

IN THE COURT OF COMMON PLEAS

HAMILTON COUNTY, OHIO

CIVIL DIVISION

CASE NUMBER: A1402190

MCKENZIE DAVIS & JENNIFER BLUM

PLAINTIFFS

vs.

DELHI TOWNSHIP, OHIO  
DBA DUNGEONS OF DELHI, ET AL.

DEFENDANTS

\* \* \* \* \*

DEPONENT: JOSEPH GIOVANETTI

DATE: OCTOBER 31, 2014

\* \* \* \* \*

Mindy Davis

Certified Court Reporter

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1           The deposition of JOSEPH GIOVANETTI, taken for  
2 the purpose of discovery and/or use as evidence in  
3 the within action, pursuant to notice, heretofore  
4 taken at the Law Offices of Blake Maislin, 2260  
5 Francis Lane, Cincinnati, Ohio , on October 31,  
6 2014, at 1:50 p.m., upon oral examination, and to be  
7 used in accordance with the Ohio Rules of Civil  
8 Procedure.

9   \* \* \* \* \*

10   APPEARANCES

11   ATTORNEY FOR PLAINTIFFS:

12   Blake R. Maislin, Esq.

14   ATTORNEY FOR DEFENDANTS:

15   Richard J. Rinear, Esq.

16   Carolyn A. Taggart, Esq.

17   John M. Milligan, Esq.

18   John K. Benintendi, Esq.

19  
20   \* \* \* \* \*

21  
22  
23  
24  
25

1                                   JOSEPH GIOVANETTI,  
2   called on behalf of the Plaintiffs, after having  
3   been first duly sworn, was examined and deposed as  
4   follows:

5                                   EXAMINATION

6   BY MR. MAISLIN:

7           Q.   How do you, Joe. My name is Blake  
8   Maislin. I've asked you here to take your  
9   deposition about an incident that occurred in the  
10   fall of -- more specifically in October of 2012 when  
11   Mckenzie Davis fell and got hurt in a haunted house,  
12   okay?

13          A.   All right.

14          Q.   Have you ever had your deposition taken  
15   before?

16          A.   No, I have not.

17          Q.   Just a couple of ground rules, and it's  
18   only because everything we're talking about is being  
19   taken down by our court reporter, okay? First is we  
20   have to speak out loud and audible. So if you nod  
21   your head or you say uh-huh or huh-uh, we all know  
22   what you mean, but we'll ask you to rephrase it,  
23   okay?

24          A.   Yes.

25          Q.   Second thing is we have to make sure we

1 don't talk over each other. Sometimes in casual  
2 conversation we do that, which is totally fine, but  
3 here we have to go one at a time because everything  
4 is being taken down. If you don't understand my  
5 question or if you don't know the answer or you're  
6 not sure, just say that out loud and that's totally  
7 fine. If you do answer, it's going to be presumed  
8 that you understood what we were talking about,  
9 okay?

10 A. Okay.

11 Q. And can you state your full name for the  
12 record?

13 A. Joseph Robert Giovanetti.

14 Q. How do you spell the last name?

15 A. G-I-O-V-A-N-E-T-T-I.

16 Q. And how old are you?

17 A. I'm 19.

18 Q. And where do you live?

19 A. Like address-wise?

20 Q. Yes.

21 A. 2320 Quail Run Farm Lane.

22 Q. Is that in Cincinnati?

23 A. Yes, it is.

24 Q. And what's the zip, 45?

25 A. 233.

1 Q. Who do you live there with?

2 A. My mom and dad and two of my brothers who  
3 are both older.

4 Q. Were you born and raised in Cincinnati?

5 A. Yes.

6 Q. Ever live out of town for any reason?

7 A. Me personally, no, but my parents have.

8 Q. Just you. Have you ever lived outside of  
9 Cincinnati?

10 A. No.

11 Q. Are you going to school?

12 A. Yes, I am.

13 Q. And where do you go?

14 A. University of Cincinnati.

15 Q. And what are you taking there?

16 A. Pre-pharmacy, the second year.

17 Q. And where did you graduate from high  
18 school?

19 A. Elder High School.

20 Q. And what year did you graduate?

21 A. 2013.

22 Q. How are your grades at UC?

23 A. I have a 3.939 GPA overall.

24 Q. And what do you do for fun? Do you have  
25 time for fun with the pre-pharm?

1           A.     Mainly I work.  But other than that, I  
2 play with -- I just hang out on Xbox with friends or  
3 do something with Mckenzie like Newport, movies.

4           Q.     And that's Mckenzie Davis?

5           A.     Mckenzie Davis, yes.

6           Q.     Is she your girlfriend, is that a fair way  
7 of saying it?

8           A.     Yes, it is.

9           Q.     And where do you work?

10          A.     Kroger Pharmacy in Western Hills.

11          Q.     And what do you do there?

12          A.     I'm a technician.  I help fill out  
13 prescriptions.  I put them in the computer and count  
14 and pour.

15          Q.     And how long have you been doing that?

16          A.     Since August of 2013.

17          Q.     What else have you done for work, if  
18 anything, McDonalds?

19          A.     I worked for my dad just filing  
20 information, like patient information.

21          Q.     What does your dad do?

22          A.     He's an optometrist.

23          Q.     And when did you do that?

24          A.     I would say the summer between junior and  
25 senior year of high school.

1 Q. And tell me about your relationship with  
2 Mckenzie. How did you guys meet?

3 A. We met through a mutual friend and started  
4 through texting, and then we met up at General  
5 Custer's.

6 Q. And when was that?

7 A. August, beginning of August in 2011.

8 Q. Have you guys been together ever since or  
9 have you had periods of breakup and get back  
10 together?

11 A. No, we've been together ever since.

12 Q. Have you ever lived together?

13 A. No.

14 Q. And how often have you guys seen each  
15 other over the last -- well, let me ask you this:  
16 Has the amount of time that you've spent with each  
17 other changed over the last three years?

18 A. I would say yes because going into a more  
19 rigorous schedule with college, we don't really get  
20 as much time, we both do. So like maybe once a  
21 weekend as opposed to in high school we'd probably  
22 hang out at least twice, maybe three times a week.

23 Q. And you said because both of your  
24 schedules. My understanding is that Mckenzie, is  
25 she in nursing school?



1 A. Yes.

2 Q. And where does she go to school?

3 A. Good Samaritan College of Nursing, I think  
4 is what it's called.

5 Q. Let me take you back to the Dungeons of  
6 Delhi incident in 2012. Prior to the date on which  
7 Mckenzie fell and got injured, had you ever been  
8 there before?

9 A. No, I hadn't.

10 Q. Do you know if Mckenzie had ever been  
11 there before?

12 A. I don't believe she had. I know she's  
13 been to the Dent, but not that one, I don't think.

14 MS. TAGGART: I'm sorry, I couldn't hear  
15 what you said.

16 A. I think she's been to the Dent one, but I  
17 don't think she's been to Dungeons of Delhi.

18 MS. TAGGART: Thank you.

19 MR. MILLIGAN: Dent Schoolhouse?

20 A. Yes.

21 Q. Were you at Dent with her or --

22 A. No, this was before the relationship.

23 Q. So let's talk about the event itself. So  
24 you went to the Dungeons of Delhi. Do you remember  
25 the exact date by any chance?

1           A.    I'm not completely sure, but I know it was  
2 the day that Elder was playing St. X because I  
3 didn't really want to go to the Dungeons of Delhi  
4 when it was our biggest rival.

5           Q.    Okay.  But you ended up going, correct?

6           A.    Yes.

7           Q.    And how did you get there, did you drive?

8           A.    I did drive.

9           Q.    Was anybody in the car with you?

10          A.    It was just me and Mckenzie, and then I  
11 believe Elizabeth and Allison drove separately.

12          Q.    Okay.  But in your car it was you and  
13 Mckenzie?

14          A.    Yes.

15          Q.    And then I'm picking up that -- did the  
16 two of you meet other people there?

17          A.    Yes.

18          Q.    And who did you guys meet there?

19          A.    Elizabeth Schradin and Allison Sweet.

20          Q.    Do you know how do you spell Schradin?

21          A.    S-C-H-R-A-D-I-N, I believe.

22          Q.    And what time did you get to the -- when I  
23 say haunted house, I mean Dungeons of Delhi.  What  
24 time did you get there?

25          A.    I'm not 100 percent sure on the time, but

1 I know it was late because the game was at least in  
2 the fourth quarter and I just wanted to stay for the  
3 last 10 minutes and she wanted to leave because  
4 the -- if we didn't leave soon enough -- because it  
5 was close to closing at least, and she wanted to get  
6 there before the whole rush out of the game to avoid  
7 traffic.

8 Q. When you say close to closing, what was  
9 close to closing?

10 A. The Dungeons. I'm not sure when they  
11 closed, though. I know she was rushing me to get  
12 out of the game and go --

13 Q. But for whatever reason, she was rushing  
14 you to get out of the game to go?

15 A. Yeah, to go to the Dungeons.

16 Q. So you drove there. And then tell me what  
17 you remember. Did you park or where did you park?

18 A. We parked just outside of that like -- I  
19 guess it would be the rundown supermarket now, but  
20 it was further away from that Walgreens on  
21 Boudinot -- not Boudinot, Walgreens on Anderson  
22 Ferry Delhi Pike, further away but closer to the  
23 rundown supermarket.

24 Q. Okay. And then did you end up meeting  
25 with Schradin and Sweet?

1 A. Yes.

2 Q. And where did you guys meet up?

3 A. In the parking lot, so we would all walk  
4 down there together.

5 Q. And tell me, was it crowded there or not  
6 crowded when you got there?

7 A. It was not crowded.

8 Q. And what did you do next?

9 A. After we met?

10 Q. Yeah. So the four of you are in the  
11 parking lot now?

12 A. Yeah. We went down to the entrance to get  
13 tickets.

14 Q. Okay. And my understanding is that the  
15 entrance is behind the building, or no?

16 A. Yes.

17 Q. Okay. So you walked around the building.  
18 And what did you do, did you have to buy a ticket or  
19 what happened?

20 A. Yeah, there was a ticket stand that we  
21 just purchased tickets there.

22 Q. Okay. And this is Exhibit 4 from Mark  
23 Mateikat's deposition. Does this look like the  
24 ticket booth that you approached to get your  
25 tickets?

1 A. Yes.

2 Q. And then did all four of you purchase a  
3 ticket?

4 A. Yes, we did.

5 Q. And then where did you guys go after you  
6 purchased the ticket?

7 A. I was heading to the entrance.

8 Q. All right. And it looks like in Exhibit 5  
9 of Mark's deposition you can see the ticket booth?

10 A. Uh-huh.

11 Q. Yes?

12 A. Yes.

13 Q. And then it looks like there's an entrance  
14 and a walkway, correct?

15 A. Yes.

16 Q. And tell me, how did you get to -- so you  
17 walked and then tell me where you went after you got  
18 the ticket.

19 A. We went to what looks like the walkway to  
20 enter.

21 Q. Did all four of you go in the walkway?

22 A. Yes.

23 Q. There was some prior testimony in a  
24 different deposition that maybe Mckenzie didn't go  
25 inside the covered walkway. Are you sure that she

1 was inside the covered walkway?

2 A. Yes.

3 Q. And she was walking with you?

4 A. Yes, she was right behind me.

5 Q. All right. And the other girls were with  
6 you also?

7 A. Yes, they were behind us.

8 Q. Okay. So tell me what happened. You guys  
9 are walking up the covered walkway, you have your  
10 tickets and what happened?

11 A. I was holding her because she had some  
12 anxiety about it. And when -- right about, I would  
13 want to say, halfway we were in the walkway, a guy  
14 came out of the door we were approaching and  
15 Mckenzie immediately ripped from my arms and turned  
16 around and started running because he was running  
17 quickly towards us and he had at least makeup on.

18 Q. So it was an actor from the haunted house  
19 who jumped out the front door?

20 A. I would assume so because he had makeup,  
21 looked as if he was a ghoul or a zombie.

22 Q. And did he come out running or how he did  
23 come out of the door?

24 A. He came out running at a running pace, but  
25 he looked like he was on all fours.

1 Q. And was there anybody in front of you? I  
2 mean, were there any patrons in front of you?

3 A. No, there was not.

4 Q. Were there any patrons behind you that you  
5 recall?

6 A. Other than Elizabeth and Allison, no.

7 Q. So you guys were the only ones in this  
8 covered walkway?

9 A. Yes.

10 Q. And so he comes out. He's on all fours  
11 but sort of running at you. And you said that  
12 Mckenzie ripped from your arms started running.  
13 What did the guy that was running towards you guys  
14 do?

15 A. He ran past us and then we looked back and  
16 we saw him running and then she fell, and then we  
17 all kind of went over there to her.

18 Q. And so she was running away from this  
19 ghoul guy who was chasing her when she fell?

20 MS. TAGGART: I'm going to object, Blake.  
21 That's a leading question so I'm objecting on  
22 that basis.

23 Q. Okay. So he's running after her?

24 MS. TAGGART: Objection.

25 MR. MAISLIN: I'm asking a question.

1 Well, I'm only setting the stage.

2 Q. Was he running after her at some point?

3 A. Yes.

4 Q. And was he still running after her when  
5 she fell?

6 A. At the point she fell it didn't seem he  
7 was running after her, because he noticed that she  
8 fell and everyone was converging on her.

9 Q. Was he running after her up until the  
10 point she fell?

11 A. Yes.

12 Q. When she fell, had she made it out of the  
13 covered walkway yet?

14 A. Yes, she fell near the ticket booth, like  
15 in front of it.

16 Q. And then did you see her fall?

17 A. I did not. I just saw her on the ground  
18 and crying.

19 Q. And you said that all of you guys then  
20 went over to talk to her and address her?

21 A. Yes.

22 Q. Did any of you actually go into the  
23 haunted house that night?

24 A. No, we did not.

25 Q. And tell me what happened after she fell



1 and you went over there, what happened.

2 A. Everyone converged on her trying to  
3 address her injury and trying to get her either walk  
4 on it or to -- some form of like healing, like  
5 either ice or -- and she knew she wouldn't be able  
6 to walk on it. So we called her father and told him  
7 about what happened and he came over and we grabbed  
8 her.

9 Q. From the time that you stood next to her  
10 when she was on the ground until the time that she  
11 got picked up by her father, had you left her side  
12 at all?

13 A. No.

14 Q. What about the other girls?

15 A. They were there with me. We were all  
16 around her trying to make sure she was all right.

17 Q. Did they leave her side at all during that  
18 time, as far as you remember?

19 A. No.

20 Q. What did the ghoul or the zombie guy that  
21 was chasing her, what happened to him after she  
22 fell?

23 A. He went over to see that she was all  
24 right. And then I don't remember that he was there  
25 that long.

1 Q. Before the incident where the actor ran  
2 towards you guys, did you see any other actors  
3 outside the building?

4 A. Before we entered, there was a man dressed  
5 up as a Grim Reaper, but he was not -- he was just  
6 there.

7 Q. Just sort of standing there?

8 A. Yeah.

9 Q. Was he having any interaction with any of  
10 the customers or anything?

11 A. No, he was just there.

12 Q. Did the Grim Reaper come over to where you  
13 guys were after she fell?

14 A. I do not remember because I was more  
15 focused on her.

16 Q. Do you remember anybody from Dungeons of  
17 Delhi being with you guys while she was on the  
18 ground?

19 A. Yes. They were trying to -- if it was --  
20 they were assuming it was either a sprain and they  
21 were trying to get ice on it or something and they  
22 were trying to help like get her on her feet.

23 Q. And who was that, do you know?

24 A. I do not know who it was, but I know there  
25 were people from like -- because there was more than

1 us there and it was people that we -- I'm not sure  
2 if it was from the ticket stand, but I know there  
3 was at least people other than us trying to help  
4 her.

5 Q. Anybody dressed up in costume?

6 A. The guy who chased her was there for a  
7 brief moment, and then it looked more like adults  
8 that weren't really in makeup or costume.

9 Q. Okay. When you were walking up on the  
10 covered walkway, was there somebody -- well, tell me  
11 when you were -- you guys had tickets, right?

12 A. Yes.

13 Q. What did you plan on doing with the  
14 tickets when you were coming up the walkway?

15 A. To turn them in to go inside.

16 Q. Was there somebody there to turn them in  
17 to?

18 A. Yes.

19 Q. Can you describe that person, was it a  
20 man, woman, do you remember?

21 A. It was a man. He was fairly tall.

22 Q. Was that person dressed like anything,  
23 like in costume, or no?

24 A. I don't recall because it happened really  
25 fast.

1 Q. Were you guys expecting someone to come  
2 out the door and run at you at that moment?

3 A. No.

4 Q. And why not?

5 A. Because we haven't entered and there's  
6 like -- we haven't entered the Dungeon yet or the  
7 place.

8 Q. And so it was your expectation that the  
9 fun or the scaring would start once you entered in  
10 through the door?

11 MS. TAGGART: Objection; leading.

12 MR. MILLIGAN: Objection. Same  
13 objection.

14 A. Yes.

15 Q. How did you leave the haunted house area?

16 A. Her father came to pick her up and bring  
17 her home because she was in a lot of pain and  
18 crying. So we went to her house and her father got  
19 her in their car and we both -- well, everyone else  
20 went in their own car to her house.

21 Q. You guys went back to her house?

22 A. Yes.

23 Q. And what was her condition like when you  
24 saw her at her house?

25 A. She was on the couch crying and she said

1 she couldn't move it, otherwise, it would cause her  
2 extreme pain.

3 Q. Just briefly over the -- I mean, this  
4 happened in 2012. In the last year or so, or I  
5 guess it's been two years now, how have you noticed  
6 her condition regarding her injury progress?

7 A. It hasn't seemed to get better. I mean,  
8 she's gotten surgery for a spinal cord stimulator,  
9 which the trial helped her but now it's causing  
10 problems. And she still -- her foot still gets warm  
11 and cold and it's like -- it seems like nervous  
12 problems. She just continually sees the doctor for  
13 it.

14 Q. Does she complain to you that it's  
15 uncomfortable?

16 A. She does complain that she's in pain. She  
17 likes for me to massage it because the muscles tense  
18 up frequently.

19 Q. Can you feel muscle tightness in her leg?

20 A. Yes.

21 Q. Is there anything that you guys used to do  
22 before this incident that you can't do today?

23 A. We can't -- we used to -- we went downtown  
24 ice skating, but we can't now because she can't  
25 really stand as much on it and we wouldn't want to

1 risk that, hurting it further. And there's other  
2 situations like bowling and sometimes -- well,  
3 biking, but she's not really into that, so...

4 Q. So essentially physical activity using her  
5 leg; is that fair?

6 A. Yes.

7 MS. TAGGART: Objection.

8 MR. MILLIGAN: Objection.

9 Q. Are you aware of any other witnesses to  
10 this event?

11 A. Other than the people that were there such  
12 as Allison Sweet and Elizabeth Schradin, no.

13 Q. Have you ever talked to anybody from  
14 Dungeons of Delhi after the incident about what  
15 happened?

16 A. After the incident, when she fell or --

17 Q. Yes. After the fall, did you talk to  
18 anybody -- I don't mean that evening, but at any  
19 time at all did you ever talk to anybody at the  
20 Dungeons of Delhi about what happened?

21 A. Other than trying to address her pain, no.

22 MS. TAGGART: I'm sorry, other than what?

23 A. Trying to address her pain when they were  
24 helping her.

25 MS. TAGGART: I thought the question was

1 after the night of the accident.

2 MR. MAISLIN: At any time.

3 MS. TAGGART: Okay. I'm sorry.

4 A. I'm sorry.

5 Q. That's okay. And I'm talking about the  
6 liability aspect meaning how she actually fell and  
7 stuff like that. Have you talked to anybody --

8 A. Since then?

9 Q. Since then, yeah.

10 A. No.

11 Q. Were there any police officers on the  
12 scene when she fell?

13 A. I do not recall, but that was a while ago.

14 Q. How wide is this walkway, can you describe  
15 it?

16 A. I would say at least like three to four  
17 feet wide, because we would be able to be side by  
18 side standing and then Elizabeth and Allison were  
19 behind us.

20 MR. MAISLIN: Okay. Thanks. I have  
21 nothing further.

22 CROSS-EXAMINATION

23 BY MR. MILLIGAN:

24 Q. Do you mind if I call you Joseph or Joe or  
25 either?

1 A. Whatever you prefer.

2 Q. My name is John Milligan. I represent  
3 Delhi Township and the trustees who are defendants  
4 in this matter. Do you remember the date that you  
5 visited the Dungeons of Delhi?

6 A. The exact date?

7 Q. Uh-huh.

8 A. Not particularly.

9 Q. As you stated, it was a -- or I don't know  
10 if you stated this, but what was the weather  
11 conditions like at the time?

12 A. It was pretty frigid. It was cold at  
13 least because I had a jacket on.

14 Q. Was it dry?

15 A. Yes, it was not raining.

16 Q. Do you remember -- you kind of stated you  
17 remembered it was closer towards the end of the  
18 night. Let me ask it this way. Was it dark when  
19 you were there?

20 A. Yes, it was.

21 Q. Were there lights at the Dungeons?

22 A. They had ample lighting, yes.

23 Q. What was the surface like that led up to  
24 the door of the entrance of the Dungeons?

25 A. It was blacktop. I mean, it was fairly



1 straight.

2 Q. Was there any incline?

3 A. Not that I recall.

4 Q. There was no ramp that led up to the door?

5 A. Not that I recall, no.

6 Q. You stated that you guys were the only  
7 ones in line; is that correct?

8 A. Yes, us four.

9 Q. There was nobody behind you?

10 A. Well, other than Elizabeth and Allison,  
11 part of our group. Other than that, no.

12 Q. And there was nobody in front of you?

13 A. No.

14 Q. Why don't you take a look at Exhibit No. 2  
15 that's been previously marked. I believe it was  
16 under Mark's deposition. Take a look where the door  
17 is. Can you see the door?

18 A. Is that where the chair is, I'm guessing?

19 Q. Yeah, it's a little dark but you kind of  
20 see where it is?

21 A. Yes.

22 Q. Were you guys standing right next to that  
23 door?

24 A. Not right next to it.

25 Q. Where were you standing?

1           A.    We were at least halfway between the door  
2 and in the walkway, like halfway.

3           Q.    So were you approaching the door?

4           A.    Yes.

5           Q.    You just hadn't gotten there yet?

6           A.    Yes.

7           Q.    Was there a gentleman or a person standing  
8 outside the fence?

9           A.    I think the Reaper was, but he was not  
10 actively interacting with us.

11          Q.    And he would have been standing, and I'm  
12 pointing to Exhibit 2, he would have been standing  
13 somewhere out here on the cement?

14          A.    Yes.

15          Q.    And you said there was a gentleman taking  
16 tickets?

17          A.    Yes, I believe so.

18          Q.    Was that yellow rope there at the time you  
19 visited?

20          A.    I don't recall.  Sorry.

21          Q.    That's fine.  Just what you recall.  Was  
22 there anybody else waiting in the ticket line  
23 waiting to get tickets?

24          A.    No.

25          Q.    So your group was literally the only group

1 of people who were there?

2 A. Yes, but there were people leaving, I  
3 believe. They were like by the parking lot in their  
4 cars.

5 Q. And that would have been on the other side  
6 of the building?

7 A. Yes.

8 Q. Okay. When the ghoul came out of the  
9 haunted house, you said that it looked like he was  
10 on four legs, or all fours?

11 A. All fours, like he was crawling. He was  
12 near the ground.

13 Q. And when he came out, did it look like he  
14 was approaching you?

15 A. Yes.

16 Q. And you stated at that point Mckenzie had  
17 started to run --

18 A. Yes.

19 Q. -- is that correct? Explain to me why you  
20 didn't see Mckenzie fall.

21 A. We were sort of, I don't know what you  
22 call it, not frightened but sort of taken by the  
23 act, like surprised I would guess you'd say, and she  
24 ran. And then by the time -- it all happened really  
25 quickly. By the time we turned around, she was on

1 the ground crying.

2 Q. And you stated previously that Mckenzie  
3 was next to your side?

4 A. Yes.

5 Q. And that you were holding her?

6 A. Yes.

7 Q. And that she was shaking because she had  
8 anxiety?

9 A. Yes.

10 Q. And when the ghoul came out and surprised  
11 you all, she took off to run; is that correct?

12 A. Yes.

13 Q. And as you just stated a few minutes ago,  
14 you were about halfway or closer -- were you close  
15 to the yellow rope?

16 MR. MAISLIN: Objection; asked and  
17 answered.

18 Q. You can answer.

19 A. Yes. We were halfway, I want to say, like  
20 by that pole.

21 Q. By that pole. Okay.

22 MR. MAISLIN: Maybe describe it for the  
23 record.

24 A. The third to last -- or fourth to last  
25 pole.

1 Q. You said fourth to last?

2 A. Yes.

3 Q. So on Exhibit 2 you think you guys were  
4 around the fourth to last pole; is that correct?

5 A. Yes.

6 Q. So what would you estimate is the distance  
7 between that pole and the beginning of that walkway?  
8 And you know what, that picture I was going to show  
9 you, Exhibit 5 of Mark Mateikat's deposition, there  
10 you go.

11 A. Asking the estimation of --

12 Q. Yeah. So you said you were near the  
13 fourth pole from the end. About how far into the  
14 walkway had you walked?

15 A. I would like to say 10 meters maybe.

16 Q. About 30 feet or so?

17 A. Yeah.

18 Q. Going back to the ghoul running out, you  
19 were about 30 feet into the walkway holding  
20 Mckenzie. She broke away and started to run; is  
21 that correct?

22 A. Yes.

23 Q. And it's your testimony that she made it  
24 past the walkway close to the ticket booth?

25 A. Yes.

1 Q. And fell?

2 A. Yes.

3 Q. And during that time, you didn't turn  
4 around to look at her?

5 A. I did, but I did not see her fall.

6 Q. Was something obstructing your view?

7 A. There were two people behind me, but she  
8 ran pretty quickly. By the time I turned around, it  
9 seemed like she was on the ground crying.

10 Q. So she made it between 30 to 40 feet  
11 before you can turn around?

12 A. Yes.

13 Q. And the ghoul had chased her the entire  
14 way?

15 A. Up until she fell.

16 Q. Up until she fell?

17 A. Yes.

18 Q. Is it possible the ghoul came out to  
19 interact with you guys?

20 A. I would assume not because it looked like  
21 he was at a running pace.

22 Q. As you mentioned, you didn't see any Delhi  
23 Township police officers?

24 A. Not that I recall.

25 Q. Did you ever speak with who you've

1 identified as the Reaper, did he speak to you guys  
2 at all?

3 A. No, we did not interact at all with him.

4 MR. MILLIGAN: I have no further  
5 questions at this moment.

6 CROSS-EXAMINATION

7 BY MR. RINEAR:

8 Q. When you arrived there that night, was  
9 there anybody else getting out of their cars in the  
10 parking lot to head towards the haunted house?

11 A. No, not that I recall.

12 Q. So you walk around the building and you  
13 get to the back, there's nobody in line; is that  
14 right?

15 A. Yes.

16 Q. Nobody in line for the ticket booth,  
17 correct?

18 A. Yes.

19 Q. Were there other people standing around  
20 outside?

21 A. Other than the Reaper, not that I recall.

22 Q. That's the only person you remember  
23 standing up there?

24 A. And then the ticket person outside the  
25 door, if that's what you mean.

1 Q. Other than that, the entire place was  
2 empty?

3 A. Other than the people that were heading to  
4 their cars. But on this side of the building, no.

5 Q. Okay. Do you know who the Explorers are,  
6 the Delhi Explorers?

7 A. No, I do not.

8 Q. No police, nobody in uniform of any kind  
9 standing out there?

10 MR. MAISLIN: Objection.

11 A. Not that I recall.

12 Q. Okay. Other than the Reaper, no other  
13 characters, nobody else in character dressed up out  
14 there, right?

15 A. Not that I recall.

16 Q. Okay. And when you guys went there, you  
17 knew it was a haunted house, right?

18 A. Yes.

19 Q. And you knew the purpose of a haunted  
20 house was they're going to try to scare you, right?

21 A. Yes.

22 Q. Was Mckenzie concerned about that?

23 A. She was having a little anxiety. That's  
24 why I was holding her.

25 Q. Well, as you get into the walkway and you



1 start walking, you say you were holding her. Did  
2 you come to a stop or did you continue walking?

3 A. Right when we saw him come out, we paused  
4 and she ripped from my arms.

5 Q. Before that, before anybody came out?

6 A. We did not.

7 Q. Was she planning on going in?

8 A. Yes.

9 Q. What did she say or do to cause you to  
10 believe she was anxious about going in there?

11 A. She wanted to be held and she was shaking  
12 a little because I was holding her hand and holding  
13 her like, sort of like left arm around her shoulder,  
14 right arm on her right hand.

15 Q. So she was already somewhat frightened  
16 before you experienced anything to do with the  
17 haunted house, right?

18 A. Yes.

19 Q. Why did she want to go?

20 A. I would assume peer pressure maybe because  
21 they had talked with Elizabeth and Allison and they  
22 both wanted to go, so I would assume peer pressure.

23 Q. Well, did Mckenzie say anything to you on  
24 the way there as you're driving in the car about,  
25 you know, I don't know if I really want to do this,

1 this scares me, anything like that at all?

2 A. Not that I recall because we were talking  
3 about -- I was talking to her about the game. There  
4 could have been an exchange of -- give me a minute  
5 to think because it happened a while ago. I mean, I  
6 could tell she was anxious in the car. I don't  
7 recall her talking about it, but I could definitely  
8 tell there was some anxiousness.

9 Q. Well, in that same month, we're in October  
10 of '12, had the two of you gone to any other haunted  
11 houses?

12 A. During that year?

13 Q. During that year.

14 A. No.

15 Q. Now, you said you started seeing each  
16 other in 2011, right?

17 A. Yes.

18 Q. Did the two of you go to any haunted  
19 houses around Halloween of 2011?

20 A. No, we did not, unless you count a creepy  
21 camp out in Winton Woods, but she did not want to go  
22 to any of the staged ones that were supposed to be  
23 created as a haunted house.

24 Q. Why did she not want to go to those?

25 A. She did not particularly like them.

1 Q. And you think she maybe had been to the  
2 Dent Schoolhouse one in the past?

3 A. I remember recalling that Mike, her  
4 father, brought her to one and he had to carry her  
5 out because she was freaked out.

6 Q. And you think that was the Dent  
7 schoolhouse one?

8 A. I believe so. I remember then talking  
9 about a haunted house but not Delhi, Dungeons of  
10 Delhi.

11 Q. When do you think that was that she went  
12 with her stepfather, was it?

13 A. Yes. I would assume -- it was before we  
14 were dating. We really didn't get into a time  
15 frame.

16 Q. So sometime before Halloween of '11, she  
17 had been at that other one?

18 A. Yes.

19 Q. And then Halloween season of '11, as far  
20 as you know, she didn't go to any haunted houses,  
21 right?

22 A. Yes.

23 Q. Halloween season of '12 she didn't go to  
24 any other haunted houses until the night that you  
25 guys went to the Dungeons, right?

1           A.    Yes.

2           Q.    And when you got to the Dungeons and even  
3 on the way there talking in the car, she was anxious  
4 about going in?

5           A.    Yes.

6           Q.    Nervous about going in?

7           A.    Yes.

8           Q.    Do you believe if you had actually gotten  
9 to the front door, she would have gone in?

10          A.    Yes.

11          Q.    Now, you're in line and there's a ticket  
12 taker person standing up there, right?

13          A.    Yes, exactly.

14          Q.    And it's relatively well-lit underneath  
15 that walkway; is that right?

16          A.    Yes.

17          Q.    How did you see this person come out?  
18 Could you actually see the door of the haunted house  
19 open for this character to come out?

20          A.    Yes, it looked like the door was open.

21          Q.    The door was standing open or did you see  
22 it come open?

23          A.    It looked like it was standing open.

24          Q.    Okay. And this character that came out,  
25 was it male or female, do you know?

1           A.    It looked male, but -- he looked male.

2    Sorry.

3           Q.    Do you know what type of costume it was;  
4    how were they dressed, what they were supposed to  
5    be?

6           A.    I remember him having makeup and maybe  
7    raggedy clothing, like ripped, but not 100 percent  
8    sure on the exact paraphernalia.

9           Q.    Was this person carrying anything in their  
10   hands?

11          A.    No.

12          Q.    Did they have face makeup on?

13          A.    It looked like he did.

14          Q.    And was this face makeup blood red or  
15   white or do you have any recollection of that?

16          A.    It was like a brownish-red maybe tinted to  
17   make blood, but...

18          Q.    So this person comes out the door and you  
19   said they were down on all fours?

20          A.    Yes.

21          Q.    Like crawling?

22          A.    It looked as if he was crawling.   Like his  
23   knuckles were like near to the ground.

24          Q.    Okay.   And in that position, how quickly  
25   did this person traverse that distance between you

1 and the door?

2 A. What do you mean by how --

3 Q. I mean, it wasn't like they were at a full  
4 rundown on all fours, right?

5 A. Yes.

6 Q. So they were down on all fours and kind of  
7 coming at you on all fours as if they were trying to  
8 mimic some kind of animal or something?

9 A. Yes.

10 Q. And you saw them coming this whole  
11 distance, right?

12 A. Yes.

13 Q. And you knew that this was a character  
14 from the haunted house, right?

15 A. Yes.

16 Q. And that they were coming out just to mess  
17 with you guys and try to scare you, right?

18 A. Yes.

19 Q. No surprise there, right?

20 MR. MAISLIN: Objection.

21 Q. I mean, you're going to a haunted house.  
22 That's what they do at haunted houses, right?

23 A. Yeah.

24 MR. MAISLIN: Objection as to form.

25 Q. So you see this person coming out. You

1 didn't turn and run, did you?

2 A. I did not.

3 Q. The two other girls you were with did not  
4 turn and run, did they?

5 A. They did not.

6 Q. So Mckenzie then, who's already nervous,  
7 pulls away from you and starts to run?

8 A. Yes.

9 Q. And this character guy then came all the  
10 way up to you and past you, right?

11 A. Yes.

12 Q. In this kind of narrow walkway area?

13 A. Uh-huh. Yes. Sorry.

14 Q. When she first started to turn and pull  
15 away from you, how far away was this character from  
16 you?

17 A. He was still at the door but outside the  
18 door.

19 Q. So he's still, what, 30, 40 feet away from  
20 you, something like that?

21 MR. MAISLIN: Objection.

22 A. Approximately.

23 Q. Okay. So he's about 30, 40 feet away and  
24 she starts to pull away from you. By the time he  
25 actually gets to you, are you kind of looking at

1 him, is that what kept your attention there?

2 A. Yes.

3 Q. So then by the time he gets by you, is she  
4 already on the ground?

5 A. No, not that I recall, because he was past  
6 us at least.

7 Q. Okay. Did you ever see this character  
8 touch Mckenzie in any way?

9 A. No.

10 Q. Do you believe he touched her in any way?

11 A. He did not.

12 Q. Did she tell you that?

13 A. No, she did not, but he didn't really get  
14 close to her.

15 Q. Okay. So he didn't get close enough to  
16 touch her?

17 A. No.

18 Q. Okay. And then by the time you turn,  
19 she's on the ground, right?

20 A. Yes.

21 Q. Did she ever tell you if she tripped on  
22 something or just fell over her own feet or what  
23 caused her to go to the ground, did she ever tell  
24 you that?

25 A. I'm not sure she -- because it was assumed



1 that it was a twisted ankle so it looked like she  
2 maybe fell on her own feet.

3 Q. So you think maybe she twisted her ankle  
4 while running and that's what caused her to go down?

5 A. Yes.

6 Q. As opposed to tripping over something on  
7 the ground, right?

8 A. Yes.

9 Q. But she doesn't really know what caused  
10 her to go down; is that fair?

11 MR. MAISLIN: Objection.

12 Q. I'm not trying to put words in your mouth,  
13 I just want to understand what happened?

14 A. She doesn't -- we don't really recall. I  
15 mean, I --

16 Q. Well, I mean, the two of you guys have  
17 been together a long time. I'm assuming you've  
18 talked about what happened and I just want to know  
19 what she's told you about that?

20 A. She just told me that she fell and that  
21 may have been -- that she had sprained her ankle,  
22 because that's what the -- when she went to the  
23 doctor, that was the first assumption.

24 Q. Well, did she ever tell you over these  
25 last couple of years what it is that she thinks the

1     haunted house did wrong?

2                 MR. MAISLIN:  Objection.

3                 A.     What do you mean by what they --

4                 Q.     Well, she's filed a lawsuit against the  
5     haunted house saying that they did something wrong  
6     to cause her to fall.  Has she ever told you what it  
7     is she thinks they did wrong?

8                 MR. MAISLIN:  Objection.

9                 A.     She has expressed that she feels she  
10    shouldn't have been chased like in the line, what we  
11    assumed was the line.

12                Q.     Okay.  And again, I've asked you this, I  
13    just want to make sure were clear.  She's never told  
14    you at any time that this character touched her or  
15    pushed her or knocked her down in any way?

16                A.     Yes.

17                Q.     That's correct?

18                A.     Yes.

19                Q.     Okay.  So you and these two other girls go  
20    over to assist her, right?

21                A.     Yes.

22                Q.     And at this point, as I understand it,  
23    it's only the Grim Reaper character, this character  
24    that came out of the haunted house, the person in  
25    the ticket booth and the ticket taker are the only

1 other people outside, right?

2 A. I believe so, but it did seem as there was  
3 a crowd. I'm not sure where they came from.

4 Q. So as she's laying on the ground, there  
5 was a crowd of people around?

6 A. What do you mean by --

7 Q. Well, that's what you just kind of said,  
8 there was a crowd starting to develop.

9 A. There was at least like six, seven people  
10 around there.

11 Q. Do you remember a gentleman by the name of  
12 Mark who was there to help?

13 A. I do not recall.

14 Q. The guy who ran the haunted house, do you  
15 remember somebody being there with you who you  
16 understood to be the guy who was in charge, the guy  
17 who ran the place?

18 A. What do you mean by like --

19 Q. Well, an adult dressed in street clothes  
20 there -- well, let me ask it this way: Did you get  
21 the impression that anybody came out who was in  
22 charge?

23 A. I'm not sure if they were in charge, but  
24 there was at least an adult, an older gentleman.

25 Q. Who called Mckenzie's dad?

1           A.    It was either Allison or Elizabeth.

2           Q.    I don't want you to guess.  Are you sure  
3 about that?

4           A.    I'm not 100 percent sure.

5           Q.    Because we've had testimony that the guy  
6 who was in charge went over to help Mckenzie, she  
7 handed him her cell phone and he called her dad.  Do  
8 you know if that's true or not?

9           A.    I don't recall because I was more focused  
10 on her.  Sorry.

11          Q.    Okay.  Well, you can only tell us what you  
12 know, Joe.  I'm not trying to put words in your  
13 mouth, but it was a long time ago and I'm kind of  
14 testing your memory a little bit just to see what  
15 you remember.  So how long did it take her dad to  
16 get there?

17          A.    I want to say about 10, 15 minutes maybe.

18          Q.    Did she remain either sitting or laying on  
19 the ground the whole time?

20          A.    I think we tried to get her up.  I'm not  
21 sure if she was sitting.  I don't think she was on  
22 the ground, though.  I don't think like she was  
23 thrown on the ground.

24          Q.    Do you remember anybody from the haunted  
25 house offering to call an ambulance for her?

1           A.     Offering an ambulance, no, but I remember  
2 them helping her in general.

3           Q.     And you remember her dad then coming and  
4 getting her and taking her home, right?

5           A.     Yes.

6           Q.     Do you know from any source who the actor  
7 was who was playing this character or creature that  
8 came out of the house to scare you guys, who that  
9 person actually was?

10          A.     I have no clue who he was.

11          Q.     Did you know anybody who was working at  
12 the haunted house that night?

13          A.     A friend of Mckenzie's that works there.  
14 I'm not sure if she was working there that  
15 particular night. She never told me.

16          Q.     Well, did anybody else from inside the  
17 haunted house come out during this 15 minutes while  
18 she was on the ground?

19          A.     I would assume so because the people  
20 there, when she was on the ground, was greater than  
21 the amount of people than when we were entering.

22          Q.     Well, let me ask it this way: Did other  
23 people in costume come out of the haunted house  
24 while you were there?

25          A.     Not that I recall.

1 Q. Did you have any discussion with anybody  
2 from the haunted house that evening while you were  
3 there?

4 A. That worked in the haunted house or --

5 Q. That worked there, took tickets, worked in  
6 the ticket booth, anybody, anybody involved in  
7 working at the haunted house that night?

8 A. A conversation as in trying to help her,  
9 would that constitute just a general like telling  
10 her what to do --

11 Q. No, I'm talking about a conversation with  
12 somebody from the haunted house. And where I'm  
13 getting at is, did you have any discussion with  
14 anybody about why did this guy do that, was he  
15 supposed to do that, anything about why this guy  
16 came out the way he did to scare you guys?

17 A. No, we did not. Or, no, I did not.  
18 Sorry.

19 Q. You didn't ask anybody is that normal, is  
20 that the way you do it, nothing like that?

21 A. No, I did not.

22 Q. Did you ever do anything after the event  
23 in the days, weeks, months, since to try to research  
24 whether somebody coming out and scaring you like  
25 that is normal or not for a haunted house?

1 A. No, I did not.

2 Q. At the time that it happened, did you  
3 think there was something wrong with what they did?

4 MR. MAISLIN: Objection.

5 A. What do you mean by wrong, like it's not  
6 intended or --

7 Q. Well, yeah. Did you think this is not the  
8 way a haunted house is supposed to be, this guy  
9 coming out here was just wrong for some reason --

10 MR. MAISLIN: Objection.

11 Q. -- or did you think it was a normal part  
12 of the show?

13 MR. MAISLIN: Objection.

14 A. I would assume that -- I've never been to  
15 a haunted house before, but I would assume that  
16 would be normal.

17 Q. You just answered my next question. This  
18 is the first haunted house you've ever been to?

19 A. Correct.

20 Q. You never went back, then, to this haunted  
21 house again that year, did you?

22 A. I've never been there since.

23 Q. Let me ask you: You went back to  
24 Mckenzie's house that night?

25 A. Yes.

1 Q. Did you get a chance to look at her leg or  
2 foot or ankle or whatever it was that she had  
3 injured?

4 A. Just by looking at, yes.

5 Q. What was it; was it her foot, her ankle,  
6 her leg, her knee, what was it that she hurt?

7 A. She was saying around her foot and ankle  
8 area.

9 Q. Which leg?

10 A. Her left.

11 Q. Okay. Did you get a chance to look at it?

12 A. Yes.

13 Q. Was it swollen, was it discolored, was it  
14 anything that you could visually tell there was a  
15 problem?

16 A. It was swollen. It was a lot larger than  
17 normal.

18 Q. Did her parents then take her to the  
19 hospital that night?

20 A. I believe they went to the ER later  
21 because she complained of it hurting too bad.

22 Q. When you say later, you mean later that  
23 night or --

24 A. After we had already been to the house.

25 Q. How long did you stay at the house that



1 night after all this happened?

2 A. Up until the ER, up until she wanted to go  
3 to the ER.

4 Q. And while they were there, did they treat  
5 it at all, did they ice it or did they do anything  
6 for it?

7 A. Yes, they were icing it.

8 Q. Okay. So they left to take her to the ER  
9 and you didn't go to the ER with them?

10 A. No.

11 Q. Okay. What do you understand was her  
12 injury from that night, was it a break, was it a  
13 sprain or do you know?

14 A. I'm not really medically inclined, but I  
15 would assume between a sprain and a break because  
16 she could not stand on it at all.

17 Q. But you don't know, and I don't want you  
18 to guess, you don't know if she broke it or if it  
19 was a sprain; is that fair?

20 A. I'm not 100 percent, yeah.

21 Q. Had she ever had problems like that  
22 before, sprained ankles? I mean, some people get  
23 sprained ankles all the time. To your knowledge,  
24 did she ever have that kind of problem?

25 A. I would assume so since she played soccer

1 and she was the goalie. I'm not 100 percent whether  
2 she's had one, but I would assume she would have at  
3 least had one.

4 Q. Okay. When did you next talk to her after  
5 that night that they took her to the ER?

6 A. By talking, you mean like face-to-face  
7 or --

8 Q. Or on the phone or anything.

9 A. I was talking to her while she was at the  
10 hospital by text.

11 Q. Okay. When did you next see her?

12 A. I'm not sure if it was the next day. I  
13 don't remember. I think it was the next day after  
14 she'd gotten out, but I'm not 100 percent sure,  
15 sorry.

16 Q. There's been some testimony in this case  
17 that within a couple days or a week after this  
18 incident that Mckenzie sent a Facebook message to  
19 one of the people working at the Dungeons of Delhi  
20 apologizing for creating a scene that night. Do you  
21 know if she did that?

22 MR. MAISLIN: Objection.

23 A. I do not know because she doesn't let me  
24 look at her Facebook other than what I can see from  
25 mine.

1 Q. Okay. But you don't know one way or the  
2 other whether she did that?

3 A. No, I do not.

4 Q. In the days or first few weeks after this  
5 incident occurred, did Mckenzie express to you that  
6 she felt that the people at the Dungeons of Delhi  
7 had done something wrong that night?

8 A. Other than what I said earlier, as in she  
9 felt that she shouldn't have been chased in the  
10 line, no.

11 Q. Okay. Did she express that to you, that  
12 she felt like she shouldn't have been chased?

13 A. Yes.

14 Q. Did she say why she thought that that  
15 shouldn't have happened?

16 A. I did not really delve into it because she  
17 was more -- it was like after and she was kind of  
18 upset about everything and in pain.

19 Q. Well, I only ask because you told me  
20 before that you kind of thought it was a normal part  
21 of the show. She's upset and thinks they shouldn't  
22 have done it. Did you two have any discussion about  
23 that --

24 MR. MAISLIN: Objection.

25 Q. -- about whether or not you guys felt they

1 did something wrong?

2 MR. MAISLIN: Objection.

3 A. I did not delve into that area.

4 Q. Now, it's my understanding that Mckenzie  
5 has had a lot of medical treatment for that foot or  
6 ankle; is that right?

7 A. Yes.

8 Q. Do you have any understanding from talking  
9 to her as to what the problem is that she's still  
10 having two years after this event?

11 A. The diagnosis was RSD, or Reflex  
12 Sympathetic Dystrophy I believe it stands for, which  
13 is a nerve problem that continuously fires up pain  
14 signals and causes muscle contractions.

15 Q. Okay. Has she had any additional ankle  
16 sprains or problem since then with that same ankle?

17 A. Between the falling and now?

18 Q. Yeah.

19 A. Not that I recall. I mean, occasionally  
20 when she's walking. She stepped in like a pothole,  
21 but that's been since like her injury, like she was  
22 on crutches.

23 Q. How long was she on crutches?

24 A. She's been on and off crutches, so it's  
25 kind of hard for me to gauge exact timing. I would

1 say maybe a year. I'm not 100 percent sure.

2 Q. And would that have to do with treatments  
3 that she's had that have caused her to be on  
4 crutches or does she just sometimes have pain that  
5 causes -- I mean, I'm trying to understand what  
6 would make her be on crutches for that time, if you  
7 know?

8 A. I would assume the doctor gave it to her  
9 because it was right after she visited the doctor.

10 Q. Have you had a chance over the last couple  
11 of years to look at her ankle area where she's  
12 having all this problem?

13 A. Yes.

14 Q. Is there swelling?

15 A. Every now and then there is swelling.  
16 Since the time, it's been bigger than her right foot  
17 most of the time.

18 Q. Is there discoloration in the skin?

19 A. On bad days she'll complain of it being  
20 really hot in terms of like purplish, like a weird  
21 purple, like I'll say, color.

22 Q. Okay. And have you seen that or does she  
23 just tell you about it?

24 A. Yes, I have seen it. Sorry.

25 Q. And how often have you seen something like

1 that?

2 A. What do you mean by how often, like exact  
3 time because --

4 Q. I mean, is it that way once a week or has  
5 this happened twice in the last two years? I'm  
6 trying to get a frequency of how often she has  
7 problems that you've actually seen discoloration or  
8 swelling in her ankle?

9 A. It does happen frequently, at least like  
10 once a week or once every other week.

11 Q. Okay. Do you know if she is tender to the  
12 touch on her ankle?

13 A. At the very beginning you could not brush  
14 it. She would complain of it hurting.

15 Q. What about in the last six months?

16 A. The last six months? I don't touch that  
17 area, but she does complain of like anything, maybe  
18 like a slight touch. I know her grandpa,  
19 grandfather was gently caressing it and she  
20 complained of it hurting.

21 Q. Can she wear regular socks?

22 A. What's regular?

23 Q. I mean, any kind of socks. Can she wear  
24 socks on that ankle?

25 A. She's worn one of those socks that goes up

1 to the knee.

2 Q. I'm just talking about regular old socks  
3 like any of us would wear. I'm not talking about  
4 orthopaedic or specialized medical socks, I'm taking  
5 about regular socks. Do you ever see her wearing  
6 just regular socks?

7 A. She has tried, but she complains it  
8 bothering her foot.

9 Q. What kind of shoes does she normally wear?

10 A. After the incident?

11 Q. After this incident.

12 A. I believe she's gotten bigger shoes  
13 because of -- she wore a boot for a while too on  
14 that leg and I believe she's gotten bigger shoes.

15 Q. Does she wear regular gym shoes ever?

16 A. They look like gym shoes but they're a lot  
17 larger than what she normally wears.

18 Q. Are they some sort of specialized medical  
19 shoe or are they just a larger size pair of gym  
20 shoes, if you know?

21 A. They look like a larger pair of gym shoes.

22 Q. Does she wear dress shoes?

23 A. I've not seen her wear dress shoes since,  
24 no.

25 Q. What does she wear if you're going out

1 somewhere relatively dressy?

2 A. The giant sock with the boot or her large  
3 gym shoes.

4 Q. Have you seen her in any type of  
5 high-heeled shoes since this accident?

6 A. Never.

7 Q. Does she have discoloration in her feet or  
8 toes, if you know?

9 A. Occasionally when the offset purple  
10 happens, it's in the toes, also, area.

11 Q. What's your understanding of her condition  
12 now; is she getting better, is she getting worse, is  
13 it staying the same?

14 A. When she had the spinal cord stimulator  
15 put in, she had gotten better for a couple weeks,  
16 but now it seems like she's plateaued off into like  
17 the same like pain.

18 Q. Okay. How often nowadays, and, again, I'm  
19 talking over the last few months, how often does she  
20 complain about having pain? Is it a good days and  
21 bad days kind of thing or every single minute of  
22 every day, how would you describe how often she  
23 complains of problems?

24 A. I frequently get texts about her pain.  
25 She does take pain meds and then that leads to some



1 good days, but I don't recall a day her being off  
2 the pain medication.

3 Q. Can she walking normally?

4 A. What do you mean by normally?

5 Q. Without a limp or without using crutches.

6 I mean, if I saw her walk across the room right now,  
7 would I be able to notice a limp or does she have  
8 kind of a regular walk, as far as you can tell?

9 A. She sort of has a limp to me. I know if  
10 she has to go up steps, I have to hold her, like be  
11 a crutch.

12 Q. Okay. Can she run?

13 A. No.

14 Q. Could she jump?

15 A. No.

16 Q. Does she engage in any kind of activities?  
17 Does she exercise?

18 A. She has tried exercising, but it has not  
19 worked out, like therapy-wise.

20 Q. Is she able to engage in any physical  
21 activities at all, any kind of sports, any kind of  
22 physical activity, other than sitting on the couch  
23 watching TV?

24 A. Sports-wise or any physical?

25 Q. Anything. I mean, can she go out and toss

1 Frisbee out in the yard, you know what I mean? Can  
2 she engage in physical activity that requires her to  
3 move around?

4 MR. MAISLIN: Objection as to form.

5 A. That requires her to move I would say no,  
6 but like Frisbee, if she could just stay stationary.

7 Q. What do you guys do for recreation?

8 A. In the past we went in to Newport, we've  
9 gone to movies mainly, restaurants, just casual like  
10 stuff like that.

11 Q. Okay. Before today, did you know she had  
12 filed this lawsuit?

13 A. Before right now, like today?

14 Q. Before today.

15 A. Yes.

16 Q. Did she tell you before she even filed it  
17 that she was planning on filing a lawsuit?

18 A. No.

19 Q. Have you ever discussed with her why she  
20 decided to file this lawsuit and what she was  
21 looking for, why she wanted to do this?

22 A. As in like just why --

23 Q. Yeah. What motivated her, why she felt  
24 like she should file a lawsuit against the Dungeons  
25 of Delhi?

1           A.    Yes, it's more particularly tied to her  
2 belief that she shouldn't have been chased.

3           Q.    Okay. I'm jumping around a little bit on  
4 you. Other than you and your two friends who were  
5 there, you don't know of anybody else that witnessed  
6 any part of this?

7           A.    That I know as in by name or --

8           Q.    Yeah, that you know.

9           A.    Not that I know of by name.

10          Q.    What about that came upon the scene after  
11 she was on the ground and had fallen, anybody else  
12 you know maybe came out of the haunted house or came  
13 around, was there anybody else you knew?

14          A.    That I know, no. All I knew was myself  
15 and Allison and Elizabeth and Mckenzie.

16          Q.    Mckenzie filed suit against a number of  
17 different parties. One of them is a gentleman by  
18 the name of Matt Mateikat. Do you know Matt  
19 Mateikat?

20          A.    No, I do not.

21          Q.    Do you know anything about him?

22          A.    No.

23          Q.    Do you have any knowledge as to why she  
24 chose to file a lawsuit against him?

25          A.    She said, I believe, that Sidney Terry,

1 one of her friends that worked there, I believe, not  
2 100 percent sure, that he maybe through her, that he  
3 might have been the one. I believe she works there  
4 still.

5 Q. Okay. So this friend, Sidney Terry, your  
6 understanding is this friend Sidney Terry told  
7 Mckenzie that she thought it was Matt who was the  
8 one who chased her that night?

9 A. To my understanding, yes.

10 Q. Okay. Did you ever talk to Sidney Terry  
11 about that?

12 A. No, I did not.

13 Q. Do you know Sidney Terry?

14 A. Mckenzie has hung out with her before, but  
15 there has been a couple quarrels leading to a slight  
16 separation. I wouldn't say like complete, but they  
17 still converse.

18 Q. And I know we're getting two or three  
19 levels apart here, but do you know if this Sidney  
20 Terry said Matt was the one who chased you or maybe  
21 it was Matt who chased you or do you know what the  
22 substance of that was between them?

23 A. I have no clue what Sidney Terry said, but  
24 to my understanding Mckenzie had contacted her  
25 because she worked there.

1 Q. To your knowledge, did Mckenzie know Matt  
2 Mateikat before this incident?

3 A. No.

4 Q. No, she did not?

5 A. She did not know Matt.

6 Q. Okay. Mckenzie is in nursing school now;  
7 is that correct?

8 A. Yes.

9 Q. And is she studying for an RN degree, do  
10 you know, or what her goal is, what --

11 A. I know she wants to become a nurse and  
12 then go -- at least her intentions when we talk  
13 about it is to go into medical school, so she's  
14 treating this as a premed.

15 Q. And you said she's in nursing school at  
16 Good Samaritan; is that correct?

17 A. Yes.

18 Q. And what year of school is she in?

19 A. She's -- that kind of is like credit-wise.  
20 I know if there's a certain amount of credits --

21 Q. I don't know. Well, what year did she  
22 graduate high school?

23 A. The same year as I did, 2013.

24 Q. So did she go directly to Good Samaritan  
25 in the fall right after graduating high school?

1 A. Yes.

2 Q. So she would have completed a full year  
3 last year --

4 A. Yes.

5 Q. -- or did she miss something because of  
6 this incident, do you know?

7 A. There was talk about her maybe missing  
8 clinical, but I don't believe that came into -- but  
9 I'm not 100 percent because she's continuing on with  
10 it.

11 Q. Is this, if you know, a four-year or  
12 two-year degree that she's working towards at Good  
13 Samaritan?

14 A. I believe it's four year because she's  
15 taking classes in the summer and she's talking about  
16 graduating next year after summer or sometime. So I  
17 believe it's a full year, but those credits that  
18 she's gotten through the summer.

19 Q. So at least as far as you know this  
20 incident has not slowed down her track to graduate  
21 with her nursing degree; is that fair?

22 A. Not that I know of, yes.

23 Q. And you believe her ultimate plan is she  
24 wants to go to medical school?

25 A. Yes.

1 Q. Just so I understand, I was a little  
2 confused by what you told us happened that night.  
3 Did you go to the football game that night?

4 A. Yes, we did.

5 Q. So you went to the game but you left the  
6 game a little bit early, is that what you said?

7 A. Yes.

8 Q. At what point in the game was it that you  
9 left there?

10 A. It was nearing the end, so I would say  
11 fourth quarter, because she was rushing us to get  
12 out so we would miss the -- so we would not have to  
13 stay in traffic.

14 Q. So you think it was fairly near the end of  
15 the game?

16 A. Yes.

17 Q. Did you drive directly from -- was the  
18 game at Elder or X?

19 A. It was at Elder.

20 Q. Did you drive directly from Elder out to  
21 Delhi to the haunted house or did you go anywhere in  
22 between?

23 A. I believe we went directly there.

24 Q. Okay. And were these other two girls at  
25 the game also?

1           A.     Elizabeth definitely was and I'm pretty  
2     sure Allison wasn't. I know she goes to Oak Hills  
3     and doesn't have a particular interest.

4           Q.     So how did you hook up with them to go to  
5     the haunted house?

6           A.     I know we met Elizabeth there and Allison.

7           Q.     I mean, did you call them on the way or  
8     something or how did -- you didn't just happen to  
9     show up there at the same time, right?

10          A.     Yes. We were -- we planned it through  
11     like text.

12          Q.     Okay. It was just the four of you. No  
13     other friends went there to the haunted house that  
14     night?

15          A.     Correct.

16          Q.     You mentioned earlier, and I'm sorry to  
17     have to get into some of this stuff but she filed a  
18     lawsuit so we have to ask the questions. You  
19     mentioned about Mckenzie being anxious about going  
20     to this haunted house?

21          A.     Yes.

22          Q.     Had she had any issues with anxiety or  
23     problems like that before this incident before this  
24     haunted house situation?

25          A.     That I would be able to tell like from --



1 Q. Yeah. I mean, I will tell you we've seen  
2 some medical records and there was a comment in one  
3 record about her having some anxiety or other types  
4 of problems before this incident. Were you aware of  
5 that?

6 A. I know she had taken antianxiety  
7 medication.

8 Q. Okay. Do you know how long she had been  
9 doing that?

10 A. No.

11 Q. And did you see or observe behaviors in  
12 her where she showed that same kind of anxiety that  
13 she showed on the night of going to this haunted  
14 house?

15 A. Before prior to --

16 Q. Prior to this.

17 A. Not that I recall. I'm trying to think of  
18 situations where she would have complained. I mean,  
19 I guess -- would you kind of -- like fright as  
20 anxiety because -- like from a movie?

21 Q. Yeah, something like that.

22 A. She enjoys relatively scary movies. So  
23 when we get to, say, like don't be afraid of the  
24 dark, she always wants me to hold her hand and  
25 anxiety that way, but she enjoys them.

1 Q. So she enjoys scary movies and even did  
2 before this haunted house?

3 A. Yes.

4 Q. Why do you think she was so anxious about  
5 going in the haunted house that night or going to  
6 the haunted house?

7 MR. MAISLIN: Objection.

8 Q. It just seems a little, I don't know what  
9 the word is, unusual to me for somebody who likes  
10 going to scary movies to then be very anxious about  
11 going to a haunted house. Do you understand where  
12 I'm going?

13 A. Yes.

14 Q. Why do you think she was so anxious about  
15 the haunted house?

16 MR. MAISLIN: Objection.

17 A. Why was she anxious? I would have to say,  
18 I guess since it's more like humanlike  
19 interaction-wise rather than a movie being on the  
20 screen, that would gauge a little more anxiety.

21 MR. MAISLIN: Are you guessing?

22 A. I mean, to -- I'm not as sure as what she  
23 goes by. I mean, that would be me picking at her  
24 conscious.

25 Q. Well, I'm only asking because you guys

1 have been dating for a number of years. I assume  
2 you're pretty -- you probably know as much about her  
3 as about anybody. So if you don't know the answer  
4 to these questions, don't feel like you have to give  
5 me an answer. If you don't know, you don't know.  
6 That's understandable, okay? I'm just trying to  
7 understand, that's all. Was there anything at all  
8 about the physical condition or layout of the  
9 premises that you believe caused or contributed to  
10 her fall?

11 A. Like just the appearance of the place?

12 Q. Yeah, or lighting or the ground was  
13 unlevel or anything like that. Was there anything  
14 about the physical facilities that you think caused  
15 or contributed to this?

16 A. She fixated on the guy, the Reaper, but we  
17 passed him and he wasn't really interacting with us.  
18 Other than that, the appearance did not.

19 Q. And I think you said there was ample  
20 lighting. You felt the lighting was ample, right?

21 A. Yes.

22 Q. Was there anything about the ground; was  
23 the driveway cracked up or broken or uneven or  
24 anything like that?

25 MR. MAISLIN: Objection; asked and

1 answered.

2 A. I don't remember. I didn't really pay  
3 attention to the ground.

4 Q. In the area around where she was laying  
5 after she fell, did you notice anything on the  
6 ground as far as a pothole or a crack in the  
7 pavement or anything like that?

8 A. No, because I was more focused on her.

9 MR. RINEAR: I think that's all the  
10 questions I have.

11 CROSS-EXAMINATION

12 BY MS. TAGGART:

13 Q. I have just a couple, Joe. I'm Carolyn  
14 Taggart. I represent the Boy Scouts. Have you had  
15 any involvement with the Explorer post associated  
16 with the Delhi Township Police Department?

17 A. I'm sorry, could you repeat that?

18 Q. There was paper rustling. Have you had  
19 any involvement with the Explorer post that's  
20 associated with the Delhi Township Police  
21 Department?

22 A. No, I do not believe so because I'm not  
23 really familiar with them.

24 Q. Do you live in Delhi or near Delhi?

25 A. I live near Visitation, a school, grade

1 school, so like Green Township area by the Green  
2 Township library.

3 Q. And where does Mckenzie live?

4 A. She lives in Delhi on Gilcrest Lane.

5 Q. And when you talk about her dad, is it her  
6 stepdad that you're talking about?

7 A. Yes. Sorry, I refer to him as the father.

8 Q. That's fine. And what is his name,  
9 please?

10 A. Mike Blum, I believe.

11 Q. And Mckenzie's mother is Jennifer?

12 A. Yes.

13 Q. And Mckenzie lived at the time of this  
14 accident with her mother and stepfather; is that  
15 right?

16 A. Yes.

17 Q. Did she have interaction with her father?

18 A. What do you mean by interaction, like as  
19 in conversation?

20 Q. Yeah. Did she have a relationship with  
21 her father --

22 A. Yes.

23 Q. -- even though she was living with her  
24 mother and stepdad?

25 A. Yes.

1 Q. Where does her father live?

2 A. With them.

3 Q. With whom?

4 A. With Mckenzie and Jennifer. They all live  
5 in one house.

6 Q. Let me start again. Mckenzie has a  
7 natural father; is that right?

8 A. Oh, sorry. I thought you meant the  
9 stepdad.

10 Q. No.

11 A. Yes.

12 Q. Does she have a relationship with her  
13 natural father?

14 A. No.

15 Q. And when you say she lives with her mom,  
16 she lives with her mother and stepfather, right?

17 A. Yes. Sorry, I apologize.

18 Q. That's all right. Whose idea, between you  
19 and Mckenzie, was it to go to the haunted house on  
20 this particular evening?

21 A. I believe it was -- between us two?

22 Q. Uh-huh.

23 A. It was hers because I wanted to stay at  
24 the game.

25 Q. Right. And she wanted to leave the game

1 in order to make sure she got to the haunted house  
2 before it closed; is that right?

3 A. I think so. She wanted to leave before  
4 like the rush. And I don't know when it closed, but  
5 it seemed like she was rushing before it closed. I  
6 believe one of her concerns was, I don't know if  
7 they do this but the last people there are chased  
8 out by -- I'm not sure if this was this place. I  
9 know she was talking about that one between --  
10 beforehand, that they were chased out by zombies or  
11 something.

12 Q. Okay. I'm not sure if I understand. Are  
13 you saying that in her prior experience with the  
14 haunted house she was chased by zombies?

15 A. No, that she just heard like through word  
16 of mouth that zombies had chased people out of  
17 haunted houses in general. I'm not sure if it was  
18 this one or not.

19 Q. Did she have an anticipation that being  
20 chased by zombies might happen at Dungeons of Delhi  
21 then?

22 A. Like before, like anticipation as in like  
23 before we were getting there?

24 Q. Yes.

25 A. She never really talked about that. So

1 during the time we were going there, she had talked  
2 about it like prior to that day.

3 Q. Okay. Well --

4 A. Sorry.

5 Q. Yeah. Let's break it down. Sometime  
6 before -- this was a Friday night, right, football  
7 games are Friday night?

8 A. Yes, I believe so.

9 Q. And so sometime before you and she went to  
10 Dungeons of Delhi, she talked to you about being  
11 chased by zombies; is that right?

12 A. Out of a haunted house, a general haunted  
13 house.

14 Q. Okay. And was that a conversation that  
15 you and she had had the day that she fell or had it  
16 been before then?

17 A. Before then.

18 Q. How long before then?

19 A. I would say it was within the time frame  
20 of Halloween because that's when all the haunted  
21 houses were being like announced and advertised.

22 Q. So sometime in maybe the month of October  
23 before the day of the fall?

24 A. Yes.

25 Q. And can you recall what she said to you



1 about being chased out of a haunted house by  
2 zombies, how did she bring that up?

3 A. She just said that the last people in some  
4 haunted house, I don't know what specific one, but  
5 the last people were chased out by zombies.

6 Q. Did you have a particular time that you  
7 were supposed to meet up with her girlfriends that  
8 night?

9 A. As in like a defined time before the game?

10 Q. Yes.

11 A. She told them when we were leaving. I  
12 assume Elizabeth knew a time because I guess that's  
13 why she rushed me, because her cousin Elizabeth  
14 lives particularly far away. I was not aware of a  
15 specific time, but I assume she had one because  
16 Elizabeth would have to get there.

17 Q. So there had been a plan for the two of  
18 you to meet up with her cousin and another friend  
19 before you even went to the game?

20 A. Yes.

21 Q. And then she texted them during the time  
22 you were getting ready to leave and confirmed plans  
23 to meet up?

24 A. I believe so, yes.

25 Q. You mentioned that Elizabeth's stepdad

1 came to pick her up after she fell. Did you hear  
2 him have any conversation with anyone who was  
3 standing near Mckenzie when she fell? Did I say  
4 Elizabeth?

5 A. Yes.

6 Q. I'm sorry, Mckenzie's stepdad came to pick  
7 her up after she fell. Did you hear him have a  
8 conversation with anyone who was near her?

9 A. Not that I recall. We were trying to get  
10 her in the car.

11 Q. I understand. Did you overhear him  
12 apologize to anyone for Mckenzie having been there?

13 A. Not that I recall. I don't know what he  
14 said, if anything.

15 Q. And I'll ask you this. Do you recall him  
16 stating that Mckenzie should not have been there?

17 A. Like anytime?

18 Q. Yes.

19 A. I think he said it. I don't want to  
20 guess, but I know he's talk about it after the  
21 incident, that she never should have gone, but that  
22 night I would have to be guessing.

23 Q. I don't want you to guess. But at some  
24 point after she fell, her stepdad has made a  
25 statement she shouldn't have been there to begin

1 with?

2 A. Yes.

3 Q. What's that statement based upon, if you  
4 know?

5 A. I guess because when she was -- well, from  
6 the story I've heard of her previous haunted house  
7 experience is that he had to carry her out of one.  
8 So I would assume that his assumption -- that his  
9 basis would be off of that.

10 Q. Do you know how old she was when she had  
11 to be carried out of a haunted house?

12 A. No. They just said -- it was a story  
13 brought up when we were in the relationship and I  
14 have no clue when she was...

15 Q. Do you know if there was any basis to that  
16 statement on the fact that she suffered from  
17 anxiety?

18 MR. MAISLIN: Objection.

19 A. Anxiety as in -- I'm not sure if he said  
20 it directly, but I would assume what because he's  
21 had experience with her before in a haunted house.

22 Q. Do you know how long Mckenzie has been  
23 taking antianxiety medication?

24 MR. MAISLIN: Objection.

25 A. I do not know.

1 Q. Do you know if she takes it now?

2 MR. MAISLIN: Objection.

3 A. I believe she still does.

4 Q. You may have been asked this, do you know  
5 what it is?

6 MR. MAISLIN: Objection.

7 A. The name of the medication?

8 Q. Uh-huh. Since you're a pharmacy major, I  
9 thought you might know.

10 A. Yeah, there's so many. I'm not sure the  
11 specific one she is on.

12 Q. Do you know what one she's been on in the  
13 past?

14 MR. MAISLIN: Objection.

15 A. I'm not 100 percent sure because I may be  
16 getting medications mixed up with some other people  
17 that I know. Sorry.

18 Q. That's okay. I thought that since you had  
19 an interest in pharmacy, you might have a more  
20 particular knowledge of the medications that she's  
21 taking. Do you know what other medications she  
22 takes presently besides antianxiety medications?

23 MR. MAISLIN: Objection.

24 A. Regularly or --

25 Q. Yes, regularly.

1           A.    She takes pain medications fairly  
2 regularly.

3           Q.    What pain medication?

4           A.    She was on Norco 10/325 and I believe  
5 she's now on Percocet 5/325 or 10 --

6           Q.    You're probably not talking loudly --

7           A.    5/325 or 10/325.  I'm not sure between her  
8 doctor and her.

9           Q.    Anything else?

10          A.    Now like --

11          Q.    Yes, currently.

12          A.    I believe she's still on antianxiety.  
13 She's still on antianxiety, but I don't know the  
14 medication.  Sorry.  Give me a minute to think,  
15 because she's been on muscle relaxers but those have  
16 been intermittent.

17          Q.    Do you know what the name of the muscle  
18 relaxant was?

19          A.    There's been a couple.  There was  
20 Zorvolex, but I don't think she picked that one up  
21 because of the cost.  I believe she's on Flexeril,  
22 Cyclobenzaprine, 10 milligrams maybe.  I'm not sure  
23 of the strength, but she's been on that in the past.

24          Q.    When you arrived back at Mckenzie's house  
25 after she fell, did she have a conversation with her

1 mother and stepdad about how this happened?

2 A. There was a conversation just about like  
3 pain-wise, though. I'm not sure whether -- how that  
4 happened. I know she was saying I tripped and that  
5 she was in a lot of pain, was mainly focused -- I  
6 mean, we kind of were addressing the pain a lot.

7 Q. Has Mckenzie ever told you that someone  
8 tried to touch her as she was standing in line at  
9 the haunted house that evening?

10 A. She never told me that, if someone tried  
11 to touch her.

12 Q. Did she ever tell you as she was getting  
13 ready to enter the haunted house, that a guy reached  
14 over the side rail at her?

15 A. I don't recall.

16 Q. You don't recall her telling you that?

17 A. Not her telling me that, no.

18 Q. Do you have any recollection of that  
19 happening?

20 A. Myself, no.

21 Q. When did you first learn that Mckenzie had  
22 filed a lawsuit?

23 A. It was fairly recently. I mean, I'm not  
24 sure of the exact timing.

25 Q. How did you learn?

1           A.    They told me that I was going to be  
2 contacted.

3           Q.    Who told you?

4           A.    Mckenzie.  Sorry.

5           Q.    And she told you what?

6           A.    That I was going to be contacted by Blake  
7 for a deposition.

8           Q.    So before she told you that, you didn't  
9 know that she had filed a lawsuit?

10          A.    No.

11          Q.    So you weren't aware that a lawsuit had  
12 been in place for months?

13               MR. MAISLIN:  Objection; asked and  
14 answered.

15          Q.    Is that right?

16          A.    Yes.

17          Q.    Does that seem strange to you?

18               MR. MAISLIN:  Objection.  How is that  
19 relevant to anything?

20          Q.    You can go ahead and answer.

21          A.    I'm sorry, what was the question?

22          Q.    Does it seem strange to you that your  
23 girlfriend of four or five years wouldn't have told  
24 you that she filed a lawsuit that involved an  
25 incident where you were present?

1 A. Yes.

2 Q. Have you talked to her about it or asked  
3 her why she didn't tell you?

4 A. Not particularly.

5 Q. Now, were you contacted then by her  
6 attorney?

7 A. Not at that moment, not that day that she  
8 told me, but --

9 Q. Okay. When were you contacted?

10 A. About like a week after, maybe a couple of  
11 days after.

12 Q. What was that; a week ago, a month ago,  
13 six weeks ago?

14 A. It had to have been the last month, so I  
15 want to say like two weeks ago maybe, not  
16 100 percent sure. I could go through my phone and  
17 see the exact day.

18 Q. I don't need to know the exact date. If I  
19 could just get in context here of the time frame in  
20 which you first learned that Mckenzie filed a  
21 lawsuit and then when you first learned that you --  
22 or when you were first contacted by her attorney.  
23 Has that all happened within the last month or so?

24 A. The attorney, yeah. The lawsuit, I want  
25 to say, it seems like within the last month. I'm



1 not sure, because I was mainly focused with school.

2 Sorry.

3 Q. All right. So then it's been since the  
4 beginning of the school year that you've learned,  
5 since end of August until now?

6 A. That I've known?

7 Q. Uh-huh.

8 A. I mean -- sorry, my attention was focused  
9 on school, but I believe that it's been a month,  
10 like within the past month that she has told me.

11 Q. And then how were you contacted by her  
12 attorney?

13 A. By cell phone.

14 Q. And was that Mr. Maislin who called you?

15 A. Yes.

16 Q. And what did he say when he called you?

17 A. He asked for me to describe what I had  
18 seen happen and then he told me -- he asked me when  
19 I could meet and when my classes were and what a  
20 good time would be.

21 Q. And did that lead to scheduling today's  
22 deposition then?

23 A. Yes.

24 Q. Other than that cell phone call, have you  
25 talked to him on the phone other times other than

1 that?

2 A. No.

3 Q. Did you meet with him before you started  
4 giving your testimony today?

5 A. No, I haven't seen him since today.

6 Q. Did you meet with him before your  
7 deposition today?

8 A. Oh, sorry, yes.

9 Q. And where did you meet with him?

10 A. In his office.

11 Q. And for approximately how long did you  
12 meet?

13 A. I want to say about five, maybe 10  
14 minutes.

15 Q. What did you discuss in the meeting?

16 A. We just went over the -- what I had said  
17 on the phone. He just wanted to see that it  
18 remained consistent, that it seems -- we just went  
19 over basically what I said on the phone with him and  
20 then there had been previous depositions.

21 Q. Did you talk about what other people have  
22 said had happened that night?

23 A. By other people, like --

24 Q. Yes.

25 A. He just said there was like other

1 depositions where this has been raised.

2 Q. Where what has been raised?

3 A. That there was -- I believe there was --  
4 like where we were in line, it was either that we  
5 might have been at the door and then that there's a  
6 ramp, there could have been a ramp or -- I believe  
7 that was it.

8 Q. Do you know who gave testimony in these  
9 other depositions?

10 A. No.

11 Q. So Mr. Maislin didn't explain that to you?

12 A. He explained there was a deposition. I  
13 believe Mckenzie gave one, but I'm not 100 percent  
14 sure.

15 Q. I'm sorry, who?

16 A. Mckenzie.

17 Q. You think Mckenzie has given a deposition?

18 A. He didn't say, so I'd be guessing. Sorry.

19 Q. Well, what's your understanding of what  
20 other person has given a deposition in this case?

21 A. I do not know by name.

22 Q. But it's a person that has some knowledge  
23 about the facts of the night?

24 A. Yes, I would assume.

25 MR. MAISLIN: Allegedly.

1 Q. What's your understanding of what those  
2 facts are that the other person said?

3 A. That there's either a ramp or someone --  
4 that there was like a ramp or something that was  
5 going up there or that we were closer to the door.

6 Q. And you have made it clear in your  
7 testimony today that there is not a ramp or an  
8 incline that leads to the door, correct?

9 A. Correct.

10 Q. Do you know if there is a ramp at another  
11 place on those premises that's not close to the  
12 entrance?

13 A. Not that I know of. Like either on the  
14 front side or back? Not that I recall. I haven't  
15 really looked.

16 Q. Is Mckenzie enrolled at the University of  
17 Cincinnati?

18 A. Officially or -- I know she has talked  
19 about going there and that she set up an e-mail  
20 there, so I would assume she's enrolled in order to  
21 get her premed classes, because she was asking me  
22 how to set up the UC e-mail.

23 Q. Let me just ask the question very simply.  
24 Do you know if Mckenzie is enrolled at the  
25 University of Cincinnati? Either you know or you

1 don't know.

2 A. No.

3 Q. You don't know?

4 A. No.

5 Q. Do you know why she would say that she is?

6 MR. MAISLIN: Because maybe she is and he  
7 doesn't know.

8 Q. That's my question.

9 A. Because she was talking about -- because  
10 with her premed she has to meet certain -- she's  
11 talked about meeting requisites and talked to me  
12 about enrolling in order to get those pre-recs,  
13 because I knew that she was talking about chemistry  
14 that she had to take at UC, but I did not know if  
15 she was officially enrolled or not.

16 Q. Okay. And I'm just trying to understand.  
17 Do the two of you talk on a regular basis?

18 A. Yes.

19 Q. How often, daily?

20 A. Face-to-face or --

21 Q. Text, talk.

22 A. Daily.

23 Q. And she knows that you're enrolled at the  
24 University of Cincinnati, right?

25 A. Yes.

1 Q. But you don't know if she is?

2 A. Correct.

3 Q. Do you know if she's enrolled at the Good  
4 Samaritan College of Nursing?

5 A. Yes.

6 Q. Can she be enrolled at the Good Samaritan  
7 College of Nursing and at the University of  
8 Cincinnati at the same time, do you know?

9 A. I do not know if they're allowed to be at  
10 the same time.

11 Q. And the two of you don't discuss that?

12 A. We have discussed it. Our discussion's  
13 basically been that she wants to go -- I would  
14 assume, I'm going off assumption, sorry, but she's  
15 talked about being at Good Sam and then taking like  
16 summer courses at UC. I'm not sure if you can be a  
17 part of both of them at the same time or not.

18 MS. TAGGART: All right. Those are all  
19 the questions that I have. Thanks.

20 CROSS-EXAMINATION

21 BY MR. BENINTENDI:

22 Q. Joe, we've been here a long time so I'll  
23 be quick. My name is John Benintendi. I'm here on  
24 behalf of Del-Fair, Incorporated. Do you know who  
25 that is or who they are?

1 A. No, I do not.

2 Q. Never heard of them?

3 A. No, but I've been to Del-Fair, but not  
4 specifically corporate.

5 Q. You've talked a lot so I'm just going to  
6 hit a couple of points and I'll be done. When you  
7 were walking in the aisleway toward the door, you  
8 were shoulder to shoulder, so to speak, with  
9 Mckenzie?

10 A. Yes.

11 Q. Do you know if Allison and Elizabeth were  
12 basically shoulder to shoulder behind you?

13 A. What do you mean by shoulder to shoulder?

14 Q. Next to each other rather than in single  
15 file.

16 A. It seems like they were -- we were in  
17 front so, I'm not 100 percent.

18 Q. And you said you had your left arm around  
19 her and your right hand on her right hand or arm?

20 A. Yes.

21 Q. So she was on your left?

22 A. Yes.

23 Q. When she turned to run, did she turn into  
24 you or away?

25 A. She turned away.

1 Q. Do you know if she actually ran into  
2 Elizabeth or Allison?

3 A. It didn't look like it because they looked  
4 like they went off to the side at least. So it  
5 looked -- it didn't look like any of them were --  
6 like had been like in contact with them. Like if  
7 she would have turned around immediately and ran,  
8 she would have at least run into one of them.

9 Q. Okay. You said you saw Mckenzie on the  
10 ground?

11 A. Yes.

12 Q. So there was enough light there from 30 or  
13 40 feet away to see her?

14 A. Yes.

15 Q. And then when you got over to her, there  
16 was certainly enough light to see her?

17 A. Yes.

18 Q. And the ground around her?

19 A. Yes.

20 Q. Did you at any point go back, even when  
21 the Dungeons were not in operation, to determine if  
22 there was any type of defect in the property that  
23 caused Mckenzie to fall?

24 A. No, I did not.

25 Q. I mean, you mentioned that Mckenzie said



1 she tripped?

2 A. Yes.

3 Q. But did she ever say I tripped over my  
4 shoestring, my other foot, something in the parking  
5 lot, or do you have any knowledge whether she even  
6 knows?

7 A. The doctor was talking about a sprain and  
8 she objected to that. She didn't feel as though it  
9 were a sprain, more of break.

10 Q. People can break their ankle just by  
11 running and you step on it incorrectly. What I'm  
12 trying to figure out is do you have any knowledge of  
13 any defect in the property that actually caused her  
14 to fall?

15 A. No, I do not.

16 Q. Do you know if she does?

17 A. No, I do not.

18 Q. Do you know if anybody does?

19 A. No, I do not.

20 MR. BENINTENDI: That's all.

21 (Deposition Exhibit A was marked for  
22 identification.)

23 FURTHER RECROSS-EXAMINATION

24 BY MR. MAISLIN:

25 Q. Let me hand you a picture that's been

1 marked as Exhibit A to your deposition. Can you  
2 identify the pole where you believe that the four of  
3 you were standing when the ghoul came out of the  
4 door and started running at you?

5 MS. TAGGART: Objection.

6 MR. MILLIGAN: Objection.

7 A. Right here.

8 Q. Is that the fourth pole?

9 A. (WITNESS NODS HEAD.)

10 Q. Can you maybe circle the bottom of that  
11 with the pen, please?

12 A. Right here?

13 Q. Yeah.

14 A. I want to say it was there.

15 Q. And that's approximate, correct?

16 A. Yes.

17 Q. And when the character came out and  
18 started chasing Mckenzie, did the character actually  
19 run all the way out of the walkway?

20 MR. MILLIGAN: Objection.

21 Q. You know what I'm saying?

22 A. Yeah. It's hard to remember, sorry.  
23 Yeah, he had to be out of the walkway, yes.

24 Q. So Mckenzie ran out of the walkway,  
25 correct?

1 A. Yes.

2 Q. And then the ghoul or whatever ran all the  
3 way out of the walkway after her?

4 A. Yes.

5 Q. You mentioned that you thought it was  
6 normal to be scared at a haunted house or for people  
7 to jump out. Do you believe that it was normal for  
8 one of these creatures to jump out of the front door  
9 and run at you before you turned in your ticket?

10 A. I was not expecting it.

11 Q. Do you think that's normal for a haunted  
12 house, or don't you know?

13 A. What do you mean like normal, as in like  
14 being in line or as an aspect of --

15 Q. I'm talking about for them to do that  
16 before you even go in.

17 A. I would have assumed not.

18 Q. When you were -- in fact, I think it was  
19 one of the defense attorneys used a figure of about  
20 30 feet or maybe he was saying because you said 10  
21 meters or something. When you're giving your  
22 distance in feet or meters, is that an  
23 approximation?

24 A. Yes.

25 Q. Mckenzie said to you something to the

1 effect of she didn't want to be the last people at  
2 the haunted house because she heard that they get  
3 chased by zombies or something to that effect,  
4 right? Did I say that right?

5 A. Sorry, can you repeat that?

6 Q. Okay. Mckenzie said to you at some point  
7 that she didn't want to be the last person at the  
8 haunted house, the Dungeons of Delhi, because she's  
9 heard somewhere that the last people out of the  
10 haunted house can get chased by zombies out. Is  
11 that what you said?

12 A. She didn't say directly to me, but it -- I  
13 could make an assumption, but that's guessing  
14 because she wanted to get there and get out.

15 Q. Okay. Did she ever say anything about  
16 running from zombies chasing her out of the house or  
17 anything like that?

18 A. On that day?

19 Q. Any day.

20 A. Other than what she told me prior, that  
21 the zombies have chased people out of the house, she  
22 never said that she was going to be one.

23 Q. So she never said that in context of going  
24 that evening to the Dungeons of Delhi?

25 A. Correct.

1 Q. Was it your understanding that she did not  
2 want to get chased by zombies?

3 A. Yes.

4 MR. MAISLIN: Okay. I don't have  
5 anything further. Thanks.

6 FURTHER RECROSS-EXAMINATION

7 BY MR. MILLIGAN:

8 Q. I just want to, Joe, try to clarify.  
9 You've given testimony and I'm trying to understand  
10 kind of what it looked like or what happened. So  
11 now I kind of understand that the ghoul that came  
12 out was on the outside of the fence. Is that what  
13 you said?

14 A. On like this side of the fence?

15 Q. Yeah, on the parking lot side.

16 A. I don't recall saying that, but --

17 Q. When he came down, where was -- was he  
18 inside the walkway or was he outside the walkway?

19 A. He was inside the walkway.

20 Q. Did he -- he approached you four? There  
21 were four of you?

22 A. Yeah.

23 Q. And at that point Mckenzie had already  
24 turned?

25 A. Yes.

1 Q. Did he touch any of you?

2 A. No, he did not come in contact with any of  
3 us.

4 Q. Did he run by you?

5 A. Yes.

6 Q. I'm also a little confused as to the speed  
7 at which he was moving. You said that when he --  
8 you earlier testified that when he came out of the  
9 door, he was on all fours; is that correct?

10 A. Correct.

11 Q. Was he crawling?

12 A. It looked like he was crawling at least,  
13 because he was crouched to the ground. His  
14 knuckles, it looked like they were in contact with  
15 the pavement or concrete.

16 Q. And when he first came out, did he pause,  
17 he or she, did the ghoul pause?

18 A. When he was coming out or at any time --

19 MR. MAISLIN: Objection; asked and  
20 answered.

21 Q. I'm sorry, what was your answer?

22 A. I was just trying to clarify. What was  
23 your question again?

24 Q. When he came out of the door, did he stop  
25 for a moment?

1 A. No.

2 Q. He came out and kept moving?

3 A. Yes.

4 Q. Was he still on all fours?

5 A. Yes.

6 Q. Was he on all fours the entire time you  
7 saw him?

8 A. Up until he saw Mckenzie fall.

9 Q. Okay. So you've testified that you were  
10 at the fourth post?

11 A. Yeah.

12 Q. You saw the ghoul come out, Mckenzie turn  
13 around and ran and the ghoul is on all fours the  
14 entire time until she fell; is that correct?

15 A. Yes.

16 MR. MILLIGAN: I have nothing further.

17 Thanks.

18 FURTHER RECROSS-EXAMINATION

19 BY MR. RINEAR:

20 Q. Couple questions. You said she played  
21 high school soccer. Where did she go to high  
22 school?

23 A. She was a freshman at Seton when she  
24 played soccer, I believe.

25 Q. Did she play any other years beyond that

1 or just that year, if you know?

2 A. I think it was just -- I'm not sure.

3 Sorry.

4 Q. She did she play basketball, volleyball or  
5 any other sports?

6 A. She did play basketball in grade school  
7 that I know of. I think she continued on to high  
8 school because -- yeah, she did because she was  
9 talking about some of the teammates from a grade  
10 school that I know of.

11 Q. Did you ever look at the Dungeons of Delhi  
12 website before you went that night?

13 A. No, I haven't.

14 Q. Do you know if Mckenzie did?

15 A. No.

16 Q. As this character came out the door and  
17 came at you guys, do you recall if he passed you on  
18 your right, which would be out toward the bars or  
19 the fence part of it, or passed you on the inside  
20 and more toward the wall?

21 A. He passed more towards the inside on the  
22 wall.

23 Q. On the wall --

24 A. On my left, yes.

25 Q. Okay. Would you agree with me that if



1 Mckenzie had just stayed there right with you, none  
2 of this would have ever happened?

3 MR. MAISLIN: Objection. How would he  
4 know?

5 Q. If she would have just stood right with  
6 you and not run, her injury wouldn't have happened,  
7 would it?

8 MR. MAISLIN: Objection.

9 A. My assumption, based off of haunted  
10 houses, I don't think there's allowed to be physical  
11 contact, but I'm not -- because we didn't really  
12 sign a waiver or anything.

13 Q. Well, I mean, this character didn't make  
14 physical contact with you or the other two girls,  
15 right?

16 A. Correct.

17 Q. So would you agree if Mckenzie would have  
18 just stayed right there with you and not run away,  
19 this wouldn't have happened, right?

20 A. I would assume so, yes.

21 MR. RINEAR: That's all I have.

22 FURTHER RECROSS-EXAMINATION

23 BY MS. TAGGART:

24 Q. Do you know approximately how far the  
25 ghou1 had crawled before Mckenzie fell?

1 A. He was out of the walkway.

2 Q. So he had gotten out of the walkway?

3 A. Yes.

4 Q. Had he proceeded to the parking lot to any  
5 degree?

6 A. What's the parking lot, the front of the  
7 building or --

8 Q. Just the area right outside the walkway.

9 A. No, because that's when Mckenzie fell and  
10 he stopped.

11 Q. How far was he from her when he stopped?

12 A. Approximation?

13 Q. Yeah.

14 A. I would say probably about 10 feet, maybe  
15 20. Sorry.

16 Q. Ten or 20 feet away?

17 A. Yeah.

18 MS. TAGGART: I don't have any further  
19 questions.

20 (Witness excused.)

21 (Deposition concluded at 3:45 p.m.)

22

23

24 JOSEPH GIOVANETTI

DATE

25

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 14th day of November, 2014.

20

21 MINDY DAVIS

22 Notary Public

23 My Commission expires: 04/03/16

24

25