

1 THEREUPON,

2 JOHN ALLEN SMITH,
3 having been first duly sworn, was examined and testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. NELSON:

7 Q. Good morning, sir. Would you state your full name
8 for the record?

9 A. Sure. John Allen Smith.

10 Q. Okay. Mr. Smith, my name is Derek Nelson. I know
11 we've met before. Over the next couple days I'm going to be
12 taking your deposition in this case.

13 Have you ever had a deposition taken before?

14 A. No, I've not.

15 Q. All right. I'm sure you've been well prepared by
16 your attorneys. Let me just go through a few of the ground
17 rules so we can have a smooth transcript, which is the most
18 important thing from the deposition. Okay?

19 A. Sure.

20 Q. All right. First of all, my purpose here today and
21 tomorrow is to ask you questions and get factual information
22 from you. It's not to confuse you or trick you. If I ask a
23 question and you are confused or you don't understand the
24 question, please let me know and I will rephrase it so you do.
25 Okay?

1 A. Understood.

2 Q. I don't want you to answer a question if you don't
3 understand it or you're confused.

4 A. Okay.

5 Q. All right. Also, if I ask a question and you want
6 to answer it yes or no, please say out loud the word "yes" or
7 the word "no." Lana, our court reporter, is going to be
8 listening for your answers, and even though it's being
9 videotaped, if you shake or nod your head or give a nonverbal
10 response, it may not be recorded accurately. Okay?

11 A. Yes.

12 Q. All right. Also, if I ask you a question and you
13 don't know the answer or you don't recall, please answer that
14 way. I don't want you to guess or speculate about anything.
15 This is not a quiz or a test. It's just to find out what you
16 know. So if you're confused, you don't know it or you don't
17 recall, please let me know that because I don't want you to
18 give an answer today that's not based on -- on your knowledge.
19 Okay?

20 A. Yes.

21 Q. Also, at any time if you need a break for any reason
22 at any time, whether it's ten minutes, an hour, whatever it
23 may be, let me know and I'll stop my questions. Okay?

24 A. Thank you.

25 Q. Typically we will take a break periodically for

1 everyone's benefit, but if you need something sooner, you just
2 let me know. And as long as my question that's been asked has
3 been answered, we'll start up whenever you're ready again.

4 Okay?

5 A. Sounds good.

6 Q. All right. Do you have any questions at all before
7 we start?

8 A. No, not that I can think of.

9 Q. All right. Do you understand that you've taken an
10 oath this morning?

11 A. Yes.

12 Q. All right. Do you understand it's the same oath
13 that you would take as if you were testifying in a court of
14 law?

15 A. Yes.

16 Q. All right. So in the deposition if you answer one
17 of my questions, I'm going to assume you've understood it; is
18 that fair?

19 A. Yes.

20 Q. And that you're answering it truthfully pursuant you
21 to your oath; is that fair?

22 A. Yes.

23 Q. Okay. All right. First thing I want to do is just
24 start off with some background information. Okay?

25 A. Okay.

1 Q. All right. Where is -- what is your current
2 residential address?

3 A. 1234 Berkeley Street, Berkeley, CA.

4 Q. All right. And who lives with you at that address?

5 A. My wife Nancy and my daughter Drew.

6 Q. Okay. How old is Drew now?

7 A. She will be two in about a little under five weeks.

8 Q. All right. What's her birthday?

9 A. November 9th, 2021.

10 Q. Is -- is she going to day care or does she stay at
11 home during the day?

12 A. No, she's at home.

13 Q. Okay. Other than your wife Nancy and your
14 daughter, has anyone came to -- to live with you and stay with
15 you for an -- for an extended period of time, not just to
16 visit but for an extended period of time, since this incident
17 has happened?

18 A. No one that lived with us permanently per se, but we
19 had a doula that we hired, and her role was to help at us
20 night. So she came every day, every night. Initially will
21 planned on having her for only three weeks, and we ended up
22 having her for nine months.

23 Q. Okay. What's the doula's name?

24 A. Jenny.

25 Q. Do you know her last name?

1 A. It's Silver, I think, S-I-L-V-E-R.

2 Q. Okay. And you said originally she was only going to
3 come for three weeks, and she stayed for nine months.

4 Can you explain that for me?

5 A. Sure. Our plan was about three weeks to six weeks
6 because that was going to give us enough time initially,
7 because it's the first child, just to under- -- you know,
8 learn and understand what it's going to take to balance life
9 with a new child. And after my fall, we ended up having to
10 keep her for a full nine months because now Nicole didn't have
11 me to help.

12 Q. Okay. So after -- you said she stayed for -- for
13 nine months. After that nine months have you hired anyone
14 else to come in and take care of your daughter that you
15 believe you did so because of your injuries or your
16 limitations?

17 A. Other than family that's helped a lot, we did not
18 hire anyone, no.

19 Q. Okay. The residence where you live, do you own that
20 home?

21 A. Yes.

22 Q. First of all, let me just go back. I want to do 23
some just back general background on you. Okay?

24 A. Okay.

25 Q. All right. What's your date of birth?

1 A. October 11th, 1979.

2 Q. Where were you born?

3 A. In New Jersey.

4 Q. Where in New Jersey?

5 A. New Brunswick.

6 Q. Okay. Where did you attend high school?

7 A. South Brunswick.

8 Q. Okay. And what high school did you attend?

9 A. South Brunswick.

10 Q. High school?

11 A. South Brunswick High School.

12 Q. Okay. What year did you graduate?

13 A. 1997.

14 Q. Okay. And with respect to your family, are your
15 mother and father still alive?

16 A. Yes, they are.

17 Q. Okay. Where do they live?

18 A. My mother lives down here in Florida now, and my
19 father goes between New Jersey and Arizona for part of the
20 year.

21 Q. Okay. What is your mother's name?

22 A. Terry Shoe.

23 Q. I'm sorry. I didn't hear the second part.

24 A. Shoe is her last name, S-H-O-E.

25 Q. Okay.

1 A. She's remarried.

2 Q. She's remarried?

3 A. Yes.

4 Q. Okay. And what is your father's name?

5 A. Tim Smith.

6 Q. And is your father also retired?

7 A. He's not retired.

8 Q. Okay. What does he do?

9 A. He's a doctor.

10 Q. And where is his practice located?

11 A. In New York.

12 Q. Where? Where in New York?

13 A. A City called or a town called New York City.

14 Q. So he's a full-time practicing doctor?

15 A. He's now in the latter part of his career, so he's,
16 I think, three weeks on, three weeks off is what he does now.

17 Q. Okay. And how about your mother, does she have a
18 career or is she retired?

19 A. So she retired from being a librariathat she was for
20 many years, but now she and my stepfather have a cruise
21 business that they do, travel business.

22 Q. And your mom being a teacher, where -- where did she
23 teach, what type of education school levels?

24 A. In New Jersey she was -- she did home economics and,
25 um, some -- something else. I don't recall exactly what it

1 was, but home economics is what I remember the most.

2 Q. Okay. Do you have any brothers or sisters?

3 A. I do.

4 Q. Tell me about them, give me their names, their
5 approximate ages, and where they are.

6 A. Sure. Steve Smith is my only brother, and he is 50
7 now -- 51 now or 50. I don't remember if he just turned 50 or
8 51, but he also now lives down here as well.

9 Q. What does Scott do?

10 A. He is the general manager of a car dealership.

11 Q. Which car dealership?

12 A. TACO.

13 Q. Is that TACO NYC?

14 A. Yes.

15 Q. All right. Do you have any sisters?

16 A. No.

17 Q. Okay. So it's just you and Scott?

18 A. Yes.

19 Q. Tell me: In terms of your -- your high school,
20 what -- what type of student were you? Do you remember, like,
21 what your grade point average was when you graduated?

22 A. I don't know that they give a grade point average
23 per se in high school, but I was a A minus student.

24 Q. Okay. And after high school, did you attend
25 additional schooling?

1 A. Yes, I did.

2 Q. What did you do?

3 A. I went to the Culinary Institute of America, the
4 CIA, up in Hyde Park, New York.

5 Q. And tell me: How does -- how does one get admitted
6 to the Culinary Institute of America?

7 A. An application process like most schools, and then
8 there was a -- like, an essay requirement. I don't remember
9 how many words, but it was a specific amount of words it
10 needed to be a minimum of, so that was the process.

11 Q. Okay. And how many, I guess, incoming students are
12 admitted to the Culinary Institute every year?

13 A. I don't know the answer to that.

14 Q. Do you know how many people were in your incoming
15 class?

16 A. Um, so there was a block schedule, and that means
17 that every three weeks a new class came in and a class
18 graduated, so it was a good rotating group, and we stayed with
19 our group throughout all of our education. And there were
20 about 25 students, 30 students, I think, in that class.

21 Q. And tell me: When you say your education, how long
22 is the education at the Culinary Institute?

23 A. It was a little more than two years.

24 Q. And upon the completion of the two years, do you
25 receive some type of certification or some type of title?

1 A. Yes.

2 Q. What would that be?

3 A. I had an associate's degree in culinary arts.

4 Q. Do you remember what year you obtained that?

5 A. In '99.

6 Q. Now, after you graduated high school, did you ever
7 have any aspirations to go to a -- a four-year college or was
8 it always "I want to go into the culinary field"?

9 A. Um, I always wanted to go into the culinary field,
10 and my primary goal was to go just to culinary school. And at
11 the time they had just started a four-year culinary education
12 that involved another campus on the other coast of -- in
13 California. So that was an option that I was looking at, at
14 first, but I decided I wanted to get out into the field and I
15 wanted to learn as quickly as I could. So I chose to -- I
16 said to myself I'd go back to school at any point in time if I
17 felt I needed it, especially when it comes to business and
18 things like that, that I needed to learn. But I -- I did
19 attend a community college course or a couple courses just to
20 get a chance to test myself and see if this -- culinary school
21 doesn't necessarily go over all the academics that a
22 traditional school does because their focus is primary food
23 and beverage, so I wanted to test myself to make sure that I,
24 you know, had what it would take if I -- if cooking, you know,
25 was not something I wanted to pursue.