

1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

2 STATE OF HAWAI'I

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4
5 MARJORIE J. WALSH
CRAIG W. WALSH

6 Plaintiffs

7 vs.

8 MMI REALTY SERVICES
9 INC.

10 Defendant

) CIVIL NO. 1CCV-0000003

) **Certified Transcript**

) (Pages 1 - 72)

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17 DEPOSITION OF ESMERALDA PAESTE

18 WEDNESDAY, NOVEMBER 12, 2025

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24 REPORTED BY: Chantelle Hee, RPR

25 State of Hawai'i CSR No. 536

1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

2 STATE OF HAWAI'I

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5 MARJORIE J. WALSH) CIVIL NO. 1CCV-00000003
6 CRAIG W. WALSH)

7 Plaintiffs)
8)

9 vs.)

10 MMI REALTY SERVICES)
11 INC.)

12 Defendant)
13)
14)
15)
16)

17 Deposition of ESMERALDA PAESTE, taken on
18 behalf of the Plaintiffs, MARJORIE J. WALSH
19 and CRAIG W. WALSH, pursuant to Notice,
20 on WEDNESDAY, NOVEMBER 12, 2025, commencing
21 At 12:54 p.m. at Outrigger Canoe Club,
22 2090 Kalakaua Avenue, Honolulu, Hawaii 96815
23 before Chantelle Hee, RPR, State of Hawai'i
24 CSR No. 536.
25

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I N D E X

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INFORMATION TO BE SUPPLIED

(None.)

QUESTIONS INSTRUCTED NOT TO ANSWER

(None.)

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HONOLULU, HAWAI'I

WEDNESDAY, NOVEMBER 12, 2025

12:54 P.M.

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(Pursuant to Rule 14 of the Rules Governing Court
Reporting in Hawaii, the reporter's disclosure is
available.)

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THE COURT REPORTER: Ms. Paeste, would
you please raise your right hand.

Do you solemnly swear that the
testimony you are about to give in the matter now
pending will be the truth, the whole truth, and
nothing but the truth?

THE DEPONENT: I do.

THE COURT REPORTER: Thank you.

-000-

ESMERALDA PAESTE,
called as a deponent and sworn in
by the court reporter, was examined
and testified as follows:

-000-

EXAMINATION

BY MS. WALSH:

Q. Nice to meet you. I'm Marjorie Walsh and this is Craig Walsh. And we are not lawyers but we know that all parties have to follow the law and we try to be as professional as possible.

So having said that, you've been sworn in by the court reporter. Do you understand the oath to tell the truth?

A. I do.

Q. Is there any reason you cannot give full and truthful testimony today?

A. No.

Q. If you do not understand a question, will you please tell one of us so we can rephrase it?

A. Okay.

Q. Please wait until I or Craig finish asking each question before answering so the court reporter can record everything clearly.

A. Okay.

Q. If you need a break at any time, just let me know. But if a question is pending, please answer it first before we take a break. And if you need the bathroom, I'll show you where it is and

1 give you the code to go in there because it's
2 coded.

3 Do you understand that you must
4 respond verbally, not with gestures or nods?

5 A. I do.

6 Q. If you later remember information that
7 changes a prior answer, will you tell us so that we
8 can record -- correct the record?

9 A. Yes.

10 Q. Please state your full name for the
11 record.

12 A. Esmeralda Paeste.

13 Q. Do you have a middle name?

14 A. Yes, Bermudez.

15 Q. Have you ever used any other names?

16 A. Ezy. I go by Ezy as well.

17 Q. What is your current occupation and
18 employer?

19 A. General manager for MMI Realty.

20 MR. WALSH: Excuse me. Can I ask you
21 a question? Do you actually -- are you actually an
22 MMI Realty employee or --

23 MR. KAYA: Hold on. Hold on. Hold
24 on. The way depositions work is one person asks,
25 then they complete, then the other person can ask.

1 I understand you're both plaintiffs but you can't
2 go interchangeably.

3 MR. WALSH: Okay.

4 MR. KAYA: Okay. So please, you
5 know --

6 MR. WALSH: Okay.

7 MR. KAYA: Thank you.

8 BY MS. WALSH:

9 Q. How long have you been employed in
10 that role?

11 A. Over 15 years.

12 Q. Who reports to you in maintenance or
13 operations?

14 MR. KAYA: Objection. Compound.

15 If you understand, you can answer.

16 THE DEPONENT: Can you elaborate on
17 what -- on that question?

18 BY MS. WALSH:

19 Q. Well, does somebody in charge of
20 maintenance or operations report to you?

21 MR. KAYA: Same objection.

22 Are you asking her about maintenance
23 or are you asking her about operations?

24 BY MS. WALSH:

25 Q. Who reports to you in maintenance?

1 A. Who -- what do you mean by that?

2 Q. There must be a program of maintenance
3 and somebody must oversee it.

4 A. So maintenance, we do have a vendor
5 that performs maintenance duties. So having said
6 that --

7 Q. Are they an independent contractor?

8 A. They are a third-party vendor.

9 Q. Who do you report to within MMI
10 Realty?

11 A. Who do I report to in terms of what?

12 Q. Who is your boss?

13 A. Who is my boss? Mark Babin and John
14 Mendelson.

15 Q. Okay. I'm going to give you a
16 document titled Kahala Mall Property Overview.

17 (Whereupon, Plaintiff's Exhibit A
18 was marked for identification by
19 the court reporter and is attached
20 hereto.)

21 BY MS. WALSH:

22 Q. Have you seen this document before?

23 A. I have not seen this document.

24 Q. Would you like me to give you time to
25 read it?

1 **Are you ready?**

2 A. Yes. I have read it and I have not
3 seen this document before.

4 **Q. So do you know if the estimated**
5 **financial profile is essentially in the ballpark?**

6 MR. KAYA: Objection. Lacks
7 foundation.

8 She's already testified she's never
9 seen this before.

10 BY MS. WALSH:

11 **Q. Do you know the revenue of Kahala**
12 **Mall?**

13 MR. KAYA: Same objection. Also, this
14 is -- if you're asking about how much the mall
15 makes per year, that's something that is best
16 reserved to a post-judgment proceeding because
17 there's a Hawaii case that says that you're not
18 entitled to that until you win something.

19 The case name is -- I'll give you
20 it -- is Lothspeich versus Sam Fong,
21 L-o-t-h-s-p-i-e-c-h [sic] versus Sam Fong, S-a-m
22 F-o-n-g, 6 Hawaii App. It's a 1985 case.

23 BY MS. WALSH:

24 **Q. Okay. What percentage of the revenue**
25 **is spent on maintenance and repairs?**

1 MR. KAYA: Objection. Lacks
2 foundation.

3 If you know, you can answer.

4 THE DEPONENT: I don't. I don't know.

5 BY MS. WALSH:

6 Q. Okay. So here's a job description of
7 a general manager.

8 (Whereupon, Plaintiff's Exhibit B
9 was marked for identification by
10 the court reporter and is attached
11 hereto.)

12 BY MS. WALSH:

13 Q. Have you seen this before?

14 A. No.

15 Q. Would you like to me to give you time
16 to read it?

17 MR. KAYA: It's a two-page document,
18 right?

19 MS. WALSH: Yes.

20 MR. KAYA: You gave me an extra one,
21 that's why.

22 MS. WALSH: Sorry.

23 THE DEPONENT: I'm done reading.

24 BY MS. WALSH:

25 Q. Does it accurately describe your

1 **actual duties and job as general manager?**

2 A. Not really because this isn't
3 specifically tailored for the MMI Realty general
4 manager position at Kahala Mall even though the
5 title of the document says "General Manager Kahala
6 Mall."

7 **Q. What in that document do you not do?**

8 A. So, for example, the first item under
9 operational leadership states that the general
10 manager:

11 "Direct all daily
12 mall operations including
13 maintenance, housekeeping,
14 security, and capital
15 projects."

16 Maintenance, housekeeping, and
17 security are provided by third-party vendors and so
18 that's not 100 percent accurate.

19 **Q. Okay. Anything else?**

20 A. Yeah. I mean -- and then following
21 that, there's also:

22 "Coordinate with
23 facilities teams and
24 contractors to ensure
25 compliance with safety,

1 ADA, and local building
2 codes."

3 I mean, you know, a sentence or
4 statement of that nature to me implies that I'm
5 responsible for ensuring -- or the general manager
6 position is responsible for ensuring compliance
7 with ADA and local building codes when that's not
8 really, again, accurate because we do work with
9 engineers and architects and third-party
10 consultants that, you know, we rely on to ensure
11 those things.

12 **Q. Okay. Is there anything else?**

13 A. Those are just the ones that I saw.

14 **Q. Okay. So this is a summary of your**
15 **professional background.**

16 MR. KAYA: Do you want her to mark it?

17 MS. WALSH: Yes.

18 MR. KAYA: Is this going to be C as in
19 cat?

20 MS. WALSH: Yes.

21 (Whereupon, Plaintiff's Exhibit C
22 was marked for identification by
23 the court reporter and is attached
24 hereto.)

25 MR. KAYA: What's your question

1 pending?

2 MS. WALSH: Just is the information
3 correct, accurate?

4 (Whereupon, a conversation was
5 held sotto voce between Mr. Kaya
6 and the deponent.)

7 MR. KAYA: No. I mean, just is it
8 accurate? That's the pending question.

9 THE DEPONENT: I'm done reading.

10 BY MS. WALSH:

11 Q. Is it essentially --

12 A. No.

13 Q. Okay. What -- can you tell me the
14 items that are wrong, please.

15 A. Under professional background, it
16 states that:

17 "She manages leasing
18 and operations for several
19 East Oahu commercial
20 properties, including
21 Kahala Office Tower, Aina
22 Haina Professional
23 Building, and Waipio
24 Business Center."
25 Waipio Business Center is not in East

1 Oahu. And I also do not oversee the Waipio
2 Business Center in its entirety.

3 **Q. So what changes should I make?**

4 A. There are two units that I manage at
5 that property, not the entire center. And the last
6 sentence stating that:

7 "She previously held
8 administrative and
9 customer-facing positions
10 in Honolulu's retail
11 sector."

12 I don't know what that means.

13 (Whereupon, a conversation was
14 held sotto voce between Mr. Walsh
15 and Ms. Walsh.)

16 THE DEPONENT: And having served as
17 both general manager and principal broker for more
18 than a decade, the principal broker part I have not
19 been in that role for more than a decade.

20 BY MS. WALSH:

21 **Q. So how long were you in that role?**

22 A. Roughly maybe three, four years. I
23 don't really know the exact number of years off the
24 top of my head.

25 **Q. And if I can go back to the general**

1 manager job description just briefly, would you say
2 that with the exception of the duties you've
3 already given us, the rest of it is essentially
4 accurate?

5 A. Maybe. I mean, you know, for me to
6 word-per-word review -- I mean right now, I don't
7 think -- like I'll need to take this home and go
8 through it on my own to provide you a very detailed
9 response as to whether this document -- the job
10 description document is completely accurate or not.
11 That's something I would need to do on my own time.

12 Q. And just going back to the
13 appointment, who do you work for?

14 MR. KAYA: Objection. Asked and
15 answered.

16 MS. WALSH: Okay.

17 MR. WALSH: Moves on to me.

18
19 EXAMINATION

20 BY MR. WALSH:

21 Q. Without telling us Kahala Mall's
22 revenue, you're not aware of what percentage of the
23 revenue is spent on CapEx?

24 MR. KAYA: Objection. Vague.

25 Do you know what the term "CapEx"

1 means?

2 MR. WALSH: Well, let me ask it
3 another way.

4 BY MR. WALSH:

5 Q. Do you know the difference between
6 CapEx and OpEx? If not, I can explain.

7 A. Are you -- when you say "CapEx," what
8 exactly are you referring to?

9 Q. Right. So capital expenditures are
10 called CapEx so that's money spent fixing, for
11 example, the physical plant whereas OpEx are
12 operational expenditures, for example, maintenance
13 and cleaning and painting.

14 So capital expenditure tends to be a
15 larger project: installing an elevator, fixing an
16 elevator, you know, replacing stairs whereas
17 operating expenditures tend to be things that
18 cannot be capitalized, smaller expenditures.

19 So I'm interested in CapEx here.

20 Do you know what percentage of the
21 mall's revenue is generally spent on CapEx?

22 A. Not off the top of my head. I mean,
23 we have an accounting department that usually
24 handles that.

25 Q. So with capital expenditures, you

1 **don't have a budget for that?**

2 A. We normally do.

3 **Q. You normally do?**

4 A. Mm-hmm.

5 **Q. So what was the budget for, for**
6 **example, this year for capital expenditures?**

7 MR. KAYA: Objection. Foundation.
8 Calls for speculation.

9 If you know, you can answer.

10 THE DEPONENT: I don't know it off the
11 top of my head.

12 BY MR. WALSH:

13 **Q. So are you responsible for the mall's**
14 **overall operating performance budgets, et cetera,**
15 **to be in compliance with budgets or not?**

16 MR. KAYA: Objection. Lacks
17 foundation.

18 If you understand his question, you
19 can answer.

20 THE DEPONENT: I don't really
21 understand what --

22 BY MR. WALSH:

23 **Q. Who's responsible for the malls -- let**
24 **me ask it -- sorry.**

25 Is there a budget for the mall? Do

1 **you work towards the budget or the projections?**

2 A. Generally, yes.

3 **Q. Generally, yes. Sometimes no?**

4 A. The question you were asking sounded
5 to me like you were asking in a general way so I
6 responded to you with a general yes.

7 **Q. So towards the end of one year, do you**
8 **and others sit down and formulate the budget for**
9 **the coming fiscal year?**

10 A. There are parts of the budget that I
11 normally work on alongside our accounting
12 department. So it's not entirely me --

13 **Q. Right.**

14 A. -- preparing the --

15 **Q. But do you sit there and work with**
16 **others at the mall to determine, for example, what**
17 **the ideal revenue or likely revenue is going to be**
18 **for the next fiscal year?**

19 A. To a certain extent. I mean, it
20 doesn't -- I don't have the final say as to what
21 those projections are.

22 **Q. Who does?**

23 A. Normally, my boss.

24 **Q. So your boss then takes input from you**
25 **and he is responsible for the final projections?**

1 A. Yes.

2 Q. And for capital expenditures, do you
3 know how much you would have to spend that's
4 budgeted in the coming fiscal year on capital
5 expenditures? Not -- not third-parties doing
6 painting and decorating but we're talking about
7 capital expenditures.

8 A. I don't know it off the top of my head
9 just sitting here.

10 Q. But do you know it if you were to go
11 back to your office?

12 A. I could check.

13 Q. So do you know at any time if you are
14 underspent or overspent versus budget on capital
15 expenditures?

16 A. Yeah. So our accounting --

17 THE DEPONENT: Do you want me to
18 answer that?

19 MR. KAYA: Yeah.

20 THE DEPONENT: Our accounting
21 department usually would let me know if, you know,
22 there's something that needs my attention because
23 it's over budget.

24 BY MR. WALSH:

25 Q. Okay. So you said that there are

1 third-party vendors who deal with issues about
2 maintenance, housekeeping, and security projects.

3 So can I give you this exhibit,
4 please.

5 (Whereupon, Plaintiff's Exhibit D
6 was marked for identification by
7 the court reporter and is attached
8 hereto.)

9 MR. KAYA: This is going to be D;
10 right?

11 THE COURT REPORTER: Yes.

12 BY MR. WALSH:

13 Q. So this document was part of what your
14 attorney sent to us earlier this year and it says
15 it's prepared by MMI Realty Services. And it has
16 to deal with your contractor services agreement for
17 janitorial and landscape maintenance scope of work,
18 revised October 3rd, 2018.

19 Is this still the existing agreement?

20 A. Yes.

21 Q. So on the left-hand side, it says
22 "Kahala Operations Team" and this is -- the whole
23 chart is called "Kahala Mall Responsibilities
24 At-A-Glance."

25 So where I put the little arrow,

1 "Kahala Operations Team, roads, curbs, and parking
2 lot repairs," so does that mean that the
3 third-party contractor is not responsible for that?

4 A. Based on this document for the
5 janitorial landscape and maintenance, no.

6 Q. So you said "based on this document,"
7 so what is it in reality? This is a document that
8 you -- well, through your attorney have provided to
9 us.

10 A. So what this document looks like to me
11 is an exhibit from our service contract with our
12 maintenance and housekeeping vendor.

13 Q. Correct.

14 A. Is that correct?

15 Q. Yeah.

16 A. Okay. So based on this document, you
17 asked me whether or not the vendor is responsible
18 for roads, curbs, and parking lot repairs.

19 Was that your question?

20 Q. Well, I asked you who's responsible
21 for roads, curbs, and parking lot repairs. Based
22 on this document -- and this is your document --
23 based on this document, it would appear to be the
24 Kahala operations team and not federal maintenance;
25 is that correct?

1 A. Based on this document, that is
2 correct.

3 **Q. So based on reality, is it correct?**
4 **Who is responsible for road, curbs, and parking lot**
5 **repairs?**

6 A. So, normally, it's Kahala Mall that's
7 responsible for it. If there are parking lot
8 repairs that need to be done, we normally would
9 hire a vendor to carry out the repair.

10 **Q. But who would identify whether there's**
11 **a parking lot repair that needs to be done?**

12 **From this, it would appear that that's**
13 **Kahala operations team; is that correct?**

14 MR. KAYA: Objection. Lacks
15 foundation and misstates the document.

16 You can answer if you understand.

17 THE DEPONENT: I mean, I don't -- in
18 the event that there's an issue in the parking lot
19 that security or federal maintenance reports to us,
20 at that point, we would reach out and hire a vendor
21 to go and perform the necessary repair.

22 BY MR. WALSH:

23 **Q. You would? You're the general manager**
24 **of the mall.**

25 A. We would -- I would on behalf of

1 Kahala Mall.

2 Q. Okay. And would you need -- does MMI
3 Realty own the mall?

4 A. No.

5 Q. You manage it. So if it's a capital
6 expenditure, would you, MMI Realty, need to get the
7 money from the mall owner?

8 A. If -- it depends.

9 Q. It depends on what?

10 A. It depends on whether it's a budgeted
11 capital expenditure or not.

12 Q. So there are budgeted capital
13 expenditures?

14 A. Normally, yes.

15 Q. And who's responsible for deciding
16 what capital expenditures need to be done in any
17 given year and the amount to be allocated?

18 A. It is normally a collaborative effort
19 amongst the Kahala Mall, MMI management team.

20 Q. And is the owner of the mall involved
21 in this, this collaborative effort?

22 THE DEPONENT: What does he -- what?

23 MR. KAYA: Objection. Vague as to
24 what you mean by "involved."

25 But if you understand, you can answer.

1 BY MR. WALSH:

2 Q. Do you understand the question?

3 A. Can you be more specific?

4 Q. Sure. So if we were sitting here in
5 December and we were looking at the next calendar
6 year and if we were trying to figure out how much
7 needed to be expended on capital expenditures,
8 would we not sit with a list of what projects need
9 to be done, perhaps ranked in terms of importance
10 or urgency?

11 A. When you say "we" --

12 Q. If we were all sitting with the
13 budget --

14 A. -- you're hypothetically --

15 Q. Correct.

16 A. -- we were hypothetically talking like
17 we're the MMI team?

18 Q. Yes.

19 A. Yes.

20 Q. So you lead this group of people
21 talking about what needs to be fixed each year?
22 Are you in charge of this team?

23 A. It's a collaborative effort. It's not
24 just me leading it.

25 Q. Who makes the final decision?

1 A. That would be my superiors, my boss.

2 Q. Okay. So you go to your boss with the
3 collection of information about these jobs need to
4 be done -- these capital expenditure jobs need to
5 be done during the next year?

6 A. (Nodding head up and down.)

7 Q. Okay. And then would your bosses say
8 "Let's take that off the list" or "We don't have
9 the money for all of these"?

10 How does that work?

11 MR. KAYA: Objection. Improper
12 hypothetical.

13 If you understand, you can answer.

14 THE DEPONENT: I don't really.

15 BY MR. WALSH:

16 Q. Who decides the final capital
17 expenditure list for the next year?

18 A. That would be my boss.

19 Q. And if your boss takes things off the
20 list that you believe should be included, you're
21 able to go back and negotiate to have it put back
22 on the list?

23 A. I mean, my bosses have the final say.

24 Q. Okay. And you mentioned earlier that
25 you would know about things that need to be

1 addressed from reports made by federal maintenance.

2 Do you know as the general manager of
3 the mall not also walk around the mall to identify
4 potential problems?

5 A. I walk around the mall, yes.

6 Q. Okay. And you identify potential
7 problems when you walk around the mall?

8 A. When I see them, yes.

9 Q. Okay. So you are aware from reports
10 from the folks at federal maintenance or others and
11 from your own observations what projects at the
12 mall need to be addressed?

13 MR. KAYA: Objection. Misstates prior
14 testimony.

15 BY MR. WALSH:

16 Q. You can still answer the question.

17 A. Not necessarily because, I mean, we
18 have other workers. They have their workers that
19 they -- you know, that they have their own
20 supervisors that their workers report to. So, I
21 mean, not --

22 Q. So I guess what I'm trying to get to,
23 is there a list, whether it's on paper or just in
24 your mind, of jobs that need to be done -- capital
25 expenditure jobs that need to be done at the mall?

1 MR. KAYA: Vague as to time.

2 BY MR. WALSH:

3 Q. Is there a list in your mind or down
4 on paper of capital expenditure jobs that need to
5 be done at the mall within the next 12 months?

6 A. Yes.

7 Q. Is the replacement of the storm drain
8 on that list?

9 MR. KAYA: Objection. Vague.

10 Are you talking about --

11 BY MR. WALSH:

12 Q. Is the replacement of the storm drain
13 where this incident occurred in August of 2023 on
14 the list?

15 A. No.

16 Q. Okay. So you as the general manager
17 of Kahala Mall are okay with the current state of
18 the drain where the accident or injury occurred?

19 MR. KAYA: Objection. Relevance.

20 You can answer.

21 THE DEPONENT: To my -- well, yes. To
22 my knowledge, there's nothing wrong with it.

23 BY MR. WALSH:

24 Q. So it's not on the list of the items
25 to be repaired?

1 A. No.

2 MR. KAYA: This is E as in elephant?

3 THE COURT REPORTER: Yes.

4 BY MR. WALSH:

5 Q. So the E as in elephant really -- if
6 you look at the part highlighted in yellow on the
7 first page -- and can you also look at the attached
8 four photographs?

9 So the photographs were taken on
10 July 10th, 2025, by me. They show one of those
11 large metal construction plates placed over the
12 drain where Marjorie broke her leg and also four
13 traffic cones.

14 Can you please tell me why they were
15 there?

16 A. We had our -- the photos don't --

17 MR. KAYA: The photos are different on
18 this exhibit between her and what you gave me.

19 This one has -- oh, here. Take this one. Sorry.

20 (Whereupon, Plaintiff's Exhibit E
21 was marked for identification by
22 the court reporter and is attached
23 hereto.)

24 THE DEPONENT: Okay.

25 ///

1 BY MR. WALSH:

2 Q. Why was the metal plate there in July?

3 A. Our contractor Steel Constructors did
4 some work there.

5 Q. Can you explain more? "Did some work
6 there" being on the ground?

7 A. To my -- yeah. They did some work on
8 the -- on the ground. To my knowledge, it was --
9 the scope of work was more of a preventative
10 maintenance in scope.

11 Q. So was there work done to the drain,
12 the drain that they covered with the steel plate?

13 A. I think so.

14 Q. Did they complete the work?

15 A. Yes.

16 Q. Was the work to the drain itself the
17 metal rails or lower in the drain?

18 MR. KAYA: Objection. Lacks
19 foundation.

20 If you know.

21 THE DEPONENT: I -- yeah, I'm not
22 sure.

23 BY MR. WALSH:

24 Q. What was the work to do with some
25 exactitude?

1 A. I don't know the exact technical terms
2 for the -- the scope. The scope of work I just
3 described is what I know about it.

4 **Q. Who awarded the contract for this**
5 **work?**

6 A. So our -- the Kahala Mall operations
7 team reached out to our vendor and had the work
8 performed.

9 **Q. And the Kahala Mall operations team**
10 **reports to you?**

11 A. Yes.

12 **Q. Okay. And the vendor who performed**
13 **the work, what is their name, please?**

14 A. Steel Constructors is the name of the
15 company.

16 **Q. Okay. Do you know how much this**
17 **project cost?**

18 A. Not off the top of my head.

19 **Q. So as general manager of the mall, you**
20 **don't really know what they were doing or how much**
21 **it cost; is that correct?**

22 A. For this particular job, no.

23 **Q. Okay. Is it common that you don't**
24 **know what work is being done at the mall and how**
25 **much it costs?**

1 MR. KAYA: Objection. Argumentative.
2 But you can answer.

3 BY MR. WALSH:

4 Q. Please answer.

5 A. Usually I do, but for this job I did
6 not know.

7 Q. Okay. And is the work complete or
8 don't you know?

9 A. The work is completed, yes.

10 Q. So earlier on when talking about this
11 job description, you said that the sentence "Direct
12 all daily mall operations including maintenance,
13 housekeeping, security, and capital projects," you
14 said that that wasn't correct because third-party
15 vendors did that?

16 MR. KAYA: Objection. Misstates prior
17 testimony.

18 Can you read back her testimony that
19 she said?

20 (Whereupon, the record
21 was read as follows:

22 "So, for example,
23 the first item under
24 operational leadership
25 states that the general

1 manager 'Direct all daily
2 mall operations including
3 maintenance,
4 housekeeping, security,
5 and capital projects.'
6 Maintenance,
7 housekeeping, and
8 security are provided by
9 third-party vendors and
10 so that's not 100 percent
11 accurate.")

12 BY MR. WALSH:

13 **Q. So that's not 100 percent accurate;**
14 **the third-party vendors do it; is that correct? Is**
15 **that your testimony?**

16 A. I don't understand. Can you --

17 MR. KAYA: I don't understand the
18 question, either.

19 BY MR. WALSH:

20 **Q. Who is responsible for maintenance,**
21 **housekeeping, security, and capital projects?**

22 MR. KAYA: Objection. Asked and
23 answered.

24 MR. WALSH: Well, it's not really
25 answered.

1 BY MR. WALSH:

2 Q. You're not responsible?

3 MR. KAYA: Also vague as to what you
4 mean by "responsible."

5 BY MR. WALSH:

6 Q. Who has the overall responsibility
7 for -- we'll make it simple. Forget housekeeping
8 and security.

9 Who has the overall responsibility for
10 capital projects?

11 MR. KAYA: Same objection. It goes to
12 the term "responsibility."

13 BY MR. WALSH:

14 Q. Who decides what capital projects are
15 undertaken?

16 MR. KAYA: Objection. Asked and
17 answered.

18 BY MR. WALSH:

19 Q. Who has the responsibility for ADA
20 compliance at the mall?

21 A. What do you mean?

22 MR. KAYA: Can I have a running
23 objection to the term "responsibility"?

24 Then I won't have to continue to
25 object to every question.

1 BY MR. WALSH:

2 Q. Who has responsibility for compliance
3 with the Americans with Disabilities Act?

4 And by "responsibility," if you want
5 more of a definition, who, for example, would be
6 aware of the requirements of the ADA as it applies
7 to, for example, surfaces, door-opening strengths,
8 heights of things?

9 Who's responsible for being sure that
10 that is in compliance with the ADA?

11 A. I mean, it wouldn't be me because I'm
12 not an ADA professional. So we rely on, you know,
13 a third party.

14 Q. That's fine. Who is the third party?

15 MR. KAYA: So you're talking about at
16 present?

17 BY MR. WALSH:

18 Q. Who is the third party at present and
19 who was the third party in August 2023?

20 Is it the same or different?

21 MR. KAYA: Objection. Compound.

22 BY MR. WALSH:

23 Q. Who was responsible for ADA compliance
24 in August 2023 at the mall?

25 MR. KAYA: Objection. Lacks

1 foundation.

2 But if you know, you can answer.

3 THE DEPONENT: No, because I don't
4 understand.

5 BY MR. WALSH:

6 Q. Who is responsible for ADA compliance
7 at the mall today?

8 A. You mean if there's an ADA issue?

9 Q. Correct. Who's responsible for
10 identifying ADA issues and making sure that they
11 are addressed at the mall today?

12 A. If there was an ADA issue, we would
13 call our consultant like Paul Sheriff. That's -- I
14 believe that's who we last used.

15 Q. So does -- what type of an expert or
16 professional is Paul Sheriff?

17 A. He -- I don't know his exact title but
18 he is an ADA compliance expert.

19 Q. And is he with a company?

20 A. No.

21 Q. He's an individual?

22 A. Yes.

23 MR. KAYA: Is that Sheriff like
24 S-h-e-r-i-f-f?

25 THE DEPONENT: Yeah.

1 BY MR. WALSH:

2 Q. So does Mr. Sheriff come to the mall
3 to identify ADA issues?

4 A. If we asked him to, he would.

5 Q. But he doesn't have a contract to come
6 and do that with any sort of regularity?

7 A. He doesn't have a...

8 MR. KAYA: You mean, you're asking if
9 he's on retainer to do it?

10 MR. WALSH: Yes.

11 MR. KAYA: Okay.

12 THE DEPONENT: He is not on a
13 retainer.

14 BY MR. WALSH:

15 Q. So he comes when the mall calls him
16 and asks him to come?

17 A. Yes.

18 Q. Does the mall call and ask him to come
19 on a fairly regularly basis or only ad hoc when
20 needed?

21 A. When needed.

22 Q. Okay. So how often, if you know, did
23 he come in the last year?

24 A. Not -- I mean, he hasn't come, to my
25 knowledge, in the last year.

1 **Q. And the year before that, to your**
2 **knowledge?**

3 A. You mean in 2024?

4 **Q. Yes.**

5 A. In 2024, not that I recall.

6 **Q. Okay. So I believe it's your**
7 **testimony that you do not know about ADA issues?**

8 **Do you know about ADA issues? Do you**
9 **know what the ADA rules are?**

10 A. Do I know what the -- what do you
11 mean?

12 **Q. Do you know, for example, do you know**
13 **what the ADA rules are for accessible routes in a**
14 **parking lot?**

15 MR. KAYA: Objection. Lacks
16 foundation.

17 BY MR. WALSH:

18 **Q. Do you know what the ADA rules are?**

19 MR. KAYA: If you don't, you don't.

20 THE DEPONENT: I don't know.

21 BY MR. WALSH:

22 **Q. So you don't know about Americans with**
23 **Disabilities Act rules at the mall?**

24 A. I mean --

25 MR. KAYA: Objection. Misstates prior

1 testimony.

2 Your last question was --

3 BY MR. WALSH:

4 Q. Please tell me what you -- please tell
5 me what you believe the ADA rules that apply to the
6 mall are.

7 What general areas?

8 MR. KAYA: Objection. Lacks
9 foundation. Calls for speculation.

10 She's already testified she's not an
11 ADA expert and now you're asking for her to tell
12 you what rules apply?

13 BY MR. WALSH:

14 Q. So since you're not an ADA expert, how
15 do you know when to call Mr. Sheriff?

16 A. If there's an issue that I would
17 believe is related to ADA, then I would call him.

18 Q. But it's your testimony you don't know
19 issues relating to ADA.

20 So how would you know when to call
21 him?

22 A. I mean, if somebody else said that,
23 "Hey, Ezy, this is related to ADA," then I call
24 Paul Sheriff, I call the consultant.

25 Q. So you're dependent on others telling

1 you about ADA issues; you are not yourself, in your
2 role as general manager, identifying ADA issues?

3 A. Yes, because it's not in my area of
4 expertise.

5 Q. Okay. And these other people that it
6 is in their area of expertise include mall
7 employees?

8 A. I wouldn't say that they're ADA
9 experts. I don't know. That's why we call our
10 consultant.

11 Q. Okay. Let's forget about the ADA
12 then.

13 MR. WALSH: Sorry. This has got an
14 exhibit number on the bottom so it will have to be
15 crossed out.

16 (Whereupon, Plaintiff's Exhibit F
17 was marked for identification by
18 the court reporter and is attached
19 hereto.)

20 BY MR. WALSH:

21 Q. So these are the nonmandatory but
22 acceptable standards for floor surfaces.

23 Have you seen a document like this
24 before?

25 A. No.

1 **Q. Okay. That's all I have on that one**
2 **then.**

3 **So, yeah, I can move through this**
4 **fairly quickly.**

5 **So what is your spending authority**
6 **limit for repairs, yours personally? How much can**
7 **you authorize yourself?**

8 MR. KAYA: Objection. Lacks
9 foundation.

10 But if you understand, you can answer.

11 THE DEPONENT: I -- spending on what?

12 BY MR. WALSH:

13 **Q. So do you have ability to approve**
14 **purchases for capital expenditures?**

15 A. Only to the extent that I've been
16 approved to do so based on the budgeted capital
17 projects that are designated to me.

18 **Q. Okay. So if a repair exceeds your**
19 **authority, if something pops up, what's the**
20 **approval process?**

21 A. It normally requires at least my
22 boss's approval.

23 **Q. Let me just ask you, your boss is here**
24 **in Hawaii?**

25 A. No.

1 **Q. Okay. How often does your boss come**
2 **to the mall?**

3 A. I mean, they don't really tell me.

4 **Q. No. How often?**

5 A. I don't know. They don't really tell
6 me when they -- when they come.

7 **Q. So are you saying that they come to**
8 **the mall but don't come and see you? So you don't**
9 **know that they're there?**

10 A. Yeah.

11 **Q. Okay. So who has the final approval**
12 **for larger capital repairs or replacements?**

13 A. My boss.

14 **Q. Okay. Has there ever been a delay in**
15 **repairs because funding approval is needed?**

16 A. I don't know offhand.

17 **Q. You don't know if there's been a**
18 **delay?**

19 MS. WALSH: She doesn't know.

20 MR. WALSH: Yeah.

21 BY MR. WALSH:

22 **Q. Do you provide regular maintenance or**
23 **safety reports to MMI Realty or to the owner of the**
24 **mall?**

25 Is there -- is there a safety

1 **reporting report?**

2 MR. KAYA: Objection. Compound. It's
3 multiple questions.

4 Can you break that down for her?

5 BY MR. WALSH:

6 **Q. Do you provide regular maintenance or**
7 **safety reports to MMI Realty and/or to the mall**
8 **owner?**

9 MR. KAYA: Objection. Lacks
10 foundation.

11 BY MR. WALSH:

12 **Q. You can answer if you know.**

13 A. I mean, when there's a safety issue we
14 just address it.

15 **Q. Okay. Are there written policies on**
16 **safety inspections, maintenance standards, or ADA**
17 **compliance?**

18 A. I'm sorry. You're going to have to...

19 **Q. Sorry. Are there written policies on**
20 **safety inspections, maintenance standards, or ADA**
21 **compliance?**

22 A. That's very vague.

23 **Q. Are there written policies on safety**
24 **inspections?**

25 MR. KAYA: Objection. Vague.

1 Are you asking her whether there's,
2 like, a checklist that they have to follow?

3 MR. WALSH: A checklist, a written
4 policy, a procedures manual.

5 MR. KAYA: Okay. Do you understand
6 what he's talking about?

7 THE DEPONENT: I think that our
8 vendor, like Koa Maintenance, usually has a
9 checklist for their day-to-day, you know,
10 inspections of the different areas of the mall.

11 BY MR. WALSH:

12 Q. But if we go back to this Kahala Mall
13 responsibilities chart, as I understand it,
14 everything on the left-hand side, the left column
15 marked "Kahala Operations Team," has nothing to do
16 with your vendor; is that correct?

17 A. Well, you asked for a checklist;
18 right? So, in my mind, you're referring to a
19 checklist with boxes, you know, "yes" or "no."

20 Q. What about a manual that would list
21 what would be done? A checklist or a manual.

22 A. Maybe. I don't know.

23 Q. So just picking one of these at random
24 from the Kahala operations team, one of them is
25 repair broken mall signage. So that is, according

1 to this chart, not the maintenance company's
2 responsibility but the Kahala operations team.

3 Is there a checklist that says, for
4 example, check the mall signage every month, every
5 two months?

6 A. Is there a check for something like
7 that? No.

8 If they see a broken sign, then they
9 proceed to -- they normally proceed to just have
10 the repair done on such broken sign.

11 Q. Okay. How are incidents or injuries
12 on mall property documented and recorded?

13 A. Normally, that's handled by mall
14 security.

15 Q. Does mall security provide you with a
16 report, a monthly report?

17 A. The reports are usually maintained by
18 mall security. So they're supposed to let us know
19 when incidents occur.

20 Q. They're supposed to let you know?

21 A. Yes.

22 Q. So how would they let you know? What
23 is the procedure for letting you know?

24 A. So, normally, they are responsible for
25 informing us of the incident by providing us a copy

1 of the incident report.

2 Q. And do they give you a summary of the
3 incident report by month, by quarter, by year? Or
4 is it just ad hoc, one report then another?

5 A. Yes. They normally just give us a
6 copy of the report as it happens.

7 Q. Okay. So there's no oversight to see
8 we've had a certain number of reports of this
9 nature during, for example, the last quarter?

10 A. What do you mean?

11 Q. So you just get reports when it
12 happens? You don't get any sort of overriding
13 report that gives you a breakdown of the types of
14 reports during, for example, the past year?

15 A. They don't provide us that.

16 Q. So who at the mall is responsible for
17 maintaining safe premises for the public? Would
18 that be you?

19 MR. KAYA: Objection. Vague.

20 BY MR. WALSH:

21 Q. Who at the mall is responsible for
22 maintaining the safe premises for the public?

23 MR. KAYA: Same objection.

24 If you understand, you can answer.

25 THE DEPONENT: That's a very vague

1 question.

2 BY MR. WALSH:

3 Q. Is anyone at the mall responsible for
4 the maintenance of safe premises?

5 MR. KAYA: Objection. Unintelligible.

6 "For the maintenance of safe
7 premises"?

8 BY MR. WALSH:

9 Q. Is anyone at the mall responsible for
10 making sure that the premises at the mall are safe
11 for the public?

12 A. "Are safe for the public." In terms
13 of common area? Is that what you're asking?

14 Q. Areas visited by -- well, yes, not
15 within the stores.

16 A. Okay. So common area?

17 Q. Parking lot, areas of the mall that
18 are common, restrooms that are open to the public.

19 A. Okay. And when you say "safe," what
20 exactly do you mean by "safe"?

21 Q. That -- that patrons visiting the mall
22 will not get injured in visiting the mall, that
23 there are no safety hazards --

24 A. Okay.

25 Q. -- in the common areas, the parking

1 **lots, the public restrooms.**

2 A. Okay. So we have maintenance and
3 security vendors that we've hired -- the mall has
4 hired to be responsible for the daily and ongoing
5 reporting of any safety issues to mall management,
6 whether that's to mall management or operations.
7 And then when they report it to us, we then respond
8 by addressing it.

9 **Q. Do you as the mall manager -- you said**
10 **earlier you do walk around the mall.**

11 **Do you ever identify any safety**
12 **issues?**

13 MR. KAYA: Objection. Asked and
14 answered.

15 You can answer.

16 THE DEPONENT: When I -- when I see
17 something that's an issue.

18 MR. WALSH: Okay. Can we mark that
19 exhibit.

20 (Whereupon, Plaintiff's Exhibits G
21 through J were marked for
22 identification by the court reporter
23 and is attached hereto.)

24 MR. WALSH: Better check the pictures
25 because I think this is the one that had the

1 pictures you had earlier.

2 MR. KAYA: Okay. It's the same.

3 BY MR. WALSH:

4 Q. Okay. Good. So this was provided to
5 us by your attorney. It's an incident report
6 summary. So is this typical of what you would get
7 if something happened at the mall, if someone were
8 injured or there was an incident?

9 A. I think so.

10 Q. I'm sorry. You think so?

11 A. Yes.

12 Q. Do you know how many of these you
13 would see in a given, for example, month on
14 average?

15 A. I don't know offhand.

16 Q. More than a couple or you just don't
17 know?

18 A. I mean, probably. The -- this
19 report -- reporting template or this reporting
20 system is prepared, handled, managed, and
21 controlled by our security vendors. So...

22 Q. Just so I understand, this is
23 maintained by your security vendors but you don't,
24 as the mall manager, see these reports?

25 A. You -- I didn't say that.

1 **Q. Okay. Do you see these reports?**

2 A. When security provides it to me, then
3 I see it.

4 **Q. Does security provide it to you when**
5 **they think it's important or do they provide all of**
6 **them to you?**

7 MR. KAYA: Objection. Lacks
8 foundation.

9 BY MR. WALSH:

10 **Q. Does security provide all of the**
11 **reports to you?**

12 MR. KAYA: Objection. Lacks
13 foundation.

14 BY MR. WALSH:

15 **Q. Does security provide any of the**
16 **reports to you?**

17 A. What kind of reports?

18 **Q. These reports, this exhibit.**

19 A. I mean, I've seen this report but what
20 you're asking, I don't really understand because,
21 you know, you're saying "Do they provide you all
22 the reports?" And that --

23 **Q. I'm trying to get a sense of the**
24 **mall's awareness of whether patrons of the mall are**
25 **being injured or not. And it would seem to be that**

1 **these reports would be an indication of that.**

2 **So do you get these reports?**

3 A. So security is responsible for
4 providing us incident reports on trip-and-falls,
5 trip-and-fall incidents.

6 Is that what you're asking?

7 **Q. Yeah. So security has guidelines**
8 **about which reports to provide you?**

9 A. Yes. They are supposed to provide us
10 with incident reports.

11 **Q. And when they complete an incident**
12 **report, for example, if someone was a homeless**
13 **person in the mall, they would do presumably one of**
14 **these reports? Yes? No?**

15 A. It depends.

16 **Q. I'm trying to get some idea of when**
17 **security would prepare one of these.**

18 MR. KAYA: So are you asking her,
19 using the homeless person example, whether security
20 would simply prepare a report because there was a
21 homeless person there or because a homeless person
22 did something?

23 MR. WALSH: Either.

24 BY MR. WALSH:

25 **Q. If security is called to attend to**

1 something, be it a homeless person or an injury, do
2 they prepare an incident report each time they go
3 and attend to something?

4 A. They're supposed to.

5 Q. Okay. But they -- but if they prepare
6 an incident report each time they attend to
7 something, which they're supposed to, who decides
8 which of these incident reports to send to you as
9 the mall manager?

10 A. Their site supervisor.

11 Q. Okay. So if the site supervisor
12 believes something is significant enough to call to
13 your attention, he or she would send you one of
14 these incident reports.

15 Is that how it works?

16 A. That is correct.

17 Q. Okay. And how often do they do that
18 in a given month on average?

19 A. At least, like, once a week.

20 Q. Okay. And have you seen this one
21 before? This specific one?

22 A. This Exhibit G?

23 Q. Yes.

24 A. Yes.

25 ///

(Whereupon, a recess was held
from 2:06 p.m. to 2:14 p.m.)

BY MR. WALSH:

**Q. So these latest exhibits, the latest
three exhibits, the photographs related to what are
called accessible routes, are you familiar under
the ADA with the concept of accessible routes?**

A. The concept?

**Q. Do you know what an accessible route
is under the ADA?**

A. Maybe.

Q. I'm sorry?

A. Not 100 percent.

Q. Okay.

MR. WALSH: Here you go.

(Whereupon, Plaintiff's Exhibit K
was marked for identification by
the court reporter and is attached
hereto.)

THE DEPONENT: Oh, yeah, I don't know
this.

BY MR. WALSH:

**Q. So this latest exhibit is the U.S.
Access Board Technical Guide on accessible routes.
And on the first page --**

1 MR. KAYA: What is this, K?

2 THE DEPONENT: Yeah.

3 BY MR. WALSH:

4 Q. On the first page in the lower
5 righthand corner, it says, and I'll read it:

6 "Accessible routes
7 must coincide with or be in
8 the same vicinity as
9 general circulation paths.
10 Section 206.3."

11 Are you familiar with that?

12 A. No.

13 Q. Okay. So if you go back and look at
14 the pictures, the first two pictures with the blue
15 triangles, those are pictures of the dropped curb
16 which is the wheelchair access.

17 So for disabled people in wheelchairs
18 or just disabled people who find curbs difficult,
19 where is the accessible path?

20 MR. KAYA: Objection. Lacks
21 foundation. Calls for speculation.

22 BY MR. WALSH:

23 Q. Do you see an accessible path in those
24 first two exhibits with the blue triangles?

25 A. "Accessible" meaning...

1 **Q. So an accessible path must run from**
2 **the entrance to the disabled parking space or**
3 **spaces.**

4 A. I don't know.

5 **Q. Okay. So if you -- you're the general**
6 **manager of the mall, the ADA covers the mall, you**
7 **don't know where the accessible path is?**

8 A. I don't -- I really don't know because
9 I just -- I'm not an ADA accessible expert.

10 **Q. Okay. Has your expert -- Mr. Sheriff**
11 **was his name? -- has he opined on this?**

12 MR. KAYA: Objection. Lacks
13 foundation. Also misstates Mr. Sheriff's position.
14 BY MR. WALSH:

15 **Q. Has anybody given the mall advice**
16 **about accessible routes or accessible paths?**

17 MR. KAYA: If you know.

18 THE DEPONENT: Not offhand, I don't
19 know.

20 BY MR. WALSH:

21 **Q. Okay. If you look at the third**
22 **photograph, the one that's taken from Whole Foods**
23 **looking out into the parking lot --**

24 A. Is that --

25 MR. KAYA: H or is that --

1 MR. WALSH: Sorry. I didn't keep
2 copies of those. Hold it up and let me see?

3 Yeah, that one.

4 THE DEPONENT: This one? Okay.

5 MR. WALSH: Which one is that?

6 THE DEPONENT: H.

7 BY MR. WALSH:

8 Q. So do you agree that that's taken from
9 the Whole Foods entrance looking out towards the
10 parking lot?

11 A. I think so. Yeah, that's around that
12 area.

13 Q. Okay. So an accessible path has to go
14 the shortest distance from the disabled entrance or
15 exit to the mall to the disabled parking path
16 space.

17 Do you see an accessible path in
18 there?

19 A. I don't know.

20 Q. Okay. So if you were a disabled
21 person would you know where to go?

22 A. I don't -- I mean, I have no idea.

23 Q. So if you were in a wheelchair and
24 your car is parked in those disabled spaces, this
25 is the dropped curb for the wheelchair, would you

1 know where to go?

2 MR. KAYA: Objection. Asked and
3 answered.

4 But if you know. If you don't, you
5 don't. But if you know.

6 BY MR. WALSH:

7 Q. So is your answer that you don't know?

8 A. Yeah, I don't know. I've never been
9 in a wheelchair before. I don't know.

10 Q. Okay. One final thing and then we'll
11 look at the video. So the ADA says:

12 "Accessible routes
13 must coincide with or be in
14 the same area as
15 circulation paths. This
16 promotes equivalency and
17 precludes accessible routes
18 that are obscure, hard to
19 find, or that diverge from
20 circulation paths more than
21 is necessary. Section
22 206.3."

23 So do you know what architects call a
24 "path of desire"?

25 A. No.

1 **Q. Okay. All right. We have a video.**
2 **On three separate days, we put up a GoPro at Kahala**
3 **Mall without interrupting anyone. The idea was to**
4 **make sure nobody knew that it was there.**

5 **And we filmed people walking at the**
6 **mall in an effort to ascertain what circulation**
7 **paths people used. So when designing an accessible**
8 **path, you want to make sure it follows what are**
9 **called paths of desire.**

10 **So are you aware of these videos?**

11 **A. No.**

12 **Q. Have you seen them? Because they were**
13 **provide to your attorney some months ago.**

14 **So you've not seen the video?**

15 **A. No, because I don't --**

16 **Q. Okay.**

17 **A. Did somebody submit like a request for**
18 **that?**

19 **Q. No, they were just filmed. It's open**
20 **to the public.**

21 **A. Oh, yeah. So normally --**

22 **Q. But they're not for broadcast. They**
23 **weren't shown on television.**

24 **MR. KAYA: Actually, you posted them**
25 **on a website so you are in violation of the law.**

1 MR. WALSH: Okay. Well, that's not
2 what we're here for.

3 MR. KAYA: I agree, but --

4 BY MR. WALSH:

5 Q. But you've not seen these videos?

6 (Video played; not transcribed.)

7 THE DEPONENT: The videos you're
8 referring to?

9 BY MR. WALSH:

10 Q. Yeah. Of the people walking.

11 A. (Shaking head side to side.)

12 Q. This is a compilation from three days
13 of the people that walked on or near the storm
14 drain where Marjorie broke her leg. So it is to
15 show how many people walk there in the paths of
16 desire.

17 So it's show time. Let me run this
18 video.

19 MR. KAYA: I'm going to place an
20 objection to any questions about the video. You
21 can show the video to the witness, but I'm going to
22 place an objection with regard to any responses on
23 the basis of relevance.

24 MR. WALSH: Okay.

25 (Video played; not transcribed.)

1 MR. KAYA: Mr. Walsh, have you made
2 the videos an exhibit to this deposition or no?

3 MR. WALSH: Yes.

4 MR. KAYA: So what -- there are
5 different dates so Exhibit I is going to be --

6 MR. WALSH: No. The whole video is
7 one.

8 MR. KAYA: So it's going to be Exhibit
9 I? Or no, not I.

10 MS. WALSH: L.

11 MR. WALSH: L. Yeah. It's been
12 uploaded to the -- it's been uploaded to the
13 reporter's website.

14 (Whereupon, Plaintiff's Exhibit L
15 was marked for identification by
16 the court reporter and is attached
17 hereto.)

18 (Video played; not transcribed.)

19 BY MR. WALSH:

20 **Q. So I won't ask you any questions about**
21 **the video.**

22 MR. WALSH: Can you mark this exhibit.

23 ///

24 ///

25 ///

(Whereupon, Plaintiff's Exhibit M
was marked for identification by
the court reporter and is attached
hereto.)

BY MR. WALSH:

**Q. So those are photographs of the storm
drain in the parking lot outside of Whole Foods
where Marjorie broke her leg.**

Do you recognize that storm drain?

A. Yes.

**Q. Do you as the general manager of the
mall believe people will walk across the storm
drain?**

A. I guess.

**Q. You guess. Okay. Do you know why the
sidewalk -- or I'm sorry -- the crosswalk in that
area is raised?**

A. No.

MR. WALSH: Sorry, it's small.

MR. KAYA: What is the number?

THE COURT REPORTER: This is N.

MR. KAYA: M?

THE COURT REPORTER: N.

MR. KAYA: N.

THE COURT REPORTER: Yes.

1 MR. KAYA: Okay.

2 (Whereupon, Plaintiff's Exhibit N
3 was marked for identification by
4 the court reporter and is attached
5 hereto.)

6 BY MR. WALSH:

7 Q. This is a 1986 Group Five drawing
8 showing when the crosswalk was installed.

9 Do you recognize that?

10 A. Nope.

11 (Whereupon, Plaintiff's Exhibit O
12 was marked for identification by
13 the court reporter and is attached
14 hereto.)

15 BY MR. WALSH:

16 Q. One final thing and this is sort of
17 embarrassing. There is a correlation between
18 personal rule compliance and workplace safety
19 behavior.

20 And, essentially, studies have said
21 that personal disregard for rules can reflect
22 broader attitudes towards authority and risk so
23 such data should inform but not determine judgments
24 about professional reliability.

25 External rule breaking patterns as

1 risk indicators is not proof of misconduct.
2 Basically, if you break rules in your personal life
3 perhaps you're not as involved with safety in your
4 business life.

5 MR. WALSH: My last exhibit.
6 (Whereupon, Plaintiff's Exhibit P
7 was marked for identification by
8 the court reporter and is attached
9 hereto.)

10 BY MR. WALSH:

11 Q. Do you recognize these court cases?

12 A. It has my name on it.

13 MR. KAYA: Objection as to this
14 exhibit as relevance.

15 BY MR. WALSH:

16 Q. Do these court cases involve you?

17 MR. KAYA: May I -- can I -- can I
18 just object. Ms. Paeste is not a party and is
19 not -- this has nothing to do with anything
20 relating to the mall.

21 MR. WALSH: But --

22 MR. KAYA: That's my objections.

23 BY MR. WALSH:

24 Q. -- but it shows, in our view, a
25 disregard for safety.

1 **So are these your court cases?**

2 A. I don't even -- I mean, these are
3 from, like, 2006. It has my name on it.

4 **Q. It has your name on it. Is it you?**

5 **There are numerous --**

6 A. I -- I've never seen this before.

7 **Q. -- but there are numerous cases. Are**
8 **you aware of these cases?**

9 There are numerous cases involving
10 **DUI, involving not wearing a seat belt, involving**
11 **not having a child properly restrained in the car.**
12 **It shows licenses suspended, fines not paid.**

13 **Is this you?**

14 MR. KAYA: You know, again, objection.
15 Lacks -- lacks foundation. Calls for speculation.

16 Number two, it's not a certified
17 document.

18 And, lastly again, it's not relevant.

19 It also contains some court reporting
20 for a Brandon Post which, for some reason, you are
21 now --

22 BY MR. WALSH:

23 **Q. She's shown as an affiliated party. I**
24 **just simply asked the question, is this you?**

25 A. I don't know because I've never seen

1 this before.

2 Q. Were you involved in these court
3 cases?

4 A. The court --

5 Q. Not whether you've seen these before
6 or not, but were you involved in these court cases?

7 MR. KAYA: If you know.

8 THE DEPONENT: What are these? I see
9 this. This is a insurance thing, it says. I mean,
10 maybe. I don't know. I don't know.

11 It has my name on it but I have no
12 clue what these documents are.

13 BY MR. WALSH:

14 Q. Were you arrested for no motor vehicle
15 insurance, noncompliance with speed limit,
16 disregarding stop sign, unattended child in
17 vehicle, operating motor vehicle with mobile
18 electronic device?

19 MR. KAYA: Objection. Misstates the
20 documents themselves. None of these are arrestable
21 offenses.

22 MR. WALSH: I didn't say that they
23 were.

24 MR. KAYA: You said "Were you
25 arrested."

1 BY MR. WALSH:

2 Q. I'm sorry. Were you cited? My
3 mistake.

4 A. I don't know. I guess. I mean, these
5 are from -- I don't know. I don't recall. They're
6 from 2006.

7 MR. WALSH: We'll leave it at that.
8 That's all we've got.

9 MR. KAYA: Okay. Thank you.

10 One question I had because I wanted to
11 clarify something.

12
13 EXAMINATION

14 BY MR. KAYA:

15 Q. Ezy, you know, when we talked about
16 Exhibit B which was the job description, I just
17 wanted to be clear, you don't even know whether
18 this is a job description that MMI puts up for your
19 position; is that correct?

20 A. That is correct.

21 Q. Okay. So --

22 A. I've never seen this before.

23 MR. KAYA: Okay. That's all I had to
24 ask. I just wanted to clarify that.

25 THE COURT REPORTER: Mr. Kaya, would

1 you like to order a copy of the transcript?

2 MR. KAYA: Yes. Correct through us,
3 read and sign.

4 THE COURT REPORTER: Okay. Thank you.
5 (Whereupon, the deposition
6 was concluded at 2:55 p.m.)
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STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

DECLARATION UNDER PENALTY OF PERJURY

I, _____, do hereby
certify under penalty of perjury that I have read
the foregoing transcript of my deposition taken on
_____, 2025; that I have made
such corrections as appear noted herein; that my
testimony as contained herein, as corrected, is
true and correct.

Dated this _____ day of _____
2025, in _____,
(city)
_____.
(state)

(Signature)

1 STATE OF HAWAII)
2 CITY AND COUNTY OF HONOLULU) ss.
3

4 I, Chantelle Hee, Certified Shorthand
5 Reporter, Certificate No. 536, for the State of
6 Hawaii, hereby certify:

7 That on WEDNESDAY, NOVEMBER 12, 2025, at
8 12:54 p.m., ESMERALDA PAESTE, witness, appeared
9 before me whose testimony is contained herein; that
10 prior to being examined, the witness was, by me,
11 duly sworn;

12 That pursuant to Rule 30(e) of the Hawaii
13 Rules of Civil Procedure, a request for an
14 opportunity to review and make changes to this
15 transcript:

16 (X) Was made by the deponent or a party
17 (and/or their attorney) prior to
18 the completion of the deposition.

19 () Was NOT made by the deponent or a
20 party (and/or their attorney) prior
21 to the completion of the
22 deposition.

23 () Was made by the deponent or a party
24 (and/or their attorney) immediately
25 after the completion of the
deposition.

() Was waived.

I further certify that I am not an
attorney for any of the parties hereto, nor in any
way concerned with the cause.

Dated: Monday, November 24, 2025,
in Honolulu, Hawaii.

Chantelle Hee

Chantelle Hee, RPR
Hawaii CSR No. 536
iDepo Hawaii, LLC
(808) 664-6677

ERRATA LIST

PAGE	LINE	ERROR	CORRECTION	REASON
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I, the undersigned, do hereby certify
that I have read the foregoing deposition and find
it to be a true and accurate transcription of my
testimony, with the above-noted corrections, if
any:

Signature of Deponent

Date

iDepo Hawaii AGENCY DISCLOSURE

Pursuant to Rule 14 of the Rules Governing Court Reporting in Hawaii, the following disclosure is hereby made:

1. I or my agency was hired for this deposition by:
_____ Craig W. Walsh and Marjorie J. Walsh (pro se) _____.
2. The complete financial arrangement between the agency and the person or organization named in paragraph 1 are:

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3. The fees and charges specified in Paragraph 2 are the usual and customary charges made by the agency for like services to other persons. Additional fees may apply for non-standard requests.
4. If a financial or services discount for this or any future deposition will or might in any way be given to the person named in Paragraph 1, after this deposition is completed, state what that discount will or may be. (if none, so state.) NONE.

I certify, until further notice, the foregoing to be complete, true, and correct disclosure to the best of my knowledge and information.

Additional charges apply for weekend and afterhours service. Above rates are based on all counsel purchasing their own copy and not sharing, duplicating, or stipulating original can be used in lieu of purchasing a copy. We reserve the right to charge for an additional copy or copies should this occur.

Dated: 11/18/2025 Signed:  C.S.R. #496

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