

**In The Matter Of:**  
*Richard Perez, Jr., et al., v.*  
*Wallace Jensen, et al.*

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*Kaylah Jones*  
*October 2, 2015*

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*Behmke Reporting and Video Services, Inc.*  
*160 Spear Street, Suite 300*  
*San Francisco, California 94105*  
*(415) 597-5600*

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**Min-U-Script® with Word Index**

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1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 - - - - -  
4 RICHARD PEREZ, JR., individually and )  
5 as co-successor-in-interest to )  
6 Decedent, et al., )  
7 Plaintiffs, )  
8 ) CASE NO.  
9 vs. ) 3:15-CV-00256-WHA  
10 )  
11 WALLACE JENSEN, individually and in )  
12 his official capacity as Police )  
13 Officer for the City of Richmond, )  
14 and DOES 1-25, )  
15 Defendants. )  
16 - - - - -  
17  
18 VIDEOCONFERENCE DEPOSITION OF KAYLAH JONES  
19 FRIDAY, OCTOBER 2, 2015  
20  
21 BEHMKKE REPORTING AND VIDEO SERVICES, INC.  
22 BY: JOAN MARIE COLUMBINI, CSR NO. 5435, RPR  
23 160 SPEAR STREET, SUITE 300  
24 SAN FRANCISCO, CALIFORNIA 94105  
25 (415) 597-5600

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9 Videoconference deposition of KAYLAH JONES, taken on  
10 behalf of PLAINTIFFS, at 160 Spear Street, Suite 300,  
11 San Francisco, California, commencing at 2:16 P.M.,  
12 FRIDAY, OCTOBER 2, 2015, before Joan Marie Columbini,  
13 Certified Shorthand Reporter No. 5435, pursuant to  
14 Notice.  
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7 Further examination by MR. LACY 82  
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9  
10 QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:  
11 PAGE LINE  
12 None.  
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15  
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1	EXHIBITS		1	A. Okay.	
2	KAYLAH JONES		2	Q. And we'll go over some of those rules right	
3	Number Description Page		3	now so that we can have a clear transcript. All	
4	No exhibits were marked.		4	right?	
5			5	A. Okay.	
6			6	Q. All right. The first rule is -- or the	
7			7	first thing you should know is that the oath that	
8			8	you just took is the same oath that you would take	
9			9	if you were testifying in court. Okay?	
10			10	A. Okay.	
11			11	Q. And although you're in an informal	
12			12	setting -- and we are, too. I know you're in Las	
13			13	Vegas. We are in California; in San Francisco, to	
14			14	be specific. And there's no jury present. There's	
15			15	no judge present. But the testimony that you will	
16			16	give carries with it the same force and effect as if	
17			17	you were, in fact, testifying in court. Do you	
18			18	understand that?	
19			19	A. Yes, I do.	
20			20	Q. That also means it carries with it the same	
21			21	penalties of perjury. All right?	
22			22	A. Okay.	
23			23	Q. Because this is a video conference	
24			24	deposition, there are going to be delays in some of	
25			25	our speech. You might have noticed that.	
Page 6			Page 8		
1	PROCEEDINGS; FRIDAY, OCTOBER 2, 2015; 2:15 P.M.		1	A. Yeah.	
2	KAYLAH JONES,		2	Q. My reaction to some of your "yeahs" or	
3	having been first duly sworn, testified as follows:		3	"noes" might come a little bit later than you might	
4	THE WITNESS: Yes, yes.		4	expect them to if I was sitting right there with	
5	EXAMINATION		5	you.	
6	BY MR. LACY		6	A. Okay.	
7	Q. Thank you, Ms. Jones. My name is DeWitt		7	Q. So what we're going to try to do, and what	
8	Lacy. I am the attorney for Petey Perez's family.		8	I will do, is I will make sure that I give you an	
9	In the room with me, of course, is the		9	opportunity to answer the question before I start	
10	court reporter, and also the attorney on the other		10	asking another one. Is that fair?	
11	side who represents the officer who's involved in		11	A. Yes.	
12	this incident.		12	Q. And I hope that you will give me the	
13	Have you ever had your deposition taken		13	opportunity to finish asking my question before you	
14	before?		14	start answering, even though you might have a good	
15	A. No.		15	idea what my question is going to be before I	
16	Q. All right. Have you ever testified at		16	actually finish. Is that fair enough?	
17	trial before or in court?		17	A. Correct.	
18	A. I have when I was a kid.		18	Q. All right. I appreciate you giving me	
19	Q. Okay. The reason why I ask --		19	verbal responses. Even though we can see you	
20	A. I don't know if I had a deposition before,		20	because there's a video camera pointed at you, we	
21	to tell you the truth. I was like 14 or 13 years		21	are not recording the video feed. Okay?	
22	old. So don't know.		22	A. Okay.	
23	Q. Okay. Well, part of the reason, Ms. Jones,		23	Q. It's going to be important that you give us	
24	why I ask is because there are certain rules in		24	some type of verbal response, that is a yes or no or	
25	giving testimony. All right?		25	some other explain thereof. Okay?	

<p style="text-align: right;">Page 9</p> <p>1 A. Gotcha.</p> <p>2 Q. Shrugs of the shoulders, nods of head, the</p> <p>3 court reporter can't really record those things.</p> <p>4 Okay?</p> <p>5 A. I understand.</p> <p>6 Q. All right. From time to time one of us,</p> <p>7 either counsel, might have objections to some of</p> <p>8 questions that are being asked. However, none of</p> <p>9 those objections prevent you from answering the</p> <p>10 question that we're going to ask you. Okay?</p> <p>11 A. Okay.</p> <p>12 Q. So what I would ask is that if there is an</p> <p>13 objection, or I state an objection, or Mr. Blechman</p> <p>14 states an objection, that you would first allow us</p> <p>15 to finish saying what we have to say before you</p> <p>16 start answering. Okay?</p> <p>17 A. Okay.</p> <p>18 Q. Fair enough?</p> <p>19 A. Fair enough.</p> <p>20 Q. All right. In addition, some of the things</p> <p>21 we're going to talk about happened some time ago.</p> <p>22 All right? And you might not have a specific</p> <p>23 recollection to things like time or space, how tall</p> <p>24 people were or how many people were out there, and</p> <p>25 that's fair. We're not going to ask you to guess</p>	<p style="text-align: right;">Page 11</p> <p>1 tape measure, or something like that, you could tell</p> <p>2 me maybe it's about eight or nine inches, or maybe</p> <p>3 that one is fourteen inches; is that right?</p> <p>4 A. Yeah, maybe a foot, I'd say.</p> <p>5 Q. Okay. Because you could look at it and you</p> <p>6 could perceive it. That is an estimate. A guess is</p> <p>7 something you actually have no way to determine?</p> <p>8 A. No recollection.</p> <p>9 Q. Yeah. Okay? So we don't want to you guess</p> <p>10 but we do want to you estimate sometimes, all right?</p> <p>11 A. Okay. Okay.</p> <p>12 Q. Did you get enough rest last night?</p> <p>13 A. I kinda did, and I had two interviews this</p> <p>14 morning. So...</p> <p>15 Q. All right. Good for you.</p> <p>16 A. I've been running around all day.</p> <p>17 Q. Good for you.</p> <p>18 A. Thank you.</p> <p>19 Q. Mr. Blechman thought you might have hit the</p> <p>20 tables last night. I'm just playing.</p> <p>21 A. I don't gamble. No gambling. School and</p> <p>22 work, school and work.</p> <p>23 Q. Okay. Great. Did you talk to anybody in</p> <p>24 preparation for your deposition here today?</p> <p>25 A. Not in preparation for it. I talked to --</p>
<p style="text-align: right;">Page 10</p> <p>1 about any of that, but we are entitled to what's</p> <p>2 called your best estimate. Okay?</p> <p>3 A. Okay.</p> <p>4 Q. You know the difference between a guess and</p> <p>5 an estimate?</p> <p>6 A. A guess is something you might not know,</p> <p>7 and an estimate is around, you know, approximately.</p> <p>8 Q. Okay.</p> <p>9 A. Maybe.</p> <p>10 Q. There's something to base an opinion on a</p> <p>11 guess, right; is that right?</p> <p>12 A. Okay. Yes.</p> <p>13 Q. For example -- let me give you an example.</p> <p>14 All right? If I were to ask you what size hat my</p> <p>15 son wears, you'd have to guess. Am I right?</p> <p>16 A. Correct.</p> <p>17 Q. I might not even -- you don't know. I</p> <p>18 might not even have a son, right?</p> <p>19 A. I don't know that. Exactly.</p> <p>20 Q. So we don't want to you guess. However, if</p> <p>21 I ask you to give me a measurement or how long one</p> <p>22 of these pictures were behind you, you could look at</p> <p>23 them, right?</p> <p>24 A. Yes, I could.</p> <p>25 Q. Even though you don't have a ruler or a</p>	<p style="text-align: right;">Page 12</p> <p>1 I want to say her name is Angela, I think.</p> <p>2 Q. Would that have been --</p> <p>3 A. She just called me, or I called her number.</p> <p>4 I think that was her name. Or Angelina.</p> <p>5 Q. That would have been Angelina from my</p> <p>6 office?</p> <p>7 A. Yes.</p> <p>8 Q. What did you guys talk about?</p> <p>9 A. About me showing up here, that I would be</p> <p>10 subpoenaed here, what was my address.</p> <p>11 And before that I spoke with -- I forgot</p> <p>12 his name, but he tried to get me to come down to</p> <p>13 California, but I told him it would only be like on</p> <p>14 Fridays and Saturdays because those are the only</p> <p>15 days I have off. So we only talked about</p> <p>16 arrangements to meet up with you guys.</p> <p>17 Q. Okay. So you talked to some other person,</p> <p>18 and it was mostly about logistics?</p> <p>19 A. Yes.</p> <p>20 Q. Did you ever talk to anybody about what</p> <p>21 you'd seen or what you know of this incident</p> <p>22 involving Petey Perez?</p> <p>23 A. Last year, probably a week after it</p> <p>24 happened, I talked -- I went to -- or they took me</p> <p>25 to the police substation at Hilltop Mall and asked</p>

<p style="text-align: right;">Page 13</p> <p>1 me the same -- like, you know, what happened, asked</p> <p>2 for the videos that I had, and that was about it.</p> <p>3 And then I got a phone call, like I said, a</p> <p>4 couple of weeks ago from you guys for this meeting.</p> <p>5 <b>Q. Okay.</b></p> <p>6 A. And that was the last -- only two</p> <p>7 situations I spoke with about this.</p> <p>8 <b>Q. Okay. We'll talk about those a little bit</b></p> <p>9 <b>more in detail as we go along here. Have you had a</b></p> <p>10 <b>chance to review any documents or anything like that</b></p> <p>11 <b>in preparation for your deposition?</b></p> <p>12 A. No. As far as the subpoena, I have.</p> <p>13 <b>Q. Okay.</b></p> <p>14 A. Sorry. Besides the subpoena I got to come</p> <p>15 here, that's the only document I have.</p> <p>16 <b>Q. Okay. What about the videos that you had,</b></p> <p>17 <b>did you look at those recently?</b></p> <p>18 A. I have. As soon as I got the phone call,</p> <p>19 the first phone call about this, I went back to my</p> <p>20 phone and replayed the videos.</p> <p>21 <b>Q. Okay. How many times would you say that</b></p> <p>22 <b>you've looked at those videos?</b></p> <p>23 A. Just since two weeks ago, probably like</p> <p>24 three times. But I remember the situation like it</p> <p>25 happened like yesterday, like, I was just -- I was</p>	<p style="text-align: right;">Page 15</p> <p>1 BY MR. LACY</p> <p>2 <b>Q. You said there were protesters and friends</b></p> <p>3 <b>that were at the store, Uncle Sam's Liquors?</b></p> <p>4 A. Yes. They had signs. It was like a little</p> <p>5 memorial, I want to say, at the same time, because</p> <p>6 there were candles, but some of them had signs, you</p> <p>7 know, wanting cars to honk for the cause and asking</p> <p>8 people to sign up for stop the violence.</p> <p>9 That day I kind of really -- I just went in</p> <p>10 the store to get me a soda. Like, the store around</p> <p>11 the corner from where I used to live at, and a girl</p> <p>12 just came up to me and was like: Hey, you were the</p> <p>13 girl that was here, like, you should try to talk to</p> <p>14 somebody because -- I didn't ask who she was or</p> <p>15 anything because at first I was kind of scared to</p> <p>16 get involved with it, but then, you know, once they</p> <p>17 came to my job and they were like nothing would</p> <p>18 happen, then I wanted to speak with somebody about</p> <p>19 the situation.</p> <p>20 <b>Q. Okay. Why were you scared?</b></p> <p>21 A. Because police and a lot of stuff is</p> <p>22 happening with stuff. It was, like -- I don't know.</p> <p>23 It happened so fast. After it happened -- I had</p> <p>24 friends get shot and killed, and it takes a police</p> <p>25 officer about 30 minutes to come. I mean, it took</p>
<p style="text-align: right;">Page 14</p> <p>1 right there. It wasn't like I was a block away. I</p> <p>2 was where this TV is from me. I can't really</p> <p>3 describe how far that is, but, like, it wasn't that</p> <p>4 far at all. So it was not like I can just forget</p> <p>5 details.</p> <p>6 <b>Q. Okay. Have you ever talked to any members</b></p> <p>7 <b>of Petey's family?</b></p> <p>8 A. Well, I been -- when I went back to that</p> <p>9 store like a couple of days later, a day later,</p> <p>10 there were -- there were protesters for him in front</p> <p>11 of the store, and I guess they recognized me from</p> <p>12 the cameras. It was, like, I don't know if they</p> <p>13 were family, friends, who they really were, but they</p> <p>14 were just, you know, telling me: You should come up</p> <p>15 come up front and say what I had to say.</p> <p>16 But the weird part about it I didn't know</p> <p>17 who he was, but when I -- when somebody seen me,</p> <p>18 they posted on my Facebook saying he graduated the</p> <p>19 year before me at the same high school, but I never</p> <p>20 knew him or seen him before until that day. They</p> <p>21 just told me he was the year before me.</p> <p>22 <b>Q. Okay. You said that there was some -- what</b></p> <p>23 <b>did you say? Did you say something?</b></p> <p>24 <b>MR. BLECHMAN:</b> I don't think she said anything.</p> <p>25 <b>THE WITNESS:</b> Sorry. I had candy in my mouth.</p>	<p style="text-align: right;">Page 16</p> <p>1 them five minutes -- not even five minutes five</p> <p>2 seconds -- to fly down Cutting Boulevard in both</p> <p>3 directions. I don't know. I just panicked.</p> <p>4 <b>Q. Okay.</b></p> <p>5 A. I don't know. There's a lot of situations</p> <p>6 with police and people.</p> <p>7 <b>Q. Okay.</b></p> <p>8 A. I didn't want to get into it.</p> <p>9 <b>Q. Okay. All right. You said that --</b></p> <p>10 A. Then I didn't want --</p> <p>11 <b>Q. Go ahead.</b></p> <p>12 A. Sorry. I didn't want to be a part of, you</p> <p>13 know, the bystander effect at all, so that's why I</p> <p>14 wanted to come kind of speak with somebody about it.</p> <p>15 <b>Q. What do you mean "the bystander effect"?</b></p> <p>16 A. You know, when you see something and nobody</p> <p>17 says anything or does anything.</p> <p>18 In high school I was in a lot of justice</p> <p>19 academy. I kind of learned about some law practices</p> <p>20 and stuff. But I just didn't want to have -- need</p> <p>21 to release the stuff off my chest so I didn't think</p> <p>22 about, like, I was the bad person that didn't say</p> <p>23 anything.</p> <p>24 <b>Q. Can you please, one thing we didn't do in</b></p> <p>25 <b>the beginning of this, can you spell your first name</b></p>

<p style="text-align: right;">Page 17</p> <p>1 and last name for the record please?</p> <p>2 A. Kaylah, K-A-Y-L-A-H. Last name Jones,</p> <p>3 J-O-N-E-S.</p> <p>4 Q. What's your birthday, Ms. Jones?</p> <p>5 A. 1/9/93. January 9th, 1993.</p> <p>6 Q. Oh, okay. I thought you said 1/99/30.</p> <p>7 Okay.</p> <p>8 A. No.</p> <p>9 Q. January 9th, 1993?</p> <p>10 A. Yes.</p> <p>11 Q. All right. At the time of this incident</p> <p>12 where were you living?</p> <p>13 A. In Monterey Pines.</p> <p>14 Q. How long had you been living there?</p> <p>15 A. Probably a year.</p> <p>16 Q. Who did you live there with?</p> <p>17 A. Two of my cousins.</p> <p>18 Q. Older cousins?</p> <p>19 A. One is older and one is younger.</p> <p>20 Q. Okay. Before there, where were you at</p> <p>21 before you were at Monterey Pines?</p> <p>22 A. 3151 Keith Drive, Richmond -- or</p> <p>23 El Sobrante, but it comes up Richmond -- with my</p> <p>24 dad.</p> <p>25 Q. Had you been there for more than a year?</p>	<p style="text-align: right;">Page 19</p> <p>1 Got me a couple of snacks, and that's when</p> <p>2 the incident started to occur. It started to occur,</p> <p>3 I guess, before I got there, but the officer wasn't</p> <p>4 there at the time, but something had happened before</p> <p>5 I had got there.</p> <p>6 Q. Okay. Did you go there with anyone?</p> <p>7 A. No, I was by myself.</p> <p>8 Q. All right. So you drove down to Uncle</p> <p>9 Sam's Liquor?</p> <p>10 A. Yes.</p> <p>11 Q. Did you go there to get anything</p> <p>12 specifically?</p> <p>13 A. Just some snacks. I got a Swisher and a</p> <p>14 drink. I mean, I go to that store every night. I</p> <p>15 just, you know, never expected something like that</p> <p>16 to happen.</p> <p>17 Q. Okay. When you say "a drink," do you mean</p> <p>18 like an alcoholic drink?</p> <p>19 A. Yeah, alcoholic drink.</p> <p>20 Q. Okay. What did you get?</p> <p>21 A. What did I get? I think some Amsterdam.</p> <p>22 Q. Some what?</p> <p>23 A. I think it was Amsterdam or Ciroc. It was</p> <p>24 either one of the two.</p> <p>25 Q. All right. Were you going to a party or</p>
<p style="text-align: right;">Page 18</p> <p>1 A. Probably like two years.</p> <p>2 Q. Is your dad still there?</p> <p>3 A. Yeah, he's still there. I still use that</p> <p>4 address.</p> <p>5 Q. What's your dad's name?</p> <p>6 A. Kelvin Davis.</p> <p>7 Q. K-E-L-V-I-N?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. When I say "the incident," of course</p> <p>10 I'm referring to this thing with Petey Perez, okay?</p> <p>11 A. Okay.</p> <p>12 Q. And maybe I shouldn't say "this thing."</p> <p>13 I'm referring to the incident involving Petey Perez</p> <p>14 and Officer Wallace Jensen, okay?</p> <p>15 A. Okay.</p> <p>16 Q. What were you doing that day? Were you</p> <p>17 working that day? Were you at school? What was</p> <p>18 happening?</p> <p>19 A. So I had just got off of work. I was a</p> <p>20 manager at Walmart at Hilltop Mall. I also worked</p> <p>21 at Shiekh Shoes there, and when I get off around</p> <p>22 12:00 o'clock, you know, we close, probably takes me</p> <p>23 about 15 minutes, 10, 15 minutes to get from Hilltop</p> <p>24 Mall down to Richmond, and that's the only liquor</p> <p>25 store that's open.</p>	<p style="text-align: right;">Page 20</p> <p>1 something?</p> <p>2 A. No. I was going home.</p> <p>3 Q. Had you been drinking?</p> <p>4 A. You know --</p> <p>5 Q. I'm sorry. Go ahead.</p> <p>6 A. You know, you get off of work, you know,</p> <p>7 that one little cooler drink, it was like a little</p> <p>8 small drink just to go home and go to sleep.</p> <p>9 Q. Okay. Had you -- so you were coming from</p> <p>10 work. You hadn't been drinking at work, had you?</p> <p>11 A. No.</p> <p>12 Q. You hadn't been under the influence of any</p> <p>13 drugs or narcotic while you were at work, were you?</p> <p>14 A. No.</p> <p>15 Q. Okay. When you got to Uncle Sam's Liquor,</p> <p>16 did you see anybody that you recognized there?</p> <p>17 A. No. I mean, I seen the usual what I</p> <p>18 thought would be crackheads -- excuse my language.</p> <p>19 But you know, people that hang around the liquor</p> <p>20 store usually, like, not, you know, it's normal,</p> <p>21 being in Richmond, seeing people hanging outside the</p> <p>22 store.</p> <p>23 Q. Okay. How many people would you say were</p> <p>24 hanging around the store at that time when you got</p> <p>25 there?</p>

<p style="text-align: right;">Page 21</p> <p>1 A. When I got there, probably about -- like 2 three people. 3 <b>Q. Okay.</b> 4 A. Because I seen two on my right and then one 5 by -- what is it? Mom and pop's taqueria, like 6 right next door. 7 <b>Q. Okay.</b> 8 A. And I just went inside. 9 <b>Q. Where did you park? Did you park on the</b> 10 <b>curb there right in front of the store?</b> 11 A. Right in front of the door. So as soon as 12 I get out of my car, like, my passenger side door is 13 right parallel to the liquor store door. 14 <b>Q. You get out your car, you go inside to buy</b> 15 <b>some Amsterdam or Ciroc and a Swisher; is that</b> 16 <b>right?</b> 17 A. And snacks. 18 <b>Q. And some snacks. And then you go back to</b> 19 <b>your car?</b> 20 A. I go back to my car. Yeah, well, the 21 incident happened while I'm in the store. 22 <b>Q. Okay. When you say "the incident happens</b> 23 <b>while you're in the store," what happens?</b> 24 A. So, I go into the store. I finished 25 getting what I'm purchasing, and I guess the victim,</p>	<p style="text-align: right;">Page 23</p> <p>1 that's when I turn back -- you know, I'm leaving out 2 the store, I seen them fighting. I guess he's 3 resisting arrest at the time. I step over them, and 4 I walk around to my car. So I walk around to my 5 car, throw my bag in, and that's when I started 6 recording. 7 I'm like, you know, at first it was kind of 8 funny because it's like, you know, I'm thinking he's 9 somebody under the influence of drugs or alcohol, 10 you know, just being arrested, like he's resisting 11 arrest. Nothing out of the ordinary. 12 Then I start to get back in my car. Then 13 they get up, and I see the officer -- they both 14 stand up face-to-face, and it looks as though, like, 15 maybe Petey was going to turn into the store because 16 that's where he ended up. The officer shoots him 17 multiple times, and he stumbles inside store. 18 As I was recording -- I wasn't recording, 19 like, on the normal video camera. I was recording 20 on Snapchat. I don't know if you guys know what 21 Snapchat is. It's only ten seconds of video time 22 before you can go to the next video. 23 And, like, I didn't get the actual shots. 24 I just got them fighting and then him calling for 25 backup. And as soon as he called for backup, that's</p>
<p style="text-align: right;">Page 22</p> <p>1 Petey Perez, he comes inside the store. He does 2 something behind me. I didn't see until the next 3 day on the news. And he comes on the left side of 4 me and he's talking to this -- there's two clerks 5 behind the -- behind the counter, and he's talking 6 to -- I want to say the father, and the father is 7 telling him to get out. 8 That's why I said, like, something happened 9 beforehand, because he just came inside and, like, 10 you know, out of nowhere. The guy, the clerk is 11 saying: You need to get out, you need to leave. 12 And you know, he goes outside the counter, he waves 13 down the police. Police stops in front of my car, 14 and he gets out and takes Petey outside. 15 Now I'm handing the clerk my money, the 16 other clerk -- I want to say the son -- my money 17 purchasing it. 18 I'm still looking over my side. You know, 19 you could see from the register to outside. I could 20 still see my car. 21 He's sitting -- they're sitting in between 22 the cars, or Perez is sitting in between the cars 23 with his hands behind his back. They're saying 24 something I can't hear. 25 As I turn back around to get my change,</p>	<p style="text-align: right;">Page 24</p> <p>1 when all the cars came. 2 <b>Q. Okay.</b> 3 A. I left. 4 <b>Q. All right. You talked about a lot there.</b> 5 <b>We're going to have to go through some of that and</b> 6 <b>break it down. Okay?</b> 7 A. Yes. 8 <b>Q. All right. So you are in the store and</b> 9 <b>you're at the counter, and you see -- you see Petey</b> 10 <b>come around your left; is that right?</b> 11 A. Yes, that's all. I didn't see him come in 12 necessarily, because I'm -- you know, I see people 13 come in and out. I'm not going to pay attention to 14 everybody that come in the store. But I seen him 15 come around me, but he gets too close, so I kind of 16 look at him like, you know, you kinda too close to 17 me; like, you know, I kind of smell alcohol, but it 18 was just, like, all right, I'm in an alcohol store. 19 I'm not tripping off him, just, like, 20 that -- you know, just back away from me a little 21 bit. 22 Then they start fighting, going at it. 23 <b>Q. When you say "fighting," do you mean there</b> 24 <b>was somebody throwing blows or anything like that?</b> 25 A. No. You know, talking back and forth,</p>

<p style="text-align: right;">Page 25</p> <p>1 clerk saying: I'm going to call the police. He's 2 like -- he has the phone in his hand. He's like: 3 Here, you call the police. That's when I kind of 4 noticed, okay, you're drunk, or you're on drugs, or 5 something. He's like: You call the police, here, 6 here. He's handing him the phone; I'll call them 7 for you. 8 <b>Q. Petey is saying this to the store clerk?</b> 9 A. Yes, to the father, to the older gentleman. 10 I don't know if he is the father or not, but the 11 older one in the store. 12 <b>Q. Okay. After Petey says: Here, you know,</b> 13 <b>you call -- I'll call them for you, what happens?</b> 14 A. One of the store clerks walks around the 15 counter and waves down the police. 16 <b>Q. Do you know which one did that?</b> 17 A. The older gentleman, because the younger 18 one is helping me. 19 <b>Q. Okay.</b> 20 A. I am telling him what drink I want or 21 whatever. So he's helping. And there's another guy 22 further down behind the counter, and that's who goes 23 to wave down the police officer. 24 <b>Q. How do you know he was going to wave down</b> 25 <b>the police officer?</b></p>	<p style="text-align: right;">Page 27</p> <p>1 hung around in front of the store. 2 <b>Q. Okay. So you say that the officer came and</b> 3 <b>pulled Petey out of the store?</b> 4 <b>MR. BLECHMAN:</b> Misstates the witness's 5 testimony. 6 I am making an objection, Ms. Jones. You 7 can respond. 8 <b>THE WITNESS:</b> Petey was walking outside the 9 store. I didn't see the officer put any hands on 10 him to put him outside, because he sat down on the 11 curb. He was sitting literally right in front of my 12 car, and sitting there, you know -- like, I never 13 been arrested before, but he was sitting -- I watch 14 a lot of shows, how they say: Put your hands behind 15 your back. The officer was standing in front of 16 him, looks like he was asking him questions. 17 I didn't hear the conversation. I was 18 inside store and I just quickly -- you know, the 19 right-hand side is the door, and the left-hand side 20 is when we're inside store. I look over my 21 shoulder, then I turned back around and face, how 22 I'm facing you, the clerk to get my change. 23 BY MR. LACY 24 <b>Q. But you could see that Petey had sat down</b> 25 <b>on the curb outside?</b></p>
<p style="text-align: right;">Page 26</p> <p>1 A. Because two seconds later that's when the 2 police officer came, and he said he was calling the 3 police. 4 <b>Q. Did you see him make any gestures or say</b> 5 <b>anything to somebody outside the store?</b> 6 A. I wasn't paying attention at the time. I 7 was, you know, trying to give him my money so I 8 could get what I had to and go home. 9 <b>Q. Okay. But you assumed because police</b> 10 <b>showed up pretty soon thereafter that was the</b> 11 <b>purpose of this guy going over to the front door?</b> 12 A. Yes, just like I said, too, it was an 13 incident that happened -- it had to be an incident 14 to where they told him to leave out the store before 15 I got there. 16 <b>Q. What makes you think that?</b> 17 A. Because they were already telling him to 18 get out. And when I went back to the store the next 19 day they were, like, that was my family and just, 20 like, we didn't want that to happen; we just wanted 21 him outside the store. 22 You know, I was just, like, I found out 23 more information on who he actually was. Like I 24 said before, I thought he was just somebody that 25 used drugs or he was just an alcoholic that just</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Yes. 2 <b>Q. Right in front of your car?</b> 3 A. Right in front of my car. 4 <b>Q. Hands behind his back?</b> 5 A. Hands behind his back. 6 <b>Q. Could you tell if he was handcuffed?</b> 7 A. I -- no, he was not handcuffed. I couldn't 8 tell if he was handcuffed, but I know for a fact he 9 wasn't handcuffed. 10 <b>Q. How do you know that?</b> 11 A. Because they started wrestling when I had 12 to step over them. I noticed when they were 13 wrestling, like the officer's knee was -- you know, 14 he was kneeling, I guess trying to arrest him, and 15 Petey is, you know, trying to push him off. You 16 know, how somebody's on top of you, your reaction is 17 to push off. 18 <b>Q. Okay. So you said the officer was kneeling</b> 19 <b>Petey?</b> 20 A. Yes. 21 <b>Q. Could you explain -- I want to talk about</b> 22 <b>that a little bit more in detail. The officer, I'm</b> 23 <b>taking it you're saying, was on top of Petey; is</b> 24 <b>that right?</b> 25 A. Yes.</p>



<p style="text-align: right;">Page 29</p> <p>1 <b>Q. Do you recall which knee he was using to</b> 2 <b>knee Petey?</b> 3 A. I couldn't tell what knee he was using. It 4 was dark, but you could just -- I would say his 5 right one just because of the fact of the way he was 6 trying turn him around. Right? I don't know how to 7 explain it and talk. 8 Petey's on his back. 9 <b>Q. Okay.</b> 10 A. And the officer's right over him. So while 11 the officer is, I guess, trying to get his arms to 12 cooperate and lay flat on the ground. 13 <b>Q. Uh-huh.</b> 14 A. He's trying to make sure he's not moving, 15 so it's like his knee -- maybe in his side. 16 <b>Q. Okay.</b> 17 A. Maybe. And trying maybe get hands cuffs 18 out. I didn't see him touch his belt or whatever 19 you call it, his -- the officer's belt until he got 20 up. 21 <b>Q. Let's stop right there. He's kneeling Petey</b> 22 <b>and trying to turn Petey over; is that what you're</b> 23 <b>saying? Is that right?</b> 24 A. Yes. 25 <b>Q. Does Petey start to turn over?</b></p>	<p style="text-align: right;">Page 31</p> <p>1 <b>Q. Did you hear the officer give Petey any</b> 2 <b>commands?</b> 3 A. Like right now I don't, I can't recall -- 4 yeah, I can't recall that. 5 <b>Q. Okay. Did you hear the officer telling</b> 6 <b>Petey to stop resisting?</b> 7 A. I did hear him say "stop," when I walked 8 over them. And, you know, I'm at my car now, I 9 heard them -- like, Petey, I couldn't hear anything 10 he was saying. The officer was just saying "stop." 11 But other than that, I didn't hear anything else. 12 <b>Q. Did you see anybody else approach the</b> 13 <b>officer and Petey while they were kind of wrestling.</b> 14 A. While they were wrestling? No. While he 15 was shot? Yes. 16 <b>Q. At some point you say both of them stood</b> 17 <b>up; is that right?</b> 18 A. Yes. 19 <b>Q. Were they face-to-face directly in front of</b> 20 <b>each other when they stood up?</b> 21 A. Yes. They're about an arm's length apart. 22 <b>Q. Did you see Petey make a reach for the</b> 23 <b>officer's gun then?</b> 24 A. No. 25 <b>Q. Did you see Petey begin to charge at the</b></p>
<p style="text-align: right;">Page 30</p> <p>1 A. No, Petey is still with his arms fully 2 extended, trying to push him off. 3 <b>Q. So what you just showed me the arms were</b> 4 <b>extended, Petey's arms were extended in front of</b> 5 <b>him?</b> 6 A. Yes, while he's on the ground. 7 <b>Q. While he's on the ground. So his arms are</b> 8 <b>perpendicular to his body right now; is that right?</b> 9 A. Yes, yes. 10 <b>Q. Did you see Petey reaching for the</b> 11 <b>officer's gun and trying pull the gun out?</b> 12 A. No, I did not see that. And the officer 13 was way bigger than Petey. So it was, like, this is 14 kind of overexaggerating, but Shaq trying to knee 15 me. I can't explain it like that. Somebody bigger 16 than somebody else trying to put handcuffs on 17 somebody. Like it just -- I don't know. 18 <b>Q. It was awkward?</b> 19 A. Yeah. 20 <b>Q. Okay. But you didn't see Petey reaching</b> 21 <b>for a gun?</b> 22 A. No. I didn't see him reach for anything, 23 his arms -- like if guy is trying to push me down, 24 my reaction is to get your arms and push them up. 25 It's like equal force at the same time.</p>	<p style="text-align: right;">Page 32</p> <p>1 <b>officer then?</b> 2 A. No. If anything, he was turning to the 3 right like he was going inside store. 4 <b>Q. It appeared Petey was turning to the right</b> 5 <b>to go inside store?</b> 6 A. Yes, that's what it feels like, but he was 7 still kind of getting up in a way because he was in 8 the process of putting his head up. 9 <b>Q. Before he was shot?</b> 10 A. Yeah. Before he was shot and as he was 11 shot, he was just like to the right, stumble towards 12 the right. That's when we thought he tased him. It 13 was just so unreal. 14 <b>Q. Okay. So when Petey -- Petey wasn't</b> 15 <b>finished getting up when he got shot; is that what</b> 16 <b>you're telling me?</b> 17 <b>MR. BLECHMAN:</b> Hold on a second. Misleading -- 18 sorry. Misstates the witness's testimony and 19 leading. 20 You can respond. 21 BY MR. LACY 22 <b>Q. I just want to ask you what you saw. It</b> 23 <b>was a little unclear to me.</b> 24 <b>You said Petey was still lifting his head</b> 25 <b>up or still getting up?</b></p>

<p style="text-align: right;">Page 33</p> <p>1 A. His legs were fully up. His torso fully 2 up, but his head wasn't fully up. Like when 3 somebody is drunk, you know, they have like seconds 4 of reaction, and it was just like he was moving in 5 slow motion. 6 <b>Q. Okay. All right. So Petey was raising his</b> 7 <b>head up at the time he was shot?</b> 8 A. I can't just recall that, but as soon as -- 9 as soon as the officer got up, he reached for his 10 belt and shot him. Petey didn't reach for him. He 11 didn't charge at him. It wasn't like he was going 12 to run somewhere else. If anything, he was going 13 inside store, like that was the only pivot I could 14 say he was -- his position going towards. 15 <b>Q. Could it have been a drunk stumble by Petey</b> 16 <b>in trying to get up?</b> 17 A. It could have. 18 <b>MR. BLECHMAN:</b> Calls for speculation. 19 BY MR. LACY 20 <b>Q. Did it appear he was fully balanced when he</b> 21 <b>was getting up?</b> 22 A. He wasn't fully balanced yet. 23 <b>Q. Okay. Did you hear the officer say</b> 24 <b>anything to Petey immediately before he shot?</b> 25 A. No.</p>	<p style="text-align: right;">Page 35</p> <p>1 anything, was the store clerks because there wasn't 2 anybody else in the store at the time that I seen. 3 <b>Q. After that, after he stumbled into the</b> 4 <b>store, you said you heard the officer calling for</b> 5 <b>backup; is that right?</b> 6 A. Yeah, he called for backup and the one guy 7 was near the taqueria, he started to walk towards 8 like he was going inside to check on Petey, and 9 officer told him to go back. And that's when 10 everybody was like: You shot him, you know, you 11 really shot him. He was stilling calling for 12 backup, and that's when you hear all the cop cars, 13 and you see them all coming from both sides of 14 Cutting. 15 <b>Q. I want to back up just a second there,</b> 16 <b>because you say that at the moment these shots</b> 17 <b>happened, you said there were more people out there</b> 18 <b>at this time; is that right?</b> 19 A. Yes. 20 <b>Q. How many more people would you say were out</b> 21 <b>there now?</b> 22 A. I don't know how many people were in the 23 van behind me, because all I heard was: There's 24 kids in the car. I'd say, let's say, five people, 25 one on my left, and group of people on my right-hand</p>
<p style="text-align: right;">Page 34</p> <p>1 <b>Q. Did you see the officer take any steps</b> 2 <b>backwards?</b> 3 A. No. 4 <b>Q. How many shots do you recall hearing?</b> 5 A. Probably like four. It was multiple shots. 6 It wasn't just one or two. It was like four, it 7 sounded like. 8 <b>Q. What was the reaction that Petey had to</b> 9 <b>these shots?</b> 10 A. I seen him grab, like, something as if he 11 went like this, or wherever he was shot at, and he 12 stumbled inside the store. So after he was shot and 13 stumbled, I couldn't see his body anymore. 14 You hear -- even the people outside at the 15 time, now there's more time like. There's a van 16 behind me. I heard the mom screaming: There's kids 17 in the car. I guess there was -- there were -- his 18 friend was on the left side towards the taqueria. 19 And there was three more guys towards nail salon. 20 Everybody was like: Did you shoot him? 21 Did you really shoot him? Because it didn't really 22 sound like -- I don't know. It's just it didn't 23 seem right for him to shoot. Everybody was like: 24 Did you really shoot him, and you couldn't see the 25 body. The only one who could see the body, if</p>	<p style="text-align: right;">Page 36</p> <p>1 side. 2 <b>Q. Okay. A group of people, does that mean a</b> 3 <b>mix of women and men?</b> 4 A. I couldn't really tell. I couldn't tell 5 you. There was more guys than girls, if anything, 6 though. Maybe two guys in the group, maybe one 7 girl. But, if anything, there was all guys, and 8 that girl in the van, the lady in the van, but I 9 didn't see who they were or anything. I just heard 10 voices. 11 <b>Q. What did you do immediately after these</b> 12 <b>shots; did you leave?</b> 13 A. As soon as he called for backup, I seen the 14 cars come, and that's when I made that right on that 15 same street, basically. I forgot what street. 16 Staig? I make the right there. Monterey Pines is 17 right there. 18 <b>Q. So you went home as soon as he called for</b> 19 <b>backup?</b> 20 A. Yeah, as soon as I seen the cop cars. 21 <b>Q. Okay. All right.</b> 22 A. I think one car actually pulled on the side 23 of me. As soon as he pulled on the side of me, he 24 got out, I left. After the Jensen, the first 25 responding was, I left.</p>

<p style="text-align: right;">Page 37</p> <p>1     <b>MR. LACY:</b> All right. Thank you. 2     <b>THE WITNESS:</b> You're welcome. 3             <b>EXAMINATION</b> 4     BY MR. BLECHMAN 5     <b>Q.</b> Ms. Jones, hi. How are you? My name's 6     Noah Blechman. I represent Officer Jensen in this 7     case. So I have some follow-up questions as well. 8     A. Okay. 9     <b>Q.</b> First of all, you remember you were 10    interviewed, I think you said, at the Hilltop Mall 11    substation by some detectives; is that correct? 12    A. Yes. 13    <b>Q.</b> Okay. I believe that occurred the day 14    after the incident. Is that your memory as well? 15    A. I don't remember how long. I don't think 16    it was the day after, though. I don't think it was 17    the day after. 18    <b>Q.</b> Okay. It was sometime soon after the 19    incident you were interviewed; is that right? 20    A. Yeah, within a week. 21    <b>Q.</b> And you were the one who actually came 22    forward to the police to let them know you had some 23    videos and you were a witness to some of these 24    events? 25    A. Yes.</p>	<p style="text-align: right;">Page 39</p> <p>1    it was at 8:21, because, like I said, it was on my 2    Snapchat, but the video happened -- it was at 3    12:00 -- no later, past 12:30, midnight. 4    <b>Q.</b> You get off around midnight. It takes you 5    a little time to get to Uncle Sam's. Pretty soon 6    after you get there, the incident occurs? 7    A. Correct. 8    <b>Q.</b> So just getting back to the videos for a 9    second. The second video is after the shooting; is 10   that correct? 11   A. Correct. 12   <b>Q.</b> And then the third video is soon thereafter 13   after the shooting as well; is that right? 14   A. Yes, yes. 15   <b>Q.</b> And, obviously, you don't have any video of 16   the actual shooting, do you? 17   A. No. 18   <b>Q.</b> Okay. Now, when you're talking to these 19   detectives at the police station, were you telling 20   the detectives the truth about what you saw? 21   A. Yes. 22   <b>Q.</b> Is there anything you believe you told the 23   investigators that you think was not correct? 24   A. Not that I can recall from a year now. 25   <b>Q.</b> Yeah, I know it's been a while. It's been</p>
<p style="text-align: right;">Page 38</p> <p>1    <b>Q.</b> Okay. And it was at that interview that 2    you, I believe, showed these detectives the videos, 3    and they eventually got copies of those three 4    cell phone videos? 5    A. Correct. 6    <b>Q.</b> These were the ten-second snapshot [sic] 7    videos? 8    A. Yes. 9    <b>Q.</b> Okay. And one of the videos, the first 10   one, shows the struggle occurring between Mr. Perez 11   and Officer Jensen, correct? 12   A. Correct. 13   <b>Q.</b> And that was taken by you while you were 14   inside your vehicle, correct? 15   A. I don't think it was outside my vehicle. 16   Was it? 17   <b>Q.</b> I said "inside," in case you misheard me. 18   A. Yes, it was -- yeah, it was inside. 19   <b>Q.</b> Were you just referring to your phone to 20   double-check? 21   A. Yes. 22   <b>Q.</b> You still have them loaded on your phone? 23   A. Mm-hmm. 24   <b>Q.</b> Is that a "yes"? 25   A. September 14th at -- well, the time I saved</p>	<p style="text-align: right;">Page 40</p> <p>1    a little over a year. All right. In other words, 2    you just tried to do the best you could to tell them 3    as much as you could recall from what you saw, what 4    you heard, to the best of your ability, correct? 5    A. Correct. 6    <b>Q.</b> Now, I understand at the time of the 7    incident you were you were in college? 8    A. Yes. 9    <b>Q.</b> Going to Berkeley City College? 10   A. Correct. 11   <b>Q.</b> And you were studying criminal justice as 12   well as business; is that right? 13   A. Yes. 14   <b>Q.</b> Are you still studying criminal justice 15   now? 16   A. No. I'm going to be a medical lab 17   technician. I just changed my major, like, earlier 18   today I went to the school. Until I could become a 19   full resident here, a year, I'm not trying to pay 20   out of state taxes. 21   <b>Q.</b> I got you. You also said you had some law 22   justice academy-type training in high school? 23   A. Yes. 24   <b>Q.</b> What was that? 25   A. That was in the academy.</p>

<p style="text-align: right;">Page 41</p> <p>1    <b>Q. What was that about?</b></p> <p>2    A. Practicing, like, you know, we went to a</p> <p>3 couple of field trips. We went to the Martinez</p> <p>4 Detention Center. Did our own cases, learned about</p> <p>5 cases, role played in class, learned definitions,</p> <p>6 you know, like average high school stuff.</p> <p>7    <b>Q. All right. Now, you also talked earlier --</b></p> <p>8 <b>Mr. Lacy was asking you questions about when you</b></p> <p>9 <b>went back to the store a couple of days after, and</b></p> <p>10 <b>there was some protesters out there. You had some</b></p> <p>11 <b>discussions with them; is that right?</b></p> <p>12    A. Yes.</p> <p>13    <b>Q. Was there anybody out there that you</b></p> <p>14 <b>believe was related to the decedent, Mr. Perez?</b></p> <p>15    A. I wouldn't know. I didn't ask them if they</p> <p>16 were related to them or anything. They just -- they</p> <p>17 just seemed like they were either helping the cause</p> <p>18 or they like -- you know, I seen people crying. It</p> <p>19 was, like, of course, they had some type of</p> <p>20 connection with him, but I wouldn't know who was</p> <p>21 related or who wasn't related, because I didn't know</p> <p>22 who he was.</p> <p>23        Like, I went to the high school with the</p> <p>24 guy, and I never seen him, never heard of him until</p> <p>25 that night.</p>	<p style="text-align: right;">Page 43</p> <p>1    A. Yes.</p> <p>2    <b>Q. So he's a little older than you?</b></p> <p>3    A. Yes.</p> <p>4    <b>Q. Had you ever seen him at Uncle Sam's</b></p> <p>5 <b>Liquors before?</b></p> <p>6    A. No, but nor do I pay attention. Like I</p> <p>7 said, when I go, there's always a lot of, you know,</p> <p>8 drug activity. I go in, get what I need to get, and</p> <p>9 I leave.</p> <p>10        When I see something funny, I'm going to</p> <p>11 record it just to record it, but I don't try to get</p> <p>12 involved. I'm not loitering in front of the liquor</p> <p>13 store all day. I don't know anybody who does hang</p> <p>14 around liquor stores.</p> <p>15    <b>Q. You were pretty familiar with that area, it</b></p> <p>16 <b>sounds like you've been to Uncle Sam's many times?</b></p> <p>17    A. Oh, yeah. I'm from Richmond, born and</p> <p>18 raised.</p> <p>19    <b>Q. Did you know -- did you have some knowledge</b></p> <p>20 <b>that there is a loitering problem at Uncle Sam's?</b></p> <p>21    A. Yes. I mean, that happens around all</p> <p>22 liquor stores out in Richmond. So it was, like I</p> <p>23 said, it was nothing new to me. It wasn't, like, oh</p> <p>24 these people are standing outside the store with --</p> <p>25 let's say in people in Pinole. My mom lives in</p>
<p style="text-align: right;">Page 42</p> <p>1    <b>Q. Okay. Have you ever met his parents,</b></p> <p>2 <b>Mr. Perez's parents?</b></p> <p>3    A. No.</p> <p>4    <b>Q. Have you ever been to Mr. Lacy's office or</b></p> <p>5 <b>Mr. Burris's office in Oakland?</b></p> <p>6    A. No.</p> <p>7    <b>Q. Okay.</b></p> <p>8    A. No.</p> <p>9    <b>Q. So was the first time you talked about this</b></p> <p>10 <b>the incident to anyone from law enforcement,</b></p> <p>11 <b>essentially, when you talked to the detective at the</b></p> <p>12 <b>substation?</b></p> <p>13    A. Yes, that was first time. Then you guys</p> <p>14 are now the second time.</p> <p>15    <b>Q. So I take it pretty recently somebody from</b></p> <p>16 <b>Mr. Burris's office contacted you to set up this</b></p> <p>17 <b>deposition?</b></p> <p>18    A. Correct.</p> <p>19    <b>Q. During that process, did anybody talk to</b></p> <p>20 <b>you about the incident, anything you saw, anything</b></p> <p>21 <b>like that?</b></p> <p>22    A. No.</p> <p>23    <b>Q. All right. I think you said you found out</b></p> <p>24 <b>later you went to the same high school as Mr. Perez,</b></p> <p>25 <b>but he was a year ahead of you?</b></p>	<p style="text-align: right;">Page 44</p> <p>1    Pinole. If I seen it there, it would have been</p> <p>2 stranger to me, because it's, like, a, you know, a</p> <p>3 nicer neighborhood compared to Richmond. So it's</p> <p>4 not out of the ordinary where it would be in Pinole</p> <p>5 or Hercules.</p> <p>6    <b>Q. Okay. You said used the term crackheads.</b></p> <p>7 <b>I know -- you just mean that sometimes you'll see</b></p> <p>8 <b>people there that you believe may be on drugs or</b></p> <p>9 <b>using drugs; is that what you meant?</b></p> <p>10    A. Yes.</p> <p>11    <b>Q. Okay.</b></p> <p>12    A. They look like it. Not to be stereotypical</p> <p>13 or judgmental about it, but they have some type of</p> <p>14 issue.</p> <p>15    <b>Q. Okay. So we're now at the point -- first</b></p> <p>16 <b>of all, what's your address out there in Las Vegas?</b></p> <p>17    A. 764 East Twain, T-W-A-I-N, avenue,</p> <p>18 Apartment 20-C, as in Charlie, Las Vegas, Nevada</p> <p>19 89169.</p> <p>20    <b>Q. 764 East Twin Avenue.</b></p> <p>21    A. Twain, T-W-A-I-N.</p> <p>22    <b>Q. Okay. Thank you. Apartment 20-C?</b></p> <p>23    A. Yes, 20-C, as in Charlie.</p> <p>24    <b>Q. Thank you. And do you have a cell number?</b></p> <p>25    A. Yes. It's (510) 736-9098.</p>

<p style="text-align: right;">Page 45</p> <p>1 Q. The only reason I'm asking if this case 2 goes to trial and you may be an eyewitness, so we 3 just want to make sure we have your contact 4 information kind of thing. So I appreciate that. 5 I'm not going to be calling you or writing you 6 letters or anything. 7 So we're at the point now, Kaylah, where -- 8 or, sorry, Ms. Jones, when -- 9 A. You can call me Kaylah. 10 Q. Okay. That's fine. I appreciate that. 11 We're at that point when you come to the 12 store; you walk in. I understand that later on you 13 see on the news or on the internet what Mr. Perez 14 did to you when he walked in, which you were not 15 aware of at the time, right? 16 A. Yes. 17 Q. He did kind of some weird thing with his 18 hands at your back? 19 A. Yes. A co-worker told me to check the 20 internet because I didn't see the news. She told me 21 the next day I got to work, like, hey, you know you 22 were on Channel 2 news last night or this morning. 23 I was, like, okay, did you all see what I was 24 buying; like what did you guys see? 25 Q. Now, and then at some point you noticed</p>	<p style="text-align: right;">Page 47</p> <p>1 him to get out of the store? 2 A. Yes. 3 Q. And isn't it true that the clerk told him 4 to get out of the store several times? 5 A. He told him get out and that he would call 6 the police. 7 Q. Did it appear to you that Mr. Perez was 8 trying to, you know, obtain some additional alcohol 9 at the store? 10 A. He didn't say what he -- like, he didn't 11 say anything like he needed something. He just it 12 seemed -- I don't know. 13 Like I said, it seems like something 14 happened before, like he asked for something, or 15 whatever, and the clerk just refused service, which 16 they have a right to, because he didn't seem like he 17 was under his right state of mind. 18 Q. And then the clerk told him -- isn't it 19 true the older clerk told him, meaning Mr. Perez, 20 that the clerk was going to call the police; isn't 21 that right? 22 A. Yes. 23 Q. Okay. And at that point is when Mr. Perez 24 dials 911 on his phone, doesn't hit send, but he 25 shows that to the clerk?</p>
<p style="text-align: right;">Page 46</p> <p>1 he's to your left, right? 2 A. Yes, because when somebody gets in your 3 bubble, you're going to look at somebody funny, 4 like, two steps back, please. 5 Q. So you were seeing him. He's getting a 6 little close to you. You're taking a couple of 7 steps back. Is that how it went? 8 A. I stepped to the right just a little bit, 9 not too far, because I am purchasing my items. It's 10 not like I'm going to move or, you know, you're not 11 going to get your stuff before me. 12 Q. Did you make any observations as to whether 13 or not he looked like he was having any balance 14 problems or stumbling around in the store at that 15 point? 16 A. His speech -- like his speech was just 17 slurred. It was just like, okay, what are you 18 saying? I can understand you, but his speech didn't 19 sound normal. 20 Q. And from your observations of him, you 21 thought he may have been either under the influence 22 of alcohol or drugs; is that accurate? 23 A. Correct. 24 Q. And was it pretty soon after you noticed he 25 was next to you that you hear the older clerk tell</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Yes, he's, like: You call him, here, like 2 go right ahead. 3 Q. Did you see that -- could you see that 4 there was 911 listed on his phone or anything? 5 A. At this time I really can't remember. I 6 know he pressed some buttons and just showed him the 7 phone, but I can't remember right now. 8 Q. Okay. Was the clerk continuing -- even 9 though Mr. Perez was talking about, you know, use my 10 phone, here it is, was the clerk continually telling 11 Mr. Perez to get out of the store at that point? 12 A. Yes, they're going back and forth with 13 words. 14 Q. There's surveillance video from inside the 15 store of some of this interaction. Do you know what 16 I'm talking about? 17 A. Yes. 18 Q. Have you seen that recently? 19 A. I haven't seen it recently. Like, I seen 20 it the day after. That's when I seen him like what 21 he did that behind me. 22 Q. I remember seeing it. And I think you 23 you're definitely looking at Mr. Perez. You can 24 tell he's having a conversation with somebody, and 25 you do see yourself kind of take a couple of steps</p>

<p style="text-align: right;">Page 49</p> <p>1 to the right to kind of get away from what's going</p> <p>2 on over there; do you remember that?</p> <p>3 A. I remember, like I said, kind of backing</p> <p>4 away from him just a little bit, but I don't</p> <p>5 remember taking any steps, because I'm still in</p> <p>6 front of the clerk trying to handle my business.</p> <p>7 Q. All right.</p> <p>8 A. But he's over, like, you know where the</p> <p>9 cash register is. There's a plastic -- like a</p> <p>10 plastic barrier from the register. Then there's</p> <p>11 another plastic barrier from the right-hand side.</p> <p>12 Then there's a little space, probably like two feet,</p> <p>13 maybe, to where you could handle your transaction.</p> <p>14 So he's over to the plastic part, and he's</p> <p>15 trying to lean over to the right side where I am</p> <p>16 too. Here, call the police.</p> <p>17 Q. Okay. And then after that is when the</p> <p>18 older clerk waves down an officer.</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And then Mr. Perez -- Mr. Perez goes</p> <p>21 outside on his own; would you agree with that?</p> <p>22 A. I would agree with that, yes. I didn't see</p> <p>23 the police officer come inside, physically get him.</p> <p>24 I didn't see the police officer come inside.</p> <p>25 Q. Okay. You do see Mr. Perez leave the</p>	<p style="text-align: right;">Page 51</p> <p>1 A. Yes.</p> <p>2 Q. Okay. I'm assuming then that you did not</p> <p>3 see what started the struggle; is that correct?</p> <p>4 A. No. I mean, yes, that's correct. I'm</p> <p>5 sorry.</p> <p>6 Q. I was going to clarify. Thank you.</p> <p>7 So you go outside. You sort of step around</p> <p>8 the two men struggling, and that's when you went</p> <p>9 over to your car, got in your car; is that accurate?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And before -- we'll stop the</p> <p>12 chronology there for a second.</p> <p>13 So before you get in your car, are you</p> <p>14 watching a little bit about what's occurring between</p> <p>15 two men?</p> <p>16 A. Yes, I'm very much watching it. Like, now</p> <p>17 I feel bad by laughing about the situation, you</p> <p>18 know, like somebody -- oh, another person going to</p> <p>19 jail, just going to get -- you're probably going to</p> <p>20 get out in -- what is it? 48 hours, 72, just</p> <p>21 because you're intoxicated, like ha-ha, just go,</p> <p>22 stop resisting, because it might end up worse.</p> <p>23 Q. Yeah.</p> <p>24 A. I'm in the car at the time.</p> <p>25 Q. Okay. So you make some observations what's</p>
<p style="text-align: right;">Page 50</p> <p>1 store, and then you see Mr. Perez sit down on the</p> <p>2 curb close to the front of your car; is that</p> <p>3 accurate?</p> <p>4 A. Yes. So when I looked over my shoulder,</p> <p>5 the officer was standing in front of him, and he was</p> <p>6 sitting on the curb in front of my car.</p> <p>7 Q. Up until that point in time when Mr. Perez</p> <p>8 is sitting on the curb, did you ever see the officer</p> <p>9 put his hands on Mr. Perez?</p> <p>10 A. I didn't see that.</p> <p>11 Q. Okay. So we're at the point now, Mr. Perez</p> <p>12 is sitting on the curb, his hands are behind his</p> <p>13 back. You know they were not handcuffed because</p> <p>14 what you saw later, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And then you start trying to complete your</p> <p>17 purchase in the store?</p> <p>18 A. Getting my -- I had my money already, or my</p> <p>19 card. I don't know how I paid. And next time I</p> <p>20 turn around, I'm leaving, and that's when I step</p> <p>21 over them because now they're wrestling or fighting.</p> <p>22 Q. Let me clarify that. When you leave the</p> <p>23 store, you walk out the front door of Uncle Sam's.</p> <p>24 Are you saying the struggle between Mr. Perez and</p> <p>25 the officer is already going on?</p>	<p style="text-align: right;">Page 52</p> <p>1 going on when you walk out the door and initially</p> <p>2 when you got in your car?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So let's talk about briefly what you</p> <p>5 see in terms of this struggle. It appeared to you,</p> <p>6 did it not, that Mr. Perez was resisting arrest,</p> <p>7 correct?</p> <p>8 A. He was resisting.</p> <p>9 Q. Okay. Did it look to you like the officer</p> <p>10 was just trying to get him, meaning Mr. Perez, under</p> <p>11 control?</p> <p>12 MR. LACY: Objection. Calls for speculation and</p> <p>13 lacks foundation. You can answer, though.</p> <p>14 THE WITNESS: Oh, it -- can you repeat the</p> <p>15 question? I'm sorry.</p> <p>16 BY MR. BLECHMAN</p> <p>17 Q. Sure. You said that Mr. Perez was</p> <p>18 resisting. My question was: Did it look to you</p> <p>19 like the officer was trying to control Mr. Perez?</p> <p>20 A. Yes, he was trying to control him. But it</p> <p>21 was, like, he was doing it forcibly at the same</p> <p>22 time, like, you know, he was bigger than Perez, so</p> <p>23 it was, like, either you're not strong enough to get</p> <p>24 him. It was like Petey wasn't that big, it didn't</p> <p>25 seem. Like, from when I seen him behind me, he</p>

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1 seemed like a couple of inches taller and probably a  
2 little bit heavyset, but the officer was tall.  
3 **Q. But you don't know who was stronger between**  
4 **the two of them, do you?**  
5 A. I wouldn't know, but if somebody is taller  
6 than me, I would hope you could get me down. And he  
7 was on top. So he had the advantage.  
8 **Q. When you say Petey was resisting, what did**  
9 **you mean by that?**  
10 A. Like, you know, when you're getting  
11 arrested, just turn around, get handcuffed. But,  
12 like I said, I don't know how they ended up in that  
13 position, but if somebody's on top of me, my  
14 reaction -- and you're holding me down and kneeling  
15 me, my reaction is going to push you up because  
16 you're hurting me maybe.  
17 Like, in my eyes, you're hurting me. I  
18 don't know if he was hurting Perez or Petey, I don't  
19 know if he was hurting him. I'm not him.  
20 But, for instance, when me and my brother  
21 fight, I'm going to push him. I'm going to push on  
22 your face just because you're hurting me and I can't  
23 get up. And if I'm drunk or belligerent or under  
24 the influence, I really don't have any power.  
25 **Q. Let me ask you this, Ms. Jones: Did it**

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1 **look to you like Mr. Perez was submitting to arrest?**  
2 A. No -- "submitting" meaning, like, giving  
3 in?  
4 **Q. Right.**  
5 A. He was not giving in. He was pushing off  
6 the officer.  
7 **Q. So was he --**  
8 A. That's all.  
9 **Q. Okay. From what you saw, was Mr. Perez**  
10 **using his arms to try to prevent the officer from**  
11 **doing whatever the officer was trying to do?**  
12 A. His arms was like, you know, pressing  
13 against his arms like going up trying lift him up.  
14 **Q. You are saying Mr. Perez's arms were on the**  
15 **officer's arms?**  
16 A. Yes.  
17 **Q. Okay.**  
18 A. It was like equal force. Officer trying to  
19 arrest him, Petey trying to get him off of him.  
20 **Q. Okay. And when you see that occurring,**  
21 **what position was Mr. Perez in? Was he on his**  
22 **stomach? Was he on his side?**  
23 A. He was on his back.  
24 **Q. So when he's pushing and holding the**  
25 **officer's arms and pushing at the officer, Mr. Perez**

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1 **is on his back?**  
2 A. Correct.  
3 **Q. What was Mr. Perez doing with his legs; do**  
4 **you remember?**  
5 A. His legs was on the ground. I didn't see  
6 his legs lifting up. The officer probably would be  
7 too heavy for him to even lift up his legs because  
8 the officer is right on top of him.  
9 **Q. Do you remember seeing Mr. Perez trying to**  
10 **pivot his lower body to try to use his lower body to**  
11 **get some leverage?**  
12 A. No, no.  
13 **Q. Do you remember seeing that on the video**  
14 **when you reviewed the video?**  
15 A. When I reviewed the video, it looked like  
16 his arms was pressing against him.  
17 **Q. All right. Now, do you remember when you**  
18 **were interviewed by the detectives, you said that**  
19 **when you walked outside, you see them resisting; you**  
20 **then get in your car; you roll down your window; and**  
21 **that's when you told investigators that Mr. Perez**  
22 **was now, quote, "resisting too much," end quote. Do**  
23 **you remember telling investigators that?**  
24 A. Yeah.  
25 **Q. And what did you mean by that?**

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1 A. Because once --  
2 **Q. Had the resistance escalated?**  
3 A. It didn't escalate more. It just took  
4 long. So, you know, once you know you're getting  
5 arrested, I -- like, in my eyes, you're just  
6 supposed to stop. But it was going on for at least  
7 two minutes. So it was, like, too long.  
8 **Q. Why is that too long?**  
9 A. I mean, are you supposed to fight all -- I  
10 mean resist all night? Like, I don't think you're  
11 supposed to resist at all.  
12 **Q. Did you ever see the officer punch**  
13 **Mr. Perez in the face during this altercation?**  
14 A. No, I didn't.  
15 **Q. Did you ever see the officer do anything**  
16 **that you thought was, you know, excessive up -- you**  
17 **know, during the time they're having this**  
18 **altercation?**  
19 A. Besides being on top of him and kneeling  
20 him, no.  
21 **Q. How many times did you see the officer use**  
22 **his knee during this altercation?**  
23 A. His knee was on his chest or his stomach.  
24 So he wasn't, you know, exactly knee punching him.  
25 He was just -- his knees were in him to where he

<p style="text-align: right;">Page 57</p> <p>1 would squirm more, like you're being hurt, like I 2 said before. 3 That's what I said by resisting too much, 4 but somebody is pinching, you know, you're going to 5 move away. 6 <b>Q. Okay. During this altercation, did you</b> 7 <b>hear the officer -- I know you said at some point he</b> 8 <b>said "stop," but did you ever hear him say "stop</b> 9 <b>resisting," use those words?</b> 10 A. I heard him say "stop." I'm not quite 11 sure, he might have said "stop resisting," but I 12 heard him for sure say "stop." 13 <b>Q. How many times did you hear him say "stop"?</b> 14 A. A couple. It was more than once, more than 15 twice. I can't exactly say how many times. 16 <b>Q. Was this before or after you had gotten</b> 17 <b>into your car?</b> 18 A. Probably just getting in the car, walking 19 around the car maybe. 20 <b>Q. After the officer said stop several times,</b> 21 <b>you saw Mr. Perez continue to resist, correct?</b> 22 A. Correct. 23 <b>Q. Okay. Why was it that you started the</b> 24 <b>videotape for the first snapshot video? Once you</b> 25 <b>got in your car, what made you decide to video that?</b></p>	<p style="text-align: right;">Page 59</p> <p>1 A. When they were on the curb, I couldn't hear 2 anything. I was inside store. 3 <b>Q. Did you ever hear Mr. Perez say something</b> 4 <b>like: You're not going to arrest me?</b> 5 <b>MR. LACY:</b> Objection. Asked and answered. 6 You can answer again. 7 <b>THE WITNESS:</b> I was going to say I don't 8 remember him saying: You're not going to arrest me. 9 From today's point, I don't remember that. 10 <b>BY MR. BLECHMAN</b> 11 <b>Q. Okay. Now, isn't it true that during this</b> 12 <b>struggle, somebody came up and touched Mr. Perez</b> 13 <b>during the struggle; do you recall that?</b> 14 A. Nobody came up and touched him during the 15 struggle. 16 <b>Q. Don't you remember there was a man with</b> 17 <b>glasses or something -- he was either Hispanic or</b> 18 <b>Asian -- who came up close and touched Mr. Perez,</b> 19 <b>and the officer told him to get back?</b> 20 A. I only remember the officer saying: Get 21 back after he shot him, but he never -- because 22 Perez was in the store when he got shot. Like, he 23 stumbled inside store. 24 The guy -- I don't know what he was. He 25 tried to walk -- it was dark. That's all I know.</p>
<p style="text-align: right;">Page 58</p> <p>1 A. Just to put it on my Snapchat, to be honest 2 just -- 3 <b>Q. Did you start taping because you thought</b> 4 <b>this guy may get tased or something at some point?</b> 5 A. I didn't think anything was going to 6 happen. I just thought it was going to be another 7 drunk, another guy just going to jail. And you 8 could hear me in the video actually laughing. If I 9 thought something bad was going to happen, I would 10 have never recorded -- I probably would have 11 recorded, but I would have never said anything in 12 the video. You can hear me laughing and using 13 profanity. So it's like, yeah. And I wouldn't have 14 used it on Snapchat; I would have used it on the 15 regular iPhone camera, video camera. 16 <b>Q. Okay. Well, you didn't know -- that's</b> 17 <b>fine. That's fine.</b> 18 <b>Before you saw the struggle, isn't it true</b> 19 <b>that you did hear Mr. Perez say something like: You</b> 20 <b>are not going to arrest me, or something to that</b> 21 <b>effect?</b> 22 A. Not that I know. 23 <b>Q. Do you remember hearing Mr. Perez saying</b> 24 <b>that when he was sitting on the curb just before the</b> 25 <b>struggle started?</b></p>	<p style="text-align: right;">Page 60</p> <p>1 If he was black, Mexican, Caucasian... he tried to 2 walk inside the store, walk up to the officer, but 3 that's when the officer said: Get back. 4 <b>Q. But before that -- before the shooting, you</b> 5 <b>don't remember anybody coming up, getting close to</b> 6 <b>the struggle where the officer, Mr. Perez were, do</b> 7 <b>you?</b> 8 A. No. I was -- I was the closest person 9 there. Parallel at least. 10 <b>Q. At that point you were in the car, right?</b> 11 A. Yes. 12 <b>Q. Okay.</b> 13 A. But I did get out of my car and start it. 14 I don't know if I recorded outside my car. I still 15 recorded inside my car, but then I had got out. No, 16 I did get out my car, after he shot him. That was 17 the last video. 18 <b>Q. Okay. So let's talk about -- you're in the</b> 19 <b>car. You see the struggle going on. And then at</b> 20 <b>some point you see both of them on their feet,</b> 21 <b>correct?</b> 22 A. Yes, facing each other. 23 <b>Q. And they were in close proximity to each</b> 24 <b>other at that point?</b> 25 A. Yes, about arm's length.</p>



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1 Q. All right. When Mr. Perez got up, did he  
2 stand straight up and stand still?  
3 A. He was -- as the officer -- the officer was  
4 already standing straight up. Perez was still  
5 making his way to get his head up, and, you know, he  
6 was moving slow, like either he was stumbling, or he  
7 could have been out of breath. Could have been any  
8 of those cases.  
9 But like I said, I knew he was kind of  
10 belligerent because I smelled alcohol when he came  
11 inside the store.  
12 Q. Now, we have video of some of this, but my  
13 question to you is: When Mr. Perez got on his feet,  
14 did he stand still, meaning his feet stayed in the  
15 same location from when he got up to the point when  
16 he was shot?  
17 A. He was still getting up, so he hadn't  
18 moved.  
19 Q. Okay. Well my question is: Did he move  
20 forward at all --  
21 A. No.  
22 Q. Hold on.  
23 -- regardless of where you may have thought  
24 he was going in the store or somewhere else, but  
25 when he got up on his feet, did you see him move

1 questions that you said once they stand up, it  
2 looked like Mr. Perez was going to turn into the  
3 store. What did you mean by that?  
4 A. Like the way his body moved, it was -- he  
5 was getting up. Like, he got up with maybe his left  
6 foot first, then he got up with his right, but still  
7 trying to get his balance, so it's like he's leaning  
8 towards store, if that makes sense.  
9 Q. Do you believe once Mr. Perez got his feet  
10 flat on the ground, that he moved any of his feet  
11 forward, either towards the store or towards the  
12 officer?  
13 A. I didn't see him move towards anywhere.  
14 His body language, he was leaning towards the right  
15 side, to make it seem like he was going to the  
16 right.  
17 Q. Okay. Did you see how the two men  
18 disengaged from each other?  
19 A. No, they both just -- I seen them both just  
20 get up. Like, I think that was at the time when I  
21 was getting outside the car, and was going to, you  
22 know, step on the little lever right outside my door  
23 to get taller to be -- you know, so I could see over  
24 my car more.  
25 They got up. They were broken apart facing

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1 forward at all?  
2 A. No.  
3 Q. So you're saying when he got up, he  
4 basically got on his feet, and his feet never moved  
5 from where they landed on the ground initially. Is  
6 that what you're saying?  
7 A. As he was getting up, he didn't move. He  
8 didn't make a left or a right. He did -- it was  
9 half a step, if anything, like he was still getting  
10 up, trying to get his balance. It wasn't like he  
11 was going to take off running or start charging,  
12 like he was going to, you know, start walking  
13 anywhere.  
14 Q. Did you see him --  
15 A. He looked like he was --  
16 Q. Go ahead.  
17 A. It looks like he was, if anything, pointed  
18 towards the store, but he didn't make his way  
19 towards store yet because he already had got shot.  
20 Q. And this is important. So once he's  
21 getting to his feet or is on his feet, did he make  
22 any moves that you interpreted as him trying to then  
23 move into the store before you hear any gunshots?  
24 A. No.  
25 Q. You testified when Mr. Lacy was asking you

1 each other.  
2 Q. Okay. When you saw them both on their  
3 feet, before they ended up within arm's reach and  
4 both on their feet, did you see how they went from  
5 physically entangled up with each other to now  
6 separated by several feet?  
7 A. No, I didn't see how they -- no.  
8 Q. Okay. Did you ever see Mr. Perez, when  
9 they disengaged, try swing his arm at the officer?  
10 A. No, I didn't see him do that.  
11 Q. Did you see -- once the officer got to his  
12 feet, did he stand in the same place as well? Did  
13 he stand still?  
14 A. Yes. Well, he didn't stand still. I seen  
15 him reach for something, obviously, his gun in his  
16 holster. But other than that, I didn't see him, you  
17 know, take any steps. If anything -- I'm not going  
18 to say he even took one pivot back to -- you know,  
19 for his stance. I'm not going to say that. I just  
20 seen -- I was looking more so their upper body, but  
21 I didn't see anybody move.  
22 Q. Okay. Where was your focus -- where was  
23 your attention focused at the time these two got on  
24 their feet?  
25 A. I'm looking right at them. I just had got

<p style="text-align: right;">Page 65</p> <p>1 out my car. The first two videos were inside my 2 car. I get out my car, and I stand on top of the, 3 you know, stand on my car. 4 <b>Q. Like on the step to get into the driver's</b> 5 <b>seat?</b> 6 A. Yes. 7 <b>Q. So are you in that position when the</b> 8 <b>gunfire starts?</b> 9 A. Yes. 10 <b>Q. So it's your testimony that once the</b> 11 <b>officer got on his feet, you don't even know if he</b> 12 <b>took half a step back, or a full step back, or</b> 13 <b>several step backs; you don't recall any of that; is</b> 14 <b>that correct?</b> 15 A. For a fact I know he didn't take several 16 steps back. If he took -- at the most he took a 17 step back, at the most. And it was a little step 18 because they were still in front of the door, the 19 door, the door width. 20 So Petey stumbled in the store. He has to 21 be right in front of the door. The officer -- like 22 I said, they were an arm's length apart. 23 <b>Q. All right. And then did you see the gun</b> 24 <b>come out before you hear any noises?</b> 25 A. I didn't see the gun, because, you know,</p>	<p style="text-align: right;">Page 67</p> <p>1 A. Yes. 2 <b>Q. And the arm, what you're saying, was</b> 3 <b>extended straight out?</b> 4 A. Yes. 5 <b>Q. That's what you saw?</b> 6 A. Yes. 7 <b>Q. And after that, you see Mr. Perez stumble</b> 8 <b>into the liquor store?</b> 9 A. Yes. That's what had made me think he was 10 tased, because he stumbled, so it was like he then 11 just dropped like a fly. He just -- he held 12 whatever, and he just stumbled inside the store. 13 I couldn't see his body. It was, like, he 14 stumbled even further inside the store towards, 15 like, the chip aisle, because I'm looking. I don't 16 even see feet. I don't see anything. I just see 17 the officer standing there with his back turned, 18 facing me, calling for backup. He didn't even check 19 to see if he was still alive or if he was a threat 20 or anything. 21 <b>Q. Now, Mr. Lacy was asking you about</b> 22 <b>something, and I want to clarify. During the</b> 23 <b>struggle between the two men that occurred on the</b> 24 <b>ground in front of the store, correct?</b> 25 A. Yes, they were right literally in front of</p>
<p style="text-align: right;">Page 66</p> <p>1 there's so many things on the holster, and it was 2 dark, and so I wouldn't know what color his gun was 3 from a Taser or from whatever, whatever else they 4 had in their holster. I just seen him pull out 5 something and fire a shot, like fire something. 6 And as I'm looking closer, I'm like -- and 7 listening, like, Tasers don't shoot more than once, 8 not that I know of. Like that's when I focused 9 more, like, that's an actual gun and he puts it back 10 down. 11 <b>Q. Did you see how the officer was positioned,</b> 12 <b>his body, his arm at the time he fired his first</b> 13 <b>shot?</b> 14 A. They're facing each other still. 15 <b>Q. Okay. Did you see how -- can you</b> 16 <b>demonstrate for us, if you saw it, how the officer</b> 17 <b>shot his gun, what position his arm was in? And we</b> 18 <b>can explain it for the record?</b> 19 A. He just shoots him, sounds like four shots, 20 right in front of him. 21 <b>Q. So I see what you're doing, but we need to</b> 22 <b>put that on the record.</b> 23 <b>You're standing up. You had two hands, you</b> 24 <b>know, on the gun, right hand -- or two hands</b> 25 <b>together by the gun, correct?</b></p>	<p style="text-align: right;">Page 68</p> <p>1 the store. 2 <b>Q. Do you think that you watched literally</b> 3 <b>every second of the struggle between the two mean?</b> 4 A. From when I -- after I got my change to me 5 getting in my car, yes. Now, how it started, no. 6 <b>Q. Okay. Once you got outside, you never lost</b> 7 <b>sight of the struggle going on in front of you?</b> 8 A. No. Besides me -- what? At a millisecond 9 of me getting into the car, but I'm still looking 10 out my window, and a millisecond of me getting out 11 the car looking above my car, no. 12 <b>Q. Okay. And the struggle that was occurring,</b> 13 <b>was this something that was occurring in slow</b> 14 <b>motion? I mean was this a slow struggle?</b> 15 A. What do you mean like? 16 <b>Q. I mean, these people -- the officer was</b> 17 <b>clearly trying to get control of Mr. Perez for some</b> 18 <b>law enforcement reason; would you agree with that?</b> 19 <b>MR. LACY:</b> Objection, objection. Calls for a 20 legal conclusion, expert opinion that this witness 21 is not prepared to give. 22 Go ahead, Ms. Jones. 23 <b>BY MR. BLECHMAN</b> 24 <b>Q. You can answer.</b> 25 A. Can you repeat it? I'm sorry.</p>

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1 Q. Sure. It appeared to you that the officer  
2 was trying to control this guy, potentially arrest  
3 this guy, right?  
4 A. I mean, yeah, he was trying to arrest him,  
5 obviously. I don't know what they were doing, but  
6 once on a curb, now you're wrestling, you know, next  
7 step is you're going to jail.  
8 Q. Okay. So let's assume for the sake of this  
9 question he's trying to arrest the guy. The  
10 struggle you see is happening quickly on the ground  
11 correct, the arms are --  
12 A. Yes.  
13 Q. -- arms are moving around quickly. The  
14 officer is doing things quickly. Mr. Perez is doing  
15 things quickly. Would you agree or disagree with  
16 that?  
17 A. It wasn't as quickly, because Perez, his  
18 arms didn't move. His arms was firmly on the  
19 officer, trying to push him off. It wasn't like  
20 they were, you know, wrestling, trying to get  
21 something out of either one of their pockets, or he  
22 was trying to hit him. He was just: Get off me,  
23 pushing him off.  
24 Q. During the struggle, did you see -- did you  
25 see where the officer's gun was located during the

1 Q. You say this was about a two-minute  
2 struggle?  
3 A. Two minute -- yeah, I mean, two-minute  
4 struggle from I was inside the store and outside not  
5 in my car.  
6 Q. Okay.  
7 A. It took me a little longer than two  
8 minutes.  
9 Q. And are you saying that during that  
10 two-minute-or-so struggle, you never saw any of  
11 Mr. Perez's hands around the hip area of the  
12 officer?  
13 A. No, I did not see his hands around the hip  
14 area.  
15 Q. Now, you told the detectives that at the  
16 time Mr. Perez was shot, his -- he had some movement  
17 towards the store. Do you remember telling them  
18 that?  
19 A. Yeah, it was like he -- like, I said the  
20 way he fell, is like his movement was towards the  
21 store. Like, you know when you fall, the way you  
22 fall, that's going to be the way you're going. If I  
23 trip over this chair this way, my movement is going  
24 to be this way. (Indicating.)  
25 Q. Right. I think you told detectives that it

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1 struggle?  
2 A. No. His holster, you know, they're all  
3 black. They wear all black uniforms. It was dark.  
4 I don't know what side the officer's gun is on.  
5 Q. Right. And do you know what kind of  
6 holster the officer had, whether he had a special  
7 holster that attached a little lower to his thigh or  
8 whether it was on his waistband. Do you know?  
9 A. It was on his hips for sure.  
10 Q. Okay. So but did you ever see anything  
11 that looked to you like Mr. Perez's at any point in  
12 time hand on or near the officer's gun?  
13 A. No.  
14 Q. Now, when you say "no," are you saying that  
15 because you don't know whether that happened or not?  
16 A. I mean, he could have had his -- you know,  
17 the hand that was on the other side, but then that  
18 would have had the officer to grab something else.  
19 Petey's hands was straight up trying to get up; just  
20 like I said: Get off me.  
21 I didn't see him reach for anything on the  
22 officer, if he tried to hit the officer, or if he  
23 tried to get something even out of his own hand, or,  
24 you know, if he had something. I don't know if he  
25 had a weapon or not, but if he had a weapon or not.

1 looked like Mr. Perez was about to run but into the  
2 store; do you remember telling them that?  
3 A. I don't remember, but it's -- like I said,  
4 his movement was towards the store either way.  
5 Q. Was his body -- at the time Mr. Perez was  
6 shot, was he standing straight up so his back would  
7 have been straight, or was he crouched over at all  
8 leaning forward.  
9 A. He was crouched over a little bit because  
10 he wasn't fully up yet. He was still getting up to  
11 get his balance.  
12 Q. So as you sit here today, Ms. Jones, do you  
13 know whether or not at any time Mr. Perez may have  
14 grabbed the gun of the officer during the struggle,  
15 can you say -- in other words, can you say within a  
16 hundred percent certainty that if the officer  
17 testified that during the struggle, Mr. Perez  
18 grabbed at his gun several times, that that is  
19 absolutely false what you witnessed?  
20 MR. LACY: Objection. Argumentative and  
21 harassing.  
22 You can answer, Ms. Jones.  
23 THE WITNESS: With my eyesight I did not see  
24 Perez grab or reach for anything on the officer.  
25 Face, hips, holster, legs, I didn't see him reach

<p style="text-align: right;">Page 73</p> <p>1 for anything but his arms, which were already on the 2 officer. 3 BY MR. BLECHMAN 4 <b>Q. Don't you remember seeing your video where</b> 5 <b>at some point Mr. Perez's left arm is free and not</b> 6 <b>pushing on the officer's arms, but is free and</b> 7 <b>roaming around the officer's right hip area?</b> 8 <b>MR. LACY:</b> Objection. 9 <b>THE WITNESS:</b> That's -- 10 <b>MR. LACY:</b> Objection. Misstates prior 11 testimony, calls for speculation, lacks foundation 12 argumentative and harassing. 13 You can answer. 14 <b>THE WITNESS:</b> That's what the police tried to -- 15 I couldn't see it per se, but when the people, you 16 know, a couple of weeks later, or a week later, when 17 I went to the substation, they tried to say, look, 18 but I couldn't really see. They were saying, look, 19 but they weren't there in real life. It's a 20 difference between me holding my phone and I'm 21 looking directly at what's happening. 22 BY MR. BLECHMAN 23 <b>Q. When you were watching the struggle that</b> 24 <b>was occurring that was captured on your snapshot</b> 25 <b>10-second video, isn't it true you were watching</b></p>	<p style="text-align: right;">Page 75</p> <p>1 <b>his reaction?</b> 2 A. He just called for backup. It didn't seem 3 like he really cared if the guy died or if he was 4 okay. I mean, of course, you are not going to be 5 okay after you get shot, but it wasn't like he 6 checked on him. He didn't even look at him. He 7 just shot -- he fired the shots. He stumbled, I 8 guess, on the ground. I don't know. After that he 9 called for backup. His demeanor, it was calm. He 10 just -- shots fired, location, and, I guess, you 11 know, I don't know what else, you know, little 12 codes. 13 <b>Q. Yeah.</b> 14 A. And that was it. 15 <b>Q. And you can recall that the officer still</b> 16 <b>had his gun out in his hand when he was making that</b> 17 <b>call, and he kept his gun in his hand down by his</b> 18 <b>side until you left; is that right?</b> 19 A. Yes. He had, you know, his -- he was 20 holding his -- what do you call it? Radio? One 21 hand and arm down. I don't know if he had put it 22 back in his holster or not. I just seen the other 23 arm down. 24 <b>Q. Okay.</b> 25 A. And it wasn't but 10 seconds before the</p>
<p style="text-align: right;">Page 74</p> <p>1 <b>that through your phone; you were watching the</b> 2 <b>struggle through your phone?</b> 3 A. No. I could text a whole paragraph right 4 now and look at you. I was one of those texters in 5 class, like, that. As long as I could read it real 6 quick, with Snapchat all you have to do is press -- 7 hold the middle button and click, click, and it's on 8 my story. 9 <b>Q. Right. But my question is: At the time</b> 10 <b>you're filming that 10 seconds from the altercation,</b> 11 <b>isn't it true that you were looking at your phone</b> 12 <b>during that 10 seconds to make sure you were</b> 13 <b>actually videotaping what you were pointing at?</b> 14 A. No, I just had to -- as soon as I locked it 15 and got to Snapchat, I was already, like, you know, 16 recording it. I just put my fingerprint on it. I 17 don't have to look at my phone to record. 18 <b>Q. During the time it was recording, were you</b> 19 <b>watching the struggle live or were you watching it</b> 20 <b>through your phone screen?</b> 21 A. I'm watching it live. I'm holding it right 22 here, and I'm watching out my window, the first 23 video. 24 <b>Q. How would you describe the officer's</b> 25 <b>reaction after he shot at Mr. Perez? Did you see</b></p>	<p style="text-align: right;">Page 76</p> <p>1 cops came. I don't know if he put it up or not. 2 Once the officer on the side of me pulled up. 3 <b>Q. Let me ask you this, Ms. Jones: Where were</b> 4 <b>Mr. Perez's arms at the time he was shot?</b> 5 A. I could tell you they weren't in front of 6 him. Down, maybe right here (indicating). It 7 wasn't like, you know, across his body. It wasn't 8 like he was -- his arms were just out or extended 9 anywhere. His arms were probably on his knees, on 10 his side. It wasn't like he was reaching for 11 anything. 12 <b>Q. Okay.</b> 13 A. He didn't make sudden movement, any sudden 14 movement. 15 <b>Q. But, to your recollection, his arms were</b> 16 <b>down by his sides?</b> 17 A. Sure. Yes. 18 <b>Q. And he did not have his arms like up in the</b> 19 <b>air, like he was submitting to arrest with his arms</b> 20 <b>in the air, did he?</b> 21 A. Not that I can recall. 22 <b>Q. Did you see whether his hands were, you</b> 23 <b>know, balled up into fists or were, you know, his</b> 24 <b>fingers were extended out, or could you not tell?</b> 25 A. No, but -- now, but you couldn't tell if it</p>

<p style="text-align: right;">Page 77</p> <p>1 was the officer or not that was right in front of 2 him. It was too dark. You couldn't tell. But he 3 wasn't making any sudden movement to scare anybody. 4 <b>Q. Okay. How many steps did Mr. Perez have to</b> 5 <b>take after you believe he was shot to get into the</b> 6 <b>store?</b> 7 A. Right in front of the door, so like 8 probably three to four steps, but I don't know where 9 his body was. I didn't see -- like, from my view, I 10 couldn't even see a leg or anything. That's why I 11 thought maybe he got tased and maybe walked a few, 12 because it wasn't like he got shot and just dropped. 13 He got shot and stumbled. 14 <b>Q. Once the two men got to their feet, did it</b> 15 <b>look to you that the altercation was over?</b> 16 A. It looked like it was going to be over, 17 then it looked like, okay: What's next? Like: Why 18 did you guys just end up stopping; did you guys just 19 get tired; were you guys whispering something in 20 each other's ears? 21 Like, I wasn't right up under them, but 22 when I heard the officer say "stop," he was 23 screaming at the time, and, like, Perez or Petey 24 mumbling something, but it wasn't like you can hear 25 what he was saying or understand.</p>	<p style="text-align: right;">Page 79</p> <p>1 If the officer wasn't right in front of the 2 door, he was half a inch away to where he could just 3 go straight into the door. They were arm's length 4 apart. 5 <b>Q. From any of the movements, once the two</b> 6 <b>were on their feet -- and I'm almost done.</b> 7 <b>From any of the movements you saw once the</b> 8 <b>men got on their feet -- let's assume that there</b> 9 <b>were no gunshots for the purpose of this question --</b> 10 <b>what did you expect to see next happen? For</b> 11 <b>example, did you expect to see, from your knowledge,</b> 12 <b>Mr. Perez move into the store, because that was</b> 13 <b>maybe something you thought he was about to do?</b> 14 A. I mean, I thought he was just going to go 15 to the store and -- I don't know what he would do. 16 Like I said, he was drunk. Drunk people don't -- I 17 don't know what they're doing, and you can never 18 kind of guess what they're doing, but I would 19 probably would have thought the officer would have 20 called for, like, more backup to maybe get him on 21 the ground to arrest him, but that wasn't the case. 22 <b>Q. Did you hear any commands being given once</b> 23 <b>the two were on their feet before you hear any</b> 24 <b>gunshots?</b> 25 A. No, no.</p>
<p style="text-align: right;">Page 78</p> <p>1 <b>Q. Okay. Let me ask you this, Ms. Jones:</b> 2 <b>Once the two men got on their feet, did you have any</b> 3 <b>thoughts that they may start now fighting on their</b> 4 <b>feet? Was there anything that indicated the fight</b> 5 <b>may continue now when the men were on their feet?</b> 6 A. No. Just because of the fact -- I'm just 7 going to say no. I'm not going to say on my belief, 8 because I'm not going to blow punches at an officer 9 that's bigger than me, especially bigger than me, or 10 any officer at all. But it didn't look like they 11 were charging at each other. The officer didn't 12 look like he was going for him. Petey didn't look 13 like he was going for the officer. 14 <b>Q. So if the officer extended his arm out with</b> 15 <b>the gun in it from -- how far was Mr. Perez's body</b> 16 <b>away from, say, the end of the gun at the time shots</b> 17 <b>were fired?</b> 18 A. Probably a couple of inches, a foot, maybe, 19 if that -- they were arm's width apart. They get 20 up. They're fighting. They're on top of each 21 other. They get up. 22 Petey is right in front of, like, the end 23 of the door hinge to where he could still walk 24 straight in without having to step up and then go 25 right. He was right in front of the door.</p>	<p style="text-align: right;">Page 80</p> <p>1 <b>Q. Once Mr. Perez got on his feet did it look</b> 2 <b>to you like he was going to attempt to go into the</b> 3 <b>store at that point?</b> 4 A. That, I really couldn't say. That would 5 just be my only guess, the way his body -- his body 6 movement was -- like I said, he stepped up with his 7 leg. Let's just say you're on your knees. You step 8 up on your leg. You have your hands on your knees, 9 and you get up on your right. Like I said, you're 10 leaning, so the officer could have thought he was 11 about to run into the store, but that's... 12 <b>Q. Could the officer still have thought that</b> 13 <b>Mr. Perez, from what you saw, was about to run at</b> 14 <b>the officer or charge the officer from the position</b> 15 <b>you saw him in?</b> 16 <b>MR. LACY:</b> Objection. Calls for speculation, 17 lacks foundation. 18 <b>MR. BLECHMAN:</b> You can respond. 19 <b>MR. LACY:</b> Go ahead. 20 <b>THE WITNESS:</b> No, he did not look like he was 21 going to charge at him at all. They were facing 22 each other. 23 <b>BY MR. BLECHMAN</b> 24 <b>Q. And when they were facing each other -- go</b> 25 <b>ahead.</b></p>

<p style="text-align: right;">Page 81</p> <p>1 A. His movement would have been forward and 2 not to the right if he was going to charge at him; 3 not charge at him to the right and then go to the 4 left. It wouldn't make a lot of sense. 5 <b>Q. So when you say he was turned to the right,</b> 6 <b>are you saying that his left foot -- Mr. Perez's</b> 7 <b>left foot was in front of his right foot at that</b> 8 <b>point when he got to his feet?</b> 9 A. His right was in front of his left foot, 10 because his left foot is already planted on the 11 ground. Let's say he's on his knees. He gets up 12 with his left foot. Now he gets up with his right 13 foot, probably like the same distance, if anything, 14 like a half an inch, but he leads with -- when he 15 gets up, he leads with it. 16 <b>Q. Okay. Can you indulge me for a second?</b> 17 <b>We're almost done, Ms. Jones, but we can't video</b> 18 <b>record this.</b> 19 <b>Can you stand up for me there and then</b> 20 <b>we'll describe it, and show me once you see</b> 21 <b>Mr. Perez gets up, what position do you recall him</b> 22 <b>being in at the time he was shot. And I'll just</b> 23 <b>tell you to your right would be the doors to Uncle</b> 24 <b>Sam's Liquors, so as if the camera is sort of the</b> 25 <b>officer's location. All right? Does that make</b></p>	<p style="text-align: right;">Page 83</p> <p>1 <b>FURTHER EXAMINATION</b> 2 BY MR. LACY 3 <b>Q. One last question, Ms. Jones, or a couple</b> 4 <b>of questions, I guess.</b> 5 <b>Trial is scheduled for June of next year.</b> 6 <b>Will you be able to make yourself available for</b> 7 <b>trial and come back here to California should we</b> 8 <b>need you to testify at trial?</b> 9 A. Yes. It's a long time away. Like, I might 10 be already out there. 11 <b>Q. Oh, okay.</b> 12 A. I know for a fact I'm staying out here for 13 at least a year. I don't know my correct -- you 14 know, like, my plans yet, until I start school. If 15 my school goes well, then I'll be out here. Just I 16 have to find a way for somebody to buy me a ticket. 17 I'll talk to my grandma or something about that. 18 <b>Q. But you'd be willing to come out here?</b> 19 A. Yeah. 20 <b>Q. Okay. Last and final --</b> 21 A. I told them I was going to come out there. 22 I come out there October 22nd. 23 <b>Q. Okay.</b> 24 A. In two weeks. 25 <b>Q. Last and final request is that when you</b></p>
<p style="text-align: right;">Page 82</p> <p>1 sense? 2 A. So you want me to be the officer or Perez? 3 <b>Q. You're Mr. Perez.</b> 4 A. Okay. So the officer is in front of me. 5 My car is to the left of me right now. 6 <b>Q. Okay.</b> 7 A. He's on the ground now. Gets up, how I'm 8 like right now, and then like that, like I'm getting 9 up and catching my balance. But I'm in a drunk 10 state of mind, but I'm like (indicating), and that's 11 where he gets shot like that part, like something 12 like that. 13 <b>Q. Okay. So he got up on his left foot first,</b> 14 <b>you're saying, right? And then after he got up on</b> 15 <b>his left foot, his right foot kind of moved over</b> 16 <b>towards the doorway of Uncle Sam's Liquors; is that</b> 17 <b>accurate?</b> 18 A. Yes. 19 <b>Q. And at that point you're saying is when</b> 20 <b>shots were fired?</b> 21 A. Correct. 22 <b>MR. BLECHMAN:</b> Okay. Thank you for indulging me 23 with that demonstration. I think that's at all 24 questions I have. 25</p>	<p style="text-align: right;">Page 84</p> <p>1 <b>come out here, you do not wear Dodgers stuff; you</b> 2 <b>wear Giants and A's stuff. Okay?</b> 3 A. I'll wear my Lakers jersey. 4 <b>MR. LACY:</b> Okay. We'll be all right. 5 Thank you, Ms. Jones. 6 (Proceedings concluded at 4:00 p.m.) 7 8 9 10 <hr style="width: 20%; margin: auto;"/> 11 KAYLAH JONES 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

1 STATE OF CALIFORNIA        )

2                                ) ss.

3 COUNTY OF CONTRA COSTA    )

4       I hereby certify that the witness in the  
5 foregoing deposition, KAYLAH JONES, was by me duly  
6 sworn to testify to the truth, the whole truth and  
7 nothing but the truth, in the within-entitled cause;  
8 that said deposition was taken at the time and place  
9 herein named; and that the deposition is a true record  
10 of the witness's testimony as reported by me, a duly  
11 certified shorthand reporter and a disinterested  
12 person, and was thereafter transcribed into  
13 typewriting by computer.

14       I further certify that I am not interested in  
15 the outcome of the said action, nor connected with nor  
16 related to any of the parties in said action, nor to  
17 their respective counsel.

18       IN WITNESS WHEREOF, I have hereunto set my  
19 hand this 14th day of October 2015.

20       Reading and Signing was:

21       \_\_\_ requested   \_\_\_ waived   XXXX not requested

22

23

24

25       JOAN MARIE COLUMBINI, CSR NO. 5435



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