 A. I believe that was Dent as well.

7 Q. That was a real knife?

8 A. Uh-huh.

9 Q. Yes?

10 A. Yes. Yes. But like I said, I --

11 Q. You don't know if that's true or not?

12 A. Right.

13 Q. What time did you arrive that evening?

14 A. Oh, goodness, maybe 10:30, 10:00, not  
15 exactly sure.

16 Q. Was it dark outside?

17 A. Yes.

18 Q. What were the lighting conditions?

19 A. The lighting was fair. I could see.

20 Q. And since you didn't go inside that  
21 evening, I'm just talking about the outside.

22 A. Yeah, it was fair. I could see.

23 Q. There was nothing about the lighting  
24 conditions that prevented you from being able to see  
25 or observe the environment, is that true, you knew

1 what was around --

2 A. Yes, I knew what was around me.

3 Q. Who drove?

4 A. My boyfriend Joe.

5 Q. Where did he park?

6 A. He parked in the front of the Dungeons of  
7 Delhi. It used to be an old drug store, so it would  
8 be in front of the drug store and then you'd walk  
9 around the side.

10 Q. A shopping plaza?

11 A. Yeah, like an old Drug Emporium. Kind of  
12 like a CVS type of thing.

13 Q. And I'm going to be showing you a bunch of  
14 pictures here in a little bit, but what was your  
15 path of travel from the place where you parked to  
16 the ticket booth?

17 A. We walked around the side of the building.  
18 So we parked in the front, walked around the side  
19 towards the street, up the side and then around to  
20 the ticket booth.

21 Q. You walked around the side of the building  
22 right next to the building?

23 A. Yeah, past this door and then up --

24 Q. Around the corner?

25 A. Uh-huh, and then to the ticket booth.

1 Q. And that's a yes?

2 A. Yes. Yes.

3 Q. Did you pay an entrance fee for the  
4 Dungeons of Delhi?

5 A. Yes.

6 Q. And how much was that, do you recall?

7 A. I believe about \$10, roughly, estimated.

8 Q. So you paid \$10 to get scared?

9 A. Yes.

10 Q. What I'm going to do, I think would be the  
11 best way to get through this is I want to show you  
12 some photographs. I want you to tell me what they  
13 are. We'll mark these as exhibits and then we'll go  
14 into what happened, okay?

15 A. Okay.

16 Q. As a matter of fact, why don't you tell me  
17 what happened first. Let's do that. You told me  
18 you parked -- there was four of you?

19 A. Uh-huh.

20 Q. Yes?

21 A. Yes.

22 Q. And you walked around the side of the  
23 building around the corner, looks like down a ramp,  
24 around the corner to the ticket booth? Yes?

25 A. Yes.

1 Q. After you purchased the ticket, what  
2 happened?

3 A. We purchased the ticket. And there was a  
4 guy who was standing at that door who also walked up  
5 and was on the side of the walkway. He was kind of  
6 reaching over, but he -- I kind of describe him more  
7 as kind of a statute. He's not important.

8 Q. Can I -- I'm not trying to be rude, but  
9 I'll lose my thought if I don't ask this question.  
10 Was this guy in costume?

11 A. Yes.

12 Q. Go ahead.

13 A. But he's not important. He was scaring  
14 me, kind of trying to get underneath my skin, but  
15 not the main problem. I kind of disregard him. And  
16 we were walking up the pathway to enter when the  
17 character on all fours runs out dressed up and  
18 starts chasing me. I turn and before -- let me back  
19 up. Before I -- let me continue, I'm sorry.

20 Q. That's okay.

21 A. And I -- he runs out on all fours, starts  
22 chasing me and I stumble coming out of the walkway.  
23 And then after a few steps, I fall. And after I  
24 fall, he finally stopped, turned around and left and  
25 I never saw him again.

1 Q. You walk around the side of the building?

2 A. Yes.

3 Q. And there was a guy in a costume reaching  
4 out at you?

5 A. Uh-huh.

6 Q. Yes?

7 A. Yes. Yes.

8 Q. And how long of a period of time was he  
9 reaching out?

10 A. I mean, he was -- it was I guess a minute  
11 maybe.

12 Q. Well, if we count a minute, that's a long  
13 time.

14 A. Thirty seconds.

15 Q. Did he follow you?

16 A. Yeah.

17 Q. All right. So he wasn't just standing at  
18 this doorway?

19 A. No, he followed us.

20 Q. He followed you to the ticket booth?

21 A. Uh-huh. Yes.

22 Q. And did he follow you into this walkway  
23 area?

24 A. He followed -- since there was a gate, he  
25 was on the outside of the gate and we were in the

1 walkway.

2 Q. So this individual, you said, followed  
3 you?

4 A. Yes.

5 Q. He wasn't running. So you differentiate  
6 following and chasing by whether someone is running  
7 after you?

8 A. Yes.

9 Q. And you used the word irritating. So was  
10 he frightening you?

11 A. A bit.

12 Q. Was this guy who was reaching out after  
13 you and followed you down the ramp to the area where  
14 you're purchasing tickets and then to the area where  
15 the ramp going to the entrance, he was still  
16 following but he was outside the gated area?

17 A. Yes.

18 Q. When this character on all fours ran out  
19 and started chasing you, was that other individual  
20 still present or had he left?

21 A. I don't remember.

22 Q. Okay. So at some point in time, this  
23 character on all fours runs out?

24 A. Yes.

25 Q. Was there anybody else in line?



1 A. I don't think.

2 Q. You four were the only ones in that  
3 walkway area?

4 A. Yes.

5 Q. And so where were you in terms of first,  
6 second, third, fourth in line?

7 A. I was -- it was two and two.

8 Q. Two and two?

9 A. Yeah.

10 Q. You and your boyfriend?

11 A. Yeah. We were behind Allison and  
12 Elizabeth, so we were second.

13 Q. And if you were behind them, and we'll  
14 show the picture here in a little bit --

15 A. But --

16 Q. Go ahead.

17 A. It was more -- it was two and two, but it  
18 was more of Allison and Elizabeth were kind of  
19 scooted over in front of Joe.

20 Q. When this character, you said he was on  
21 all fours and ran out?

22 A. Uh-huh.

23 Q. Was he running out of the inside of the  
24 building?

25 A. Of the haunted house, yes.

1 Q. So when you started your walk down this  
2 walkway, that character was not present --

3 A. No.

4 Q. -- is that correct?

5 A. Correct.

6 Q. And how far had you gotten down the  
7 walkway when this character popped out?

8 A. Maybe a fourth, maybe a little over.

9 Q. You were just starting your walk?

10 A. Yeah. Probably a bit over four. I don't  
11 know.

12 MR. MAISLIN: If you don't know, you can  
13 say you don't know. And when he shows you the  
14 pictures, you may have a better idea.

15 A. Okay. Yeah, we'll do that.

16 Q. And this character on all fours, did this  
17 character remain on all fours as he was chasing you?

18 A. I don't remember. I believe so.

19 Q. So what did the two girls do when this  
20 person came out?

21 A. I don't remember.

22 Q. What did Joe do?

23 A. He tried to grab me, but I pulled away.

24 Q. Tried to grab you to do what?

25 A. Keep me from running.

1 Q. Did he say anything?

2 A. No, not that I remember.

3 Q. Did this character say anything?

4 A. Not that I remember.

5 Q. Was this character yelling?

6 A. No, not that I remember.

7 Q. Just on all fours basically bear crawling  
8 to you?

9 A. At a very great speed.

10 Q. All right. And then you said that you  
11 stumbled out of the walkway?

12 A. Yes.

13 Q. Was this person still following you, still  
14 moving? You were moving, this person was moving?

15 A. Yes.

16 Q. How do you know that?

17 A. I could -- he didn't stop until I fell.

18 Q. How do you know that, you could see it?

19 A. (WITNESS NODS HEAD.)

20 Q. You saw that?

21 A. Somehow I -- when I fell, that's when I  
22 saw him turn and go away.

23 Q. Did he leave the walkway area? When he  
24 was on all fours, did he leave the walkway area to  
25 continue following you or was he still in that

1 walkway area?

2 A. I'm sorry, can you repeat?

3 Q. You stumbled while you were in the  
4 walkway?

5 A. Yes.

6 Q. And then you said you took a few steps  
7 once you were out of the walkway area and that's  
8 when you fell?

9 A. I stumbled out of the walkway area. There  
10 was a hole, I believe, and then I kind of -- I  
11 believe I kind of twisted in the hole and stumbled  
12 out of the walkway a few steps and fell.

13 Q. We'll talk about that, okay?

14 A. Okay.

15 Q. When you -- well, you were stumbling  
16 before you exited the walkway?

17 A. Yes.

18 Q. And you're now telling me that you believe  
19 once you were out of the walkway, you believe there  
20 might have been a hole?

21 A. No, there was a hole in the walkway.

22 Q. A hole in the walkway. Is that where you  
23 started to stumble?

24 A. Yes. It was at the very start of the  
25 walkway.

1 Q. We'll look at that. How far beyond the  
2 opening of the walkway did you fall?

3 MR. MAISLIN: Objection as to form.

4 A. Three, two, three steps.

5 Q. And then you fell down?

6 A. Yes.

7 Q. So this character, did he leave the  
8 walkway area?

9 A. I don't know.

10 Q. Did you see him outside the walkway area?

11 A. Not that I can remember.

12 (Defendant's Exhibit 1 was marked for  
13 identification.)

14 Q. I'm going to show you what's been marked  
15 as Defendant's Exhibit 1. I'll represent to you  
16 that these were photographs that were taken after  
17 your fall. Just when I show you these, McKenzie, if  
18 you could just give me a general description of what  
19 this photographs depicts if you know, and then I'll  
20 ask some follow-up questions after that, okay?

21 A. Okay.

22 Q. What is Exhibit 1?

23 A. This is just like the side of the haunted  
24 house, like the -- we just -- this is where the side  
25 of the haunted house, where we walked past. And

1 that's where the character who was reaching over the  
2 side of the walkway was standing in that corner  
3 right there, but it's not very...

4 Q. Okay. So this sidewalk shows a slight  
5 ramp downward, correct?

6 A. Yeah.

7 MR. MAISLIN: Hold on one second. Let  
8 me put it in context, if you don't mind. I  
9 just want to show her just so she's not  
10 confused.

11 Q. That's a good point. Let me do that.  
12 That's a great point. Let me give you all of these  
13 photographs to look at. Some of these are different  
14 angles.

15 (Defendant's Exhibits 2 through 13 were  
16 marked for identification.)

17 Q. I'm going to hand you, McKenzie, what has  
18 been marked Defendant's Exhibits 1 through 13. If  
19 you could go ahead and take a look at those, please?  
20 Finished?

21 A. Uh-huh.

22 Q. I think when we started this, McKenzie, I  
23 was asking questions about the photograph depicted  
24 in Exhibit 1?

25 A. Uh-huh.

1 Q. And I asked you was this the sidewalk that  
2 you walked leading from the parking lot to the back  
3 area where the ticket office or ticket booth was?

4 A. I don't believe so. I believe we walked  
5 outward more and took this one.

6 Q. Well, the individual you said was reaching  
7 out at you would have been in that little door area  
8 entranceway?

9 A. Yeah.

10 Q. So explain that.

11 A. He saw us walking.

12 Q. Okay. So as you were walking in the  
13 parking lot area, which perhaps we can look at  
14 Exhibit 3?

15 A. Yes.

16 Q. So you would have been closer to the  
17 street?

18 A. Yes.

19 Q. Okay. So you were walking in the street,  
20 and then you walked on the parking lot?

21 A. Yes.

22 Q. And you saw this individual. What was he  
23 dressed like?

24 A. Kind of like a Grim Reaper with a painted  
25 face.

1 Q. And then he saw you?

2 A. Uh-huh.

3 Q. Yes?

4 A. Yes.

5 Q. And then started following you at that  
6 point?

7 A. Yes.

8 Q. Okay. What Exhibit 1 shows is the little  
9 enclave area where you initially saw this  
10 individual, this character?

11 A. Yes.

12 Q. Exhibit 2, and let me just lead you  
13 through this, is just a different angle of that same  
14 area?

15 A. Yes.

16 Q. Exhibit 3, that's a photograph showing  
17 where the sidewalk from the side of the building  
18 dumps into the parking lot, correct?

19 A. Yes, and part of the ticket booth.

20 Q. And shows the ticket booth and also  
21 shows -- what road is that, do you know what road  
22 that is?

23 A. Anderson Ferry.

24 Q. Okay. And so from the front of the  
25 building where you parked, where your boyfriend



1 parked, you would have walked on the side of the  
2 road, side of Anderson Ferry Road?

3 A. Yes.

4 Q. And at this point it shows the ticket  
5 booth, correct?

6 A. Yes.

7 Q. This individual that looked like the Grim  
8 Reaper, did he meet you as you entered this area of  
9 the parking lot?

10 A. Yes.

11 Q. Was he in front of you, the side of you,  
12 behind you?

13 A. Kind of the side of us. He kind of  
14 lingered behind as we purchased our tickets.

15 Q. He was just kind of around?

16 A. Uh-huh.

17 Q. And he did frighten you?

18 A. Yes.

19 Q. To some extent?

20 A. Yes, but he was not the main deal.

21 Q. No, I understand, but there was a  
22 character outside the house itself?

23 A. Yes.

24 Q. And you recognized him as being part of  
25 this production, this haunted house production?

1           A.    Yes, but I believe this area is also the  
2 break area, but I'm not 100 percent sure.

3           Q.    What I was trying to get at, McKenzie, was  
4 this individual that you encountered -- I'm just  
5 going to use the phrase Grim Reaper because you did,  
6 but let's just say his character was the Grim  
7 Reaper. This individual that you encountered  
8 someplace in this ticket booth area of the parking  
9 lot, you understood that he was associated with the  
10 Dungeons of Delhi?

11          A.    Yes.

12          Q.    Versus he was freelancing on his own or  
13 associated with some other activity?

14          A.    Yes. Understood.

15          Q.    Exhibit 4 is what?

16          A.    The ticket booth.

17          Q.    It's the ticket booth, just a different  
18 angle, full shot of the ticket booth?

19          A.    Yes.

20          Q.    What does Exhibit 5 depict?

21          A.    The entrance ramp, and it gives a good  
22 view of the exit of the entrance ramp and where I  
23 could have -- where I fell, like the whole kind of  
24 scene.

25          Q.    Okay. It shows the ticket booth, correct?

1 A. Yes.

2 Q. It shows the walkway that we've referred  
3 to?

4 A. Yeah.

5 Q. It shows the opening of the walkway,  
6 correct?

7 A. (WITNESS NODS HEAD.)

8 Q. Yes?

9 A. Yes. Yes.

10 Q. And it shows the parking lot area,  
11 correct?

12 A. Yes.

13 Q. And I want to set this aside because --  
14 well, we'll see. We'll decide which photograph  
15 better shows the area where you fell.

16 A. Okay.

17 Q. Okay. Exhibit 6, is that maybe a close-up  
18 shot of the area of the exit -- or entrance or exit  
19 of the walkway area?

20 A. It's a better close-up, yes, of the  
21 entrance of the walkway.

22 Q. I think what you were telling me before,  
23 showing you Exhibit 5, is this Grim Reaper was  
24 milling around you and your friends as you were  
25 purchasing your ticket. Did you walk over to the

1 walkway?

2 A. Uh-huh. Yes.

3 Q. You didn't run, you didn't --

4 A. No.

5 Q. So you walked over and the Grim Reaper was  
6 following you?

7 A. Yes.

8 Q. And as you entered into the walkway area,  
9 the Grim Reaper didn't go in the walkway area also?

10 A. No.

11 Q. The Grim Reaper stayed out in the parking  
12 lot area?

13 A. Right.

14 Q. Does this photograph marked as Exhibit 6,  
15 does that show the gate to the opening of the  
16 walkway?

17 A. Yes. Sorry, let me take a closer look.  
18 Yes.

19 Q. And then Defendant's Exhibit 7, what does  
20 that show?

21 A. The entrance to the walkway, I believe,  
22 just at a different angle.

23 Q. And then Exhibit 8?

24 A. The entrance to the walkway.

25 Q. That's even a more close-up view and a

1 different angle of the entrance of the walkway?

2 A. Yes.

3 Q. As a matter of fact, this is my fault,  
4 this is the entrance to the haunted house?

5 A. Yes.

6 Q. The exit is located someplace else?

7 A. Right.

8 Q. And then Exhibit 9?

9 A. Enter and the whole walkway.

10 Q. Just a closer up view of the walkway and  
11 where you enter the Dungeons of Delhi?

12 A. Yes, and where the character ran out.

13 Q. Where did you show me the character, I  
14 wasn't --

15 A. Where the character ran out the door.

16 Q. We've got some other photographs of that  
17 area, if that's what it is. Exhibit 10, is that  
18 just another angle of the walkway and entrance?

19 A. Yes.

20 Q. Exhibit 11, same thing?

21 A. Yes.

22 Q. And then Exhibit 12, does that show --  
23 well, it shows a different direction of the walkway  
24 looking backwards, correct?

25 A. Yes.

1 Q. But it also shows -- is this the opening  
2 that you said that this character came out of?

3 A. Yes.

4 Q. Was there -- well, let me finish these and  
5 we'll go back. Exhibit 13, again, is that just  
6 another angle looking backwards from the walkway?

7 A. Yes.

8 Q. And it does show a light fixture there?

9 A. Uh-huh.

10 Q. Yes?

11 A. Yes.

12 Q. Was that light operating?

13 A. I don't remember, but there was enough  
14 light for me to see.

15 Q. Okay. So let's talk then about --

16 A. Yes, it was operating.

17 Q. Okay. Do you see it looks like a barrier?  
18 Using Exhibit 12, looks like there's a barrier?

19 MR. MAISLIN: Can you show me what you're  
20 pointing to? Where do you see --

21 MR. POWELL: In the walkway.

22 MR. MAISLIN: Oh, like the extra fencing  
23 there?

24 MR. POWELL: Yes.

25 BY MR. POWELL:

1 Q. Do you see that?

2 A. Yes.

3 Q. Was that present at the time of the  
4 incident?

5 A. I don't believe so.

6 Q. So if that was not present, I'm going to  
7 call it a fence, a barrier, gate, whatever you want  
8 to call it, was there anything else in the walkway  
9 that would have obstructed anybody walking or  
10 traversing that area?

11 A. No.

12 Q. So that walkway was completely open?

13 A. Yes.

14 Q. Take a look at paragraph 25.

15 A. Okay.

16 Q. Do you see where it's referenced when  
17 Ms. Davis started up the ramp?

18 A. Yes.

19 Q. Where is the ramp that you're referring  
20 to? And I'm showing you Defendant's Exhibit 7. You  
21 can use anything you want.

22 MR. MAISLIN: For the record, that -- I'm  
23 the one that put the word ramp in there. I  
24 mean, you can answer, but I don't think it's  
25 attributable to her.

1           MR. POWELL: Thanks. I just want to make  
2 certain I know what's -- where this happened,  
3 if the ramp is what I think it is, just so we  
4 put it on the record --

5           MR. MAISLIN: No, ramp is from me, not  
6 from her.

7           A. I thought there was a ramp there and I was  
8 mistaken. There is clearly no ramp. It could be  
9 from the hole. And when I twisted my ankle and I  
10 took a few steps, I felt like I was going down a  
11 ramp. So that could have been where I was getting  
12 the ramp feeling from.

13          Q. Okay. So just to clarify the record, in  
14 Exhibits 1 and 2, it clearly does show a ramp?

15          A. Yes.

16          Q. But that has nothing to do with this  
17 accident?

18          A. No.

19          Q. Okay. However, what you've explained to  
20 me is that the walkway is where you had entered with  
21 your friends?

22          A. Yes.

23          Q. And where you exited as a result of this  
24 character chasing you?

25          A. Yes.



1 Q. And that is not a ramp?

2 A. Correct.

3 Q. So as you were coming from, using Exhibit  
4 5, the ticket booth to the walkway and this Grim  
5 Reaper was in the vicinity following you, you had  
6 started the process of the emotional chain of  
7 becoming scared and frightened to an extent?

8 A. To a slight extent.

9 Q. And I think you also said you were  
10 irritated this guy kept following you?

11 A. No.

12 Q. No? I misunderstood you?

13 A. Yes.

14 Q. Were your senses on a more heightened  
15 alert as a result of this individual following you,  
16 this Grim Reaper --

17 MR. MAISLIN: Objection.

18 Q. -- as you were walking into the walkway  
19 area?

20 A. To a slight extent.

21 Q. Other than picking up your tickets going  
22 to the walkway, did you go anyplace else, go back to  
23 your car, see anything, other than just walking, and  
24 I'm going to use the rephrase direct line, but  
25 basically walk directly from this ticket booth to

1 the opening of this walkway? Did you do anything  
2 else or go anyplace else?

3 A. No.

4 Q. Did you linger around talking outside of  
5 the parking lot area before entering the walkway  
6 area?

7 A. I don't believe so.

8 Q. Now, were you present for the depositions  
9 that were taken of some of these witnesses?

10 A. No.

11 Q. Did you read any of their deposition  
12 transcripts?

13 A. No.

14 Q. Did you talk to them about their  
15 testimony?

16 A. Yes.

17 Q. Did you talk to your boyfriend?

18 A. Yes.

19 Q. Did you talk to him about what he felt was  
20 your emotional state as you were entering this  
21 walkway area?

22 A. No.

23 Q. Did you know that he testified that you  
24 were nervous, anxious as you were walking into this  
25 walkway area?

1 A. I'm sure. Okay.

2 Q. Did you know that?

3 A. I did not.

4 Q. Okay. Did you have any conversations at  
5 the time on October 12, 2012 with Joe, Allison or  
6 Elizabeth about being scared?

7 A. I don't remember.

8 Q. Do you remember clutching onto your  
9 boyfriend or one of your friends?

10 A. Yes.

11 Q. Beg your pardon?

12 A. To Joe.

13 Q. What did you do?

14 A. I just clutched onto him.

15 Q. Arm or his torso, what did you do?

16 A. Torso.

17 Q. Did you put your arm around him?

18 A. Uh-huh.

19 Q. Squeeze him?

20 A. Yes.

21 Q. Do you agree that's something that someone  
22 who is frightened would do?

23 A. Frightened or nervous.

24 Q. Thank you, frightened or nervous. Were  
25 you nervous?

1 A. Yes.

2 Q. But you don't recall saying anything like,  
3 oh, I'm scared or I'm nervous --

4 A. No.

5 Q. -- to Joe or any of your friends or  
6 cousin?

7 A. No.

8 Q. Okay. So let's take a look then at --  
9 because I think you and I were talking about this  
10 before, I'm trying to figure out which one is the  
11 best, probably 9. Nine, and I'll tell you what, if  
12 12 -- no, 13 is actually even better. Using  
13 Exhibits 9 and 13, can you tell me where you were  
14 when you first observed this character?

15 A. Do you me want to mark it or --

16 Q. Point it to me first and then we'll have  
17 you mark it, please.

18 A. Do you have the other picture?

19 Q. I'm going to show you any picture that you  
20 want.

21 A. Do you have another picture?

22 MR. MAISLIN: That's the pile.

23 Q. You go ahead. I don't think these are  
24 going to be helpful. This one might.

25 A. Yeah.

1 Q. These will not.

2 A. I was probably about right here maybe.

3 And then you just want me to --

4 Q. I'm going to have you mark it in a second.  
5 I just want you to acclimate yourself to where you  
6 think you were.

7 MR. MAISLIN: Don't guess. If you're  
8 guessing or if you're estimating or not sure,  
9 at least just say that on the record when you  
10 say --

11 A. Yeah, I'm not exactly 100 percent sure.  
12 I'm guessing.

13 Q. Here's what I would ask. If you -- me  
14 personally, guessing to me is you don't know, okay,  
15 you're just not sure enough to answer. Estimating  
16 is a little different. If you have enough  
17 information in your head to estimate where you were,  
18 I'm not asking you for a specific spot, just an  
19 area, then I would accept an estimate. Guessing, I  
20 agree with your term. We don't want you guessing  
21 because that just tells me you don't know, and we  
22 don't want you speculating or testifying to  
23 something you don't know.

24 A. I know where I fell.

25 Q. We'll get to that. I'm not trying to be

1 rude, I just want get to do you know the area where  
2 you were walking when you first observed this  
3 character that was on all fours?

4 A. Yes.

5 Q. Okay. Using whatever exhibits you want to  
6 use, why don't you put a stick figure as to where  
7 you believe you were. Make it big.

8 A. (Witness complies).

9 Q. And put MD above the head.

10 A. (Witness complies).

11 Q. At the time, were you still having your  
12 arm around your boyfriend?

13 A. Yes.

14 Q. So when you observed this individual on  
15 all fours -- did this individual pop out of the  
16 door, the doorway?

17 A. Yes.

18 Q. That's what first caught your attention?

19 A. Yes.

20 Q. Where were your two friends?

21 A. Up here.

22 Q. How far ahead of you were they?

23 A. Not very far.

24 Q. Twenty feet, two feet, just in front of  
25 you, can you estimate that?

1           MR. MAISLIN: Only if you can. Just for  
2           the record, she's making funny faces.

3           A. I'd say two to four feet.

4           Q. We're looking at Exhibit 5, and you've  
5           shown me the approximate, can I use approximate,  
6           location of where you were when you first observed  
7           this individual on all fours, correct?

8           A. Yes.

9           Q. And Exhibit 9 doesn't really show you  
10          where you were, is that what you're saying?

11          A. It doesn't really give me a whole picture  
12          and I can't picture it.

13          Q. Same thing with 13, you can't tell from  
14          the angle there?

15          A. No.

16          Q. That's okay. So when you were in the area  
17          of the walkway that you've marked for us on  
18          Exhibit 5, that's when you first observed this  
19          individual pop out of the doorway on all fours?

20          A. Yes.

21          Q. Was there anybody else?

22          A. The ticket woman.

23          Q. This was a ticket woman. Okay. And if we  
24          use Exhibit 12, does that help? Was that chair  
25          there?

1 A. It was here.

2 Q. Okay. What I'd like for you to do is draw  
3 a stick figure as to where the ticket taker was?

4 A. (Witness complies).

5 Q. That's on Exhibit 12. Just put TT.

6 A. (Witness complies).

7 Q. And that's ticket taker, right?

8 A. Uh-huh.

9 Q. Yes?

10 A. Yes.

11 Q. And using Exhibit 12, this is the location  
12 of where the person came out of the doorway on all  
13 fours?

14 A. Yes.

15 Q. Was this person -- when you're walking  
16 down the walkway, was your attention focused ahead  
17 to this ticket taker or were you looking out in the  
18 parking lot, were you looking at your -- what side  
19 of your body was your boyfriend on, left or right?

20 A. Right.

21 Q. So you were holding him with your right  
22 hand?

23 A. Yes. Well, both.

24 Q. Oh, you were holding him with both hands?

25 A. Yes.



1 Q. So you were holding him with both hands.  
2 But you were on his left side, he was on your right  
3 side?

4 A. Right.

5 Q. You were closer to the building?

6 A. Yes.

7 Q. Okay. As you were walking down, were you  
8 looking at him, were you like hiding your eyes like  
9 this, meaning your arm over your eyes, or were you  
10 looking straight ahead?

11 A. I was looking ahead.

12 Q. So the ticket taker would have been in  
13 your field of vision?

14 A. Yes.

15 Q. So you would have seen this individual pop  
16 out of the entranceway?

17 A. Yes.

18 Q. Okay. Thank you. And you have answered  
19 that question. Thanks. This individual that popped  
20 out, you saw this person had a costume on?

21 A. Yes.

22 Q. In your brain, were you able to associate  
23 that this was somebody associated with the Dungeons  
24 of Delhi?

25 A. Yes.

1 Q. You indicated this person was an employee  
2 of Delhi?

3 A. Yes.

4 Q. How do you know?

5 A. I'm sorry, say that again.

6 MR. POWELL: Is that you?

7 MR. MAISLIN: You mean the complaint?

8 Yeah, that would have just been my blanket  
9 language.

10 Q. You don't know whether this person was an  
11 employee of Delhi or not, do you?

12 A. No.

13 Q. About how long did it take you from the  
14 time you purchased your ticket to the time you got  
15 to the point in Exhibit 5, about?

16 A. Maybe a minute or less. I mean, we just  
17 purchased our tickets and went.

18 Q. This person was on all fours?

19 A. Yes.

20 Q. Came out of the entrance on all fours?

21 A. Yes.

22 Q. And did you see this person move towards  
23 you on all fours?

24 A. Yes.

25 Q. And I think you said he did it at a rapid

1 pace?

2 A. Yes.

3 Q. What did the two girls in front of you do?

4 A. I don't remember.

5 Q. What did --

6 A. They saw me. They saw him chase down the  
7 ramp. And since he was obviously running after, you  
8 know, I ran and they were concerned what was about  
9 to happen. And they really -- just everything  
10 happened so quickly. It's just kind of like time  
11 froze still and they just kind of watched. So they  
12 didn't really move. They kind of were just like,  
13 oh, my God.

14 Q. Okay. Let's -- I'm a one step at a time  
15 type person.

16 A. Okay.

17 Q. This person pops out of the doorway?

18 A. Yes.

19 Q. And starts approaching you on all fours at  
20 a very rapid pace?

21 A. Yes.

22 Q. Well, Elizabeth and Allison were in front  
23 of you kind of by each other side by side. I think  
24 that's how you described it?

25 A. Yes.

1 Q. Did they move out of the way?

2 A. They were already kind of on the side of  
3 the gate to begin with so they weren't in the way.

4 Q. Did you see this person go around them?

5 A. No. He was -- he had a good -- he had a  
6 clear path.

7 Q. Did you see this person as he passed them  
8 even if he had a clear path? There was room enough,  
9 what you're telling me, for this guy to be on all  
10 fours?

11 A. Yes.

12 Q. And your friends to be walking in the  
13 walkway?

14 A. They were stopped.

15 Q. They stopped?

16 A. Yes.

17 Q. Did all of you stop as soon as you saw  
18 this person pop out of the --

19 A. Yes.

20 Q. Did they scream?

21 A. No.

22 Q. Did they say anything?

23 A. No.

24 Q. Did they get closer back? Did they back  
25 themselves up against the gate?

1           A.    A bit.

2           Q.    Which would have given this individual  
3 more room to get out of the way.  And what did Joe  
4 do at that time?

5           A.    Joe kind of clutched on to me harder so I  
6 didn't turn and run, but I pulled away.

7           Q.    Did you scream?

8           A.    I don't remember screaming.  I just  
9 remember turning and running.

10          Q.    Did Joe say anything to you?

11          A.    I don't remember.  I just remember him  
12 chasing after me and me turning and running and him  
13 chasing after me until I fell, and then what  
14 happened after I fell.

15          Q.    Okay.  When you turned around to run out  
16 of the walkway area, were you looking back?

17          A.    No.

18          Q.    You were looking forward.  You were  
19 looking at the opening to get out of there?

20          A.    Yes.

21          Q.    Do you know what the person on all fours  
22 did in terms of following you while you were running  
23 out?  If you didn't look back, how do you know what  
24 this person did?

25          A.    I'm not sure.

1 Q. When he popped out --

2 A. Yes.

3 Q. -- and started rapidly approaching you,  
4 you were already holding onto your boyfriend?

5 A. Yes.

6 Q. And your boyfriend probably felt you tense  
7 up and started holding onto you?

8 A. Yes.

9 Q. I imagine that he had an understanding --

10 MR. MAISLIN: Objection.

11 Q. -- I'm not trying to have you think for  
12 him unless you know, but that you were getting ready  
13 to bolt. Did you tell him you were going to bolt?

14 A. No.

15 Q. Do you know why else he would have held  
16 onto you?

17 MR. MAISLIN: Objection.

18 Q. Do you know?

19 A. Because I guess he felt that I was about  
20 to pull away.

21 Q. And when you did pull away, you told me  
22 that you started running out of the walkway?

23 A. Yes.

24 Q. And you did not look back?

25 A. No.

1 Q. That's correct?

2 A. That's correct.

3 Q. That's my fault. That's the way I asked  
4 the question. I deserve that answer. My question I  
5 think when we started this line was how do you know  
6 what this ghoul was doing if you were running out of  
7 the walkway and not looking back?

8 A. I could hear him chasing after me. I  
9 could hear him running.

10 Q. Well, you said running. Was he running --

11 A. Well, he was on all fours. I could  
12 hear --

13 Q. Moving fast?

14 A. Yeah, I could hear his feet on the ground.  
15 You can hear people against the concrete. And when  
16 I fell, I could -- my head turned and I could see  
17 what was going on behind me because I was on the  
18 ground, and then everything came into view and then  
19 I could -- you know, he walked away. He was gone.  
20 He didn't come out. He wasn't there.

21 Q. Do you know how far behind you he was?

22 A. No.

23 Q. At any point?

24 A. No.

25 Q. Now, this occurred before, this being this

1 chase, occurred before you entered the actual  
2 structure of the haunted house, correct?

3 A. Yes.

4 Q. And I think you've testified before, you  
5 had an expectation that the activities or the  
6 frightening part of it would not occur until you got  
7 into the house?

8 A. Correct.

9 Q. But you've already testified that there  
10 was a character dressed as a Grim Reaper that was at  
11 least placing you on a little more heightened level  
12 of awareness, a little bit frightening, scaring  
13 before you even got inside the house, right?

14 A. Correct.

15 Q. And have you ever talked to anybody, any  
16 of your friends, I don't want to talk about anything  
17 that your attorney might have said to you, but any  
18 person that agrees with you that when you go to a  
19 haunted house and you purchase a ticket to go into a  
20 haunted house, that you should not be subject to  
21 getting scared or frightened or encountering these  
22 experiences until you're actually inside the  
23 structure of the house?

24 MR. MAISLIN: Objection.

25 A. Yes.



1 Q. Who?

2 A. I mean, just friends or anyone?

3 Q. Anybody other than your attorney. Did you  
4 ever have a discussion about we're going to a  
5 haunted house and until we get inside the house, we  
6 should not be scared, we should not be experiencing  
7 any activity that would scare us or frighten us?

8 A. My mom agrees that I should not be  
9 frightened until I'm in a haunted house.

10 MR. MAISLIN: I'm sorry, you're talking  
11 about before this incident?

12 MR. POWELL: Yes, before the incident.

13 A. Oh, before?

14 Q. Yes.

15 A. No. Sorry, I didn't understand.

16 Q. No, that's my problem. After the  
17 incident, I think we've talked about your mother?

18 A. Yes.

19 Q. Other than your mother, have you talked to  
20 anybody else that agrees that a person who is going  
21 to a haunted house should not be subject to getting  
22 scared or frightened until after they enter the  
23 haunted house?

24 MR. MAISLIN: Objection.

25 A. I believe Joe.

1 Q. Tell me your discussions with Joe on that  
2 subject.

3 A. Well, he obviously believes that it  
4 shouldn't have happened.

5 Q. You said obviously. Why did you say  
6 obviously?

7 A. We've talked. I've talked with him about  
8 it. He believes that I shouldn't have been chased  
9 outside the haunted house and people shouldn't be  
10 chased. We've discussed that. And the rest of my  
11 family agrees that people shouldn't be chased after  
12 the incident.

13 Q. Other than your mother, Joe and other  
14 members of your family, have you had discussions on  
15 this subject after your accident?

16 A. My friends, my friend Colleen, my friend  
17 Katie. Anyone who I tell the story to disagrees  
18 with what happened that night.

19 Q. In terms of being chased?

20 A. Yes.

21 Q. Have any of your friends told you that  
22 they've been to haunted houses where there are  
23 activities related to scaring and frightening  
24 patrons, that this is a common encounter at these  
25 haunted houses?

1           MR. MAISLIN:  Objection.  Could you  
2           rephrase that question?

3           A.    Yes.

4           Q.    Have you spoke to anybody before or after  
5           this incident where your family, your friends told  
6           you that encountering characters who attempt to  
7           frighten you or scare you or chase you are a common  
8           occurrence at haunted houses?

9           MR. MAISLIN:  Objection as to form.  You  
10          didn't limit it to inside or outside, but --

11          Q.    Outside.  Sorry, outside.

12          A.    I've never heard of it outside, I don't  
13          think.  I don't think anyone has told me that they  
14          were chased outside of a haunted house before.

15          Q.    Before entering?

16          A.    Right, or after.

17          Q.    Well, Sydney talked to you about that?

18          A.    Yeah.  That was the first time I have  
19          heard of people actually getting chased to their  
20          cars, and I was like, oh, that's crazy.

21          Q.    But that's before this incident?

22          A.    Right.

23          Q.    So you had that in your head that there  
24          are scaring or frightening antics or techniques that  
25          are used at these Halloween houses that occur

1 outside of the structure, you had that information  
2 before October 12th of 2012, correct?

3 A. Right.

4 MR. MAISLIN: Objection to form. It's  
5 limited.

6 Q. I thought in your complaint you identified  
7 this individual --

8 A. I'm sorry, can we go back to this? I want  
9 to change -- I've been looking at it. I want to  
10 move it up a little bit farther. I want to move it  
11 up a bit further. Should I cross that out or  
12 just --

13 Q. No. Draw big, please.

14 MR. MAISLIN: Or maybe put a star with an  
15 arrow or something.

16 MR. POWELL: I'll correct it.

17 MR. RINEAR: It's going to be hard to  
18 see.

19 MR. MAISLIN: Do you mind if I just put a  
20 2 --

21 MR. POWELL: Well, I'm going -- oh, you  
22 put MD?

23 MR. MAISLIN: MD again, so I thought  
24 maybe put a 2 and a circle around the MD just  
25 to identify it because when we get copies, it

1           will be black and white.

2   BY MR. POWELL:

3           Q.    Why don't we do this, put MD just in the  
4   green, put a 1 over it and then in the red put a 2.

5           A.    (Witness complies).

6           Q.    And for the record, on Exhibit 5 you just  
7   said to me that initially you drew a stick figure at  
8   my request to show me where you felt that you were  
9   when you first observed this individual come out of  
10   the house?

11          A.    Yes.

12          Q.    Then as you were looking at this, correct  
13   me if I'm wrong, you feel that you were closer to  
14   the entrance when you first saw this individual?

15          A.    Yes.

16          Q.    And we've marked that MD with a 2 over  
17   that?

18          A.    Yes.

19          Q.    And that is where you believe is more  
20   accurate as to where you were when you first  
21   observed this individual come out of the house?

22          A.    Yes.

23          Q.    Okay.  Approximately what distance is  
24   this?  It's hard to tell.  I'm not holding you to  
25   this, but --

1           A.    I don't know.  I don't know how long the  
2 walkway is.

3           Q.    More than five feet?

4           A.    Yeah.  Oh, you mean from --

5           Q.    Where MD 1 is and MD 2 is.

6           A.    I'd say roughly five feet-ish.  That's a  
7 rough estimate.

8           Q.    No problem.

9           A.    Maybe two to five feet.

10          Q.    Okay.  Not more than five feet?

11          A.    No.

12          Q.    Any significance in terms of your  
13 recollection or piecing this together in terms of  
14 where you were standing or where you were walking at  
15 the time you first observed this individual, one  
16 location versus the other?

17          A.    I just remember running farther than where  
18 I was.

19          Q.    What I was going to ask you is in your  
20 complaint you -- well, you sued an individual named  
21 Matt Mateikat?

22          A.    (WITNESS NODS HEAD.)

23          Q.    Yes?

24          A.    Yes.

25          Q.    Do you know who Matt Mateikat is?

1           A.    I -- my friend, well, friend at the time,  
2    Sydney Terry, is friends with him.  I don't know if  
3    she's still friends with him, to be honest, but I  
4    don't have a personal relationship with him at all.  
5    I have an idea of who he is, but I have never met  
6    him in person.

7           Q.    You did not know him before?

8           A.    No.

9           Q.    And how did you know this person was Matt  
10   Mateikat?

11          A.    Sydney Terry told me and my friend Kara  
12   Ridder.

13          Q.    Sydney and Kara?

14          A.    Yes.

15          Q.    What is Kara's last name?

16          A.    Ridder, R-I-D-D-E-R.

17          Q.    You never talked to this Matt guy, did  
18   you?

19          A.    Yes, I have not.  I have never talked to  
20   him, but I have tried to reach out to him.

21          Q.    Before this incident, you did not talk to  
22   him?

23          A.    No.

24          Q.    And the only reason you thought this  
25   individual was Matt Mateikat was because Sydney and

1 Kara Ridder told you?

2 A. Yes.

3 Q. That was after the accident you wanted to  
4 know who that was?

5 A. After the accident, yes.

6 Q. Other than Sydney and Kara telling you in  
7 response to your inquiry as to who this person was,  
8 did you do anything else to confirm that that person  
9 was, in fact, Matt Mateikat?

10 A. I looked up pictures of his character  
11 online. He has a Facebook page and I confirmed what  
12 I saw that night with his character and it is him.

13 Q. You did some Internet research?

14 A. Yes.

15 Q. The night of the incident?

16 A. Yes. I'm sorry, not the night of the  
17 incident, not the night of the incident. A few --

18 Q. Do you know what character he was supposed  
19 to be?

20 A. -- a bit later.

21 Q. I'm sorry.

22 A. Mad Matt.

23 Q. Mad Matt?

24 A. Yes. I don't know how long after it was,  
25 but it was not the night of the incident.



1 Q. And I heard you testify that once you took  
2 off, you did not look back but you heard him?

3 A. Yes.

4 Q. Do you know how far down the walkway, and  
5 I'm just going to use this character, how far this  
6 individual went down the walkway?

7 A. No.

8 MR. MAISLIN: What do you mean went down  
9 the walkway?

10 MR. POWELL: Well, he was chasing her on  
11 all fours, how far he traveled down the  
12 walkway in terms of chasing her, where did he  
13 stop?

14 MR. MAISLIN: Object. It's asked and  
15 answered and she testified earlier that he  
16 came all the way up to her even after she fell  
17 down and then walked away.

18 MR. RINEAR: Objection. She never said  
19 that.

20 MR. POWELL: I'll confirm that.

21 Q. Going down this line of questioning, you  
22 did not look back?

23 A. No.

24 Q. So you did not see this individual  
25 traveling towards you after you took off running,

1 after you turned around and took off running towards  
2 the entrance of --

3 MR. MAISLIN: Objection; asked and  
4 answered. She said she saw him when she fell  
5 down and she turned around and her gaze  
6 shifted and everything came into view and he  
7 was right there.

8 MR. RINEAR: I'm going to object to the  
9 coaching here. Let's let the witness answer  
10 the question.

11 MR. MAISLIN: I'm not coaching, I'm  
12 repeating.

13 MR. POWELL: No, because how did he get  
14 there, on all fours? Did she testify to that?

15 MR. MAISLIN: She didn't testify he was  
16 on all fours. She testified that she could  
17 hear him, his feet hitting the concrete behind  
18 her, all the way until even after she fell.  
19 When she fell on the ground, she turned and  
20 everything came into view and he was there at  
21 which time he walked away.

22 MR. RINEAR: And that is not what she  
23 testified to. I object to you coaching the  
24 witness.

25 MR. MAISLIN: It is exactly what she

1 testified to. I object to you objecting to  
2 me.

3 MR. POWELL: All right. Let's go through  
4 this because I'm confused so I'm going to ask  
5 the question again.

6 MR. MAISLIN: Fair enough.

7 BY MR. POWELL:

8 Q. You told me that once you turned around  
9 and started running, you ran, right?

10 A. Yes.

11 Q. You ran after you turned around --

12 A. Yes.

13 Q. -- broke away from Joe's embrace?

14 A. Yes.

15 Q. And you ran towards the opening of this  
16 walkway?

17 A. Yes.

18 Q. You did not look back?

19 A. No.

20 Q. But you heard this individual traveling  
21 towards you?

22 A. Yes.

23 Q. You told me you heard his feet hitting the  
24 concrete?

25 A. Yes.

1 Q. And then you told me you stumbled at some  
2 point at the opening of the walkway?

3 A. Yeah, somewhere in here.

4 Q. We'll talk about that. I just want to  
5 clear up this one issue.

6 A. Okay.

7 Q. At the area you fell --

8 A. Yes.

9 Q. -- you were on the ground?

10 A. Yes.

11 Q. You testified at that point you saw this  
12 individual that you identified as Mad Matt?

13 A. I felt -- not felt, sorry, heard him  
14 running. Up until the point when I fell, everything  
15 came into view, I fell still -- I heard him running  
16 up until I fell. After I fell, he was gone. So he  
17 chased me up until I fell.

18 Q. Okay. Now, when you say you fell, are you  
19 talking about the area that you landed or are you  
20 talking about the area where you first started the  
21 process of stumbling, is what you testified to?

22 A. I'm sorry, I didn't hear you at the first  
23 part.

24 Q. Stumbling or where you landed?

25 A. I didn't hear the first part of the

1 question.

2 Q. You said that you heard him up and to the  
3 point you fell?

4 A. Until I hit the ground.

5 Q. And is where you hit the ground and where  
6 you landed the same area?

7 A. Yeah.

8 Q. Okay. So when you landed after you fell,  
9 you didn't hear him anymore, correct?

10 A. No.

11 Q. That's correct?

12 A. Yeah.

13 Q. Did you see him?

14 A. No.

15 Q. From the time you stumbled at or near the  
16 end of the walkway to the area that you fell and  
17 landed, did you see this individual that you've  
18 identified as Mad Matt?

19 A. Only when he ran out of the door.

20 Q. Okay. That's different than what you  
21 said. So --

22 MR. MAISLIN: What was the answer?

23 MR. POWELL: Not until -- other than when  
24 he ran out of the door.

25 Q. Because you didn't turn around to look,

1 correct? After you took off -- this individual  
2 scared you, this individual frightened you. You  
3 turned around and ran out of the walkway, attempted  
4 to, correct?

5 A. Yes.

6 Q. You didn't turn back to look at this  
7 individual, you just heard this individual, correct,  
8 chasing you?

9 A. I'm trying to think.

10 Q. That's okay.

11 A. I know 100 percent that he chased me.

12 Q. I'm not --

13 A. And I know that I -- my memory, I would  
14 know that he chased me based more off just hearing  
15 him. So I would have had to have turned around.

16 Q. Do you remember turning around?

17 A. Yes, I do.

18 Q. Where were you when you turned around?

19 A. The more I think about it, I did turn  
20 around.

21 Q. When?

22 A. Right before I exited.

23 Q. Right before the accident?

24 A. Right before I exited.

25 Q. Exited, I'm sorry.

1           A.    I turned around and he was still chasing  
2 me.

3           Q.    Were you in the process of stumbling when  
4 you turned around?

5           A.    I don't think so, no.

6           Q.    So before you stumbled, you turned around  
7 to look to see if he was still chasing you?

8           A.    Yes.

9           Q.    Was he still chasing you?

10          A.    Yes.

11          Q.    How far from you was he?

12          A.    That, I don't know. I don't remember.

13          Q.    I want to ask you to estimate. If you  
14 can't, you just tell me. Was he more than 20 feet  
15 from you -- or, I'm sorry, was he closer than  
16 20 feet from you?

17          A.    I'd say about 15.

18          Q.    And that's an estimate. I'm not going to  
19 hold you to specifics, but approximately 15 feet.  
20 Was he still on all fours?

21          A.    Yes.

22          Q.    Was he still moving towards you?

23          A.    Yes.

24          Q.    He was still moving towards you?

25          A.    Yes.

1 Q. Then you turned around, turned back  
2 around, I assume?

3 A. Yes.

4 Q. Is that correct?

5 A. Yes.

6 Q. And that's when you stumbled?

7 A. Yes.

8 Q. How many steps did you take before you  
9 stumbled?

10 A. I don't know. I don't know.

11 Q. Did you actually stop or were you still  
12 running?

13 A. No, I was still running.

14 Q. Okay. Thank you. So when you turned  
15 around to see if this guy was still chasing you, you  
16 were moving?

17 A. Yes.

18 Q. After you turned around, you saw him  
19 approximately 15 feet away from you?

20 A. Yeah.

21 Q. Still on all fours?

22 A. Yes.

23 Q. Still moving towards you?

24 A. Yes.

25 Q. And I assume that he was in between where



1 you were located and where Joe, Allison and  
2 Elizabeth were?

3 A. Yes.

4 Q. He had already passed them?

5 A. Yes.

6 Q. How many steps did you take after you  
7 turned back to focus straight ahead to exit the  
8 walkway area?

9 A. I don't think I ever focused straight back  
10 ahead.

11 Q. Were you looking back at that person  
12 still?

13 A. I believe so, and that's when I think I  
14 stumbled and fell.

15 Q. So, again, I'm just paraphrasing what you  
16 said, and correct me if I'm wrong, did you go over  
17 your right shoulder or your left shoulder?

18 A. Probably right since I'm right-handed.  
19 That would make sense.

20 Q. So you looked over your right shoulder,  
21 and you were still in the process of running out.  
22 And as you were moving towards the exit, running  
23 towards the exit, you felt that you stumbled?

24 A. Yes, and then after the exit, I took a few  
25 steps and hit the ground.

1 Q. But you don't recall how many steps you  
2 would have taken after you observed him initially?

3 A. No.

4 Q. If I asked you this, I apologize,  
5 approximately how far were you when you turned  
6 around to look at him, how close to the entrance?

7 A. I don't know.

8 Q. So if I asked you to draw where you were,  
9 you couldn't do that when you turned around to see  
10 if he was still chasing you?

11 A. Maybe if we take a break. Can we take a  
12 break?

13 MR. POWELL: Yeah, that's fine.

14 (OFF THE RECORD)

15 BY MR. POWELL:

16 Q. I have a couple questions following up  
17 your testimony on this individual Matt Mateikat.  
18 You had testified that this person that you believe  
19 to be Matt Mateikat popped out of the entranceway?

20 A. Yes.

21 Q. And at whatever distance you were down  
22 that walkway?

23 A. Yes.

24 Q. As depicted in Defendant's Exhibit 5?

25 A. Yes.

1 Q. Was that person on all fours at all times  
2 that you observed that person?

3 A. Yes.

4 Q. Was his hands on the ground?

5 A. (WITNESS NODS HEAD.)

6 Q. Yes?

7 A. Yes.

8 Q. Was he on his knees or on his feet?

9 A. Feet.

10 Q. So did he look up?

11 A. Yes.

12 Q. You could see his face?

13 A. Yes.

14 Q. Likewise, when you spoke to Sydney and  
15 Kara, what did they tell you in terms of identifying  
16 that person as Mad Matt?

17 A. That it was Matt Mateikat.

18 Q. How did they know that? Did you ask them  
19 how do you know?

20 A. I said, who was the person that chased me  
21 at the haunted house that night and they said Matt  
22 Mateikat.

23 Q. How did they know?

24 A. Sydney worked with him so Sydney talked  
25 with him and he said he felt bad for chasing me.

1 Q. Okay. That's what Sydney told you?

2 A. Yes.

3 Q. And then you said something about you had  
4 tried to contact him?

5 A. Yes.

6 Q. Tell me about that.

7 A. Sydney told me that the day after it  
8 happened that he felt bad for, you know, chasing me.  
9 So I tried to contact him and tell him what happened  
10 and tell him that it was a broken ankle. I texted  
11 him, I got his number from Sydney, and no response.  
12 And then I called his house to tell him that it was  
13 a broken ankle and that I'm -- you know, as of that  
14 point I was okay. It was a broken ankle, sure, it  
15 was -- it sucked, in not such proper terms. So I  
16 just wanted to call him because I didn't want him,  
17 you know, to feel bad if he genuinely felt bad. I  
18 just wanted to be nice. And I didn't get a  
19 response. I talked to his dad on the phone. His  
20 dad said, from what I remember, his dad said, okay,  
21 I'm glad you'll be all right and I'll let him know,  
22 but I never personally talked with him.

23 Q. Using any of these photographs, can you  
24 tell me where you started -- where you fell, where  
25 you initially stumbled?

1           A.    I initially started to stumble, I'd say,  
2 probably around here somewhere.

3           Q.    Well, let's see if we can get one of them  
4 from the side. Here you go.

5           A.    Probably here. This is probably a good  
6 one. Probably around here somewhere. Yeah,  
7 probably around here somewhere.

8           Q.    I'd like for you to draw a circle. Maybe  
9 use this blue, that might be better. And I'm not  
10 holding you to a specific location at this point,  
11 just an area of where you recall where you  
12 initially stumbled?

13          A.    Okay.

14          Q.    Whatever photograph you think helps you  
15 the best.

16          A.    Probably started around here, somewhere in  
17 the general area.

18          Q.    Well, I don't want that big. That's my  
19 fault, because you're putting it out in the parking  
20 lot. An arrow or something.

21                MR. MAISLIN: You can use any of the  
22 pictures if they help, if they work better.

23          Q.    Because this looks like it's outside  
24 the --

25          A.    No, it's like in here. Do you want me to

1 draw an arrow?

2 Q. Wouldn't 8 be better?

3 A. Yeah.

4 Q. If you draw a circle, put it inside the  
5 walkway.

6 A. Probably around here.

7 Q. On Exhibit 8 you drew an area for me where  
8 you recall initially stumbling?

9 A. Yes.

10 Q. Now, in the area where you initially  
11 stumbled, do you recall tripping over any object or  
12 falling into a hole or depression in the surface?

13 A. At this moment, no.

14 Q. So if I were to ask you what caused you to  
15 initially stumble, what would your response be, do  
16 you know?

17 A. No.

18 Q. And we've marked this in green, this area  
19 in green on Defendant's Exhibit 8. In this area,  
20 and I'm using this as the area where you initially  
21 stumbled, at that point did you injure your ankle?

22 A. No.

23 Q. So --

24 A. Well, let me rephrase. I did not know if  
25 I injured anything until I fell. That's when I felt

1 my ankle.

2 Q. And I'm going to use the word ground.  
3 When you were on the ground -- so you're saying  
4 fall, and I don't know if that means from when you  
5 started the process of falling to the area where you  
6 landed --

7 A. Yeah.

8 Q. -- I just want to make certain we're clear  
9 because where you initially stumbled is different  
10 than where you landed?

11 A. Right.

12 Q. So let's just focus right here on this  
13 green area that you indicate, to the best of your  
14 recollection, is the area where you initially  
15 stumbled?

16 A. Yes.

17 Q. And you don't recall what caused you to  
18 stumble; is that correct?

19 A. Correct.

20 Q. You don't recall there being a raised  
21 portion of the pavement, correct?

22 A. I mean, there's a slight hole there. That  
23 could have been the cause of it.

24 Q. Point to the area where there's a hole.

25 A. There's a slight just divot right there.

1 Q. A divot or depression, is that what you're  
2 saying?

3 A. Yes.

4 Q. Show me where it is. Where is that  
5 depression?

6 A. Just a little bit right there.

7 Q. The X marks an area where you recall, to  
8 the best of your memory, there being a depression?

9 A. Uh-huh.

10 Q. Yes?

11 A. Yes.

12 Q. Are you certain that that's what caused  
13 you to stumble or --

14 A. No, I'm not certain.

15 Q. And in terms of the mechanics of your  
16 stumble, did you feel your ankle buckle, did you  
17 just lose your balance? Describe for me how you  
18 stumbled.

19 A. I was running, and I just felt -- kind of  
20 like when you run down a hill and you feel like  
21 you're going to fall over is how I felt.

22 Q. I used the phrase lose your balance; is  
23 that not accurate?

24 A. Kind of like inertia.

25 MR. MAISLIN: You're making an



1           indication.

2           Q.    Of falling forward?

3           A.    Yes.

4                   MR. MAISLIN:  That you would be falling  
5           forward.

6           A.    Yes.

7           Q.    And that's the other thing, were you  
8           falling forward?

9           A.    Yes.

10          Q.    And the question then becomes what caused  
11         you to fall forward, and you're saying you don't  
12         recall?

13          A.    No, I was running fast.

14          Q.    I want to make it clear just for the  
15         record, this individual, whether it was Mad Matt or  
16         any other character, he did not touch you, correct?

17          A.    Correct.

18          Q.    And as far as you can recall, the closest  
19         he came to you was about 15 feet, that you observed?

20          A.    Right, that I observed.

21          Q.    Boy, I think we were -- before we got  
22         diverted, my question was how far down the walkway  
23         did this individual travel.  Where you marked as an  
24         X, the circle with an X inside it, and you indicated  
25         you were looking back as you were exiting the

1 walkway area, you've testified to that, correct?

2 A. Yes, just a quick glance.

3 Q. I understand. Did you see this individual  
4 continue to chase you after you started stumbling?

5 A. Yeah, I guess he did. I don't recall.

6 Q. I want to know what you perceived. Did  
7 you see him continue to chase you as you started the  
8 process of stumbling?

9 A. I turned my head back at a point and saw  
10 him still chasing me. I started to fall. And until  
11 I hit the ground -- once I hit the ground is when it  
12 was over. That's all I know.

13 Q. When you hit the ground, did you see this  
14 individual?

15 A. No.

16 Q. So the last time you would have observed  
17 this individual was around the area on Exhibit 8  
18 marked with a green circle and an X inside it?

19 A. Yes.

20 Q. Which he was approximately 15 feet away?

21 A. Uh-huh.

22 Q. Yes?

23 A. Yes, or a bit before because I turned and  
24 then started stumbling.

25 Q. And then as you were stumbling, do you

1 recall whether you heard his feet hitting the  
2 concrete after that point?

3 A. I was so concerned on stumbling, I --

4 Q. You don't know; is that fair?

5 A. Yes.

6 Q. When you landed, at any point in time but  
7 certainly when you landed, did you observe this  
8 individual outside the walkway area?

9 A. He was gone.

10 Q. He might have been gone, but did you see  
11 him outside?

12 A. No.

13 Q. Did you see him outside this walkway area?

14 A. No.

15 Q. Anywhere in the parking lot?

16 A. No.

17 Q. And in terms of the mechanics of the fall,  
18 you recall stumbling in that area in Defendant's  
19 Exhibit 8. The next question I have is, where did  
20 you land?

21 A. Around --

22 Q. Well, can you show it in Exhibit 8?

23 A. No.

24 Q. Unless Exhibit 6 is the only one we can  
25 use, we'll --

1           A.    We can use this one.

2           Q.    Hold on.  Does Exhibit 7 show the area  
3 where you fell?

4           A.    No.

5           Q.    Does Exhibit 6 show the area where you  
6 fell?

7           A.    Yes.  This one is better.

8           Q.    Whatever one that you feel that you need  
9 to use.

10          A.    What do you want me to put?

11          Q.    Well, since it's a different photograph,  
12 you can put just a circle with an X.  Well, first of  
13 all, just the area.  If you know specifically where  
14 you landed, that's fine.  But if you just know the  
15 area where you landed, just put the circle.

16          A.    (Witness complies).

17          Q.    So in Exhibit 5 you've marked a circle.  
18 That's really closer to the ticket booth?

19          A.    Yes.

20          Q.    Maybe it was my fault, I misunderstood  
21 you, that's more than a few feet, right, from the  
22 area where you started to stumble?

23          A.    Yes.

24          Q.    Using Exhibit 8 and using Exhibit 5 and  
25 any other exhibits you want, from the point you

1 start stumbling, as depicted in Exhibit 8, to the  
2 area where you landed, as depicted in Exhibit 5,  
3 were you still stumbling?

4 A. Yes.

5 Q. So you -- I'm using the word out of  
6 control, but you never regained your balance or  
7 stability from the time you started your stumble in  
8 Exhibit 8 to the time you landed in Exhibit 5?

9 A. No.

10 Q. Is that correct?

11 A. Yes.

12 Q. And in this distance or in this period of  
13 time that you were in the process of stumbling and  
14 inertia moving you forward towards the actual fall  
15 and the landing, do you recall injuring your ankle,  
16 your ankle buckling, your ankle hitting anything,  
17 your ankle stepping into anything?

18 A. No.

19 Q. And when you landed in the area depicted  
20 in Exhibit 5, do you recall your ankle hurting?

21 A. I'm sorry?

22 Q. Do you recall your ankle hurting you after  
23 you landed in the area that is depicted in  
24 Exhibit 5?

25 A. Absolutely.

1 Q. And that was your left ankle?

2 A. Yes.

3 Q. Other than what you've testified to in  
4 terms of starting the stumbling process, you're not  
5 sure what caused it, but you said there was a  
6 depression there that you think may have caused  
7 your -- the stumbling process to begin. You don't  
8 know of any other condition or factor that would  
9 have caused you to injure your ankle?

10 MR. MAISLIN: Objection to form.

11 Q. Correct?

12 A. Correct.

13 Q. What kind of shoes were you wearing?

14 A. TOMS.

15 Q. Tell me what those are.

16 A. Like a flat, flat soled shoe, but they  
17 have a front and they have a back. They're not like  
18 sandals.

19 Q. Was it cold out?

20 A. It was fall.

21 Q. No ice on the ground?

22 A. No.

23 Q. Any water on the ground? Was it wet  
24 pavement?

25 A. No.

1 Q. You didn't slip?

2 A. No.

3 Q. Did you bump into the gate area?

4 A. No.

5 Q. Did you bump into anything?

6 A. No.

7 Q. Were you carrying a purse?

8 A. I don't remember.

9 Q. Were you carrying any object?

10 A. Maybe a cell phone.

11 Q. Is your normal practice to keep your cell  
12 phone in your purse, pocket, in your hand?

13 A. Before the accident, I normally didn't  
14 carry a purse so it was normally just in my pocket.

15 Q. But you don't recall if that cell phone  
16 was out of your pocket?

17 A. No, I don't recall.

18 Q. So you don't recall whether you were using  
19 your cell phone prior to the --

20 A. I was not using it.

21 Q. And as far as the lighting conditions,  
22 there was nothing about the lighting conditions that  
23 prevented you from seeing where you were walking or  
24 moving or running?

25 A. Correct.

1 Q. Tell me what happened after you fell.

2 A. After I fell, I screamed I broke my ankle,  
3 I broke my fucking ankle. And then the workers came  
4 over. My friend, cousin and my boyfriend came over.  
5 I was laying on the ground. They offered me ice and  
6 they told me that I needed to get up. And I said, I  
7 can't, I can't move, it hurts. And they offered to  
8 get my a wheelchair and I said no. And then they  
9 offered to get me -- they said they didn't have any  
10 crutches. They offered to call the ambulance and I  
11 said my dad's on his way. Oh, I'm sorry, I called  
12 my mom. She was at work. And then I called my dad,  
13 or my stepdad, and he brought the Element up, which  
14 the seats flip up in the back so they could just  
15 slide me in. And it's a big back so it's kind of --  
16 it's very spacious. He was bringing that up. And  
17 before he got there, they finally got me up and into  
18 a chair. And he got there, and they took me home.  
19 My mom got home and we decided to take me to the ER,  
20 and we went to the ER.

21 Q. Okay. That's good. Let me back up a  
22 little bit. You said they a lot. Who is they? Who  
23 was addressing you after you fell?

24 A. The workers at the haunted house and my  
25 friend, cousin and boyfriend.



1 Q. Did anybody approach you and identify  
2 themselves as the owner or the manager of the  
3 haunted house?

4 A. Someone came out and said they were, and  
5 seemed very -- not professional, but kind of more  
6 superior, but they didn't address themselves as the  
7 manager or the owner. I didn't get a name.

8 Q. Individuals associated with the Dungeons  
9 of Delhi did approach you and address your injuries,  
10 not from a medical standpoint but from trying to  
11 respond to you?

12 A. Yes.

13 Q. And do you know who those people are?

14 A. No.

15 Q. But you understood they were from Dungeons  
16 of Delhi?

17 A. Yes.

18 Q. You said they asked you something about  
19 ice, they offered to put ice on it?

20 A. Yeah.

21 Q. What did you say?

22 A. Yes.

23 Q. Did they get up and get the ice?

24 A. Yes.

25 Q. And what about the -- they said they

1 didn't have crutches?

2 A. They said they didn't have crutches. I  
3 believe they said they had a wheelchair. I said,  
4 no, that my stepdad was on his way. They offered to  
5 call a squad. I said, no, my stepdad was on his  
6 way.

7 Q. So they did try to help you?

8 A. Yes.

9 Q. Did they say anything about observing the  
10 incident?

11 A. No.

12 Q. Did Joe say anything about observing the  
13 incident?

14 A. He was very concerned about me and that  
15 was his main concern. So he wasn't --

16 Q. At that point?

17 A. -- concerned with the incident.

18 Q. What about the other two, did they say  
19 they observed the incident?

20 A. At that moment, no.

21 Q. So while you were on the ground and while  
22 you're being cared for, the main issue was taking  
23 care of you?

24 A. Yes.

25 Q. And I just want to make certain I'm clear

1 and then I can move on to the next question. At  
2 that point nobody talked about what happened?

3 A. Not that I can recall. Maybe it did  
4 happen, but I was in so much pain that I --

5 Q. For instance, do you recall anybody coming  
6 up to you, McKenzie, what happened?

7 A. I don't remember. I don't think so.

8 Q. Or someone from Dungeons of Delhi, young  
9 lady, what happened?

10 A. I don't think so.

11 Q. Okay. From the time of the incident,  
12 October 12, 2012 to the present, did anybody tell  
13 you that they observed you fall?

14 A. Besides my cousin, Allison and Joe, no.

15 Q. So Joe, Allison and Elizabeth, they saw  
16 you fall?

17 A. Uh-huh.

18 Q. Yes?

19 A. Yes.

20 Q. What did Joe tell you he observed with  
21 respect to seeing you fall?

22 A. He said he saw Mad Matt chase me until I  
23 fell and he said he saw me fall and he said he saw  
24 everything.

25 Q. Did he tell you he saw what you fell on,

1 what caused you to fall?

2 A. No.

3 Q. Did Allison say she saw you fall?

4 A. Yes.

5 Q. Did she tell you that she saw what caused  
6 you to fall?

7 A. No.

8 Q. Did Elizabeth say that she saw you fall?

9 A. Yes.

10 Q. Did she tell you that she saw what caused  
11 you to fall?

12 A. No.

13 Q. Has anybody, other than your attorney,  
14 told you what caused you to fall?

15 A. Besides being chased? No.

16 Q. The physical cause, the mechanical cause,  
17 maybe that's a better word, mechanical cause of you  
18 falling, has anybody told you that they observed the  
19 mechanical cause of your fall?

20 A. No.

21 Q. Have you been back to the Dungeons of  
22 Delhi?

23 A. No.

24 Q. Have you been back on the premises?

25 A. To view the premises, but not during

1 Halloween, to jog my memory.

2 Q. When did you do that or how many times?

3 A. Once.

4 Q. When?

5 A. A year or two ago.

6 Q. Why?

7 A. To jog my memory of the incident and to  
8 get a view of everything.

9 Q. Was Sydney working that night?

10 A. Of the incident, yes, I believe so.

11 Q. Was Kara working that night?

12 A. Kara did not work there.

13 Q. Have you spoken to anybody that said they  
14 talked to somebody who observed what happened other  
15 than these people that were with you?

16 A. Sydney Terry said she talked to someone  
17 who saw what happened, but that was like -- Sydney  
18 Terry talked to someone who talked to someone.

19 Q. What information did you get from Sydney  
20 Terry from that person who talked to some person?

21 A. Nothing. It was a very short  
22 conversation.

23 Q. So as we're sitting here today, you have  
24 not spoken to anybody that was working that night  
25 that observed you fall?

1 A. No.

2 Q. And there were no other patrons in the  
3 area, correct?

4 A. No.

5 Q. That's correct?

6 A. Yes.

7 Q. So when you went back to Dungeons of  
8 Delhi, you were in the area that's depicted in these  
9 photographs, right?

10 A. Uh-huh.

11 Q. Yes?

12 A. Yes.

13 Q. And that was for the purpose of jogging  
14 your memory?

15 A. Yes.

16 Q. Did it jog your memory?

17 A. Yes.

18 Q. Now, what I didn't ask you was -- I had  
19 you look at all these photographs, Exhibits 1  
20 through 13. Is anything depicted in these  
21 photographs different than what was existing at the  
22 time of your accident on October 12th of 2012?

23 A. The vortex tunnel I think, but that's it.

24 Q. What's the vortex tunnel?

25 A. That picture.

1 Q. That wasn't there?

2 A. No, I don't think so.

3 Q. And you did say, if we look at Exhibit 12,  
4 that metal gate that's inside the walkway, that  
5 wasn't there?

6 A. Right.

7 Q. Other than that, is everything about the  
8 same?

9 A. Yes.

10 Q. And I believe you told me that in  
11 Exhibit 12 the ticket taker, was that person sitting  
12 on a chair like this or standing?

13 A. Yeah, sitting on a chair.

14 Q. Was there anybody else in the walkway,  
15 like a Dungeons of Delhi person in the walkway?

16 A. No.

17 Q. Was there anybody in the parking lot?

18 A. Besides the Grim Reaper.

19 Q. Other than the Grim Reaper?

20 A. I don't think so.

21 Q. So we have a Grim Reaper, we have you,  
22 your boyfriend, your cousin, your friend, we have  
23 the ticket taker. That's the best of your  
24 recollection?

25 A. Uh-huh.

1 Q. Yes?

2 A. Right.

3 Q. And then the person that came out?

4 A. Right.

5 Q. Did you bang your knee or any other part  
6 of your body from the time you were starting to  
7 stumble until the time you landed?

8 A. Well, when I landed, I hit my hand but  
9 that wasn't a big deal.

10 Q. Did you hurt your hand?

11 A. I just scraped it against the concrete.

12 Q. Other than scraping your hand on the  
13 concrete, any other part of your body strike the  
14 pavement or otherwise was injured?

15 A. No.

16 MR. POWELL: Why don't we take a break.

17 (OFF THE RECORD)

18 BY MR. POWELL:

19 Q. I have some follow-up questions, then I  
20 think I'll be finished for today. You testified  
21 after this incident you had a conversation with  
22 Sydney Terry?

23 A. Yes.

24 Q. Was it a telephone conversation or a  
25 personal face-to-face conversation?



1 A. Both.

2 Q. And I mean the conversation about this  
3 incident. Both?

4 A. Both.

5 Q. Okay. So how did that come about, how do  
6 you raise the issue of this incident or did she  
7 raise the issue?

8 A. I just wanted to know who chased me, so I  
9 texted her. I was like, hey, who chased me. She  
10 told me.

11 Q. Did she tell you how she knew that it was  
12 him?

13 A. She's friends with him, so he told her he  
14 felt bad.

15 Q. That he chased you and that you fell?

16 A. He felt bad, yes.

17 Q. I mean, did he say that he chased you?

18 A. Yes.

19 Q. And that's what Sydney told you?

20 A. Yeah. In person she told me that and then  
21 later I asked, hey, what was his name again.

22 Q. Via text?

23 A. Yes.

24 Q. And she confirmed it was Matt Mateikat?

25 A. Yes.

1 Q. You still friends with her?

2 A. No.

3 Q. Is that for reasons that you just have  
4 gone in different directions or something happened  
5 that you're not friends?

6 A. A while ago we got in a stupid fight, high  
7 school drama, and we became friends again,  
8 apologized, but now we just went separate directions  
9 and we're interested in different things.

10 Q. Is she local?

11 A. She's at NKU. I believe -- I don't know  
12 if she dorms or not, but she's local.

13 Q. Is she from around here?

14 A. Yeah.

15 Q. Where at?

16 A. She lives off of Hillside off of -- either  
17 Hillside or River Road.

18 Q. Does she live with her parents?

19 A. Yes.

20 Q. Do you know what her parents' names are?

21 A. One is Rich and the other is -- I can't  
22 remember.

23 Q. Do you still have her contact information?

24 A. I believe I gave it to Blake as a witness.

25 MR. MAISLIN: She'd be listed in the

1           interrogatories if so.

2           A.    I still have it.  I might not have it.  I  
3 know I gave it to you as a contact.

4           Q.    Yep, you did.  Thank you.  You also said  
5 you talked to Kara --

6           A.    Yes.

7           Q.    -- after this incident?

8           A.    Yes.

9           Q.    And tell me about the circumstances  
10 leading up with that conversation.

11          A.    I just asked her as well if she knew who  
12 chased me.

13          Q.    How would she know if she didn't work  
14 there?

15          A.    She's friends with him as well through  
16 Sydney.

17          Q.    Did Sydney tell you that, hey, Kara knows  
18 this guy also?

19          A.    Kara told me she knew Matt.

20          Q.    Okay.  And did she tell you that she had  
21 conversations with Matt about chasing you?

22          A.    She didn't tell me she had conversations  
23 with Matt about chasing me.  She just told me in the  
24 past she knew Matt.  And I asked Kara if she knew  
25 who chased me via text and she said, yeah, Matt

1 Mateikat.

2 Q. But she didn't tell you how she knew?

3 A. No.

4 Q. She was friends with Matt?

5 A. Yes.

6 Q. But she didn't tell you she talked to him  
7 or he said that he chased you and you fell. No?

8 A. No.

9 Q. And then you said you tried to confirm,  
10 initially said that night, but later on that you  
11 were trying to confirm who it was that chased you,  
12 correct?

13 A. Well, I confirmed it with Sydney and Kara.

14 Q. Well, I know, but you also said you looked  
15 at either Facebook or a website?

16 A. I looked at Facebook. I looked at Matt's  
17 Facebook and his character, Mad Matt, looked exactly  
18 like what I saw that night.

19 Q. Did you talk to anybody else about Matt's  
20 Facebook?

21 A. Not his Facebook, no, but going back to  
22 when I contacted his -- when I tried to contact him  
23 and I talked to his dad, he said, well, thanks for  
24 letting us know, I'll let him know you're okay. So  
25 that is another indicator that it was him.

1 Q. And you've got to realize I'm in my 50s,  
2 so I'm not a Facebook person. This was Matt's  
3 Facebook?

4 A. Yes.

5 Q. Did you go on any website with respect to  
6 the Dungeons of Delhi?

7 A. No.

8 Q. So your efforts to confirm who it was that  
9 you felt chased you was looking up Matt Mateikat's  
10 Facebook page?

11 A. Yes, and he has his character posted all  
12 over it.

13 Q. And that's how you were able to say, oh,  
14 the person who's depicted -- the character who's  
15 depicted on this Facebook page is similar to the  
16 individual that I encountered that evening?

17 A. Uh-huh.

18 Q. Yes?

19 A. Yes.

20 Q. You tried to contact him?

21 A. Yes.

22 Q. And I thought you said by text?

23 A. I tried to contact him by text. I didn't  
24 get a response. And since Sydney said he felt bad,  
25 I called his house, I believe. It was another

1 number. His father picked up. And I said, this is  
2 the girl that was chased at the haunted house and I  
3 just wanted to call and say it was a broken ankle,  
4 and basically explained that I was okay, thinking  
5 that it was just a broken ankle, which as I said  
6 sucks, but not as -- I didn't think it was going to  
7 turn into what it did. And he said, well, thanks  
8 for calling, I'll let Matt know that everything's  
9 okay, which indicates that there's a correlation.

10 Q. Okay. This communication initially was  
11 sent by text message, not through Facebook or e-mail  
12 or any other social media?

13 A. Right.

14 Q. Any other attempts to contact him other  
15 than by text and by cell phone?

16 A. No.

17 Q. And did he ever contact you back?

18 A. No.

19 Q. Final question. When you were looking  
20 back at this individual on all fours chasing you --

21 A. Yes.

22 Q. -- did you observe, in addition to this  
23 person chasing towards you, Joe, Allison, Elizabeth?

24 A. I'm sorry?

25 Q. Did you observe them in the walkway?

1 A. Not that I can recall.

2 Q. Did you later learn that when this  
3 individual started traveling towards you, they  
4 didn't run, they didn't take off and run, did they?

5 A. No.

6 Q. And you did run?

7 A. Okay.

8 Q. Yes?

9 A. Yes.

10 Q. And if you would not have run, you would  
11 not have gotten injured, correct? If you would not  
12 have taken off and run, you would not have been  
13 injured?

14 A. Correct.

15 Q. You didn't fall until after you ran, after  
16 you took off and ran?

17 A. Correct.

18 MR. POWELL: Okay.

19 CROSS-EXAMINATION

20 BY MR. MILLIGAN:

21 Q. Is it okay if I call you McKenzie?

22 A. Yes.

23 Q. All right. McKenzie, my name is John. We  
24 met before the deposition. I represent Delhi  
25 Township and the trustees. I'm not going to ask you

1 anything on medicals, particularly after the  
2 incident, because we've all agreed that we're going  
3 to come back together and reopen the deposition for  
4 that purpose; do you understand that?

5 A. Yes.

6 Q. And if you have any questions, I'm sure  
7 Blake will be happy to explain that to you. I had a  
8 long list of questions and he did such a good job  
9 that I've done my best to cross out the ones you've  
10 already been asked. I may bring something up that  
11 you've already answered, I apologize. Just do your  
12 best to answer it and we'll move on. I want to get  
13 back to this Sydney person a little bit. Did she  
14 ever tell you that there would be actors outside of  
15 Dungeons of Delhi other than when they chased  
16 patrons to their car?

17 A. No.

18 Q. Did she ever say that actors would come  
19 out and take pictures with patrons?

20 A. No.

21 Q. Did she ever say that actors would come  
22 out and take breaks outside?

23 A. No.

24 Q. When you were in the walkway, we've gone  
25 to great lengths to figure out where you were and



1 where the group was, how close, and you may have  
2 said this, I may have missed it, how close did the  
3 actor get to you before you took off running?

4 A. I don't know. He just came right out of  
5 the door, start chasing me and because he chased me,  
6 I ran.

7 Q. Okay. Do you know how far he was past the  
8 group?

9 A. I don't know.

10 Q. Is it possible that he was rapidly  
11 approaching the group but not necessarily chasing  
12 you?

13 MR. MAISLIN: Objection.

14 A. No.

15 Q. It's not possible?

16 A. No.

17 Q. You've kind of gone over this a little  
18 bit. How do you know that he was chasing you?

19 A. I clearly was running from him and he  
20 continued. So if he was going after the group, he  
21 could have stopped at anyone else but he continued  
22 after me.

23 Q. And earlier in your deposition you said  
24 that you did not look back and then you said that  
25 right before, I believe, exiting the walkway you

1 glanced back?

2 A. Yes.

3 Q. And when you glanced back, you still saw  
4 the actor approaching you?

5 A. Yes.

6 Q. Okay. And he was still on all fours?

7 A. Yes.

8 Q. I'm going to leave that there. We've gone  
9 through that part in-depth. Let me ask you, why did  
10 you sue Delhi Township and the trustees?

11 MR. MAISLIN: If you know.

12 Q. If you know.

13 A. I don't know. They were part of the  
14 attraction, they were part of the Dungeons of Delhi  
15 and everything that's happened, and I have suffered  
16 a great deal from everything that's happened.

17 Q. Did you see any township employees there  
18 that night?

19 MR. MAISLIN: Just so we're clear, did  
20 you announce who you represented?

21 MR. MILLIGAN: I did.

22 MR. MAISLIN: So I think he's not asking  
23 why did you bring a lawsuit, he's asking why  
24 did you incorporate his client?

25 Q. I want to know why you think my clients

1 are responsible for your injuries?

2 A. I don't know.

3 Q. And, again, did you see any township  
4 employees there that night?

5 A. No.

6 Q. Did you see any police officers there that  
7 night?

8 A. Not that I'm know of.

9 Q. Did you see anybody who approached you and  
10 said, I'm a trustee or I'm from the township?

11 A. No.

12 Q. After the incident, did anybody contact  
13 you from the township?

14 A. No.

15 Q. Did anybody from the police department  
16 contact you to take a statement or discuss what  
17 happened?

18 A. No.

19 MR. MILLIGAN: I think that's all the  
20 questions I have.

21 (DEPOSITION CONTINUED IN PROGRESS)

22 (Witness excused.)

23 (Deposition concluded at 1:07 p.m.)

24

25 MCKENZIE DAVIS

DATE

1 )

2 STATE OF OHIO )

3 )

4 I, Mindy Davis, Notary Public for the State of  
5 Ohio, do hereby certify:

6 That the witness named in the deposition, prior  
7 to being examined, was by me duly sworn;

8 That said deposition was taken before me at the  
9 time and place therein set forth and was taken down  
10 by me in shorthand and thereafter transcribed into  
11 typewriting under my direction and supervision;

12 That said deposition is a true record of the  
13 testimony given by the witness and of all objections  
14 made at the time of the examination.

15 I further certify that I am neither counsel for  
16 nor related to any party to said action, nor in any  
17 way interested in the outcome thereof.

18 IN WITNESS WHEREOF I have subscribed my name  
19 and affixed my seal this 2nd day of July, 2015.

20

21 MINDY DAVIS

22 Notary Public

23 My Commission expires: 04/03/16

24

25