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<p style="text-align: right;">1280</p> <p>1 our contract and --</p> <p>2 Q So am I following that as a guest or a</p> <p>3 private high-end VIP type of guest or organization</p> <p>4 that has some event, you, with Gayle, would provide</p> <p>5 specific concierge services just to them --</p> <p>6 A Yes.</p> <p>7 Q -- but Marriott would charge for the service?</p> <p>8 A Yes. Wherever they were, if they were up in</p> <p>9 a suite or down in the convention floor, we would get</p> <p>10 the materials, and we'd go down there and set up a --</p> <p>11 what looked like, for all practical purposes, a true</p> <p>12 concierge desk. We brought in a couple of laptops,</p> <p>13 you know, connected to wireless, did all that stuff</p> <p>14 and -- yeah.</p> <p>15 Q How long did the private concierge services</p> <p>16 last?</p> <p>17 A Well, they lasted for about ten years. We --</p> <p>18 we weren't working on Marriott's preferred vendor list</p> <p>19 after a couple. They said that had to change or</p> <p>20 something to avoid some -- some conflict. They asked</p> <p>21 me, Would you continue it so we could keep referring</p> <p>22 it out?</p> <p>23 We said, Sure.</p> <p>24 So Gayle and I continued to do it. We ended</p> <p>25 up with San Francisco Convention & Visitors Bureau,</p>	<p style="text-align: right;">1282</p> <p>1 having low back issues?</p> <p>2 A I think probably just after I met Gayle.</p> <p>3 Q In your 20s?</p> <p>4 A Yeah, my 20s.</p> <p>5 Q Okay. How would -- in your 20s, 30s, what</p> <p>6 was your back like?</p> <p>7 Just generally tell us. You don't have to</p> <p>8 spend a lot of time, but just generally.</p> <p>9 A It was something that was problematic. But</p> <p>10 if I stayed active, I could take care of it and keep</p> <p>11 it under control, you know, if I did some exercise,</p> <p>12 walked, that sort of thing.</p> <p>13 Q Okay. And did you have a motorcycle accident</p> <p>14 at some point?</p> <p>15 A Yes, I did.</p> <p>16 Q When was that, roughly?</p> <p>17 A It was 1998.</p> <p>18 Q What happened?</p> <p>19 A I was pulling away from a stop sign -- a stop</p> <p>20 light, and a truck backed up in front of me. I hit</p> <p>21 the truck after the collision, got thrown 50 feet and</p> <p>22 bounced off my helmet.</p> <p>23 Q Okay. Did your head actually hit the</p> <p>24 surface?</p> <p>25 A The helmet did, yeah. It split the helmet.</p>
<p style="text-align: right;">1281</p> <p>1 meeting other clients. And we worked in essentially</p> <p>2 every major hotel in San Francisco for a group at one</p> <p>3 time or another for providing private concierge</p> <p>4 services.</p> <p>5 Q So am I following, at some point, Marriott</p> <p>6 said, "We don't want to operate this anymore." But</p> <p>7 they asked if you and Gayle would continue to do it on</p> <p>8 your own as a side business, basically?</p> <p>9 A Yes.</p> <p>10 Q Okay. And you did that for Marriott guests</p> <p>11 and other hotel guests on days off, I guess?</p> <p>12 A Yes.</p> <p>13 Q Okay. Did that stop at some point?</p> <p>14 A It did.</p> <p>15 Q When?</p> <p>16 A We were doing very well. Gayle was working</p> <p>17 with the biggest client. And I sustained a spinal</p> <p>18 cord injury.</p> <p>19 Q Okay. Let's talk about your back -- the</p> <p>20 history of your back issues before your spinal cord</p> <p>21 injury.</p> <p>22 Can you tell the Jury how long you had low</p> <p>23 back issues.</p> <p>24 A A long time.</p> <p>25 Q And what sort of -- when do you first recall</p>	<p style="text-align: right;">1283</p> <p>1 Q Thank goodness you were wearing a helmet?</p> <p>2 A Yeah, and thank goodness that was the one I</p> <p>3 chose that day instead of the cute little one, you</p> <p>4 know.</p> <p>5 Q Got it. Okay.</p> <p>6 Did -- did you have any other incidents,</p> <p>7 accidents, any other events that, you know, aggravated</p> <p>8 or flared up your back condition?</p> <p>9 A My back condition flared up on its own in</p> <p>10 2004. It just seemed like, you know, it did run some</p> <p>11 course, and I had some really intense sciatica.</p> <p>12 Q "Sciatica" meaning?</p> <p>13 A Burning, shooting pain down the backs of my</p> <p>14 legs.</p> <p>15 Q So from your low back down the leg?</p> <p>16 A Yeah, especially my left leg, yeah.</p> <p>17 Q Medical treatment-wise, just briefly, what</p> <p>18 did you do at that point?</p> <p>19 A I ended up having a microdiscectomy.</p> <p>20 Q Okay. Is that a surgery in your low back,</p> <p>21 basically?</p> <p>22 A Yeah.</p> <p>23 Q How did you do after that surgery?</p> <p>24 A It was -- it was great, you know. I felt</p> <p>25 really good.</p>

<p style="text-align: right;">1284</p> <p>1 Q What kind of activities were you doing at 2 that point? 3 A I was still -- I had really gotten hooked on 4 gardening when I was at -- you know, where I grew up 5 with my folks. At Foothill College, I lived in an old 6 house that had a bunch of trees, and I had French 7 intensive and organic, and over here was hydroponics. 8 At our house where we are now, I continued to 9 really be into the gardening thing. It was something 10 I really liked. 11 Pardon me. Maybe I lost track of your 12 question. 13 Q That's all right. 14 Let's move now to 2010. Anything happen in 15 2010 that aggravated the back again? 16 A Yeah, in 2010, I had gone -- oh, pardon me. 17 Let's see. 18 Yeah, 2010 is when I was leaving the 19 Home Depot from the garden center. And there were 20 some chairs right there by the exit, and I sat in one 21 of them and the leg broke, and I fell down. 22 Q You sit, and the leg actually breaks, and you 23 fall? 24 A It breaks off. 25 Q Okay. And what happened back-wise after</p>	<p style="text-align: right;">1286</p> <p>1 braces called AFOs. They're lighter samples of what 2 I'm wearing now. And I had to get up and walk with a 3 walker. We started PT right away. 4 Q Okay. Did you have a malpractice case 5 against that doctor? 6 A Yes, I did. 7 Q Okay. And did -- tell us about the rehab 8 period, just -- not in great detail. But generally 9 speaking, you have the spinal cord injury. You're 10 rehabbing. What are you doing? 11 A It's -- it's thorough. They start you right 12 away. I rehabbed in and around the hotel. They had a 13 place called the Terrain Farm that had different 14 surfaces: you know, gravel, carpet, then switching to 15 sand and something else. They had ramps, et cetera, 16 to walk up. 17 They had occupational therapy there to see if 18 you'd be able to cook something for yourself. And 19 like I said, I've been cooking, so I made myself an 20 omelet. 21 Q Oh, keep going. 22 A And after two months -- well, I was 23 discharged from the hospital after about three weeks. 24 And then I continued with outpatient physical 25 therapy where I'd go back, and they had an exercise</p>
<p style="text-align: right;">1285</p> <p>1 that? 2 A Well, I, you know, bounced off the ground. 3 And a young lady came up and, you know, I went home. 4 I sat down on the couch, and about an hour later, I 5 couldn't get off the couch. 6 Q Did you start getting what we've called 7 epidural injections at some point for your back? 8 A Yes, I did. After a bit, my same surgeon who 9 had done my discectomy referred me to another doctor 10 for epidural injections. 11 Q Okay. And we heard briefly from Dr. Savage. 12 But do you remember when you were getting epidurals, 13 the time period? 14 A Yeah, from about 2012 to 2014. 15 Q Okay. 16 A That's the last one. 17 Q And the last one -- what happened after the 18 last one? 19 A The last one went bad. I woke up with an 20 incomplete spinal cord injury. I woke up as a 21 paraplegic. 22 Q Could you walk right when you woke up? 23 A No. I was transferred over to CPMC, and 24 that's where I -- immediately, they began rehab. They 25 had a fellow on call that comes out and makes some leg</p>	<p style="text-align: right;">1287</p> <p>1 room and, again, access to that Terrain Farm. So I'd 2 do that for an hour a couple of times a week. 3 And after that stopped -- gosh, no. That 4 continued for the better part of a year. Excuse me. 5 Q Now, when you had that injury, did you have 6 any understanding as to how long under Marriott's 7 policies you could be out on leave before your job 8 might be in jeopardy? 9 A My understanding was that that position would 10 be open for about a year -- for a year. 11 Q A year. All right. 12 What did your doctor say about whether it was 13 realistic that you'd be back working again? 14 A They thought that was kind of pie-in-the-sky 15 stuff, you know. They -- they weren't sure I could do 16 it. The therapists were surprised when I said, Okay. 17 Let's try and change our therapy so that I can do 18 these motions and movements, and here is where I'm 19 going to need it. 20 Q What was your response to the pie-in-the-sky 21 perspective? 22 A Well, you really have a choice. You can 23 decide to just kind of have that be the definition of 24 your life right then, or you can decide that you're 25 going to fight your way back and show that you still</p>

1288	<p>1 have value, not just to myself, to my family, but --</p> <p>2 but to work and others and, you know, especially to my</p> <p>3 daughter.</p> <p>4 Q How old was she at this time?</p> <p>5 A She was -- she was six.</p> <p>6 Q What was it like to have a six-year-old</p> <p>7 experience this change in your body?</p> <p>8 A It was -- it was horrible. There was even a</p> <p>9 point, because of how I walked, she called me a</p> <p>10 monster. I sounded like Frankenstein walking across</p> <p>11 the floor.</p> <p>12 And I went from being able to pick her up and</p> <p>13 throw her on my shoulders and, you know, play games</p> <p>14 with her and stuff -- we'd been skiing. We'd been</p> <p>15 bike riding. We'd been boogie boarding. And it was</p> <p>16 like throwing a light switch, and my daughter was</p> <p>17 scared. I was scared.</p> <p>18 And that's another reason it was just so</p> <p>19 important for me to work hard to see what the new</p> <p>20 normal was going to be, but not to give up. And</p> <p>21 that's something I wanted to make sure I showed to</p> <p>22 her.</p> <p>23 Q Do you remember your first day back at work</p> <p>24 after the injury?</p> <p>25 A I have to say I don't remember much of the</p>	1290	<p>1 perspective why they matter.</p> <p>2 So the first one:</p> <p>3 (As read):</p> <p>4 "Cane to walk and stand sometimes."</p> <p>5 A They mattered, because it was really hard on</p> <p>6 my body to try and do these things, you know, with --</p> <p>7 without the cane and the leg brace that I wear on --</p> <p>8 it was really hard.</p> <p>9 And they were important for me to be able to</p> <p>10 do as much of a normal life, and including, you know,</p> <p>11 at work and be able to return to full functionality at</p> <p>12 work, in the sense that I could effectively do my job.</p> <p>13 Q Second restriction:</p> <p>14 (As read):</p> <p>15 "May require additional sitting time during</p> <p>16 the course of his shift."</p> <p>17 A My legs get tired pretty quickly. They're</p> <p>18 weak. There's a lot of muscle stuff going on with</p> <p>19 this, and they fatigue pretty quick.</p> <p>20 Q Okay. Let me pause you right there.</p> <p>21 So explain to our Jury: What do you feel in</p> <p>22 your legs? What do you not feel?</p> <p>23 What was it like back at this point when</p> <p>24 you're coming back?</p> <p>25 A Okay. At about my navel on down, my feeling</p>
1289	<p>1 first day, but I do remember the excitement and the</p> <p>2 nervousness of going there. And now what I remember</p> <p>3 is coming home.</p> <p>4 Q What do you remember about coming home?</p> <p>5 A When I came home that first day -- and I hope</p> <p>6 you'll excuse me, but my music was too loud in my</p> <p>7 truck. I pull into my driveway typically a little too</p> <p>8 fast. My wife doesn't like it. But I -- I had my</p> <p>9 Marriott uniform on. That's how I used to pull up.</p> <p>10 That's how I'd come in.</p> <p>11 I look up. There is my daughter, and she's</p> <p>12 smiling at me. And we're both smiling, because that</p> <p>13 was a huge step. It was part of recovery. It was</p> <p>14 that next step, as I said, towards the new normal.</p> <p>15 But it was -- it broke my heart, and at the</p> <p>16 same time, it made me feel really, really good,</p> <p>17 because she now had some hope, and so did I.</p> <p>18 MR. DERUBERTIS: Let's look at Exhibit 5.</p> <p>19 (Exhibit 5 published before</p> <p>20 the Court and Jury.)</p> <p>21 MR. DERUBERTIS: Q. Do you remember this,</p> <p>22 Dr. Abrams' December 5, 2014, note?</p> <p>23 A Yes.</p> <p>24 Q Okay. Let's talk about the restrictions.</p> <p>25 And just briefly, you know, I want to know from your</p>	1291	<p>1 is -- is affected. My thighs have some feeling to</p> <p>2 them, and they have some muscle strength, but it's --</p> <p>3 it's dull. It's almost like I'm doing this, and my</p> <p>4 legs are like the wood. They just don't feel the</p> <p>5 same.</p> <p>6 From the knees down, there's even less</p> <p>7 sensation and muscle control. I can't lift to raise</p> <p>8 my feet the way you probably do or most people would,</p> <p>9 and that means that I can't push off to have a normal</p> <p>10 walking gait. And that's why I need the cane to keep</p> <p>11 my balance.</p> <p>12 My core strength is also affected, so it's</p> <p>13 really important to try and stay, you know, in right</p> <p>14 position.</p> <p>15 The brace I wear has been designed by a guy</p> <p>16 who came up with this idea, and it transfers your</p> <p>17 weight and forward momentum down into -- through</p> <p>18 carbon graphite. It pushes your foot forward, so it</p> <p>19 gives you a sense of being able to control your foot</p> <p>20 in normal walking pattern.</p> <p>21 And it gave me a lot of mobility, but --</p> <p>22 Q Let me try --</p> <p>23 A -- I needed to sit because my legs were shot.</p> <p>24 Q Okay. Let's talk about when you -- in the</p> <p>25 old days, before your injury, how much time were you</p>

<p style="text-align: right;">1292</p> <p>1 seated versus standing --</p> <p>2 A I stood --</p> <p>3 Q -- when you worked -- when you worked?</p> <p>4 A I stood a lot. You know, the old school</p> <p>5 training was, Stand up. Look at guests in the eyes.</p> <p>6 Q Okay. After your injury, how -- did that</p> <p>7 change? And how, if so?</p> <p>8 A Yeah, I sat a lot more.</p> <p>9 Q Okay.</p> <p>10 A I sat a lot more.</p> <p>11 Q And why did -- what would happen to you if</p> <p>12 you weren't able to sit, and you had to stand more</p> <p>13 than you were comfortable with? What would happen?</p> <p>14 A If I had to stand more than I was able to</p> <p>15 sit, it wouldn't take very long before my legs would</p> <p>16 literally get shaky and so fatigued that I knew I had</p> <p>17 to sit down.</p> <p>18 It wasn't -- I didn't feel that I could use</p> <p>19 them with enough strength necessarily to walk far, but</p> <p>20 I certainly knew that I had limitations on how long I</p> <p>21 could stand. And it wasn't long, but it was enough to</p> <p>22 get me through a guest interaction or a couple before</p> <p>23 I'd sit.</p> <p>24 Q Okay. Let's go to Item No. 5.</p> <p>25 (As read):</p>	<p style="text-align: right;">1294</p> <p>1 bustling restaurant. People would hit this place up</p> <p>2 before going to work and meetings, and this place was</p> <p>3 cranking.</p> <p>4 Q Did you do lounge duties at all in the, let's</p> <p>5 say, five years before your injury?</p> <p>6 A I probably had done maybe a couple of shifts,</p> <p>7 because primarily at this point, I'm down in the</p> <p>8 lobby.</p> <p>9 Q Who would do lounge duties?</p> <p>10 A It would be a combination of a lounge</p> <p>11 attendant and then concierge with less seniority, or</p> <p>12 concierge that wanted to get hours that were</p> <p>13 available.</p> <p>14 Q All right.</p> <p>15 So let's now talk about your returning back</p> <p>16 to work. You've returned to work. We've seen the</p> <p>17 photo of the original lobby workstation.</p> <p>18 Did it require any adjustments?</p> <p>19 A No. It was pretty good. It had, you know,</p> <p>20 every -- everything, I think, that I -- I could ask</p> <p>21 for. It had that -- thick rubber mats so my chair</p> <p>22 would roll. It had a leg well, and it had, like, a</p> <p>23 little counter underneath so I could do that</p> <p>24 (indicating). I could pull forward. It had</p> <p>25 articulating monitors and keyboard risers so you could</p>
<p style="text-align: right;">1293</p> <p>1 "Breaks and break locations."</p> <p>2 Why -- what was the concern and issue with</p> <p>3 break locations?</p> <p>4 A Well, the employee cafeteria was overall for</p> <p>5 the hotel. We could get meals or take a break,</p> <p>6 although some departments had break areas.</p> <p>7 And it was a big hotel. It was huge. So</p> <p>8 this was literally, like, a city block, maybe more,</p> <p>9 away, going through a series of things to get down to</p> <p>10 the cafeteria, and that was too far for me to manage.</p> <p>11 Q Okay. The last item, No. 7:</p> <p>12 (As read):</p> <p>13 "He will not be able to perform lounge duties</p> <p>14 as described in the description of the concierge</p> <p>15 requirements."</p> <p>16 A Mar- --</p> <p>17 Q Yes.</p> <p>18 A Marriott had the concierge lounge, and it was</p> <p>19 for our Platinum members. And that would be a place</p> <p>20 where, if they had stayed over 100-some-odd nights</p> <p>21 here in Marriott, they'd have this privilege of being</p> <p>22 able to go into the lounge that served a light</p> <p>23 breakfast or continental breakfast. We had bacon and</p> <p>24 eggs, pastries, et cetera.</p> <p>25 But what it was was like working in a</p>	<p style="text-align: right;">1295</p> <p>1 bring them to you or raise them up out of the way,</p> <p>2 whatever you needed to do.</p> <p>3 The desk itself was also a design where there</p> <p>4 were overlapping levels, and it made it narrower so</p> <p>5 the guests could actually get really close to you, and</p> <p>6 without having to do much, you were really close to</p> <p>7 the guest. I could sit in my chair at that desk and</p> <p>8 hand a guest a map I had just drawn on --</p> <p>9 Q Okay.</p> <p>10 A -- for example.</p> <p>11 Q So you get back. And I'm not going to go</p> <p>12 through them, but they did do things like, you know,</p> <p>13 let you come into the valet area. We already heard</p> <p>14 that; right?</p> <p>15 A Yeah.</p> <p>16 Q The workstation itself, it did not require</p> <p>17 any modifications that you could remember?</p> <p>18 A No.</p> <p>19 Q The interlocking mat on the floor, that was</p> <p>20 there at the time?</p> <p>21 A Yes.</p> <p>22 Q Okay. Now, let's talk about break locations.</p> <p>23 But before we get there, I want to talk about this</p> <p>24 scooter. We heard about an electric scooter.</p> <p>25 Is that something you used at work?</p>