

IN THE CIRCUIT COURT OF THE  
FOURTH JUDICIAL CIRCUIT, IN  
AND FOR DUVAL COUNTY, FLORIDA

CASE NO.: 16-2014-CA-004199  
DIVISION: CV-B

WALTER EVANS, as Personal Representative of the Estate of  
Taylor Evans, deceased,

Plaintiff,

vs.

JACKSONVILLE LANDING INVESTMENTS, LLC, a Florida limited  
liability company, PARADOR PARTNERS, LLC, a Florida  
limited liability, GREG JOHNSON, an individual, and BRIAN  
PATTERSON, an individual,

Defendants.

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Deposition of

**RUSSELL KOLINS**

Taken on behalf of the Defendants  
Pursuant to Notice of Taking Deposition

DATE: Monday, February 27, 2017  
TIME: 9:42 a.m. - 12:42 p.m.  
PLACE: Riley Reporting & Associates, Inc.  
1660 Prudential Drive, Suite 210  
Jacksonville, Florida 32207

Examination of the witness taken before:

Tanya L. McCranie  
Registered Merit Reporter

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Veritext Job Number: 2538458

**COPY**

A P P E A R A N C E S

THEODORE S. PINA, JR., Esquire

Nichols & Pina, LLP

300 West Adams Street, Suite 130  
Jacksonville, Florida 32202  
(904) 353-3300  
ted@nicholsandpina.com

appearing on behalf of the plaintiff.

LAURA L. STARRETT, Esquire

Law Office of Amy Warpinski

1301 Riverplace Boulevard, Suite 1640  
Jacksonville, Florida 32207-9023  
(904) 346-5422  
laura0234.starrett@libertymutual.com

appearing on behalf of Defendant  
Jacksonville Landing Investments, LLC.

NEIL F. McGUINNESS, Esquire

Douberley, McGuinness & Cicero

1000 Sawgrass Corp. Parkway, Suite 590  
Sunrise, Florida 33323  
(954) 838-8832  
nmcguinness@dmc-atty.com

appearing on behalf of Defendant Parador  
Partners, LLC.

A P P E A R A N C E S (Continued)

PATRICIA KYSER, Esquire

Finnell, McGuinness, Nezami & Andux, P.A.

2114 Oak Street  
Jacksonville, Florida 32204  
(904) 791-1101  
pkyser@fmnlawyers.com

appearing on behalf of Defendant Greg  
Johnson.

TREVOR G. HAWES, Esquire (telephonically)

Cole, Scott & Kissane, P.A.

4686 Sunbeam Road  
Jacksonville, Florida 32257  
(904) 672-4000  
trevor.hawes@csklegal.com

appearing via telephone on behalf of  
Defendant Brian Patterson.

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I N D E X

<u>Witness</u>	<u>Page</u>
RUSSELL KOLINS	
Direct Examination by Ms. Starrett . . . . .	5
Cross Examination by Mr. McGuinness . . . . .	73
Cross Examination by Mr. Pina . . . . .	87
Redirect Examination by Ms. Starrett . . . . .	91
Recross Examination by Mr. McGuinness . . . . .	92

- - -

E X H I B I T S

<u>For Identification</u>	<u>Page</u>
Defendants' Exhibit No. 1 . . . . . (File with thumb drive)	48
Defendants' Exhibit No. 2 . . . . . (Handwritten notes)	74

- - -

1                               RUSSELL KOLINS,

2       having been produced and first duly sworn as a witness on  
3       behalf of the defendants, and after responding "I do" to  
4       the oath, testified as follows:

5                               DIRECT EXAMINATION

6       BY MS. STARRETT:

7               Q       Can you state your name, please.

8               A       Russell Kolins, K-o-l-i-n-s.

9               Q       Mr. Kolins, my name is Laura Starrett. I  
10       represent The Jacksonville Landing in this matter, and I  
11       know you've been deposed before so I'm not going to go  
12       through any of the usual rules.

13               We have your CV, but if you can, starting with  
14       college, can you give me your educational background?

15               A       Sure. I graduated high school in 1964. I went  
16       to Temple University for two years. That was the start  
17       of the Vietnam era.

18               I enlisted in the Marine Corps, and spent the  
19       next few years in the Marine Corps. I had schooling in  
20       the Marine Corps as well as two tours in Vietnam. I  
21       returned in 1969.

22               I tried to finish college at night until 1980  
23       at Temple University. It didn't work out because I  
24       couldn't attend the classes since I traveled with my  
25       business.

1           In 1995 Southwestern College teamed up or  
2           partnered up with ASIS International, a preeminent  
3           professional security organization globally, and  
4           developed a course in security management for both the  
5           Bachelor of Science and now a master's degree in security  
6           management. That course is now taught in over 300  
7           universities.

8           So I spent the next three years at Southwestern  
9           College. It was a virtual course, so I attended the same  
10          courses as if I -- if I were in class. I watched the  
11          classes on video, and finally graduated in 2008 with a  
12          Bachelor of Science degree in security management.

13          Q     And the course that you're talking about, is  
14          that also offered where people attend in person or is it  
15          just a virtual course?

16          A     That's right. I thought I just said that.  
17          Yes. It would be the same classes, what transpired in --  
18          in class as it did in school. The -- the class is  
19          actually videotaped and put online for students who are  
20          taking it. Some -- some students can't attend a class  
21          when they're actually on campus, and so what they do is  
22          they attend it at night or at their leisure, in their  
23          pajamas or whatever, online.

24          Q     So in getting your BS, did you use credits that  
25          you had already gotten from Temple or did you start

1       anew?

2           A     Yes. I had approximately 100 credits at  
3       Temple. Southwestern only accepted 55 of those credits  
4       because of the length of time between going to Temple and  
5       the time that I applied to Southwestern, so ...

6           Q     Can you recall some of the courses that you  
7       took leading up to your BS degree, specific names of  
8       courses?

9           A     Going back to Temple University?

10          Q     No, no, since the --

11          A     Oh, at Southwestern College?

12          Q     Yes.

13          A     Sure. Management leadership, management  
14       control, crowd control, crowd management, closed-circuit  
15       TV, physical security, legal aspects of security, and  
16       numerous other security courses. The -- because they  
17       only accepted 55 of my credits, I had to retake all the  
18       English and the basic courses, and redo those.

19          Q     When you say "closed-circuit TV," how is --  
20       what did that involve?

21          A     The use of closed-circuit TV in security  
22       situations, commercial properties, even -- even private  
23       homes, but mostly for commercial properties and law  
24       enforcement purposes.

25          Q     You've named a number of courses. Any others

1       that you would say were specifically directed toward  
2       commercial properties?

3           A     Virtually all of them.

4           Q     Now, what was your -- what job did you do in  
5       the Marines?

6           A     I was a counterintelligence agent. I was a  
7       recon Marine, special forces of the Marine Corps. I  
8       graduated first in my class in intelligence school in  
9       Fort Holabird, Maryland, which is a multi-agency school,  
10      non-uniform and uniform, but nobody knew who anybody was.

11                And once I graduated, I took -- or I was  
12      assigned to other schools, interrogation schools,  
13      Vietnamese language school interrogation,  
14      counterintelligence, terrorism programs.

15           Q     And what type of work did you do when you got  
16      out of the military?

17           A     Well, I was recruited by the FBI because I  
18      graduated first in my class in intelligence -- the first  
19      intelligence school. I went to other intelligence  
20      schools as well. But I was recruited by the FBI.

21                But I worked for a lawyer in Philadelphia who  
22      was a criminal defense lawyer, and while awaiting orders  
23      to go to -- to Washington, I -- by working with this  
24      lawyer and working on a case with him, my picture was in  
25      the newspaper with him.



1           And I was called into the FBI, my supervisor's  
2 office, and said, "What's -- what's going on with this?"

3           I said, "Well, I met the lawyer. He asked  
4 me -- he knew I was an investigator. He asked me if I  
5 would find a witness for him; I did, brought him to  
6 court." I walked out of the courtroom with this lawyer.  
7 Our picture was on the front page of the newspaper. And  
8 my supervisor Bill Andress (phonetic) said that I was no  
9 longer a desired candidate for the FBI because I  
10 associated with a criminal element. And that was the  
11 criminal defense lawyer he was referring to.

12           Q     Did you actually -- were you actually in the  
13 FBI or were you waiting to go to Quantico?

14           A     I was waiting for my orders. I was told they  
15 were still finishing up my 398 --

16           Q     And what was the name --

17           A     -- background.

18           Q     -- of the attorney?

19           A     A. Charles Peruto, P-e-r-u-t-o.

20           Q     So once you learned that you were not going  
21 into the FBI, what did you do next?

22           A     Well, Mr. Peruto was very involved in the legal  
23 system in Philadelphia and suggested that because of my  
24 training and my -- my experience in the Marine Corps,  
25 that -- and what I did for him in his murder case, which

1 he won by the way, he suggested that I get a private  
2 detective license and work for him, which I did in  
3 1969.

4 Q What does it take -- what did it involve to get  
5 a PI license?

6 A In Pennsylvania you have to have minimum three  
7 years' experience. If you're a detective -- you can be a  
8 detective or a police sergeant or higher rank. My rank  
9 being in counterintelligence was -- met those  
10 requirements.

11 Q From the military?

12 A Yes.

13 Q Okay.

14 A And there were other background checks by the  
15 district attorney's office in the county where you apply,  
16 and then a second background check for verification by  
17 the Pennsylvania State Police.

18 I also did that in New Jersey, which was  
19 strictly controlled by the New Jersey State Police, and  
20 qualified for a license in both states.

21 Q Without going into anything that's  
22 confidential, but when you say you worked in intelligence  
23 in the military, if you can, just kind of give me an idea  
24 of what that involved. I mean, you're not like a --  
25 obviously an MP or anything like that, so what kind of

1 things did you do?

2 A That's correct, it was not law enforcement. It  
3 was counterintelligence. It dealt with  
4 counterintelligence, interrogations, intelligence --  
5 background investigations, security. At that time they  
6 weren't called risk assessments, but basically they were  
7 security evaluations, which were basically risk  
8 assessments.

9 Q Who would you --

10 A And threat assessments.

11 Q Who would you be doing security assessments  
12 for, like on a base or --

13 A Whoever I was assigned to.

14 Q But I'm trying to say, is it similar to  
15 something like what we're doing here? Is it a military  
16 base? Where were you doing risk assessment, what kind of  
17 facilities?

18 A The principles were the same. The threat  
19 assessments dealt with threat assessments by any  
20 terrorist group, terrorism like we don't exactly know or  
21 knew then as we know today, but it was the same  
22 principle.

23 Q And so I assume then you became a private  
24 detective?

25 A Yes, in 1969.

1 Q Is that what you did for a living after that?

2 A Yes. I started my practice in 1969. It  
3 developed very quickly because of the -- my association  
4 with Mr. Peruto. Virtually every one of his cases made  
5 the newspapers, and he always gave me a lot of credit.

6 In 1970, because of the newspaper articles,  
7 James Beasley, a plaintiff's lawyer in Philadelphia, read  
8 my name, he knew Chuck Peruto, and he contacted Mr.  
9 Peruto and said, "I need an investigator. Apparently  
10 this guy's pretty good, so how do I get in touch with  
11 him?" So Chuck put me in touch with Mr. Beasley.

12 Mr. Beasley liked me. He took me under his  
13 wing, and up until six years ago, he was my mentor in the  
14 civil arena on the plaintiff's side. Temple University  
15 School of Law is now called the Beasley School of Law,  
16 named after him.

17 Q Did you work exclusively for him once that  
18 began, that relationship began?

19 A No. He was one of my clients. Because of the  
20 work that I did -- excuse me. In 1970 I developed a  
21 relationship with an organization, which was a claims  
22 organization that was looking for -- for investigators,  
23 and that started a career for approximately 12 -- 12  
24 years in the insurance industry.

25 And during those 12 years, half of my practice

1 was insurance defense work and the other half was split  
2 up between criminal defense and Mr. Beasley's office.  
3 Mr. Beasley's office was the only office I conducted  
4 plaintiff's investigations for.

5 Q And so did he do -- he did civil work or  
6 just -- did he do civil work as well as criminal or just  
7 civil?

8 A No. Mr. Beasley was strictly civil.

9 Q The man you worked for before, was that  
10 strictly criminal?

11 A Yes.

12 Q Which organization was it that you worked with  
13 the claims organization you just referred to?

14 A It was the Philadelphia Claims Association.

15 Q Is that what it's called?

16 A Yes. I eventually was elected president three  
17 different terms. The only private detective ever to be  
18 elected president. Everybody else are claims managers or  
19 defense lawyers.

20 Q And did they handle -- did you handle cases for  
21 different insurance companies?

22 A Many, yes.

23 Q Can you think of the names of any insurance  
24 companies?

25 A Sure. Casualty -- Casualty PMA, Aetna,

1 Nationwide. Nationwide was the first office that had  
2 in-house counsel, so I worked for their in-house counsel.  
3 Erie Insurance Company. So many.

4 Q Did you have -- you had an independent business  
5 that worked for them? Were you an independent  
6 contractor?

7 A That's correct.

8 Q And what was the name of your business?

9 A Russell Kolins Associates.

10 Q Did you have anybody else working with you?

11 A I did, for several years.

12 Q And you said that started in 1970 and it was  
13 for 12 years?

14 A 12 ~~was~~ a little more than 12, yes.

15 Q And during that time, did you work for anybody  
16 else other than claims organizations?

17 A I worked for criminal defense attorneys.

18 Q And when you were working for the claims  
19 organizations, what type of things did you do for them?

20 A Most of the work was me personally involved  
21 conducting risk assessment, security evaluations for  
22 their carriers. Mostly of their insureds.

23 Q So this would be proactive work?

24 A It was proactive and -- well, there were --  
25 yes, many cases that were investigated after an incident

1 and I would go in and review their security procedures,  
2 bar operations, nightclub operations. Hotels, included  
3 hotels and motels, and some commercial properties.

4 Q And what happened after the 12 years, what --  
5 why did you leave that business?

6 A Well, no-fault insurance came into play in  
7 Pennsylvania, and my clients wanted me to conduct  
8 investigations for \$500 for the same thing that I made  
9 \$2,000 on, and I could not afford to do that.

10 Q Obviously their no-fault insurance must be  
11 different than our no-fault insurance. So they have  
12 no-fault -- how does that work in Pennsylvania? Here  
13 it's just automobile cases.

14 A Well, it was automobile cases in Pennsylvania  
15 as well. But insurance companies still went on an  
16 austerity program and cut everybody's fees.

17 Q So it didn't affect the security -- premises  
18 security cases, it's just at that point they didn't want  
19 to pay you as much?

20 A That's correct.

21 Q So what did you do then?

22 A Well, I had an ongoing practice. I was in a  
23 very successful practice. I actually didn't need the  
24 insurance industry at that time. In 1980 I bought a  
25 nightclub, and I owned that for ten years. I still

1 conducted my practice and maintained my office in  
2 Philadelphia and an office over top of my nightclub in  
3 New Jersey.

4 Q And what was the name of the nightclub?

5 A Private Eyes.

6 Q And how long did you have that?

7 A Almost ten years.

8 Q And so I thought I read somewhere you also  
9 lived above it?

10 A I did.

11 Q And as far as -- but you had an office  
12 additionally? Was that a combination, your  
13 home/office?

14 A Yes. Well, it was my apartment. I had an  
15 apartment in Philadelphia as well, yes.

16 Q And you said for ten years. So about 1990?

17 A '91.

18 Q 1991. While you were operating your nightclub,  
19 how big was your practice? How much time were you  
20 spending as far as investigative-type work?

21 A My practice did not diminish at all. I  
22 continued the same -- same amount of time.

23 Q If you can -- and I'm not even sure how to ask  
24 these questions, but I'm trying to get an idea of the  
25 size and the scope of the nightclub. Do you recall



1 approximately how many square feet it was?

2 A I don't remember the square feet. I know that  
3 the capacity for general admission when we had concerts  
4 was just under a thousand. With tables it was much less.  
5 The -- we also had outdoor concerts on the parking lot  
6 which normally attracted approximately 5,000  
7 concertgoers.

8 Q So was this a free-standing building?

9 A Yes, it was.

10 Q And on a regular day, were the concerts  
11 something different or did you always have music?

12 A Well, we always -- we had music from Wednesday  
13 through Saturday nights, live band music. On Sunday we  
14 had DJs who were radio station very popular DJs.

15 Q And did you --

16 A Can I --

17 Q Sure.

18 A I'm sorry. I should add that occasionally we  
19 had actual concerts with groups such as The Guess Who,  
20 Santana, Leon Redbone was there, and other big  
21 celebrities. That normally was on a Thursday night. On  
22 Thursday nights were the nights of travel for those  
23 groups coming down from New England through New York,  
24 through New Jersey, on their way down to Baltimore,  
25 Washington, Virginia, for their weekend concerts. And

1 the promoter and I were able to strike a deal where these  
2 groups would come in on Thursday nights.

3 I had my own green room. I had my own  
4 lighting, sound equipment. It was a very large  
5 operational entertainment facility. And so all they had  
6 to do was come in. We had food ready for them and  
7 whatever else that they wanted in terms of food and --  
8 and drinks. Showers. Park your bus on my lot and come  
9 in, have a rehearsal and play their concert.

10 Q How much of your time was actually spent -- you  
11 mentioned that you had the apartment there as well as one  
12 in Philadelphia. How much of your time was spent there  
13 at the bar -- at the nightclub?

14 A At the nightclub? A lot of my time.

15 Q And served beer and alcohol?

16 A Yes.

17 Q Any food?

18 A Yes.

19 Q Full dinners or --

20 A No.

21 Q Bar food?

22 A Bar food.

23 Q How many employees did you have?

24 A You know, I don't -- I don't recall. I had a  
25 lot of employees. I had a waitstaff. I had a bar staff,

1 bar-backs. I had proprietary security.

2 Q And that was my next question. Describe for me  
3 the security that you had for your nightclub.

4 A Sure. It was proprietary security.

5 Q What does that mean?

6 A It meant that they worked directly for me. I  
7 hired them. I did their background investigations. I  
8 had my own policies and procedures. I had my own  
9 training program based on those policies and procedures,  
10 which I conducted the training along with my manager who  
11 I trained to help train new security staff coming on.

12 We did not have a very large turnaround of  
13 security staff, very few over those -- that ten-year  
14 period of time. I only had to fire one, I believe. I  
15 don't think there was more than one.

16 Q Before they came to work, were there  
17 requirements as far as education, training that they  
18 would have had before they began your training program?

19 A Well, it was a regular background  
20 investigation. They didn't have to have college; if they  
21 had college, that's fine. I had two who worked for me  
22 who were actually high school teachers, so they had --  
23 they had a college background.

24 My policy was not to take anyone who worked  
25 security at any other bar or retail liquor establishment.

1 The people I hired were people who were trainable, who  
2 had the right personality that fit in with the  
3 personality of my club, and not somebody who was trained  
4 by somebody else and worked in another club to develop  
5 whatever their habits were there. So I wanted to bring  
6 somebody in like a newborn baby and teach them my way.

7 Q Did these people wear uniforms?

8 A They wore -- yes, they wore staff shirts.

9 Q And did they carry any weapons?

10 A No.

11 Q Let's go to a night not -- where there's not  
12 music, just a regular night earlier in the week. How  
13 many people would you have on security?

14 A It depended on -- on what was going on. If it  
15 was a -- just a regular benign night, I don't remember  
16 exactly how many I had on at the time. At least four.

17 Q If you can, describe for me the training  
18 program, what it involved.

19 A Sure. Well, up until 1986, they were only  
20 trained in handling people who were intoxicated. They  
21 were trained in verbal judo. And --

22 Q Verbal judo, is that what you said?

23 A Verbal judo. Deescalation techniques. They  
24 were trained in the legal aspects of the bar business.  
25 They were trained in how to card. We carded everybody

1 coming in the door. We didn't have a scanner system back  
2 in those days so that -- that wasn't part of the  
3 equation.

4 So they knew how to card. They knew how to  
5 deal with people. They greeted people when they came in.  
6 They knew how to greet people to find out if -- or to  
7 test them if they were intoxicated, because we never let  
8 anybody into the bar who was intoxicated. They were  
9 trained according to the policies and procedures of -- of  
10 my club.

11 Q And --

12 A And then let me put the second part of that.  
13 In 1986 New Jersey enacted a new law called a host law,  
14 social host law. I was very active in the -- not the  
15 claims association -- in the tavern owners association.  
16 And -- and my association was very active.

17 We had a problem because the insurance carriers  
18 increased the premiums of retail liquor establishments  
19 tremendously. I went from \$3600 a year to 165,000 a year  
20 just like that. The insurance carriers expected that  
21 they were going to recoup their money on these social  
22 host claims from the retail industry.

23 So my tavern owners association worked with  
24 lawyers and insurance companies to find out how we could  
25 reduce the premiums not only for ourselves but for the

1 mom-and-pop shops in our county. And we had a lot of  
2 mom-and-pop shops. As a matter of fact, in one town we  
3 had close to 30 very small mom-and-pop shops, and they  
4 could no longer afford to be in business with their  
5 increased premiums.

6 So I went to a client of mine at Erie Insurance  
7 Company and asked, "What can we do here?" And they came  
8 back with an answer, and they said if you take a program  
9 that just started out in Michigan called TAM, Techniques  
10 of Alcohol Management, and you train people, they threw  
11 out a number of 80 percent, that they would consider  
12 reducing premiums by a certain percentage.

13 So I did go out to Michigan. I learned -- I  
14 trained as a trainer. I came back and worked throughout  
15 the state of New Jersey training bar owners, managers,  
16 bartenders, servers, valet, security personnel, et  
17 cetera, and certified them in techniques of alcohol  
18 management. So that became a part of the training in my  
19 own bar.

20 Q And that's what I was going to ask. The people  
21 that were already working there, did you then make them  
22 go through the TAM?

23 A They were the first ones.

24 Q And what does the TAM program -- what --  
25 describe for me the courses, what's done with that.

1           A     Sure. The Techniques of Alcohol Management was  
2     the first legitimate program regarding training for  
3     responsible alcohol management. Part of the training is  
4     understanding what alcohol is, the effects of alcohol on  
5     human beings, the laws that pertain to each individual  
6     state, or maybe even the county or jurisdiction where  
7     the -- these venues are concerned. How to recognize  
8     persons who are visibly intoxicated and what to do and  
9     handle situations when you find somebody who is visibly  
10    intoxicated or on their way to becoming visibly  
11    intoxicated, how to slow down their -- the service, what  
12    to do if they do become rowdy or unruly. And that's  
13    basically what it is.

14                Right after the TAM program was developed,  
15    American Health Connections in Virginia started their own  
16    program called TIPS, which is Training for Intervention  
17    Procedures, which was developed by Dr. Chafetz. Now his  
18    son is the -- the chairman of the board and runs the  
19    show. TIPS has become the international responsible  
20    alcohol management program. I've been a certified  
21    instructor I think about a dozen years.

22           Q     So did your people also go through that  
23    training?

24           A     No, because I didn't become an instructor until  
25    after.

1 Q And you yourself were the instructor for your  
2 people?

3 A That's correct.

4 Q Now, you mentioned before verbal judo. Is that  
5 what you said?

6 A Verbal judo. It's deescalation.

7 Q Describe for me what you mean by that.

8 A Verbal judo is a way to listen more than speak  
9 to people who are unruly, who are aggravated, who have  
10 issues and want to blow off steam. And it's more of a  
11 training on how to listen and use that person's language  
12 and verbiage not against them but in conjunction with  
13 communicating with them.

14 Q Did you sell the bar?

15 A I did not.

16 Q What happened to the bar?

17 A The bar went out of business.

18 Q And why was that?

19 A Well, one of the reasons was the -- the -- the  
20 premiums for liquor liability cut tremendously into the  
21 profits at that time because of DARE and MADD and  
22 other -- other reasons, and the economy was extremely  
23 bad. We were in a very bad recession at the time. I had  
24 a balloon payment of \$150,000 that I was unable to -- to  
25 collect that money to pay the balloon payment, and I made



1 a conscious decision to let the bar go.

2 Q Now, does New Jersey, or at that time, did it  
3 have it something equivalent to the Dram Shop Act?

4 A Yes.

5 Q While you were operating your nightclub, did  
6 you ever hire any off-duty police officers to work  
7 there?

8 A No. I tried to when I first bought the place,  
9 but Chief Reiders, who I knew very well -- I do a lot of  
10 work with the police department, so I -- by the way, I  
11 was an investigator for the police union in Philadelphia.

12 But Chief Reiders made it clear that he wasn't  
13 going to allow any of his men to work for any liquor  
14 establishments or licensed establishments in the town.  
15 It was a small town. They only had, including the chief,  
16 five officers, and two of them I believe were part time.  
17 So he wouldn't allow their officers to -- to work.

18 Q They weren't allowed to do any off-duty work or  
19 was it particularly a nightclub?

20 A Bars.

21 Q Bars. Was there also a county sheriff's  
22 office?

23 A Oh, of course. There is -- as a matter of  
24 fact, my -- my son's the tactical commander of the SWAT  
25 team with the sheriff's office.

1 Q Did they do any off-duty work at bars?

2 A No.

3 Q And when you say you wanted to, what were --  
4 what were you attempting to do as far as how often, how  
5 many --

6 A It was a courtesy that I extended to Chief  
7 Reider, that if any of his men wanted to -- they didn't  
8 have any women in the department at the time, but if any  
9 of his men were looking for extra work, that they were  
10 welcome to work for me. And he made it clear that  
11 nothing personal to me, but he wasn't going to allow any  
12 of his officers. As a matter of fact, I understand that  
13 that's still the -- the policy in that small town.

14 Q And so what year was it that your -- that the  
15 business was gone, the bar?

16 A 1990, '91.

17 Q And tell me about your work experience after  
18 that point.

19 A The same thing that I've been doing since  
20 1969.

21 Q Well, can you -- I know we talked about it, but  
22 just can you be more specific. Because obviously you're  
23 not operating the bar at the time, you're not doing the  
24 claims thing, so are you just working for plaintiffs, or  
25 what are you doing?

1           A     No. I have developed a practice that --  
2                   (Cell phone interruption.)

3           MS. STARRETT: Sorry.

4           THE WITNESS: Sure.

5           MS. STARRETT: Let me turn that off.

6 BY MS. STARRETT:

7           Q     I'm sorry. What were you saying when my phone  
8 rudely interrupted us?

9           A     I forget. I forget.

10          Q     You were talking about in 1991 developed a  
11 practice.

12          A     Well, subsequent to that time, my practice  
13 became primarily involved with security consulting, and I  
14 became involved as an expert in litigation.

15          Q     When you say you became an expert, what does  
16 that mean?

17          A     Well, in the 1990s, I was contacted by one of  
18 my defense firms who had just found out that I owned a  
19 bar, and Gale Seider, who is a defense attorney, asked me  
20 if I would be an expert for her or consult with her on a  
21 case where she was representing a major nightclub out in  
22 Chester County, Pennsylvania. And I met with her. And  
23 it was at that time, that was my introduction to becoming  
24 an expert in that field in terms of litigation.

25                So I read her case. I read the plaintiff's

1 report. I read a report in opposition to his report, and  
2 that -- that started a change in my career, a change in  
3 direction of my career. I weaned myself off of the  
4 investigative phase of it and hired investigators.

5 I use other investigators now who I supervise  
6 and mentor for investigative purposes. And my work is  
7 strictly security consulting, conducting risk  
8 assessments, security evaluations, risk management for  
9 several clients, and litigation.

10 Q And the case with -- was it Gale Seider, was  
11 that her last name?

12 A Seider, S-e-i-d-e-r.

13 Q What were the -- what was the issue in that  
14 case?

15 A The nightclub was called Maddie's,  
16 M-a-d-d-i-e-s, my first expert case. And Maddie's was a  
17 club, a very big club in Chester County. It had a  
18 two-tier parking lot. Their bar- -- their bouncers were  
19 challenged by a New York Jet football player, and he  
20 wanted to take on the two bouncers at the door. And he  
21 actually assaulted the two bouncers. Well, nothing  
22 happened there. It was -- it ended quickly.

23 At the end of the night, the football player  
24 went up to the back parking lot. The bouncers followed  
25 him. The bouncer [sic] jumped out of his car, ran to

1 tackle the two bouncers, and they moved out of the way,  
2 shoved him to the ground and broke his nose and some  
3 other injuries. So he sued the bar, and that's why I was  
4 brought in.

5 Q And did you actually testify at a trial?

6 A No. I wrote a report, though. Because Terry  
7 Gibbs was -- who is a -- just retired as a lieutenant  
8 from the Philadelphia Police Department, was a  
9 plaintiff's expert. He wrote a report that said that the  
10 bouncers were wrong, and he used force continuum as his  
11 basis for his opinion. Well, force continuum did not  
12 apply to that particular case, and that was what I wrote  
13 in my report.

14 And so the plaintiff's lawyer demand was \$4  
15 million. You know, I told Gale Seider that there were  
16 issues with the case and that if she could settle it,  
17 she -- to get out of it by settlement. She settled it --  
18 settled it for \$50,000.

19 And that's how my career started, because three  
20 weeks later I got a call from that plaintiff's lawyer,  
21 and he said, "Look, you know, you cost me a lot of money  
22 here, but I like your work, and I want you to get  
23 involved with three cases." So I got involved with three  
24 cases from that lawyer, and then my -- that business  
25 mushroomed after that.

1           Q     On those three cases, were you able to give  
2 favorable analysis for that lawyer?

3           A     I don't -- I don't remember any of those  
4 cases.

5           Q     And what do you mean by "force continuum"?

6           A     Force continuum is -- is a method of -- used in  
7 the use of force; however, it has six layers. First  
8 layer is mere presence. Second layer is giving commands.  
9 And when I say "mere presence" by the way, I'm saying  
10 mere presence of authority, people who are either sworn  
11 officers, or a uniform with weapons, or a security guard  
12 in uniform without a weapon. It's still a means of  
13 appearance.

14                     And then the other layers trickle down to using  
15 mechanical restraints, using force with a baton where  
16 you've got to touch somebody, and then finally the last  
17 one being death.

18           Q     And of your work that you do now, what  
19 percentage would you say involves the type of consulting  
20 that you've done in this case, for a case that's in  
21 litigation?

22           A     Sure. It fluctuates. It's 70, 75 percent  
23 litigation, and the rest of it is security consulting and  
24 risk management.

25           Q     And of the 70 to 75 percent, what percentage

1 would you say is for defense versus plaintiffs?

2 A We just did a survey. I have 125 cases. I  
3 have 65 cases that are defense and the rest are  
4 plaintiffs.

5 Q And is -- I know give or take, but is that  
6 pretty consistent?

7 A It fluctuates. You know, I could have a  
8 hundred cases, you know, 99 of them being plaintiffs,  
9 but, you know, when it's -- when it's balanced out like  
10 that, it's usually close to 50-50.

11 Q And other than the Pajcic law firm, have you  
12 worked for any other law firms in Jacksonville other than  
13 obviously Mr. Pina?

14 A I'm working for other law firms now, yes.

15 Q Are any of them in actual litigation? I mean,  
16 is there a lawsuit actually filed?

17 A No, I understand that.

18 Q Okay.

19 A One will be -- I don't know if it was filed on  
20 Friday or if it's going to be filed today, and that's the  
21 Pulse nightclub case. And the other case is in  
22 litigation, yes.

23 Q Well, the Pulse nightclub is in Orlando.

24 A That's correct.

25 Q Is that a local firm handling that?

1           A     Yes, it is. Lead counsel is here in  
2 Jacksonville.

3           Q     And are you working for the plaintiff's side on  
4 that?

5           A     Yes.

6           Q     Any defense firms in Jacksonville that you've  
7 worked for that you know of?

8           A     I've handled -- since you mentioned the Pajcic  
9 firm, the defense counsel or the defense firm in that  
10 case retained me. I don't remember how many cases. I  
11 think two or three. That's Cole, Kissane.

12               MR. PINA: That's his firm (indicating).

13 BY MS. STARRETT:

14           Q     And your -- it's your testimony after that case  
15 that they have retained you or before that?

16           A     Oh, no, that was before. However, they called  
17 after that case to retain me in a -- in another case, and  
18 I had to decline because the facts did not meet my  
19 ability to give them an opinion, a favorable opinion.

20           Q     Now, were you aware that in the case involving  
21 Pete's Bar that they had filed, Cole, Scott -- or I guess  
22 it changes names. It's -- we'll call it the Cole Law  
23 Firm, that they had filed a motion as far as some of your  
24 testimony?

25           A     I'm aware of that, yeah. I filed an affidavit



1 in response to that.

2 Q And was -- did they retain you before or after  
3 that?

4 A No. They didn't retain me -- they retained me  
5 before the Pajcic case. So this goes back a couple of  
6 years with that firm. They called me after I testified  
7 in the Pajcic case, which I declined.

8 Q Can you think of -- obviously this case, the  
9 actual nightclub or bar is not a party to this case.

10 A I understand.

11 Q My client is a commercial property where  
12 there's a number of restaurants, clubs, that kind of  
13 thing. Have you had a case -- worked in any other case  
14 involving a similar-type property?

15 A Yeah. I know I have, but to remember which  
16 ones they are, I don't know. I've had many -- many  
17 cases. I've had over 2,000, so yeah.

18 Q How much do you charge or how are you  
19 compensated?

20 A My hourly rate is \$350 an hour.

21 Q Do you know how much you put into -- how much  
22 time you spent on this case so far?

23 A No.

24 Q I believe that was part of the subpoena. Have  
25 you submitted any invoices?

1           A     I don't know. That comes from my accounting  
2 department. That has nothing to do with me.

3           Q     When were you first contacted about this  
4 case?

5           A     I believe it was back in late October, early  
6 November of 2016.

7           Q     And how were you contacted?

8           A     I believe Mr. Pina contacted me by telephone.

9           Q     Do you recall what he told you as far as the  
10 issue?

11          A     I don't recall specifically at this time, no.

12          Q     Do you know what he asked you to do?

13          A     He asked if I would look at documents that he  
14 was going to send me and if I would be able to offer an  
15 opinion based on those documents.

16          Q     And I believe -- is that what's on the drive?

17          A     That's correct.

18          Q     Whatever he's given you?

19          A     Yes.

20          Q     Can you, off the top of your head or without  
21 actually looking at that, give me an idea of what all  
22 you've been provided in this?

23          A     Sure. The complaint, pleadings, police reports  
24 involving this case, and numerous police reports, over  
25 1600 incidents that occurred in or around The Landing and

1 the parking lot.

2 Q Now, you referred to those as police reports,  
3 but those -- are those actually the investigative reports  
4 from the security at The Landing?

5 A It's a mixture, and I separated those. I have  
6 the Allied Barton reports and I have the police reports  
7 from the Jacksonville sheriff's department.

8 Q Did either you or through Mr. Pina -- those  
9 have actually been provided through discovery. Did you  
10 obtain any other reports or crime grids as far as  
11 around The Landing or anything that the Jacksonville  
12 Sheriff's Office would have had?

13 A No.

14 Q Would that be important as far as the crime  
15 grids in the area of The Landing, things that --

16 A No.

17 Q -- weren't part of the discovery that The  
18 Landing actually provided?

19 A Well, I did have the police reports from the  
20 sheriff's department, so I had those, and I had the  
21 incident reports from The Landing, and they were  
22 sufficient.

23 Q Do you know where the police reports came  
24 from?

25 A Yes, Jacksonville sheriff's department. I

1 believe there was a letter of transmittal along with the  
2 reports.

3 Q And that was something Mr. Pina provided?

4 A That's correct.

5 Q What else -- you said complaint, pleadings, the  
6 reports. What else, if anything, were you provided?

7 A Depositions.

8 Q Do you know what depositions those were?

9 A I do.

10 Q Can you tell me?

11 A Oh, sure. I can name a few off the top of my  
12 head. I had Janice Lowe, Allied Barton security guard  
13 Martinez. I can tell you. Just a second. Greg Allen  
14 Johnson, Brian Craig Patterson, Tracy Stapp, Detective  
15 Cayenne, C-a-y-e-n-n-e. I already mentioned Ramon  
16 Martinez. Donald Higgenbotham. Those were the  
17 depositions.

18 Q Now, some of those I believe were actually  
19 taken in the criminal case. Did you make any distinction  
20 or notes about that?

21 A No, but that's what was given to me, that's  
22 what I read. They were still given under oath, so I  
23 treated those as sworn testimony.

24 Q I'm just clarifying. We have two types of  
25 depositions in this case.

1 A I understand.

2 Q And so I assume you also had the very lengthy,  
3 extensive police report of this incident?

4 A Yes. I thought I mentioned that. I'm sorry.

5 Q It might have been general police reports.  
6 Have you been to The Landing?

7 A Yes.

8 Q When did you go to The Landing?

9 A The first time was I believe two years ago, and  
10 then I was there this last weekend.

11 Q So the two years ago was you just, I assume --  
12 was that part of this case?

13 A No.

14 Q Because that's obviously before you were  
15 retained, so --

16 A Yes.

17 Q -- why did you go there two years ago?

18 A To get a bite to eat. I was in the Pajcic  
19 office at the time. I looked down at The Landing. As a  
20 matter of fact, I took a picture of it from their window  
21 with my -- with my cell phone.

22 Q Do you recall where you ate?

23 A No.

24 Q Was that lunch or dinner?

25 A It was lunch.

1           Q     Did you notice anything at that point based on  
2     your experience? You know, I notice things people are  
3     going to fall on. Did you notice any issues at that  
4     point?

5           A     No. It was a regular, routine daytime  
6     business.

7           Q     And I'm sorry, when was the second time that  
8     you said you went?

9           A     Saturday, this last Saturday.

10          Q     And what time of the day?

11          A     Approximately 3:30, maybe 3:30, 4 o'clock  
12     window time.

13          Q     And how long did you stay?

14          A     I didn't notice a time. If I said 45 minutes  
15     I'd probably be in the ballpark.

16          Q     What did you do?

17          A     I walked through The Landing. I took some  
18     pictures. I went out. There was a show that was going  
19     on on the stage in the courtyard. I took pictures from  
20     the outside. I walked around. I walked up the escalator  
21     to Mavericks. I looked around. I observed. I went down  
22     the escalator to the outside. I walked across to where  
23     the parking lot was at the time, which, of course, now is  
24     a building, a parking garage.

25          Q     And during the time that you were there, give

1 or take 45 minutes or so, did you see any security  
2 people?

3 A Only when I arrived, there was a police car  
4 that was parked outside. But as far as private security  
5 was concerned, I saw none.

6 Q Did you see any issues that you noticed with  
7 security, just that you noticed, not taking into account  
8 anything you had already seen or heard about this?

9 A No.

10 Q If you can, just start from the beginning.  
11 What else have you done in this case?

12 A I read all the materials that were provided to  
13 me. I separated the -- all the investigative reports  
14 that were provided to me, and I worked with my staff in  
15 putting together the charts that I think -- did I give  
16 those to you already?

17 MR. PINA: They're here.

18 THE WITNESS: Under here.

19 For my references, the charts were prepared in  
20 Access format and broken down in the layers that I  
21 wanted them broken down. And I audited the work  
22 product that my staff put together through Access,  
23 and then found everything was accurate as far as  
24 that was concerned.

25 And what else did I do?

1 BY MS. STARRETT:

2 Q Well, if you think of anything, that's fine,  
3 but let's -- why don't we work backwards.

4 If you can, tell me what are your opinions or  
5 what opinions you've come up with in this case.

6 A Okay. I wrote down last night in my hotel room  
7 so that I could help expedite the deposition.

8 I have that The -- The Landing, and I'm going  
9 to include Parador, was responsible for providing a  
10 reasonably -- reasonably safe place to do business. I  
11 found that the parking lot, as in many cases, was an  
12 extension of The Landing; that The Landing knew that  
13 patrons parked there and were directed to park there, as  
14 part of the testimony that was given; that they knew  
15 fights occurred on and around The Landing, including the  
16 lot, prior to August 10, 2012.

17 The Landing knew the crowds would be larger on  
18 concert nights, and the crowds were comprised of many  
19 individuals who had consumed alcohol, which more likely  
20 increased possibility of fights, especially at closing  
21 time.

22 The Landing undertook to provide security in  
23 The Landing but failed to provide adequate security for  
24 people exiting The Landing, failed to hire and retain  
25 adequate security personnel to -- to patrol and monitor



1 the premises, properly train -- they -- they failed to  
2 properly train guards to be responsible -- or responsibly  
3 skillful, competent or qualified to exercise appropriate  
4 security measures. They failed to implement proper  
5 security policies and procedures and measures to address  
6 the myriad of problems.

7 Q I'm sorry. What was the last one?

8 A Myriad of problems.

9 Q Well, the part before that. Did not --  
10 something to "the myriad of problems."

11 A They failed to implement proper security  
12 policies, procedures and measures to address the myriad  
13 of problems. They failed to provide proper large crowd  
14 control. They failed to manage crowds. There was a  
15 failure to call for additional security when The Landing  
16 was on notice that a larger crowd was expected on August  
17 9, 2012.

18 They failed to respond to riots that broke out  
19 on the premises at closing time. They failed to warn  
20 patrons of dangerous conditions, especially Taylor Evans,  
21 who patronized The Landing for the first time on 8 --  
22 August 9, 2012.

23 I found that The Landing received a pecuniary  
24 benefit from the parking lot but did not partner with the  
25 parking lot to provide security for the patrons who are

1 parking there and going to The Landing.

2 The -- Parador had no security whatsoever.  
3 There was no security at the time of the incident which  
4 led to the death of Mr. Evans. The Landing partnered  
5 with JSO, Allied Barton and tenant clubs, but there's no  
6 evidence that The Landing partnered with Parador to  
7 provide security. There was no security.

8 Janice Lowe believed that security presence was  
9 a deterrence, but she failed to enforce her beliefs based  
10 on her training.

11 An overview of the information revealed to me  
12 that generally there was insufficient and inadequate  
13 security for known problematic scenarios when the venues  
14 closed, and many persons were intoxicated or otherwise  
15 impaired and known fights occurred. The fight history  
16 clearly demonstrates that fights and other violent  
17 behavior were foreseeable and, according to Janice Lowe,  
18 had there been adequate presence, preventable.

19 Risk can be managed -- or I'm sorry. Risk can  
20 be minimized by having proper security, including number,  
21 type, and deployment. The police department is located  
22 approximately six blocks from The Landing and the parking  
23 lot, Parador parking lot. Ladies' nights were Thursdays.  
24 Security escorted ladies from The Landing. Extra guards  
25 were put on duty.

1 Janice Lowe instructed clubs to hire more  
2 security when they had large events. That did not happen  
3 with Mavericks on the night of August 9, 2012, and it did  
4 not happen at The Landing itself when they knew or should  
5 have known that the crowds were going to be massive.

6 The evidence shows that August 9 was not only  
7 expected to be a busy night but actually was extremely  
8 busy. Mavericks was at capacity, and a line formed  
9 around the building, which required increased security.  
10 Security not only acted as a deterrent but also a way to  
11 diffuse or handle any alterations -- altercations that  
12 could arise. The Landing failed to adjust.

13 Security logs showed that during the night,  
14 fairly early on, the security guards -- guards involved,  
15 that the line was around the building while Mavericks was  
16 at capacity. The Landing failed to take additional  
17 proactive measures. More people equals more risk. In  
18 this case, there is a heightened risk because alcohol was  
19 involved.

20 My crime analysis of the charts show a  
21 breakdown of incidents taken from police reports, data  
22 and security incident logs. Incidents occurred at The  
23 Landing on the street and in the parking lot.

24 My opinions, fatal injury suffered by Taylor  
25 Evans were foreseeable and preventable had the owners of

1 The Landing and parking lot provided adequate security.  
2 My opinions are based on evidence provided to me and  
3 revisit to The Landing and parking garage where Lot 76L  
4 once existed.

5 My opinions are based on forensic methodology  
6 adopted by the International Association of Professional  
7 Security Consultants, IAPSC, and based on a reasonable  
8 degree of hospitality and professional security  
9 certainty.

10 Q What is your understanding of what happened  
11 that night?

12 A My understanding is that there was a concert  
13 that night, very popular country and western star which  
14 attracted a country and western crowd, with an,  
15 after-party that was advertised to take place at  
16 Mavericks, publicly advertised.

17 And as I said, the crowds were extensive.  
18 There was no extra security on duty. According to the  
19 police reports, the parking lot charged money for cars to  
20 park in the lot that night. There was a guardhouse on  
21 the lot but was not occupied at the time of this  
22 incident.

23 At closing time, there was a mass exodus.  
24 There were several fights taking place on the property,  
25 moving out into the street and across the street. There

1 was an incident involving Mr. Patterson, I believe.

2 Sorry, I keep mixing him up with Johnson.

3 Q Me, too.

4 A I just want to get it right. I'm sorry.

5 Q Sure. Patterson is the driver.

6 MR. PINA: Yes.

7 MS. KYSER: Yeah.

8 THE WITNESS: Patterson was the driver.

9 So information developed that Mr. Patterson had  
10 knocked a female down. There was a group of people,  
11 approximately 15 or so, that surrounded his pickup  
12 truck that was parked on the -- on the lot. These  
13 people tried to get into the truck, banging on the  
14 truck, kicking the truck, getting the door open,  
15 punching Mr. Patterson in the face, injuring his  
16 face.

17 Mr. Evans jumped onto the hood of the vehicle  
18 during the time of this commotion or confrontation.  
19 Mr. Patterson backed his truck up, at which time  
20 Mr. Evans was -- reaction was, the truck backed up,  
21 he fell to the ground in front of the truck, and  
22 then Mr. Patterson put the truck in forward and ran  
23 Mr. Evans over, killed him.

24 BY MS. STARRETT:

25 Q You mention an incident involving Mr. Patterson

1       where he had knocked a female down. Where did that  
2       incident occur?

3           A       There is no evidence of that. The police  
4       reports indicate that they were not able to find the  
5       female who was knocked down.

6           Q       So do you have any information, other than I  
7       think probably double hearsay, but any information of any  
8       person who can testify that Mr. Patterson knocked a  
9       female down anywhere on The Landing property?

10          A       No, ma'am.

11          Q       And as far as the -- you describe a group  
12       surrounding Mr. Patterson's truck. Do you know how many  
13       people were involved?

14          A       The number I saw was 15 or so.

15          Q       And is there any -- do you have any  
16       information, other than again some hearsay, tying  
17       Mr. Patterson to anything that had happened improper or  
18       violently on The Landing property?

19          A       No, other than he was intoxicated.

20          Q       Which presumably he got intoxicated at  
21       Mavericks, I guess, or somewhere --

22          A       He was coming directly from Mavericks.

23          Q       What about Mr. Evans, was he intoxicated?

24          A       Yes. He had a .123 BAC.

25          Q       Are you qualified to testify as to the effects

1 of alcohol?

2 A I am.

3 Q And tell me what your qualifications are for  
4 that.

5 A Well, aside from being trained in -- as an  
6 instructor in both TIPS and TAM and other responsible  
7 alcohol management programs, I'm a graduate of the  
8 Borkenstein Institute at Indiana University, where that  
9 was part of the studies through Dr. Dubowski, who is the  
10 leading expert in alcohol in the world, still alive and  
11 still teaching, and Dr. Robert Forney, one of the  
12 professors at Indiana University, who taught the Widmark  
13 Equation.

14 Q With that information, have you ever testified  
15 as an expert as to toxicology or the effects of alcohol  
16 on a person's actions?

17 A Not as to toxicology, but as to effects of  
18 alcohol, yes.

19 Q And as far as the intoxication of Mr. Evans, do  
20 you have an opinion whether that affected his actions  
21 that led to his death?

22 A Sure. .123, yes.

23 Q I'm going to back --

24 MS. STARRETT: Can we maybe take about a  
25 two-minute break now?

1 MR. PINA: Hopefully a couple more.

2 MS. STARRETT: Five.

3 (Brief recess.)

4 MS. STARRETT: And just while I'm thinking  
5 about it, I'm going to attach everything. We can --  
6 at the end we can figure out which exhibits or how  
7 to do it, okay?

8 (Defendants' Exhibit No. 1 marked for identification  
9 at a later time.)

10 BY MS. STARRETT:

11 Q Let's go back to the beginning of your  
12 opinions, and let me start with, you had talked about the  
13 Parador parking lot being an extension of The Landing.  
14 What are you basing that on?

15 A Well, not only the geographical position, but  
16 the fact that The Landing is doing business, they draw  
17 people to The Landing, people have to park. The parking  
18 lot at the time was a parking lot that was used by  
19 patrons who went to The Landing, visited the clubs or  
20 whatever businesses were open at the time, and spent  
21 money.

22 And so that's why I said that The Landing  
23 derived -- when I say "The Landing," I'm saying in toto,  
24 derived a pecuniary benefit from the people who were  
25 parking at the lot. Even Mr. Martinez directed people to



1 the lot when he was asked about parking.

2 Q And what -- did he give any specifics? Because  
3 I'm not sure that he's standing anywhere where people are  
4 coming and looking for a parking space. What did he say  
5 about that?

6 A Well, I don't think he went into the logistics,  
7 but he was asked when he was on duty or on patrol, and  
8 not in the office where he was doing paperwork, about  
9 parking. And he'd point to the parking lot and say, "The  
10 parking lot."

11 Q Was there anything -- did he ever point them to  
12 the parking lot that's actually The Landing's parking  
13 lot?

14 A He may have done that, but I think his  
15 testimony was that it was very small and so it was --  
16 there usually wasn't any space there.

17 Q Did you go into the parking lot when you were  
18 there?

19 A No, I did not. I had an aerial photograph of  
20 it.

21 Q Well, people also I believe park on the street  
22 in that area. Would you consider parking on the street  
23 an extension of The Landing?

24 A The nearby street?

25 Q Yes.

1           A     Yes.

2           Q     So is it your opinion, then, The Landing would  
3 be responsible for anything that happened even on the  
4 street in front of it?

5           A     Well, I think it would depend on the geographic  
6 location. The street is monitored by the police. The  
7 parking lot is private property. And Lieutenant Cayenne  
8 made a point to testify that the police do not work  
9 private property; however, extra-duty police officers  
10 could be -- could be hired.

11          Q     Now, when you had talked about the nightclub  
12 that you owned, if I understood you correctly, it wasn't  
13 that there was any prohibition against hiring off-duty,  
14 it was that the particular police chief didn't let his  
15 people do that?

16          A     That's correct. What happened in that  
17 particular situation, the New Jersey state law says that  
18 police officers cannot work in a -- in a bar, and that's  
19 state law. New Jersey State Police, under their  
20 policies, are forbidden to work in any retail outlets,  
21 and that's another police entity that protects the state  
22 of New Jersey.

23                     But this was a small town, and the small town  
24 was a -- even though it was on a major highway on a major  
25 traffic circle, there was a lot of commuting and a lot of

1 traffic, which is what made the bar accessible, but the  
2 town itself had a very small police department and Chief  
3 Reider would not let any of his people work at a retail  
4 liquor establishment.

5 Q But did I understand you correctly that New  
6 Jersey state law also says they cannot work in a -- in a  
7 liquor establishment?

8 A Sure, that's correct.

9 Q What is that law, do you know?

10 A Yeah. It's in the -- I'll get it for you. C  
11 and J --

12 Q I guess what I'm confused about is why did  
13 Chief Reiders have to say that if it was against the law  
14 anyway? What would it matter if they would -- why did it  
15 matter whether he would agree or not? Obviously he  
16 doesn't want his people violating the law.

17 A Well, this was extra-duty police working on  
18 the -- my parking lot or around my building. The New  
19 Jersey state law prohibits any police officer -- officer  
20 from working inside a retail liquor establishment.

21 Q Were there incidents where you would have to  
22 call the police when you had a nightclub?

23 A I believe there were one or two. I know I  
24 called them one time when somebody was breaking into a  
25 vending machine outside of my building. It had nothing

1 to do with me, but I heard it late at night and called  
2 the police.

3 Q Other than what Mr. Martinez said in the  
4 location, was there anything else to indicate that the  
5 Parador was, as you said, an extension of The Landing?

6 A Other than the pecuniary benefit and the close  
7 proximity to -- see, if The Landing -- like the parking  
8 lot is here in this building. No, that's basically it.

9 Q And, again, not to be repetitive, but the  
10 pecuniary building is just, "Hey, our people can park  
11 there and come in and spend money"?

12 A You said "pecuniary building"?

13 Q The pecuniary benefit --

14 A Benefit.

15 Q -- is just, "Hey, there's a parking lot so  
16 people can come -- more people can come and park and use  
17 our restaurants and shops and" --

18 A Sure. There certainly wasn't enough street  
19 parking spaces, public parking spaces on the street to  
20 handle the -- the number of patrons for The Landing and  
21 the -- what we call the second 9:00-to-5:00 economy. You  
22 have 9:00 to 5:00, which is the daytime economy, but the  
23 second 9:00 to 5:00 is the nightlife economy.

24 And this nightlife economy, there were not  
25 enough spaces on the street to accommodate all of the

1 people who patronize The Landing at night. And the  
2 parking lot was, like I said, an extension, was right  
3 across the street and where people were directed to  
4 park.

5 Q What is in that -- what kind of building is  
6 there where the Parador parking lot used to be, what is  
7 that now?

8 A I counted five stories. It's a five-story  
9 garage.

10 Q Would you say it's still an extension of The  
11 Landing?

12 A I would if people are still being told to park  
13 there and people are parking there to go to The Landing,  
14 yes.

15 Q Now, you had mentioned that there were riots at  
16 times at The Landing. Was I correct in understanding  
17 that you said there had been riots there?

18 A That was a term that was used, yes.

19 Q How do you define "riot"?

20 A Well, I can't define the riots that were there.  
21 I'm only going by the testimony that was -- that was  
22 given. There were -- and I think they were called mini  
23 riots. There were several fights broken out between  
24 numerous people and spilling out into the street and  
25 across the street.

1 Q And where did you see that?

2 A In the testimony that I have in the criminal  
3 transcripts.

4 Q Somebody used the word "riot"?

5 A Yes.

6 Q Did you see it in any of the transcripts of any  
7 deposition that's been taken actually in the civil case  
8 that we're here for?

9 A I don't recall if the word was used in those.

10 Q And you put -- you said that presumably The  
11 Landing knew that fights occurred on or around The  
12 Landing. What are you relying on for that?

13 A The security reports and the police reports.

14 Q Do you know approximately how many people were  
15 expected on a night that Mavericks had a country western  
16 star like this?

17 A Well, I can't tell you what was expected. All  
18 I can tell you is that -- what did happen, and what did  
19 happen was that Mavericks was filled to capacity, and  
20 there was a line around the door -- or line around the  
21 building. I'm sorry.

22 Q And what is your understanding of what security  
23 Mavericks had?

24 A They had off-duty police officers working the  
25 door and their own -- their own security.

1           Q     And as far as any info- -- I touched on this,  
2     but just to be clear, not necessarily involving Mr. Evans  
3     or Mr. Patterson, but as far as fights that night, what  
4     information do you have as far as any fights that were  
5     occurring on Landing property after Mavericks got out?

6           A     Just the testimony that I have here, that the  
7     fights started outside of Mavericks, on The Landing,  
8     spilled out into the street.

9           Q     And one of your opinions was there was not  
10    adequate security. What -- how would you describe what  
11    adequate security should have been?

12          A     Adequate security would have been enough  
13    security and enough presence of security to minimize the  
14    risk of these fights that broke out. And specifically on  
15    the parking lot, security on the parking lot to minimize  
16    the risk and help to prevent any incidents from  
17    occurring.

18          Q     So that would be on the Parador parking lot?

19          A     That's correct.

20          Q     Do you know, would The Landing have -- had been  
21    able to put a security guard on the Parador parking lot  
22    that didn't belong to them?

23          A     No. But I believe, based on Janice Lowe's  
24    testimony, she partnered with the police; she partnered  
25    with the -- the tenants; she partnered with Allied Barton

1 to provide security. The parking lot, being an extension  
2 and known to Ms. Lowe, where people were parking and  
3 there was always trouble, there was a heightened risk  
4 because of alcohol being involved, there's no evidence  
5 that she ever partnered with anybody from Parador to  
6 require security on that lot.

7 Q So when you say a "tenant," is that, for  
8 example, like Mavericks having their own security  
9 people?

10 A Sure. And her testimony was is that if she  
11 knew that a place was going to have an event, that she  
12 would call them and tell them -- or instruct them that  
13 they would have to get extra security.

14 Q So you're comparing Mavericks or any of the  
15 other bars on The Landing property with responsibility  
16 for Parador's parking lot, The Landing has the same  
17 responsibility, if I understand you correctly?

18 A Correct.

19 Q And you also had said that they had failed to  
20 implicate -- implement proper security measures. Other  
21 than what we've talked about, what other security  
22 measures should they have had?

23 A Specifically the proper number of security, the  
24 proper placement of security, proper observation so that  
25 if -- and as Martinez testified, that they were to



1 observe and report. And so observing and reporting would  
2 have been a reasonable measure for them, if they had the  
3 proper number of security personnel, or required Parador  
4 to have someone on the premises of the parking lot, which  
5 could have prevented the -- or would have prevented the  
6 incident involving Mr. Evans.

7 Q Taking Parador off -- out of the equation, what  
8 on Landing property should they have done different as  
9 far as a proper security measure? On the actual Landing  
10 property, what should have been done differently?

11 A Sure. They should have had proper crowd  
12 control, adequate security to manage the crowd and  
13 control the crowd, especially the crowd that was lined up  
14 around the building, and more presence of security. Just  
15 like Janice Lowe testified, that presence of security  
16 deters problems. So it would have been more security and  
17 the proper placement of that security.

18 Q And is it your testimony that you believe  
19 having more security on The Landing property would have  
20 prevented the incident in the Parador parking lot?

21 A If they were only located on The Landing  
22 property?

23 Q Right.

24 A No. That's where I said Janice Lowe partnered  
25 with the police, with security and with the tenants. She

1 did not partner with Parador to say, "Okay, we have  
2 people who have been consuming alcohol. We've got a mass  
3 of people are coming in, getting into their vehicles. We  
4 would appreciate if you have someone here on your parking  
5 lot." Or, you know what? If Parador didn't want to make  
6 any money, they could have just closed the lot.

7 Q And are you aware of any other parking lots in  
8 that area that would have been used for events like  
9 this?

10 A No.

11 Q If there were any in a nearby vicinity, say a  
12 block away, but if they knew that they -- people were  
13 parking there and going to The Landing, would The Landing  
14 still be responsible?

15 A If The Landing was sending people to -- to  
16 those lots, yes.

17 Q And by "sending," such as having Mr. Martinez  
18 direct people there?

19 A Correct.

20 Q And you had mentioned the line around the  
21 building. Now, that would have been well before closing,  
22 I assume, to get into Mavericks?

23 A It would have been, yes.

24 Q So --

25 A Well, I don't know. When you use the term

1 "well," I'm not sure about that.

2 Q That's a -- that's incorrect.

3 A I mean, it wouldn't have been at closing time,  
4 or if people were just out there congregating, I don't  
5 know. There was no testimony as to if and when that  
6 crowd dispersed. That might have been the crowd that was  
7 involved in the fights. I have no testimony about that.

8 Q Let's talk about your -- and you have your  
9 reports as far as the history of incidents. I know you  
10 have some graphs, I think?

11 A Yes.

12 Q Can you maybe go through what your opinions are  
13 relating to as far as past behavior?

14 A Okay.

15 Q Let me look at that again, if you don't mind.

16 A (Tendering.)

17 Q I guess probably the best way to do it is maybe  
18 start with -- like your first one you have "Jacksonville  
19 Landing's Top Five Outside Disturbances." Can you  
20 describe for me what that graph shows?

21 MR. PINA: Do you want copies?

22 MS. STARRETT: Yeah, that would be the best.

23 MR. PINA: Can we do that?

24 (Brief recess.)

25 BY MS. STARRETT:

1           Q     I'll come to that in just a minute.

2                     You had said, and I'm not sure I heard it  
3 correctly, that Ms. Lowe said that she felt security was  
4 inhibiting. Is that correct? Did I understand you  
5 correctly or not?

6           A     I never said that.

7           Q     Then I think these reports will go to your next  
8 opinion, which was, "The fight history and other violent  
9 behavior was foreseeable." Are you basing that on the  
10 summaries of the reports, of the either incident reports  
11 or police reports?

12          A     Both.

13          Q     Both. I mean, but that's what you're basing it  
14 on?

15          A     Yes, ma'am.

16          Q     Is there anything else you're basing that on?

17          A     Just corroboration by Officer Martinez, who  
18 corroborated that there were fights. In fact,  
19 Mr. Martinez was assaulted himself as well as another  
20 security guard.

21          Q     When you look at these incidents, do you look  
22 at the specifics as far as -- I mean, there's a  
23 difference between somebody getting in a fight with an  
24 employee and then what's been talked about as a possible  
25 riot. Do you differentiate or are you just looking at

1 any incident that talks about a fight?

2 A I'm not sure I understand your question when  
3 you say I just look at any incident that talks about a  
4 fight.

5 Q Well, all of these say like fight with  
6 employee, disturbance, two females fighting. Do you look  
7 at, well, this was just one person fighting as opposed to  
8 a whole group?

9 A Yes, ma'am. That's coming from the narrative  
10 in the police report.

11 Q Is there any place you differentiate or do  
12 you -- it just seems like you list all of these equally.

13 A Well, I do, because that's just the general  
14 description.

15 Q Did you -- can you tell me if -- let's start  
16 with affray or fighting. Did you find any incidents  
17 where there was a large number of people fighting as  
18 opposed to one or two?

19 A I didn't see any with just one fighting.

20 Q I guess that would be a little hard.

21 A Unless with a schizophrenic.

22 Q I see one March 14th of 2010 at Mavericks is a  
23 large mass of patrons.

24 A Right. I mean, there were -- there were  
25 several. For me to go through these now and pick them

1 out, I can. I'll take the time to do that.

2 Q No. That's okay.

3 What about anything similar to the situation  
4 that we have here where there was a very popular  
5 entertainer and Mavericks was expecting a lot of people,  
6 did you find any incidents tied to a situation like  
7 that?

8 A I'm sorry, I missed the first part of your  
9 question.

10 Q Did you find any situation similar to this,  
11 which is, if I understand you correctly, that you're  
12 saying because they were expecting a large crowd at  
13 Mavericks, and then lo and behold fights broke out, did  
14 you find anything comparable to that?

15 A Just so I'm clear, you're asking me if there  
16 were large crowds and fights occurred because there were  
17 large crowds?

18 Q Correct.

19 A Yes. As a matter of fact, Janice Lowe even  
20 testified about that when she said there's a higher risk  
21 when there's large crowds. There are more fights when  
22 there are large crowds.

23 Q Are you basing it on anything other than  
24 that?

25 A No. The -- the police reports and the security

1 reports did not address the -- the crowds. It was only  
2 the testimony that I reviewed that specifically addressed  
3 those crowds.

4 Q And it looks like, just by glancing at this,  
5 some of these are actually duplicates in that you have  
6 both an incident report and an arrest report. Did you  
7 take that into account?

8 A Yes, of course. And they supported each  
9 other.

10 Q And so let's start with affray, and you've got  
11 your graph there. It looks like there's quite a variance  
12 in the years. Is that anything that you use in your  
13 opinions?

14 A Sure. And when you say there's "a variance,"  
15 are you -- I'm going to hold this up. Is this the one  
16 you're talking about (indicating)?

17 Q Yes.

18 A So --

19 Q And just so we -- for the record, it says,  
20 "Jacksonville Landings - Affray (Fight)."

21 A Yes. If you notice, in 2012 the bar is lower  
22 only because it cuts off on August 10, 2012. It doesn't  
23 indicate the incidents for the entire year.

24 Q But like 2010 is less than half of 2011.

25 A For -- well, it is, but don't forget, 2011 is

1 for the entire year. The 25 could have been just one  
2 month as opposed to the six being spread out over several  
3 months. I don't -- so don't use the bar as your  
4 barometer for -- for that. We'll have to go down and  
5 look at the actual reports, which is why they're listed  
6 below.

7 Q And then we have "Jacksonville Landings -  
8 Drugs." Is there any indication that drugs were involved  
9 in this incident?

10 A No, ma'am.

11 Q And then we have, "Jacksonville Landings  
12 -Vehicle Incidents." Does that include -- I assume  
13 that's not necessarily taking into account any people  
14 being run over. Those are more incidents involving  
15 break-ins, that kind of thing?

16 A Carjacking, firearm, deadly weapon, kidnapping,  
17 inflicting bodily harm, which was one of the incidents in  
18 2011. There was a parking issue with one of the store  
19 owners with the security guard, burglary of a saddlebag  
20 on a motorcycle. There were arrests, and I included that  
21 in the column that says "reported by," and it shows each  
22 of these that included arrest. So yes, I -- I included  
23 the vehicle incidents in here.

24 Q And are any of these -- do they deal with  
25 vehicle incidents not on Landing property?



1           A     When you say "not on Landing property," are you  
2 saying the -- the parking lot?

3           Q     Well, the parking lot at The Landing, I call  
4 that Landing property even though it's owned by the city,  
5 but I'm talking about something such as the Parador  
6 parking lot.

7           A     Right. Yes, there are incidents that happened  
8 in a parking lot, in the cul-de-sac out front, on Hogan  
9 Street.

10          Q     The cul-de-sac, what is your understanding what  
11 that means?

12          A     I think it's where the -- the statue is, right  
13 there, right outside the -- the main door.

14          Q     And do you know whether that's owned by The  
15 Landing or not?

16          A     I would think that it's not.

17          Q     And you have one for underage activities.  
18 There's no incident -- indication that there was anybody  
19 underage involved in this, was there?

20          A     That's correct. By the way, coming back to the  
21 vehicle incidents, I also break that down by time period.  
22 And if you notice, from 1:00 a.m. to 1:59 a.m., you had  
23 the most incidents, and the second most would be 2:00  
24 a.m. to 2:59 a.m., which is closing time.

25          Q     And it looks like -- well, let me ask you this:

1 When I'm looking at information for 2012, we're talking  
2 about numbers like three, that just happened to be on a  
3 Sun- -- three total, if I understand that correctly, on  
4 Sundays?

5 A Yes.

6 Q So the most that occurred on any one day was  
7 four on Fridays?

8 A Right. Now, the Friday, of course, could be a  
9 Friday going from 12 midnight, 12:01 a.m. to the rest of  
10 the morning.

11 Q When you looked at those, did you look at what  
12 actually the date was as opposed to whether it was the  
13 morning or after midnight?

14 A Yes, ma'am. And that would be included in the  
15 page 1 through page 2, which lists those incidents. And  
16 it gives you the time. So we have -- and just to be  
17 clear with the time so it's not confusing, I got -- the  
18 top time is the civilian time and the second line is the  
19 military time.

20 Q Now, one of your opinions was that this was a  
21 foreseeable injury. Am I correct in that?

22 A Foreseeable incident and the injury is a result  
23 of the foreseeable incident, yes.

24 Q And I know we pretty much talked about that,  
25 but if you can specifically tell me what you base that

1 on.

2 A A number of things. One is the testimony of  
3 Janice Lowe. She specifically -- let me back up on that.  
4 Janice Lowe started as an intern working at The Landing  
5 and she worked herself up to a management position.  
6 She's actually trained with Allied Barton in several  
7 training classes, and she's -- she's aware of what the  
8 security is.

9 (Cell phone interruption.)

10 THE WITNESS: Excuse me one second. I'm not  
11 going to take that.

12 And so she's aware of security principles, and  
13 actually testified that presence of security  
14 minimize risk. She was aware of all of these  
15 incidents. She was aware of people parking in the  
16 parking lot, walking across the street to spend  
17 money at The Landing. She was aware of the police  
18 activity.

19 She was aware of -- or had enough wherewithal  
20 about her to contact venues leasing space in the --  
21 in The Landing to tell them to hire more security  
22 for events that were -- that she knew were being  
23 planned. So she was very much aware of that. She  
24 partnered with those people, she partnered with the  
25 police, she partnered with Allied Barton to make

1           sure that the -- there was security, although it was  
2           inadequate for the crowds because this is about  
3           crowd control and crowd management.

4           And then you have the parking lot across the  
5           street that she did not partner with. At least  
6           there's no evidence of that at this point that she  
7           did. Or ask them to provide security, or even ask  
8           the JSO to patrol that area, especially at closing  
9           time.

10           So that was an outdoor lot. That was not an  
11           indoor garage like it is now. The outdoor lot was  
12           easily observable from the outside -- from the  
13           outside, if she had JSO observing the lot.

14       BY MS. STARRETT:

15           Q     Are you familiar -- are there any incidents,  
16           other than the one we're here for, that actually occurred  
17           in the Parador parking lot?

18           A     I believe there were a couple.

19           Q     Can you direct me? I was trying not to go  
20           through everything, but if you can direct me to those  
21           would be important.

22           A     While I'm looking for that, there would not be  
23           as many reports --

24           Q     Because The Landing wouldn't have done incident  
25           reports?

1           A     They wouldn't have done incidents reports.  
2     They didn't have security over there to watch their  
3     patrons as they were leaving The Landing that night.

4           Q     Would you also be looking, though, for police  
5     reports for that?

6           A     And -- yeah, and police reports. But that's  
7     what I'm -- I do have one in the parking lot in 2010.

8           Q     What kind of incident?

9           A     Disorderly intoxication, public disturbance.  
10    There was an arrest and a booking report. So that was  
11    the police department.

12          Q     Any others that you're aware of?

13          A     Not right now, no.

14          Q     And just to clarify, because I'm almost done,  
15    what -- I know you do risk assessment you said.

16          A     Yes, ma'am.

17          Q     So knowing the situation with Mavericks, with  
18    the concert, the crowds, these priors, what would you  
19    have recommended as far as what should have been done  
20    that night security-wise?

21          A     Okay. First of all, let me back up and -- and  
22    I'll get to your answer. There was no risk assessment  
23    conducted at The Landing. Security is data driven, and  
24    all of the reports that were provided by Allied Barton --  
25    and by the way, Janice Lowe said that she did not write

1 reports; it was all done by Allied Barton.

2 And the police reports written by the police  
3 are -- should be part of an ongoing risk assessment  
4 called an "audit," because all of these incidents would  
5 have -- that would have been examined by a security  
6 consultant and practitioner such as myself, would have  
7 developed information and recommendations made to The  
8 Landing that precautions had to be taken to minimize the  
9 risk that was developed through all of this data that you  
10 have before you. So that would be a clear, reasonable  
11 effort to be made.

12 They hired Allied Barton. Allied Barton has  
13 many managerial employees who are former law enforcement,  
14 former military experts in security who -- if they were  
15 allowed to conduct these data audits, they would have  
16 provided information to The Landing of how The Landing  
17 could have developed a better security program. I don't  
18 see anywhere in the file that that was done. There were  
19 no risk assessments conducted, no audits of any of these  
20 reports.

21 So that being said, there was no knowledge on  
22 the part of The Landing of what actually should have been  
23 done to provide better security not only at The Landing  
24 but to protect the patrons who were leaving The Landing,  
25 walking across the street to the parking lot.

1           So the assessment would be one, the audits  
2           would be two, and crowd control measures put into place  
3           number three.

4           Q     And do you have any opinions what crowd control  
5           would involve?

6           A     It would involve security, managing the crowds  
7           leaving The -- leaving The Landing at closing time.  
8           Closing time is the most vulnerable time of the night of  
9           any retail liquor establishment anywhere in the world.  
10          It's not just Jacksonville; it's anywhere. And,  
11          therefore, reasonable efforts must be made -- reasonable  
12          measures must be taken to -- to provide extra security.

13          Had Janice Lowe attended bar rescue -- not bar  
14          rescue, but the bar nightclub -- nightclub/bar/restaurant  
15          conferences in Las Vegas each year, twice I lectured on  
16          closing time and reasonable efforts and measures to be  
17          taken, which many venues have done and called me and  
18          thanked me for -- for the information. So they've  
19          actually minimized their risk and decreased their events  
20          at closing time, negative events.

21          Q     But if I understood you correctly before, as  
22          far as preventing what actually happened, you've been  
23          talking about having security in the Parador parking lot,  
24          correct?

25          A     And that would be part of it, yes, ma'am.

1           Q     When you talk about "partnering," can you  
2 explain to me or define what you mean when she partnered  
3 with the police, Allied Barton?

4           A     Sure. Well, it's obvious that Lieutenant  
5 Cayenne was -- is it Cayenne? Hold on one second.

6           Q     Cayenne is the detective who did the murder  
7 investigation.

8           A     Yeah. He's not the one that I mean.

9           Q     Martinez?

10          A     No. It's a lieutenant from the police  
11 department. Yeah, it actually was a lieutenant who  
12 Janice communicated with. It's part of a -- it appeared  
13 to me to be part of their community policing. I can't  
14 think of his name right now, but it was a lieutenant.

15                So I mean, partnering that I'm talking about is  
16 exactly what community policing is. It's working with  
17 the police -- private businesses and the police working  
18 together to help make the -- the business and the  
19 business area a safer place in which to do business. So  
20 police departments usually make recommendations at  
21 meetings with the private businesses and offer  
22 recommendations to help make places safer.

23          Q     So you're not just saying that we should have  
24 partnered with Parador, you're saying we should have  
25 partnered more with the police? Is that what I



1 understood?

2 A Well, I think she was, "she" being Lowe, had --  
3 was partnered with the police, was partnered with the --  
4 with the tenants and was partnered with Allied Barton.  
5 She had control there. "She" being Lowe. I'm sorry for  
6 the pronouns.

7 But Janice Lowe appeared to want to do the  
8 right job. She -- she was very involved. She was  
9 embedded with her work. She actually went to training  
10 programs. So she went to -- to tenants, knowing that  
11 they were going to have an event, and instructed them to  
12 have more security for those events.

13 She also was a special event coordinator for  
14 The Landing, so she knew what it was like as a special  
15 event coordinator to have security for the protection of  
16 their patrons. That was her responsibility. That was  
17 The Landing's responsibility.

18 MS. STARRETT: I don't have any other  
19 questions.

20 CROSS EXAMINATION

21 BY MR. McGUINNESS:

22 Q Mr. Kolins, Neil McGuinness. I represent  
23 Parador. I have some follow-up questions for you.

24 A Yes, sir.

25 Q First, do you have your -- the yellow notes

1       that you've --

2               MS. STARRETT: I think that's what we --

3       BY MR. McGUINNESS:

4               Q       -- separated out.

5               MR. McGUINNESS: Right.

6               MS. STARRETT: Okay.

7               MR. McGUINNESS: But if you -- if we could, I'm  
8       going to mark that just as -- and I think your  
9       entire file is marked for purposes of the  
10      deposition. I'm going to mark that as just Exhibit  
11      2.

12              THE WITNESS: My original?

13              MR. McGUINNESS: Yes, sir. And then you can  
14      have a -- take a copy back when we're done. And  
15      keep that handy because I'm going to refer to that  
16      for a moment.

17      (Defendants' Exhibit No. 2 marked for identification.)

18      BY MR. McGUINNESS:

19              Q       I see on the first page of your notes it  
20      indicates, "Evans walked from the front entrance across  
21      street to lot"; do you see that?

22              A       Yes.

23              Q       And Mr. Evans was not parked in the parking  
24      lot, was he?

25              A       Was the vehicle --

1 Q No.

2 A -- he was in parked in the parking lot?

3 Q Was Mr. Evans parked in the parking lot, or the  
4 vehicle that he came in, was that parked in that  
5 parking -- in that parking lot across the street, the  
6 Parador parking lot?

7 A I don't know.

8 Q Do you have any indication or suggestion that  
9 somebody from Parador had invited Mr. Evans onto that  
10 property?

11 A Yes. The -- the parking lot wasn't chained up,  
12 it wasn't barricaded to prevent anybody from going in  
13 there, so there was an invitation.

14 Q Okay. So --

15 A And I'm told from the police reports that there  
16 was someone collecting a parking fee that night.

17 Q I'm focusing my question, Mr. Kolins, really on  
18 Mr. Evans and whether you have any knowledge or evidence  
19 to suggest that Mr. Evans was somehow invited onto that  
20 Parador parking lot.

21 A Only by the fact that the parking lot was there  
22 and it was not barricaded to prevent him from coming  
23 in.

24 Q But other than -- other than no barricades  
25 being up, do you have any evidence to suggest that

1 Mr. Evans was somehow invited onto the lot?

2 A By a personal invitation?

3 Q Anybody. Anything.

4 A No, I don't.

5 Q And do you know what the -- in Florida, whether  
6 there's a duty toward people who are not invited onto a  
7 property, do you know what the law is in that regard,  
8 sir?

9 A Who are not invited?

10 Q Yes, sir.

11 MR. PINA: Let me object to the extent it calls  
12 for a legal conclusion, but you can answer.

13 THE WITNESS: Yeah. No, I'm aware of the type  
14 of invitees and I'm aware of trespassers, but  
15 there's no evidence that he was trespassing.

16 So as far as the -- the law is concerned, I  
17 don't know of any law about people who are not  
18 invited. But, again, I believe Mr. Evans was  
19 invited because it was open, it was an open lot, and  
20 people were collecting money, nobody stopped him or  
21 prevented him from going onto the lot, and there's  
22 no evidence in the police reports that there were no  
23 trespassing signs posted.

24 BY MR. McGUINNESS:

25 Q But you, sitting here today, have no evidence

1       whatsoever to suggest that Mr. Evans was invited onto the  
2       property, correct?

3           A       That's correct.

4           Q       And you have no evidence to suggest that  
5       Mr. Evans was not a trespasser; is that correct?

6           A       There was nothing in the police report that  
7       suggested that he was a trespasser.

8           Q       And there's nothing in the police report  
9       suggesting that he was not a trespasser; is that --

10          A       That's correct.

11          Q       And, again, as we sit here today, you have no  
12       idea where Mr. Evans was parked, correct?

13          A       I don't.

14          Q       And the second page of your report indicates on  
15       the second paragraph, "Evans jumped on the truck hood";  
16       do you see that?

17          A       Yes.

18          Q       What do you know about that?

19          A       Just the testimony from his friend, he jumped  
20       on the truck -- on the hood of the truck.

21          Q       And whose hood of the truck did he jump onto?

22          A       It was Patterson's.

23          Q       And you also testified earlier that you did see  
24       some evidence in the record that Mr. Evans was  
25       intoxicated, correct?

1           A     Well, I saw that his BAC was a .123.

2           Q     And what's the legal limit in Florida for  
3 intoxication?

4           A     Same as any other state, .08. That's a  
5 legislative number.

6           Q     Sure.

7           A     It doesn't have anything to do with the -- the  
8 level of intoxication.

9           Q     Would you think that that would suggest that  
10 this gentleman had a high level of intoxication,  
11 Mr. Kolins?

12                   MR. PINA: Object to the form.

13                   THE WITNESS: I don't know Mr. Evans. I don't  
14 know what his -- I don't know him, I haven't seen  
15 him, so I don't know if that would have been a high  
16 level for him or not.

17 BY MR. MCGUINNESS:

18           Q     Does that -- you think there's a high level  
19 depending upon who the individual is? Do you know what  
20 his weight was?

21           A     No.

22           Q     Would that be an important consideration in  
23 whether you think that his level was sufficient enough to  
24 say that he was intoxicated?

25           A     Well, there would be many, many criteria that

1 applies to that, such as what he consumed, and was he  
2 drinking beer, which is a food; his size, his tolerance.  
3 So -- so the BAC is not -- by the way, when that BAC was  
4 taken, that BAC may not have been the BAC at the time of  
5 the -- the incident.

6 Q Could have been a lot higher, right?

7 MR. PINA: Object to the form.

8 THE WITNESS: No. It would have been -- would  
9 have been lower.

10 BY MR. McGUINNESS:

11 Q Why would it have been lower?

12 A It would have been lower because he had just  
13 left The Landing. Your BAC peaks 45 minutes to an hour  
14 after your last consumption of alcohol.

15 Q Do you know how long he was on the -- on the  
16 lot?

17 A I don't. Well, it was -- how long he was on  
18 the lot?

19 Q Yes, sir.

20 A Yeah. It wasn't a very long time.

21 Q And in your opinion, do you think Mr. Evans'  
22 conduct in jumping on the hood of the car and in an  
23 intoxicated state had something to do with this  
24 incident?

25 MR. PINA: Object to the form, calls for a

1           legal conclusion.

2           Go ahead.

3           THE WITNESS: I'm not saying that he was in an  
4           intoxicated state. You're actually intoxicated when  
5           you take your first sip of alcohol.

6       BY MR. MCGUINNESS:

7           Q     Sure. I'm sorry, Mr. Kolins, let me rephrase  
8           it.

9                     Do you think the fact that this gentleman had a  
10           .123 blood alcohol level and jumped onto the hood of this  
11           vehicle had something to do with this incident?

12          A     I do not.

13          Q     Why not?

14          A     Because he had the wherewithal, as everyone  
15           else who believed that the -- that Patterson had knocked  
16           a female down, and to me, the reason he jumped on the  
17           hood was not to injure Mr. Patterson but rather than to  
18           prevent him from driving away.

19          Q     And, Mr. Kolins, you've had your own bar,  
20           right?

21          A     That's correct.

22          Q     Did you ever advise any of your security folks  
23           to get involved and try to stop somebody or jump onto the  
24           hood of a car to -- to somehow intervene in any -- any  
25           kind of case like that?



1           A     No.

2           Q     Do you have the -- ever have any bar fights at  
3 your -- at your establishment?

4           A     There may have been one or two incidents but  
5 nothing serious.

6           Q     And do you think it was a good idea for  
7 Mr. Evans to jump onto the hood of this truck?

8           MR. PINA: Object to the form.

9           THE WITNESS: I don't have an opinion on that.  
10 If Mr. Evans was trying to prevent an assailant of a  
11 female from driving away, I think he was acting as a  
12 Good Samaritan.

13 BY MR. McGUINNESS:

14          Q     What evidence do you have to suggest that, A,  
15 Mr. Patterson assailed a female?

16          A     Only the testimony that I've read.

17          Q     And do you think that's a good idea, for  
18 Mr. Evans to have tried to be a Good Samaritan, to jump  
19 on the hood of this truck?

20          A     Well, it's not a good idea now.

21          Q     Let's go to page -- it looks like number 6 of  
22 your opinion, Exhibit No. 2.

23                 What evidence, sir, do you have to suggest that  
24 Parador had any idea that there was going to be any kind  
25 of fights in the parking lot that night?

1           A     I can't think of any evidence.

2           Q     Okay. Let's look at page number 7, bottom, it  
3 indicates "fight history" on the bottom. It says, do you  
4 see there, "fight history clearly" and it goes on to page  
5 8?

6           A     Yes.

7           Q     What evidence do you have in the documentation  
8 that you reviewed to suggest that there was any prior  
9 fights in the Parador parking lot?

10          A     None. They didn't have security, and they  
11 didn't have reports.

12               MR. McGUINNESS: Would you read back his  
13 answer, please.

14                       (The requested portion was read back.)

15                       (Off-the-record discussion.)

16 BY MR. McGUINNESS:

17          Q     Now, I notice you -- in your file you had what  
18 appear to be some typed-up notes. Are those separate  
19 notes, Mr. Kolins, than what would be included in any  
20 discovery materials provided to you?

21          A     No. These are actually my summaries. I --  
22 when I read depositions, I dictate on them. So these are  
23 just my summaries of depositions.

24          Q     If I may just take a quick look at that.

25          A     (Tendering.) And then I -- for deposition

1 purposes last night, yesterday and last night, I --

2 MS. STARRETT: And they'll be --

3 THE WITNESS: -- reviewed them.

4 BY MR. MCGUINNESS:

5 Q So these -- and we'll get copies of this as  
6 part of the file.

7 But going back to Exhibit 2, you handwrote that  
8 up last night; is that correct?

9 A That's correct.

10 Q And your notes there reflect the extent of your  
11 opinions in this case, correct?

12 A As of today, yes.

13 Q Counsel for The Landing was asking you some  
14 questions about your charts here, the color charts.

15 A Yes, sir.

16 Q And what I'd like to know is, can you identify  
17 any instance in any of those charts that specifically  
18 relate to the Parador parking lot?

19 A No.

20 Q And, Mr. Kolins, are you aware of any  
21 intentional act or misconduct on the part of Parador to  
22 have caused harm to Mr. Evans?

23 A No.

24 Q And, Mr. Kolins, you're not aware of any  
25 evidence to suggest that somehow Parador would have seen

1       this incident as foreseeable, correct?

2           A     I don't have sufficient evidence at this  
3       time.

4           Q     And you have not spoken with anybody at  
5       Parador, correct?

6           A     That's correct.

7           Q     You've not reviewed any statements from anybody  
8       at Parador, correct?

9           A     Correct.

10          Q     Have you seen any photographs of that parking  
11       lot on the date of the incident?

12          A     Yes, sir.

13          Q     And where are those located?

14          A     You have it.

15          Q     Electronically?

16          A     Yes, sir.

17          Q     Do you know who took those?

18          A     No. They were provided to me.

19               MR. PINA: Just to clarify, I don't think they  
20       were on the day of the incident, but they were  
21       alleged -- before the garage was constructed.

22       BY MR. MCGUINNESS:

23           Q     Okay. So that -- that's my question,  
24       Mr. Kolins. Are you aware of whether there exists any  
25       photographs of that parking lot as it existed on the day

1 of the incident?

2 A No.

3 Q And with respect to the electronic file that  
4 you were kind enough to provide, is there any documents  
5 on there that you would have created personally that was  
6 not provided to you through the course of discovery in  
7 the case?

8 A No.

9 Q Have you ever been disqualified from rendering  
10 an opinion in any deposition or any case or at trial?

11 A No.

12 Q Do you have any evidence, Mr. Kolins, to  
13 suggest that anybody at Parador had knowledge that  
14 Mr. Evans was on the property that night or in that early  
15 morning?

16 A No.

17 Q And if you would, just give me a moment.

18 Have you ever testified in a case where  
19 somebody jumped onto the hood of a vehicle with that  
20 blood alcohol level?

21 MR. PINA: Object to the form.

22 Go ahead.

23 THE WITNESS: Have I testified?

24 BY MR. McGUINNESS:

25 Q I'll broaden it.

1 Have you ever worked on a case similar to this  
2 where somebody jumped onto the hood of a car with that  
3 level of alcohol in their blood system?

4 A Oh, with that level of alcohol, no.

5 Q Have you ever worked with Mr. Pina's firm  
6 before?

7 A No.

8 Q To this point in the deposition, have you told  
9 us all of the opinions that you have regarding the  
10 incident in this case?

11 A Based on the information that I have at this  
12 point, yes.

13 Q Have you asked for any additional information  
14 that you have not yet received or would like to look at  
15 before rendering an opinion in this case?

16 A No.

17 MR. McGUINNESS: Give me a moment if you would,  
18 Laura.

19 MS. STARRETT: While you're doing that, do you  
20 want to ask if Trevor has any?

21 MR. McGUINNESS: Yeah, that's fine.

22 MS. STARRETT: Trevor, do you have any  
23 questions?

24 MR. HAWES: No, thanks.

25 MS. STARRETT: Pat, do you have any questions?

1 MS. KYSER: I don't.

2 MR. PINA: I think he wants you.

3 (Brief recess.)

4 MR. McGUINNESS: Thank you, Mr. Kolins. I  
5 don't have anything further.

6 CROSS EXAMINATION

7 BY MR. PINA:

8 Q Mr. Kolins, I just have a couple of questions  
9 for you. I want to clarify some matters.

10 You were asked some questions about where  
11 Taylor Evans parked. Do you recall that?

12 A Yes.

13 Q One of the documents that you were sent was the  
14 police investigation report concerning this incident; is  
15 that correct?

16 A Yes.

17 Q And you do not have it printed out in front of  
18 you, though, do you?

19 A Correct.

20 Q I want to show you page 17 of that.

21 MR. PINA: I just have one copy (indicating).

22 I'm sorry. Just the highlighted portion.

23 BY MR. PINA:

24 Q If you'll look at the portion that has some  
25 highlightings, the paragraph begins, "Ms. Melendez." And

1 if you'll just read that to yourself, and then I'll ask  
2 you a couple of questions.

3 A Right.

4 Q Does reading that paragraph regarding  
5 Ms. Melendez give you any indication of -- or give you  
6 any more information concerning whether Mr. Taylor parked  
7 in that parking lot that night?

8 MR. McGUINNESS: Object to form.

9 Go ahead.

10 THE WITNESS: Right. This was -- she was with  
11 Taylor Evans.

12 BY MR. PINA:

13 Q Okay.

14 A And she parked in the parking lot.

15 Q Okay. And does it say, with regard to the time  
16 of the incident, whether she was with Mr. Evans?

17 A Yes.

18 Q And what were they doing?

19 A They were at the club until close, at  
20 approximately 1:45, 0200 hours. There were several  
21 fights inside the club prior to her leaving. She advised  
22 there were also several fights that broke out in front of  
23 The Landing on her way to the car. Ms. Melendez advised  
24 detectives that she and Taylor Evans were holding hands  
25 as they walked to the parking lot where the incident



1 occurred. So they were on the way to the parking lot.

2 Q But does it say specifically that they were  
3 looking for a car parked in the parking lot?

4 MR. McGUINNESS: Object to form.

5 THE WITNESS: Right. And she was looking for  
6 her car.

7 BY MR. PINA:

8 Q Looking for her car?

9 A Looking for her car. She was separated from  
10 her friends and was having problems finding the car  
11 because of the commotion.

12 Q With regard to knowledge that Parador may have  
13 had of problems with crime in that parking lot, were you  
14 provided any information by my office regarding that  
15 issue?

16 A I'm trying to recall.

17 Q Well, I'll just go ahead and show it to you.  
18 It's a copy of a document that's -- that I had provided  
19 to you.

20 A I have -- I have that, yes.

21 Q Does that indicate that the lot -- well, first  
22 let me ask you: What is that document?

23 A This is top property hot spots that comes from  
24 the Jacksonville Sheriff's Department crime analysis  
25 unit.

1 Q Does it indicate that the parking lot at the  
2 corner of Bay and Hogan Streets was a top -- top -- what  
3 does it refer to, a top --

4 A Hot spot.

5 Q -- property hot spot?

6 MR. McGUINNESS: Object to the form.

7 THE WITNESS: Yes. Between 2012 and 2014, yes,  
8 it does.

9 BY MR. PINA:

10 Q What is a property hot spot as that document  
11 refers to it?

12 A It's a hot spot where crime is concentrated.

13 Q And what types of crime specifically is that  
14 talking about?

15 A On this particular one, it's arson, auto theft,  
16 auto burglary, and burglaries. Thefts are not included.

17 Q What does that tell you, if anything, about the  
18 foreseeability of crime on that parking lot?

19 MR. McGUINNESS: Object to form.

20 THE WITNESS: That Parador knew or should have  
21 known that crime was occurring on that parking  
22 lot.

23 BY MR. PINA:

24 Q What about The Landing, does that document also  
25 apply to The Landing? Or does it -- would it also have

1 given The Landing any --

2 A Ability to foresee.

3 Q -- ability to foresee -- thank you for trying  
4 to help me ask the question -- any ability to foresee  
5 crime in that area?

6 A Yes.

7 Q And how would that work?

8 A Because this was a parking lot that The Landing  
9 was recommending to use for parking for their patrons to  
10 come in the early evening and leave at closing time.

11 Q Were you also provided information concerning  
12 The Landing website and links to surrounding parking?

13 A Yes.

14 Q And was one of -- was this parking lot, the  
15 Parador lot one of those links?

16 A Yes.

17 MR. PINA: That's all I have. They may want  
18 some follow-up.

19 MS. STARRETT: I just have one thing.

20 REDIRECT EXAMINATION

21 BY MS. STARRETT:

22 Q On the website that you were just talking  
23 about, the link, do you know where that link takes you?  
24 Let me ask it this way: Are you aware that it gives a  
25 list of garages and lots that the city, I think it's the

1 Chamber of Commerce, has put together?

2 A I remember --

3 Q Or Downtown Vision?

4 A I remember seeing that somewhere.

5 MS. STARRETT: I don't have anything else.

6 RECROSS EXAMINATION

7 BY MR. McGUINNESS:

8 Q Mr. Kolins, with respect to the questions that  
9 Mr. Pina asked you regarding Ms. Melendez, did you speak  
10 with Ms. Melendez?

11 A No.

12 Q Do you have any idea where her car was in  
13 relationship to where this incident occurred?

14 A No. It was on the parking lot, in the Parador  
15 parking lot.

16 Q In the information that you reviewed, does it  
17 not suggest that Mr. Evans involved himself in this  
18 altercation with these other folks in the parking lot?

19 MR. PINA: Object to the form.

20 You may answer.

21 THE WITNESS: I'm not sure what you mean by he  
22 involved himself.

23 BY MR. McGUINNESS:

24 Q With respect to this group of individuals near  
25 Mr. Patterson's truck, from the information that you

1 reviewed in the file, the police reports, does it not  
2 suggest that Mr. Evans involved himself, went to that  
3 altercation himself without being called over there?

4 A Well, I don't believe he engaged in an  
5 altercation with Mr. Patterson. There were already 15  
6 people there surrounding the vehicle. He only jumped on  
7 the hood of the vehicle.

8 Q Right. He jumped on the hood of the vehicle?

9 A Yes.

10 Q And that's a vehicle he was not riding in,  
11 correct?

12 A That's correct.

13 Q And that's a vehicle that Ms. Melendez was not  
14 riding in, correct?

15 A That's correct.

16 Q And you have no indication about whether  
17 Ms. Melendez parked in a totally different area of the  
18 parking lot than where this altercation occurred,  
19 correct?

20 A I would believe that she parked down near where  
21 the -- the incident occurred.

22 Q Why do you believe that?

23 A Because the incident occurred at the other end  
24 of the parking lot.

25 Q Which end of the parking lot did the incident

1 occur in?

2 A Now I'm trying to remember the name of the  
3 street. You walk through the lot to the end where there  
4 was a guardhouse. According to the police report, it  
5 actually described where it took place, from that -- from  
6 that entrance.

7 Q Did you ever look at a chart or diagram of  
8 where the incident occurred?

9 A Yes.

10 Q Did you -- were you able to tell from that  
11 chart where the incident occurred in relation to where  
12 Ms. Melendez's vehicle was?

13 A I don't recall that.

14 MR. McGUINNESS: I don't have anything further.  
15 Thank you.

16 MR. PINA: I don't have anything. Trevor?  
17 Pat?

18 MS. KYSER: No.

19 MS. STARRETT: Trevor, I'm going to go ahead  
20 and hang you up, okay?

21 MR. McGUINNESS: Read or waive?

22 MR. PINA: I think we'd like him to read.

23 (Witness excused)

24 (The witness did not waive reading and signing, and  
25 the deposition concluded at 12:42 o'clock p.m.)

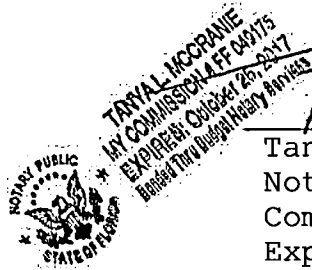
C E R T I F I C A T E   O F   O A T H

STATE OF FLORIDA )

COUNTY OF DUVAL )

I, the undersigned authority, certify that RUSSELL  
KOLINS personally appeared before me and was duly sworn  
on Monday, February 27, 2017.

WITNESS my hand and official seal this 1st day of  
March 2017.



Tanya L. McCranie  
Notary Public - State of Florida  
Commission No.: FF 049175  
Expires: October 26, 2017

Personally known:  
Produced Identification: XX  
Type of Identification Produced: New Jersey driver's  
license

C E R T I F I C A T E

STATE OF FLORIDA )

COUNTY OF DUVAL )

I, TANYA L. MCCRANIE, Registered Merit Reporter, certify that I was authorized to and did stenographically report the deposition of RUSSELL KOLINS; that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with this action, nor am I financially interested in the action.

DATED this 1st day of March 2017.

A handwritten signature in black ink, appearing to read 'Tanya L. McCranie', is written over a horizontal line.

Tanya L. McCranie, RMR



**Riley Reporting & Associates, Inc.**  
1660 Prudential Drive, Suite 210  
Jacksonville, Florida 32207  
(904) 358-1615 FAX (904) 356-5751

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March 1, 2017

Russell Kolins  
Russell Kolins Associates  
1528 Walnut Street, Suite 600  
Philadelphia, Pennsylvania 19102

Re: Evans vs. Jacksonville Landing Investments, et al.

Dear Mr. Kolins:

Attached is your deposition taken on Monday, February 27, 2017, in the above-titled case. The errata sheet is also attached for your reading and signing.

Please read the deposition, making any changes on the errata sheet, and forward the completed errata sheet to the attorneys listed as recipients of this letter below. Your prompt attention to this matter is appreciated.

Sincerely,

Tanya L. McCranie, RMR

cc: Laura L. Starrett, Esquire  
laura0234.starrett@libertymutual.com  
Neil F. McGuinness, Esquire  
nmcguinness@dmc-atty.com  
Ted Pina, Esquire  
ted@nicholsandpina.com

E R R A T A   S H E E T

Re: Evans vs. Jacksonville Landing Investments, et al.  
Case No.: 16-2014-CA-004199                      Division: CV-B

Page	Line	Where it reads:	Should read:
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	Reason:	_____	_____

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	Reason:	_____	_____

Under penalties of perjury, I declare that I have  
read my deposition and that it is true and correct  
subject to any changes in form or substance entered here.

_____	_____
DATE	RUSSELL KOLINS

(TLM 02/27/17)