

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT**

JAMES RAZO and
SUSAN WEINMULLER,

Plaintiffs,

v.

CASE NO.: D-101-CV-2019-01495

NO EXIT FILM, LLC, and BLACK LABEL
MEDIA,

Defendants.

AMENDED PRETRIAL ORDER

This Pretrial Order was prepared pursuant to the Rule 1-016 Scheduling Order. No change shall be made in this Order without consent of counsel and a showing of good cause.

1. JURISDICTION

The Court has jurisdiction over the subject matter of the case and the parties.

2. GENERAL NATURE OF THE CASE

A. Plaintiffs' Version:

Plaintiff James Razo was a specialty equipment operator for the motion picture and television industries. In June 2016, he was engaged by Chapman-Leonard, a company based in Hollywood that provides specialty equipment to the film industry, to transport and operate a Hydrascope crane on *Only the Brave*, a motion picture that was being filmed in New Mexico and produced by Defendants Black Label Media and No Exit.

On June 20, 2016, after Mr. Razo arrived at the base camp near the bottom of Pajarito Mountain, he and Joe Datri, another specialty equipment operator, were informed by the

production crew that the Hydrascope camera crane needed to be used for the first shot of the day, which was at the top of the Pajarito Ski Area. Mr. Razo was not given time to scout the path and no time to determine whether to use tank treads. Mr. Razo, who was going to drive the Raptor mobile unit the crane to the set, was told to follow Dave Santos, the Best Boy, who worked at the direction of Trevor Fulks, the Key Grip.

Mr. Razo, accompanied by Mr. Datri, began to follow Mr. Santos up the mountain. Along the way, Mr. Fulks was constantly on the radio asking for their location, and to hurry up, because the camera crane was needed for the first shot. The path they traversed was steep and rocky, and was comprised of numerous switchback trails, and catwalks. When they neared the top, there was a fork in the road. To the right was a road that wound up the mountain to the top near the filming location, but straight ahead was a steep slope that was more direct. Mr. Santos was unsure of which route to take; a local grip familiar with the ski area, informed Mr. Fulks on the grip department's two-way radio that Mr. Razo should take the route to the right because it was safer. Mr. Fulks, however, demanded that Mr. Razo drive straight up the hill because the production was short on time. When Mr. Razo attempted to navigate the slope at the key grip's order, the mobile crane unit lost traction, pivoted, and then flipped on its side, landing on top of Mr. Razo. Mr. Razo was airlifted to the University of New Mexico Hospital where it was determined he suffered catastrophic and life-changing injuries. He is fully disabled and his life has been dramatically changed.

Plaintiffs assert that Defendants were negligent in providing a safe environment for Mr. Razo and are responsible for Mr. Razo's injuries and Plaintiffs' damages, which include a loss of consortium claim on behalf of Susan Weinmuller, Mr. Razo's wife. First, the producer Black Label Media, which formed No Exit for purposes of paying the production costs, failed to

allocate any of their \$67 million budget for a safety coordinator that was necessary given the location's rugged terrain, and the type of action film that included fire scenes. Second, No Exit's location and transportation departments failed to scout the route for Mr. Razo to use when transporting the piece of heavy equipment; they failed to mark the correct and safest route from the bottom of the peak to the set (which was the route the crew members used); they failed to provide Mr. Razo with adequate time to prepare and they failed to allow Mr. Razo sufficient time to scout the route himself. Third, Mr. Fulks, who supervised the grip department, put undue pressure on Mr. Razo to navigate the mountainous roads as quickly as possible, ignored and flatly dismissed the local grip's suggestion that Mr. Razo should take the safer route to the right at the fork of the road, and overrode other suggestions as to the route Mr. Razo should take.

Plaintiffs also dispute No Exit's assertion that Mr. Razo was its employee when he incurred his injuries. Mr. Razo was a self-described "day player" who was not part of the film's crew. He was assigned by Chapman-Leonard to transport the Hydrascope crane to New Mexico and operate the specialty equipment on the set. Due to the nature of his specialized training and expertise, neither No Exit nor Black Label were Mr. Razo's employers or special employers.

Plaintiffs' damages include pain and suffering, past and future medical expenses, lost income, loss of future earnings, and loss of consortium.

B. Defendants' Version:

No Exit Film, LLC and Black Label Media

Defendants No Exit Film, LLC and Black Label Media, Inc. deny Plaintiffs' claims and herein incorporate their affirmative defenses as set forth in their Answer to Plaintiffs' Complaint for Personal Injury Damages. As far as Defendants are concerned, the incident giving rise to

Plaintiffs' claims of injury are entirely and solely the result of deliberate actions undertaken by Mr. Razo while he was in complete control of the equipment which eventually caused his injuries.

In June 2016, Defendants were involved in production and filming a feature motion picture, "Only the Brave" at the Pajarito Ski Mountain ("Pajarito") outside of Los Alamos, New Mexico. In the process of planning for the production's on-location activities, Defendants anticipated utilizing a specialized camera crane unit, known as a Raptor Hydrascope for filming certain scenes. The Raptor is manufactured by the Chapman-Leonard Company and is available for lease if it is operated by a Chapman-Leonard approved specialty equipment operator. Plaintiff James Razo is just such a qualified operator and on or about June 8, 2016, he discussed the anticipated Raptor lease with David Santos. Mr. Santos was second-in-command of the production's grip department. Additionally, Mr. Santos also discussed the rental with the production's Key Grip (or department head), Trevor Fulks. After discussing the timing of the Raptor's arrival in New Mexico and whether tracks or wheels would need to be installed on the Raptor - deciding upon wheels - the production finalized an agreement to lease the unit and agreed to retain Mr. Razo for the purpose of operating the Raptor.

Mr. Razo began preparing the Raptor in Los Angeles, California for transport to New Mexico on or about June 18, 2016. He then drove to Albuquerque, New Mexico, arriving on June 2019 and meeting another specialty equipment operator, Joe Datri. At no time during the drive to Albuquerque or after his arrival there, did Mr. Razo request additional information from Defendants about either the nature of the terrain or timing of when he would be anticipated to operate the Raptor.

Mr. Datri and Mr. Razo arrived at the lower parking lot (staging area) of Pajarito on the evening of June 19, where they were met by Best Boy David Santos. After disconnecting the Raptor's trailer from their truck, Mr. Razo and Mr. Datri then drove to a hotel in Santa Fe, New Mexico for the evening. They then drove back the next morning, arriving at Pajarito by approximately 5:00 a.m., and in time to have breakfast. Although a safety meeting was held on the morning of June 20, 2016 in conjunction with the cast and crew's breakfast, neither Mr. Razo nor Mr. Datri attended that meeting, or inquired about where the Raptor would be needed and what time they would need to have the Raptor in place to support filming.

At some point during breakfast, however, Mr. Razo was told by Mr. Santos that the Raptor was in fact needed at the top of Pajarito Mountain immediately for the first shot of the day, and that he was to follow as Mr. Santos led the way up top. Mr. Santos drove a small ATV and Mr. Razo and Mr. Datri were to follow him on the Raptor. Mr. Razo prepared the Raptor for travel without regard for the actual distance, and in doing so affixed weights to the Raptor – including along the length of the Hydrascope crane component which was mounted on the Raptor unit.

Mr. Razo, who believed that the unit could ascend the steep slope up to the top of the mountain where filming was commencing, recognized that in order to do so, he would need to drive the unit slowly. He did so without incident, however, upon approaching within about 50 yards of the top of the mountain, Mr. Razo and Mr. Datri (and Mr. Santos) arrived at a fork in the roadway. Instead of taking the road choice to his right which remained reasonably level, Mr. Razo drove ahead and up a steep incline toward the top of the mountain. As a result, and because of the combination of the steep slope and the Raptor's high center of gravity, the unit's front wheels lifted and the Raptor began tipping backwards. This led to Mr. Razo and the Raptor

becoming involved in a roll-over event, wherein the unit tipped back and rolled over on top of him. Thereafter, medical personnel on-scene arrived and a decision was eventually made to transport Mr. Razo via helicopter to the University of New Mexico Hospital in Albuquerque for medical treatment.

3. THE PARTIES UNCONTESTED ISSUES OF FACT

1. *Only the Brave* is based on the true story of the Granite Mountain Hotshots, and stars Josh Brolin, Miles Teller, Jennifer Connelly, and Jeff Bridges. The majority of the picture was filmed in Los Alamos and Santa Fe Counties, New Mexico, and had a total budget of \$67.8 million before reimbursement of state tax incentives.

2. Black Label Media is a Los-Angeles based film finance and production company, and was the producer of *Only the Brave*. Black Label Media was a producer of films such as *La La Land* and *Sicario*, and the upcoming Whitney Houston biopic, *I Wanna Dance With Somebody*.

3. Black Label Media is the majority owner of No Exit, which was formed as a single purpose entity for the purpose of producing the motion picture *Only the Brave*.

4. In early June 2016, No Exit rented specialty equipment, a Hydrascope mobile crane unit, from Chapman-Leonard Studio Equipment in North Hollywood, California, for use on the film *Only the Brave*.

5. Mr. Razo was the qualified operator/technician Chapman-Leonard assigned to accompany and operate the equipment in New Mexico. His duties on the set included the operation of the Hydrascope crane and Raptor mobile base, preparation in the assembly and disassembly of the crane, connectivity with the camera system, and maintenance and technical support.

6. Prior to *Only the Brave*, Mr. Razo had been a specialty equipment operator for approximately 15 years, and he had worked in the film and television industry in various capacities for approximately 25 years.

7. Mr. Razo prepared the specialty equipment, which included a Raptor vehicle with Hydrascope crane, for transport, and on June 18, 2016, he drove from Los Angeles and arrived in New Mexico later that evening.

8. Joe Datri, another specialty equipment operator who had previously worked with Mr. Razo, met Mr. Razo in Albuquerque on June 19, 2016 and together they traveled to the film's base camp location near the bottom of the Pajarito ski area and arrived at around 6:00 p.m.

9. Pajarito Recreation owns and operates Pajarito Ski Mountain, and leased the property to No Exit for purposes of filming *Only the Brave*.

10. Mr. Razo was a "day player" who would show up when the equipment was needed for filming, and once the equipment was no longer needed, his services were discontinued. Mr. Razo's role in the film was to operate the specialty equipment only.

11. Mr. Razo had no signed agreement with No Exit.

12. Mr. Razo brought all of his own equipment to the set. Along with his partner Joe Datri, he was the only person allowed to drive and operate the equipment.

13. Black Label Media had final approval of all budgeted expenses.

14. Trevor Fulks was the Key Grip for the film, and he was in charge of set operations.

15. Mr. Razo had no knowledge of the shot sequence, and believed that he would have several hours that morning to prepare the equipment for transport and scout the route from the base camp to the location.

16. Dave Santos was the Best Boy on the production and reported directly to Mr. Fulks. He was assigned to escort Mr. Razo, who was driving the Raptor vehicle, and Mr. Datri up the hill to the set.

17. While Mr. Razo was driving the mobile crane unit up the mountain, Mr. Fulks was on the radio with the grips, including Mr. Santos, and was repeatedly asking for Mr. Razo's location and urging them to hurry because they were needed for the first shot of the day.

18. Mr. Santos and Mr. Razo then reached a fork in the road. The straight way up the hill looked like it was a continuation of the road Mr. Razo and Mr. Santos had been driving on, and there was no signage directing them to go toward the right as an alternate route.

19. Mr. Santos was not sure which way to go, so Mr. Santos asked Mr. Fulks for directions.

20. John Sneesby, a local grip familiar with location, recommended that Mr. Razo use the route to the right of the fork because it would be safer. The alternative route, which was straight ahead and a faster trek to the top, was a steep incline.

21. There was no signage, caution tape, or cones blocking off the steep part of the hill.

22. Emergency technicians were called to the scene, and Mr. Razo was extracted and airlifted to the University of New Mexico Hospital for treatment.

4. THE PARTIES' CONTESTED ISSUES OF FACT

Plaintiffs' Contested Issues of Fact

1. Mr. Razo understood that the specialty equipment was needed for a shoot scheduled on June 20, 2016, but understood that he would have time to prepare the equipment prior driving to the filming location on the mountain, as was the usual custom.

2. On June 20, 2016, Mr. Razo arrived at the base of Pajarito Mountain at approximately 5:20 a.m. for a 5:30 a.m. call time.
3. Chapman-Leonard provided Mr. Razo and Mr. Datri to work as specialized camera crane technicians for the film.
4. Even though most of the filming was to occur on mountainous terrain, the producers did not budget for or hire a safety coordinator.
5. On the morning of June 20, 2016, a change was made to the scheduling requiring that the camera crane was needed on set immediately. Mr. Razo was informed that the specialty equipment was needed for the first shot of the day, which was to take place at the top of Pajarito Peak.
6. Mr. Razo asked production personnel whether he could scout the route prior to driving the Raptor vehicle with the crane attached, but Mr. Fulks denied his request, claiming there was not enough time in the production schedule.
7. No Exit had the responsibility for scouting the route on the location.
8. Defendants did not place any cones, flags, signs, or other markings on the roads up the mountain,
9. Mr. Fulks told Mr. Sneesby to get off the radio, and demanded that Mr. Razo take the steep, shorter route because they needed to hurry.
10. When Mr. Razo drove up the steeper terrain as directed by production, the Raptor lost traction and began to flip. He aborted the vehicle and started to climb out of the way when it toppled, trapping him.
11. Mr. Razo survived but suffered extensive and permanent injuries, including spinal
12. The producers never reported the incident to OSHA.

13. Due to being crushed beneath the crane, Mr. Razo suffered a crushed pelvis, nerve damage, multiple fractures in his spine, including his neck, and a ruptured spleen. He had emergency surgery on his pelvis and sacrum.

14. Since the incident Mr. Razo has had six surgeries, and will require additional surgeries on his spine and shoulder. In addition to broken bones, Mr. Razo suffered severe nerve damage in the spinal cord, nerve roots and brachial plexus. As a result, he has pain, dysfunction, loss of strength and is getting progressively worse.

15. Mr. Razo is permanently disabled and has undergone both physical and psychological therapy.

16. The emotional toll on his family, including Mr. Razo's wife, Susan Weinmuller, has been devastating. Mr. Razo's wife, Plaintiff Susan Weinmuller, has suffered a loss of consortium as a result of the incident.

Defendants' Contested Issues of Fact

1. On the date of his injuries, Mr. Razo was an employee of No Exit Film, LLC because directorial personnel could supervise and control him in the operation of the Raptor as it supported filming on the production of "Only the Brave."

2. Mr. Razo was an employee of No Exit Film, LLC because it had the right to terminate him from "Only the Brave" at any time after he appeared for work on June 20, 2016.

3. Mr. Razo was also an employee of No Exit Film, LLC because it paid his wages through payroll vendor Cast & Crew Payroll Services.

4. Mr. Razo did not obtain pictures of the terrain or a map of Pajarito from Mr. Fulks prior to arriving at the base of Pajarito on June 20, 2016, so that he could assess whether tracks would be needed on the Raptor.

5. Mr. Razo did not call Mr. Fulks or Mr. Santos to gather details about the terrain at Pajarito during his drive from California to New Mexico so that the Raptor could be configured in a way to drive a long distance over mountainous terrain.

6. Mr. Razo and Mr. Datri placed weights on the Raptor along with other equipment prior to arriving at Pajarito on June 19, 2016.

7. Mr. Razo and Mr. Datri placed weights on the Hydrascope prior to going to Pajarito on June 19, 2016.

8. The maximum gross vehicle weight rating of the Raptor was 4500 pounds and at the time of the accident it weighted approximately 5600 pounds.

9. The Hydrascope (crane arm) was mounted to the Raptor (base), but it was not secured prior to Mr. Razo and Mr. Datri attempting to drive up to the set location on June 20, 2016.

10. June 20, 2016 was not intended to be a day for Mr. Razo to spend preparing the Raptor to be used at Pajarito.

11. Weeks prior to June 20, 2016, Defendant No Exit Film, LLC conducted a “tech scout” which involved a meeting of all Department heads at each set location involved in shooting the film so that logistical and filmographic issues could be discussed.

12. The “tech scout” involved the set location near where the accident occurred on June 20, 2016, and the tech scout included attendance by Mr. Santos and Mr. Fulks.

13. The Location Department was responsible for planning the route for equipment and personnel to get to set locations and marking the route for equipment and personnel to get to set locations.

14. Mr. Santos arrived at the top of Pajarito on the morning of June 20, 2016, with other members of the Grip Department, including Trevor Fulks, Paul Willis, and John Sneesby after being driven there by members of the Transportation Department.

15. The Grip Department personnel and other members of the production were driven to the top of Pajarito on June 20 by members of the Transportation Department using trucks.

16. The steep hill where Plaintiff Razo's accident occurred was not driven up by the Transportation Department on the morning of June 20 as that Department transported personnel and equipment to the set location.

17. Mr. Santos went down to bring Mr. Razo and the Raptor up to the set location after being told to do so by Trevor Fulks.

18. Mr. Fulks, along with other members of the Grip Department, determined that Mr. Santos should not bring the Specialty Equipment up the steep hill where the accident occurred.

19. Mr. Santos arrived down at the Pajarito parking lot and began to escort Mr. Razo and Mr. Datri from the parking lot up via a snow cat road to the base of the hill where the accident occurred.

20. The route to the set location up to the steep hill was marked by the Locations Department.

21. The steep hill where Mr. Razo's accident occurred is rocky, rutted, and so steep that an individual walking up it is likely to slip and fall.

22. The route to the set location where Mr. Razo was being led by Mr. Datri was commonly known to personnel working on "Only the Brave" the morning of June 20, 2016.

23. Mr. Razo drove the Raptor over bumpy terrain prior to reaching the base of hill which required Mr. Datri to get out of the Specialty Equipment and hold the Hydrascope mechanism steady.

24. Mr. Razo arrived at the base of the steep hill and determined that he could climb it with Specialty Equipment.

25. Mr. Razo and Mr. Datri were the only individuals that could move the Raptor on June 20 as they were at the base of the steep hill.

26. At the time of the subject incident, Mr. Razo was a member of two separate unions pertaining to the operation of cameras and specialized equipment in the movie industry.

27. As a union member, Mr. Razo had the right to refuse to drive the Raptor up the steep hill if he believed that doing so would place him at the risk of suffering physical injury.

28. On June 20, 2016, Mr. Razo had the responsibility to make decisions in operating the Raptor in order to assure the safety of himself, Mr. Datri, and Mr. Santos.

29. At no time did Mr. Razo refuse, or otherwise indicate his opposition to driving the Raptor up the steep hill where the accident occurred.

30. The cause for Mr. Razo's accident was entirely user error given that Mr. Datri did not observe any mechanical failure prior to the Raptor losing traction and turning over on the rocky, rutted, and steep hill.

31. Mr. Razo did not walk to the top of the steep hill prior to attempting to drive up the hill with the Raptor.

32. Mr. Razo did not walk the less-steep route which also led to the filming location prior to attempting to traverse the steep hill with the Raptor.

33. Mr. Razo did not measure the steepness of the hill with an inclinometer or other device prior to attempting to drive up it with the Raptor.

34. Mr. Razo also did not remove the Hydrascope element from the Raptor and place it in a stake bed truck, or other vehicle prior to attempting to drive the steep hill.

35. Mr. Razo also did not secure the Hydrascope to the Raptor prior to attempting to drive it up the steep hill.

36. Mr. Razo did not remove any of the weights mounted on the Raptor and place them in a separate truck prior to attempting to drive up the steep hill.

37. Mr. Razo did not request the assistance of a separate truck or ATV to pull or tie onto as assistance for the Raptor as it attempted to drive up the steep hill.

38. Mr. Razo advertises and maintains a business serving the film industry and for which he currently works as a consultant and camera repairman.

39. Mr. Razo can work and earn a living, both now and in the future as a consultant to the movie industry by applying his background and experience to the use, design and operation of specialized equipment manufactured by Chapman-Leonard, including the Raptor.

40. Mr. Razo can also work now, and in the future repairing camera equipment being used by movie industry professionals.

41. The hill where Mr. Razo's accident occurred did not need to be marked as a dangerous route because it is obvious to any reasonable person that it is plainly too steep, rocky and rutted-out for motor vehicles to safely drive up its slope.

42. The hill where Mr. Razo's accident occurred did not need to be marked for it to be reasonably known to him that it was too steep, rocky, and rutted out for the Raptor to be safely driven up.

43. Black Label Media, Inc. and No Exit Film, LLC are separate business entities that did not share employees or financial resources in the shooting of “Only the Brave.”

5. CONTESTED ISSUES OF LAW

Plaintiffs’ Contested Legal Assertions:

1. Black Label Media owed Plaintiffs a duty of care to ensure a safe environment for Mr. Razo, which included budgeting for and hiring a safety coordinator, and breached that duty of care by failing to take reasonable precautions to ensure Mr. Razo’s safety.

2. Black Label Media and No Exit owed Plaintiffs a duty of care to ensure a safe environment for Mr. Razo, which included scouting a route from the base camp to the filming location at the top of the mountain that would accommodate the Raptor vehicle with mobile crane unit that Mr. Razo was operating; providing adequate markings and designations on the roads and trails for Mr. Razo to follow; allowing sufficient time for Mr. Razo to scout the route prepare the equipment for transport, and navigate his vehicle up the mountain; ensuring that the Key Grip and First Assistant Director knew the safest route up the mountain and would communicate the appropriate directions to Mr. Razo; and ensuring that Mr. Razo’s escort knew and took the appropriate, safe route to the set.

3. Black Label Media and No Exit breached their duty of care by failing to take reasonable precautions to ensure Mr. Razo’s safety, which was a direct cause of Mr. Razo’s injuries and Plaintiffs’ damages.

4. Defendants’ negligence caused Mr. Razo significant past and future damages, including medical expenses, lost wages and lost earning capacity, pain and suffering, emotional distress, disfigurement and loss of enjoyment of life.

5. Defendants' negligence caused Ms. Weinmuller to suffer damages, including a loss of consortium damages and emotional distress damages.

6. Mr. Razo was not the employee of Black Label Media or No Exit at the time of the incident.

9. Mr. Razo was not the special employee of Black Label Media or No Exit at the time of the incident.

10. Black Label Media and No Exit engaged in conduct warranting punitive damages because of their wanton and reckless disregard of safety concerns for Mr. Razo.

11. The conduct of the agents and employees of Defendants taken as a whole, demonstrates a reckless disregard of Mr. Razo's health and safety for which punitive damages may be awarded.

Defendants' Contested Legal Assertions:

1. Defendants breached no duty owed to Mr. Razo in the context of his claims in this case.

2. Further, no Defendant owed Mr. Razo a duty to permit him time to scout the route to the set location near where the subject accident occurred.

3. Whether Defendants owed Mr. Razo a duty to permit him to scout the route to the set location to decide whether tracks were needed for the operation of the Raptor at Pajarito.

4. Whether Defendants owed Mr. Razo a duty to determine ahead of time the route to the set location for the Raptor he was operating at the time of the accident.

5. Whether Defendant No Exit Film, LLC breached a duty owed to Plaintiff James Razo when Trevor Fulks told him to go up the steep hill.

6. Whether Defendants No Exit Film, LLC and Black Label Media owed Plaintiff James Razo a duty to hire a safety coordinator to plan the route to the set location prior to June 20, 2016.

7. Whether Defendants No Exit Film, LLC and Black Label Media owed Plaintiff James Razo a duty to hire a safety coordinator to be present at Pajarito on June 20, 2016, to coordinate the movement of the Raptor to the set location.

8. Whether Defendant No Exit Film, LLC breached a duty owed to Plaintiff James Razo because David Santos did not know the alternate route around the steep hill to the set location.

9. Whether Defendants breached any duty owed to Plaintiffs.

10. Whether any action taken by Defendants was the proximate cause for Plaintiffs' injuries and damages.

11. Whether Plaintiff James Razo is entirely responsible for the accident given that the Raptor was not properly equipped to drive in steep mountainous terrain.

12. Whether Plaintiff James Razo bears liability for his injuries insofar as he failed to gather information about Pajarito and the location where the Raptor would be needed on June 20, 2016.

13. Whether Plaintiff James Razo is at fault for his own injuries and damages because he, and he alone, decided to drive the Raptor up the steep hill on June 20.

14. The amount of Plaintiffs' damages and whether Plaintiff is entitled to recover any damages from Defendants in this case.

15. Whether any third party, whether named in suit or not, is at fault for causing Mr. Razo's injuries and damages.

16. Whether any acts or omissions by Defendants were willful, wanton, or reckless, and thereby justify an award of punitive damages under New Mexico law.

17. Whether any acts or omission by Pajarito was willful, wanton, or reckless, thereby justifying an award of punitive damages under New Mexico law.

18. Whether Defendant No Exit Film, LLC was negligent in the hiring, training, or supervision of any employee during the production of “Only the Brave” relative to route planning and the movement of the Specialty Equipment to the set location at the top of Pajarito.

6. EXHIBITS

Plaintiffs’ Exhibits:

1. 06-18-2016 Email from James Razo to Tammy Allen, Bates Nos HLF-JR-000033 – 000034
2. Work Order, Rental Agreement, Bates Nos HLF-JR-063953 – 063961
3. Purchase Order, 6/8/16, for rental of hydrascope/raptor/G3, Bates No. NoExit000029
4. Detailed Estimate of Charges, Bates No. NoExit000030 – 000032
5. Deal Memo, Bates No. NoExit000010
6. Black Label Media Production Manual. Bates Nos. No Exit000086 – 000101
7. NoExit/Granite Mountain Budget
8. Location Agreement, Bates Nos. NoExit000041-000043
9. Camera crew pay scale, Bates Nos. NoExit000163 – 000168
10. 06-17-2016 Email from NoExit, Bates Nos. HLF-JR-000002 – 000032
11. Granite Mountain Tech Scout Plan, Bates Nos. NoExit000353-000357
12. NoExit/Granite Mountain “Call Sheets,” Bates Nos. NoExit000035 – 000038
13. NoExit/Granite Mountain “Call Sheets” Bates Nos. NoExit000351 – 000352, Ex. 1 Bruce Franklin Depo.
14. NoExit/Granite Mountain “Call Sheets” Bates Nos. NoExit000362 – 000371, Ex. 4 Bruce Franklin Depo.
15. Granite Mountain Crew List, Bates Nos. HLF-JR-000064 – 000084
16. Map Summary of incident and filming location. Bates No. NoExit000250 – 000253
17. Brian Henington’s Incident Reporting and Investigation Form, Bates Nos. NoExit000001 – 000003
18. Joe R. Datri – Accident Investigation Witness Statement, Bates No. NoExit000004
19. Route Map, Exhibit 4 to Brian Henington Depo.
20. Brian Henington’s Photo Summary – Crane Car (Hydrascope) Accident – June 20, 2016 – Bates Nos. NoExit000005 – 000009

21. Brian Henington's photos of incident site. Bates No. NoExit000208 – 000249
22. David Torres scene video and drone photos, video 3-D scan
23. Images of James Razo's injuries
24. Jeffrey A. Berman, M.D. Agreed Medical Evaluation of James Razo, Bates Nos. HLF-JR-000102 – 000198
25. Dawn Cook, -Life Care Plan for Mr. James Razo, - Medical Expense Review report
26. M. Brian McDonald, Ph.D. – 01-26-2022 – Evaluation of James Razo
27. M. Brian McDonald, Ph.D. – 07-18-2022 Supplement Evaluation of James Razo
28. Medical Expense Summary Report Pursuant to Rule 1006 – will include summary and supporting records
29. Medical Records Summary Report Pursuant to Rule 1006 – will include summary and select records
30. Medical Records of James Razo:

UNMH
 Joseph Terrazino, MD
 Cedar Sinai Hospital
 Northridge Hospital
 Henry Mayo Newhall Hospital
 Valencia Neurology Medical Group
 Rex Baumgartner, DDS
 Robert Tomaszewski, Ph.D.
 California Psychological Services, Inc.

31. 9/20/16 Letter to Chapman/Leonard, Bates Nos. NoExit000254
32. Black Label Media – Web Page – <https://blacklabel-media.com>
33. James and Susan Razo Family Photos
34. Demonstrative exhibits including illustrative medical exhibits, timelines, photographs and blow-ups of certain exhibits
35. Rebuttal Exhibits

Defendants' Exhibits:

- D-1 No Exit LLC – Granite Mountain – Incident Reporting and Investigation Form by Brian G. Henington (NoExit000001-000003)
- D-2 Accident Investigation Witness Statement by Joe R. Datri (NoExit000004)
- D-3 Photo Summary – Crane Car (Hydrascrope) Accident, June 20, 2016, Pajarito Ski Basin, Movie: Granite Mountain, by Brian Henington-Safety Officer (6/21/16) (NoExit000005-000009)
- D-4 Deal Memo (James Razo) (NoExit000010)
- D-5 Cast & Crew Payroll Services Agreement, Contract No. 591801 (NoExit000012-000020)
- D-6 Map to Pajarito Mountain Ski Area (NoExit000040)

- D-7 Exhibit 4 to deposition of Brian Henington (1pg)
- D-8 Photographs (NoExit000208-000249)
- D-9 Photos with Explanation – Map Summary (NoExit000250-000253)
- D-10 Granite Mountain Call Sheet (NoExit000351-000352)
- D-11 Granite Mountain Tech Scout Documents (NoExit000353-000357)
- D-12 Curriculum Vitae of Bill Witthans
- D-13 Curriculum Vitae of Gray Beauchamp
- D-14 Curriculum Vitae of Paul Legant, MD
- D-15 Curriculum Vitae of Phillip T. Ganderton, PhD
- D-16 Curriculum Vitae of Elizabeth Davis, PhD
- D-17 Defendants’ Expert Witness Disclosure (June 3, 2022)
- D-18 Location Agreement (NoExit000041-000043)
- D-19 Razo-Beauchamp File 8-30-22
- D-20 Payroll Register for James Razo (Exhibit 3 to Pamela Brann Deposition)
- D-21 Detailed Estimate of Charges—Chapman Leonard (NoExit000030-000032)
- D-22 Cast & Crew Workmen’s Compensation Investigation of Incident (NoExit000295-000350)
- D-23 Purchase Order—Raptor and Hydrascope from Chapman Leonard (NoExit000029)
- D-24 Raptor Mobile Base User Guide (NoExit000256-000276)
- D-25 Prehospital Care Report—Classic Air Medical (HLF-JR-006089-006091)
- D-26 Zurich Letter October 4, 2016 (HLF_JR-060260-060261)
- D-27 6-18-2018 Emails between Mr. Razo and Tammy Allen (HLF – JR – 000002-000032; and HLF – JR - 000033-000034)
- D-28 Location Release as of July 1, 2016 between No Exit Movie, LLC and Pajarito

7. MOTIONS IN LIMINE

Plaintiffs: All motions in limine have been filed and ruled on by the Court.

Defendants: All motions in limine have been filed and ruled on by the Court.

8. DEPOSITION DESIGNATIONS

The parties have submitted designations.

9. DISCOVERY

Discovery is complete.

10. WITNESSES

Plaintiffs will call:

James Razo
Susan Weinmuller

Joe Datri
David Santos
John Sneesby
Paul “Crow” Willis
Joseph Terrazzino, M.D.
Brad Avrit, P.E. CXL T
Dawn Cook, RN, CNLCP, CLCP
M. Brian McDonald, Ph.D.

Plaintiffs may call:

Brian Henington
Ellen Schwartz
Bruce Franklin
Mary Smith Heussenstamm
EMS—Los Alamos County Fire Department
Rex Baumgartner, D.D.S.
Rashin D’Angelo, Ph.D.
Nadiv Samimi, MD
Charles N. Moon, MD
Thomas Razo
Derek Weinmuller
Dari Razo
Adrian Santa Cruz
Dan Loveless
Rick Mayelian
Fred Mayelian
David Torres
Steve Wolf

Any witnesses timely identified by Defendants to which Plaintiffs have no objection
Corporate representatives of Black Label Media
Corporate representatives of No Exit
Any medical record and medical bill custodian as needed, via video
Rebuttal witnesses as needed, unknown at this time
Any other witnesses necessary to establish the authenticity of records, via video

Defendants will call:

1. Brian Henington
2. Ellen Schwartz
3. Bruce Franklin
4. Bill Witthans
5. Gray Beauchamp
6. Paul Legant
7. Philip Ganderton
8. Elizabeth Davis

9. Pamela Brann

Defendants may call:

1. Joe Datri
2. David Santos
3. Chuck Huenergardt
4. Any witnesses identified by Plaintiffs to which Defendants have no objection
5. Rebuttal witnesses as needed
6. Any other witnesses necessary.

11. INSTRUCTIONS

Jury instructions shall be filed and presented to the Court in three packets. One packet shall consist of those instructions that are stipulated to by both parties. A second packet shall consist of the Plaintiffs' additional proposed instructions. The third packet shall consist of the Defendants' additional proposed instructions.

Each jury instruction submitted shall indicate the UJI source for such instruction. In connection with any modification(s) sought from UJI language, counsel shall indicate in bold typeface on each such instruction any and all proposed modification(s) from New Mexico uniform jury instructions. In addition, the legal authority for any proposed modification shall be set forth at the conclusion of each proposed jury instruction.

All proposed jury instructions shall be filed on or before seven days before Docket Call.

12. AMENDMENTS TO PLEADINGS

There are no requests to amend pleadings.

13. MODIFICATIONS AND INTERPRETATION

All pleadings are deemed merged herein and this Order shall control the course of trial and may not be modified except by court order upon agreement of the parties to prevent manifest injustice.

14. TRIAL SETTING

This matter is set for jury selection on December 5, 2022 and trial for December 19 – 23, 2022.


15. MEMORANDUM

Estimated length of trial is five (5) days.

16. OBJECTIONS

The parties have both asserted objections to exhibits and deposition designations in separate pleadings, such objections are incorporated herein.

DATED: 12/14/22



MATTHEW J. WILSON
DISTRICT COURT JUDGE, DIVISION 9

Approved as to Form:

HUNT LAW FIRM

By: /s/ Lee R. Hunt

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