

1 will give you final instructions on the law. The
2 lawyers will argue the case, and then you will retire
3 to the jury room to arrive at a verdict.

4 The plaintiffs' attorney will now make an
5 opening statement.

6 Mr. Hunt, you may proceed.

7 MR. HUNT: Thank you, Your Honor.

8 Good morning.

9 THE JURY: Good morning.

10 MR. HUNT: I'm so glad that we finally
11 get to tell you the real story of what happened in
12 this case almost six years ago.

13 On behalf of Mr. Razo and his family,
14 we're glad that we finally get to present this to
15 members of this community. And it really starts with
16 some basic rules.

17 These basic rules apply in every
18 worksite, whether it's a construction site, whether
19 it's a movie set, whether it's a factory. One is
20 never put people in danger to save time. And the
21 second one is -- and this is if you fail to plan,
22 then you plan to fail.

23 Now, let me tell you what happened. I
24 want to take you back to June 20th, 2016. It's 5:30
25 in the morning. It's a Monday. It's actually the

1 Monday after Father's Day. And we're in the parking
2 lot of a Los Alamos ski mountain, Pajarito Mountain.
3 And the parking lot is buzzing.

4 There's -- it's filled with trucks.
5 You've all probably driven by places, whether it's
6 the St. John's Methodist Church or other places,
7 where there's movie set trucks everywhere. There's
8 the lunch box truck; there's all the actors' trucks.
9 At 5:30 in the morning, that's when everybody had to
10 get there that day. And it's moving; it's happening.
11 And they have a meeting at 5:30, and then after that,
12 people start heading up the mountain.

13 And one of the first vans that goes up
14 the mountain takes the director of photography, and
15 it takes some of his assistants up there. And they
16 get to the top. It's about a 20- to 30-minute drive
17 to get to the top. And when they get there, he kind
18 of looks around. It's a clear morning. The clouds
19 are about right. And he makes a decision that
20 basically changes a whole bunch of people's day in a
21 significant way.

22 He makes the decision -- the director of
23 photography -- you know what? I want the camera
24 crane up here for the first shot of the day. He may
25 not know what all that means, but he knows that's a

1 change. So his right-hand man, whose job it is is to
2 kind of carry out his wishes, gets on the radio.
3 There's a whole bunch of other people down -- at the
4 same time that he's at the top of the mountain,
5 they're down at the bottom still. And he gets on the
6 radio and says, "Dave, we want the -- Claudio wants
7 the camera crane. Get the camera crane up here.
8 It's ready for first shot."

9 So Dave walks over to the operator, who's
10 still in the parking lot. He's getting the equipment
11 out of the trailer. He's taking his time because he
12 had no information before he got there that morning
13 to suggest that they were first up at the top of the
14 mountain.

15 So the operator says to the assistant,
16 "You know, I need some time for this. I don't know
17 where we're going. Do I get to scout the route?
18 It's important for us to see the route. We want to
19 scout it."

20 So Dave gets back on the radio; radios up
21 to the top of the mountain. He's told no, there's no
22 time. You need to get up here. First shot is 7:30.
23 So he goes back to the operator and said, "We don't
24 have time to scout." He said, "Well, there was some
25 other equipment that came with it. We didn't know

1 which one we were going to use."

2 He says, "Well, we're told we have to be
3 ready for first shot. Be ready to -- be camera-ready
4 when you go. And just follow me. There's no map.
5 There's nothing like that. Just follow me."

6 So at that moment, everybody starts
7 moving. The operator does what he can to get ready,
8 because what he's told is be camera-ready. And they
9 start up the mountain. The guide is going ahead of
10 him in a different ATV. And it's a long ways up the
11 mountain. They're taking their time. It's a rocky,
12 rutted trail on a ski mountain. The radio cracks
13 over. "Where are you? Hurry up."

14 "We're on our way. We're doing the best
15 we can."

16 Every five minutes, on the radio, "Get up
17 here. We need you. Hurry up."

18 But they can only go so fast. The camera
19 crane is not equipped to ride quickly up mountain
20 roads. And they get to some switchbacks. And
21 there's two guys on the crane. One of them is the
22 operator; one of them is the assistant. He gets out,
23 kind of holds things, makes things are going sure,
24 makes sure things are okay, and they're making their
25 way up.

1 Every five minutes, "Where are you?
2 Hurry up."

3 They get around kind of a last bend, and
4 they're headed up towards the top. They've made
5 it -- they're right there.

6 The -- Trevor Fulks is the assistant
7 guy's name. Trevor's on the radio. "Hurry up. Get
8 up here."

9 And they get to this one part of the
10 mountain -- and you're going to get to see a whole
11 bunch about this -- and there's a fork in the road.
12 There's the road that goes straight, the one they've
13 been on the whole time, and there's a fork off to the
14 right. And so the guide gets on there -- because the
15 guide's never been there. The guide had never driven
16 this route. So the guide says, "Which way do we go?"

17 Trevor's on the radio. "Hurry up. Go
18 the way I told you. Go straight. Get up the
19 mountain."

20 But there's a local there on these --
21 when Hollywood comes to New Mexico, they have to hire
22 a certain number of local folks. And there's good
23 reason for that. Not just jobs, but also because
24 they might know something that everybody ought to
25 hear about. So one of the locals gets on the radio,

1 and he says, "Hey, hold on. Hold on. Tell them that
2 way to the right's safer. Tell them that way to the
3 right's a better way to go."

4 Trevor gets back on the radio. What he
5 says is, "Get off my radio. You go the way I told
6 you. You get up here now."

7 So Dave starts leading him on that way.
8 He leads him on the only way that he's only been
9 told. Far all he knows, that route to the right goes
10 back down to the bottom.

11 So they start up the hill. And it's --
12 it's a significant hill. It's on the ski mountain.
13 There's been some other parts of the hill that are
14 also pretty steep, but they've made it up. This
15 one's probably equal to, if not a little bit steeper
16 than the other sections. And they get almost to the
17 top. The driver is going inch by inch, inch by inch.

18 And they get almost to the top. And the
19 front wheel starts to spin just a little bit because
20 there's some gravel and some loose rock up there.
21 And it starts to spin. And when it starts to spin,
22 it kind of rocks back a little bit. And when it
23 rocks back, it starts to tip over. And as it starts
24 to tip over, the driver on it starts yelling, "Get
25 out of the way, get out of the way." And he's doing

1 everything he can to get it going the right way. But
2 at some point, it's simply too far gone.

3 And he tries to get out of the way. And
4 as the crane comes tumbling over, the crane lands on
5 top of James Razo. And when it lands on top of him,
6 it pins him underneath the crane, it breaks his
7 pelvis in multiple places, internal injuries. He
8 knows it's bad immediately. Everybody starts moving.
9 Everybody starts jumping.

10 Now, the reason that we're here is
11 because all of this could have been avoided by
12 following the basics: Have a plan in place. Don't
13 put people under time pressure when you don't have
14 to.

15 So I want to talk to you about who
16 this -- who -- this is a picture of the crane after
17 it fell. Mr. Razo fell over towards the rocks. His
18 head was kind of pointed towards that big rock. The
19 crane arm was over his body.

20 This lawsuit is against two entities:
21 Black Label Media and No Exit Film. Black Label
22 Media is a Hollywood production company that's
23 produced movies like "La La Land," "12 Strong,"
24 "Sicario." I think there was a movie out very
25 recently, a Korean war movie about airplanes, but I

1 can't remember the name of it. And they produced a
2 movie called "No Exit."

3 When Black Label Media -- they're the
4 money in this operation. Make no mistake about it.
5 They financed the project. They 100 percent own No
6 Exit. They set up No Exit just for the purpose of
7 this movie. And once this movie is over, No Exit
8 kind of goes away.

9 So Black Label is the money. They're the
10 ones funding it. They make those decisions. During
11 the production, No Exit is basically the boots on the
12 ground. This was the movie, "Only the Brave." It's
13 a movie about 12 -- excuse me -- 20 firefighters from
14 Arizona. And some of you may have seen it. But
15 ultimately, in the movie, the 12 fire- -- 19 of the
16 20 firefighters get caught in a blaze, and they die.
17 And this was really the story about the people
18 that -- about that -- about that movie. And so they
19 decided Los Alamos was a good place to film that
20 movie.

21 No Exit, as we said, it's the same
22 address as Black Label. It's the same agents. It's
23 the same everything, except it's created for this
24 movie.

25 But what you're going to hear is not just

1 that these folks produce movies, but what they also
2 do is they -- they know that they have an obligation.
3 They have an obligation. When they come to New
4 Mexico -- and in this case, they came to New Mexico
5 with a promise that New Mexico pays them for being
6 here. You know, they spend money to produce the
7 film; New Mexico gives them a certain percentage of
8 it back.

9 And what they bring and promise is, when
10 you put people on the work set, that they're going
11 to -- that you're going to do some basic things. And
12 those basic things are preview or the scout the route
13 to make sure that you know the safest access to the
14 worksite. They knew, from the beginning, that the
15 base camp was at the bottom and filming on -- the
16 first day that they were on the mountain was at the
17 very top.

18 And they also knew that the crane
19 operator, in this case, Mr. Razo, he wasn't part of
20 the crew. He didn't work on the movie the whole
21 time. He came in for two or three or four days,
22 drove the crane, and then went home. He had no
23 knowledge of what had gone on before.

24 So the obligation -- and these movie
25 productions work with these kinds of cranes all the

1 time. Yes, he's the operator. He's the only one
2 that can drive it. But they know these cranes. They
3 source them, and they ask for them and, they invite
4 them on the set. They're with -- they have the
5 obligation to preview the route, find the safest
6 access. They had an obligation to designate a safe
7 route. Designating a safe route means that when you
8 get to a critical juncture, you make sure that people
9 know which way to go. You make sure that the people
10 that are on the radio, the people that are calling
11 the shots, they know the safe way. Communicate to
12 all the drivers. Not just some of them. Allow
13 adequate time and ultimately don't change the plans
14 without preparation.

15 So this is the camera crane. So it's
16 not -- you know, it's basically a side-by-side ATV.
17 I think it's a John Deere base. And there's a
18 rotating camera arm that goes on top of that. The
19 camera arm extends way out so you can get good aerial
20 pictures of it. But it's an ATV base.

21 And what it's designed to do is certainly
22 drive on roads, drive off road. There's different
23 kinds of things -- ways you could set it up. But the
24 drivers have to know where they're going. The
25 drivers have to be able to trust that they've been

1 informed of the correct routes.

2 So let's talk about the route real
3 quickly. This is at the -- if you look at this one
4 over here, that picture there is the bottom. So
5 that's base camp where that little red dot is on
6 here. Down there is base camp. Up here is where
7 they were filming that morning. And it's about a
8 two-mile road that gains a little over 1500 feet,
9 something like that, on this route. And what is
10 almost unquestioned and ultimately what you're going
11 to get to decide in this case, one of the most
12 critical issues for this jury is that whose
13 obligation is it on a worksite to designate the route
14 to the worksite? Whose job is it to make sure that
15 people know how to get from base to where they're
16 working? Is it the people that had been there for
17 over two months that controlled the set, that
18 controlled the routes, that had scouted the routes;
19 meaning production? Or is it up to a driver who had
20 been there for less than an hour?

21 This is the juncture that I was talking
22 about where the folks are on the radio saying, "Okay.
23 Tell us which way to go." What's -- what will be
24 un- -- we think what will be unquestioned is that the
25 route over here -- so this is -- if you go straight,

1 that's what the crane operator was told to do. The
2 route to the right goes around this yellow marking.
3 We think that the testimony will be pretty clear that
4 if Mr. Razo had been directed to go around to the
5 right, this would not have happened. The route to
6 the right is less steep, it's more gradual, and
7 ultimately, it leads to the same place.

8 So the red star on this one is where the
9 incident happened. The blue line is the alternate
10 route, and the yellow box is where they were filming.
11 So this entire thing could have been avoided simply
12 by production doing their job, putting signs up at
13 the intersection, directing people where they needed
14 to go. But because they hadn't done the scouting on
15 their end of it -- meaning, they hadn't done the
16 designating of the safe route for the crane -- when
17 they got to the juncture, nobody that was involved
18 with the crane knew where to go.

19 Dave Santos, the guide, had never been
20 there. The guide had never driven this route. The
21 guide didn't know that the way to the right was the
22 safer way to go.

23 Trevor Fulks, the one that's on the
24 radio, didn't know. They had ridden up in a van
25 earlier that morning. And when they rode up in the

1 van, they went straight.

2 But critically -- and I want to -- let's
3 talk about timing for just a second, timing in this
4 way. How much time was there for No Exit and Black
5 Label Media?

6 May 2nd is when the director of
7 photography starts to get paid. So he gets paid
8 about eight weeks or so before he has to be on set to
9 make sure that there's things to do to get ready.
10 And I have no doubt that there's a lot of prep work
11 that needs to happen. But part of that prep work
12 needed also to be focused on making sure that people
13 that came to set, other than the actual crew, that
14 they were also taken care of.

15 On May 23rd, there was a scouting trip.
16 On that scouting trip, the director of photography,
17 the head of the grip department, which is really the
18 department that's involved in making sure the crane
19 gets from point A to point B, Trevor Fulks was the
20 head guy. We've talked about him. He's the guy on
21 the radio. He came out on the director's scouting
22 trip, May 23rd. They spent two hours on Los Alamos
23 on the mountain. During those two hours, they had an
24 opportunity to look at the different locations where
25 they're going to film. They had the opportunity to

1 go to the top of the mountain. They had the
2 opportunity to look around and make sure they knew
3 the routes.

4 James Razo wasn't invited on that
5 scouting trip. Dave -- Dave Santos, the guide that
6 was with him, was -- I don't whether -- actually, I
7 don't know whether he was on the scouting trip or
8 not; I shouldn't say he wasn't. But what I know is,
9 during that scouting trip, they had the opportunity
10 and the time to make sure that things were set up in
11 a safe way.

12 On June 8th, there was an initial
13 proposal made. Chapman/Leonard is the company that
14 rents the crane. They basically manufacture the
15 crane. They -- they rent the crane. And part of
16 what they do when they rent the crane is they say,
17 "We'll let you use our crane, but you also have to
18 rent our driver. You don't get our crane without our
19 driver."

20 So Mr. Razo worked for Chapman/Leonard a
21 lot of the time. And then when the equipment was
22 rented to a film company, he would go with the
23 equipment. So they put a bid out on June 8th,
24 Chapman/Leonard did. Somewhere between June 12th and
25 June 15th, there was a phone call between Trevor

1 Fulks, the head grip, and Mr. Razo. And during that
2 phone call, they talked about the job. And Mr. Razo
3 talked about the importance of being able to see the
4 route, the importance of being able to scout it.

5 They also talked about tracks. These
6 equipments can be built with the rubber tires that
7 you've seen, or they can be set up with tank treads
8 in case it's muddy, it's sandy, or they need better
9 traction. So they basically came to the conclusion
10 that we might need those, we might not, but bring
11 them. And then, once you get here, you'll have a
12 chance to look around, and we can make a decision on
13 whether we need the tracks or not.

14 The lease was ultimately signed June 17.
15 June 18, James loads up the trailer, puts the
16 equipment in the trailer, drives out to New Mexico
17 with another partner of his because they had to trade
18 off on who was driving.

19 And then, June 19, Mr. Razo gets to -- on
20 the 18th, he's in Albuquerque. On the 19th, he
21 spends some time in Albuquerque getting the equipment
22 ready. And then he drives up to Los Alamos and drops
23 the equipment off.

24 On the 19th when he drops the equipment
25 off, it's Father's Day. The set's closed. They're

1 not filming. He doesn't have the option. We talked
2 to the assistant director recently and took his trial
3 testimony. Mr. Razo doesn't have the option when he
4 goes up on his own to say, "Well, maybe can I go look
5 around today?" The set's closed. There's guards
6 there. He has to have somebody with him.

7 And the production made the decision,
8 Black Label and No Exit made the decision they
9 weren't going to give him a prep day. They weren't
10 going to give him a day early to come see the place,
11 a day early when there's no filming. They made the
12 decision not to do that for Mr. Razo.

13 He gets there at 5:30 that morning, and
14 then you've heard the story of what happened that
15 morning.

16 What did Black Label and No Exit do, and
17 why are we here saying that their conduct was
18 unreasonable? No preview or scouting. The safe
19 route was not marked. Unequivocally, not only was
20 the safe route marked, there might have been some
21 flags kind of in the parking lot leading up to the
22 beginning of the mountain, but once they get on the
23 mountain, there's no flags. Unquestioned, there were
24 no flags at this intersection. Nothing marking off
25 "don't go that way." Nothing marking off "go towards

1 the right." No time for a specialty equipment. No
2 scout.

3 As soon as Claudio Miranda, the director
4 of photography, made the decision "I want the crane
5 first shot," everybody started moving. And the
6 safety and the time it was going to be there all of a
7 sudden was taken away. And it's really -- this is
8 just a photograph of Mr. Miranda. He was the
9 director of photography. He was -- I mean, he --
10 he's a big name in Hollywood. He's won an Academy
11 Award. He ultimately went on to be a director of
12 photography on "Top Gun: Maverick." He was
13 obviously on this film.

14 So when Claudio Miranda changes the
15 plans, when Claudio Miranda makes the decision "I
16 want the camera crane first up," everybody listens.
17 Everybody does whatever it takes to get it done. And
18 if you'll look at this picture right here -- my
19 little pointer doesn't really work very good -- over
20 here, that person right there, this is actually a
21 photograph from "Only the Brave." The man right
22 beside Trevor -- excuse me -- Claudio Miranda was
23 Trevor Fulks. He was the one that I told you was
24 basically his right-hand man. When Claudio Miranda
25 said, "Get me the crane," Trevor Fulks is the one on

1 the radio. Trevor Fulks's job was to get these kinds
2 of things done.

3 Now, even knowing everything that we
4 know, meaning that there had been no plans, that they
5 hadn't marked the route, all the stuff we have talked
6 about, there was still an opportunity to avoid this.
7 There was still the opportunity to say time out. And
8 that opportunity was there because John Sneesby was
9 the local that worked that day. He worked on movie
10 sets often; he was there that day. He had skied at
11 Los Alamos. I think he had ridden mountain bikes at
12 Los Alamos. He knew that there was a better way to
13 go than the straight route. So he did everything he
14 could.

15 (Audio played as follows:

16 "I came on the radio and I was trying to
17 tell David Santos, our best boy, that there was a
18 safer route. And in the midst of my telling David
19 there was a safer route, Trevor came on the radio and
20 said, 'Get off my radio. You go the route I told you
21 to go.'"

22 (End of audio.)

23 MR. HUNT: And I don't know if you could
24 hear that real well, but here's what happened. When
25 the local's telling you not just there's a better

1 way, but there's a safer way, you've got to listen.
2 And Trevor Fulks refused. Not only refused but said,
3 "Get off my radio."

4 And there was another person that heard
5 the same thing. And you'll get to hear from him.
6 He's going to testify via deposition, Paul Willis.
7 Paul Willis also is on the radio. The radio that
8 they were on was -- it was a grip channel. So there
9 was a whole bunch of people on the radio. Not the
10 whole set but a lot of folks.

11 And Paul Willis was there on the radio.
12 And so we asked him, "What did Trevor say when John
13 said that? Meaning when John said, 'Hey, hold on.
14 There's a safer way'?"

15 He said, "I don't remember exactly, but I
16 remember the nature of it being like 'I don't give a
17 damn,' you know. 'Just get him up here now.' You
18 know, it was very gruff. Sort of like -- 'I don't
19 really care, get him up that hill.'"

20 When Trevor Fulks, the person who was in
21 charge of the grip department, the head guy, ignored
22 that information, when he ignored -- first of all,
23 when he failed to plan and then, in the moment of
24 truth, when there still was an out and ignored that,
25 we certainly believe that that conduct was negligent.

1 That conduct was unreasonable.

2 James Razo never should have been on that
3 part of the mountain at that day under that pressure.
4 Ultimately, that is going to be what you, as a jury,
5 get to decide. Do we, as a jury, believe that? And
6 does the evidence show that planning matters, that
7 safety matters? And that, even when you're in a rush
8 because some Hollywood director is saying, "I want it
9 now," you've got to take time and don't put people in
10 dangerous situations.

11 Now, I often think sometimes you can kind
12 of tell somebody's conduct by what happens
13 immediately after something like this happens. After
14 this happened, obviously James Razo is in bad shape.
15 Most of the -- a lot of the crew descends on him.
16 They're trying to hold the machine up. They are
17 trying to basically -- I think they ultimately
18 decided the safest thing to do was try to dig him out
19 from under it. And they're sitting there doing that,
20 quite honestly trying to save James's life. Claudio
21 Miranda comes back on the radio, and his question is,
22 "When can we get another crane up here?"

23 Is that the conduct of a company that's
24 caring, that has safety as a priority? Or is it
25 about getting the shot?

1 The second thing that happened was, when
2 somebody gets hurt on a worksite and it goes to a
3 hospitalization, there's some reporting that's
4 usually required. Right? OSHA. So we asked about
5 that. And what we learned was -- and you're going to
6 get to hear from Brad Avrit is a safety professional
7 who's going to say, in an incident like this, of
8 course OSHA reporting is required. The first
9 assistant director admitted that it was required.
10 But nobody reported this to OSHA. Nobody allowed the
11 investigation to take place. Nobody allowed it so
12 that these kinds of things don't happen. That's why
13 we're here.

14 And I want to mention one other thing.
15 You're going to get to see this. There was an
16 individual -- Brian Henington is his name. He's a
17 fire guy. He had worked on -- I think he worked at
18 CNM in their fire-prevention course or firefighting
19 course -- I'm not sure exactly -- but he was
20 basically an open-land firefighter. So they had him
21 there because it's a movie about fire. They needed
22 to make sure that that part of it was safe. And so
23 they did that. They had a fire professional.

24 But they didn't have a safety
25 professional in terms of an overall safety person.

1 And Brian Henington has already testified, "I wasn't
2 overall safety. I wasn't hired for the whole movie.
3 I just came in to make sure that fire was taken care
4 of."

5 Well, he kind of snapped to his instincts
6 after this happened, and what he did was he looked at
7 it, and he did a little -- it's really hard to see,
8 but I think this will be in your evidence. He said,
9 "What should be done to prevent recurrence? Access
10 to portion of road where accident occurred should be
11 off limits to any activity that is not considered an
12 emergency."

13 That should have been known before this
14 ever happened.

15 Second one, "Road should be scouted prior
16 to driving a crane car." Mr. Razo asked more than
17 once for an opportunity to scout and was told no.
18 The grip department didn't scout, didn't know the
19 additional route.

20 And then, finally, "A safety discussion
21 on driving should be conducted by department heads."

22 All of this was not new information. All
23 of this was information that was there to be known by
24 the people at No Exit and Black Label Media.

25 Now, ultimately you're going to be asked

1 a couple of questions in this case. And we talked a
2 little about this in jury selection. One of the
3 things we had to make sure of before we came in front
4 of you was, well, okay, but Mr. Razo was driving the
5 camera crane. So is it really just his fault?

6 So we had to look at that, and we had to
7 ask those hard questions. And so the questions
8 really -- and you're ultimately going to get to
9 decide this. You're ultimately going to get to
10 decide. At the moment of truth -- when Mr. Razo was
11 put under pressure, was put on a part of a mountain
12 that he never should have been done, was denied
13 access to scouting, was denied access to the
14 alternate route -- well, he still could have said no.
15 And that's what you're going to get to hear. You're
16 going to get to hear that he could have held up the
17 entire production, that he was the professional, he
18 was the crane operator, all of which is true. He was
19 the crane operator, and he was the professional. And
20 you're going to get to hear about Mr. Razo, what kind
21 of professional he was, and you're going to get to
22 hear from him.

23 And what you're going to understand is,
24 that in that moment, when all of the power and the
25 time is with No Exit and Black Label, when they had

1 seven weeks to plan for this, at least seven weeks,
2 when they had multiple professionals whose job it was
3 to make sure how to do this, what Mr. Razo's going to
4 tell you -- and Joe Datri was his partner that was
5 with him that day -- they're going to say, "When we
6 come to a set, one, we have to rely on the set.
7 They're the professionals in setting the route.
8 They're the professionals that know how to get to the
9 set. We rely on them. We don't get to go there
10 beforehand. We don't get to go there and say, 'This
11 is how we want to go.' Sometimes they give us that
12 option. But this film, they didn't. So we relied on
13 their expertise. And when we relied on their
14 expertise, that included that they would give us
15 adequate time."

16 So when you're considering those issues
17 in this case, consider the amount of time that No
18 Exit and Black Label had compared to the amount of
19 time that Mr. Razo had and consider who's in power of
20 this set.

21 But there's a couple of other things, and
22 this is kind of something that we basically -- we put
23 together. And you'll get a chance to see that, and
24 we've already talked about a whole lot of this, which
25 is, at the fork in the road, all of the power was

1 with the production. Mr. Razo really didn't have any
2 at that moment. Yes, he could have said no, and he
3 could have suffered the consequences for doing that.

4 But there's a couple of other things on
5 that. You're going to hear about weights. You're
6 going to hear that the camera crane, there's weights
7 on it. You can see those weights here. They put
8 them on the boom so that, when it extends, it doesn't
9 flip over. And what you're going to learn is that
10 Mr. Razo and Joe Datri understood that they had to be
11 ready to film. That's what they were told. So that
12 means you set it up with the weights on it, which is
13 what they do 95 percent of the time.

14 The only time they don't do that is when
15 they've been informed it's a long ways to the set or
16 when the grips are there with them and they've got
17 the trucks and they can put the weights in the
18 trucks. But none of that happened here. None of
19 that happened. So they put the weights on in the
20 parking lot to be ready to go.

21 Now, what you're going to hear -- and
22 nobody is going to refute this -- is that that didn't
23 help matters. Having the weights on it made it a
24 little bit unstable. It obviously made it more
25 top-heavy. And, ultimately, when they drove it up

1 the next day, a different crane on a different route
2 with an entire day to do it, they put the weights in
3 a truck.

4 But you're going to have to ask -- answer
5 this question: When Mr. Razo and Joe Datri were not
6 given the time, when they were not given the
7 information, when they were not allowed to scout,
8 when they were rushed by Claudio Miranda's decision,
9 is it their fault that they set it up exactly as they
10 were told? Or is it production's for taking away
11 their ability to do their job in a safe manner?

12 And, ultimately, you're probably also
13 going to hear -- well, on -- Joe Datri is going to
14 testify hopefully today. And what he's going to say
15 is on well-run sets, where we have to travel a
16 significant distance, there's a couple of things that
17 are done. One is we often get called the day before.
18 And we get the whole day just to make sure that we
19 get the equipment to the top of the mountain safe so
20 that it's ready to go at the beginning of the day.
21 But they didn't do that on this production. They
22 didn't give us this choice.

23 The other thing that you can do -- and
24 that costs money obviously. We talked to Bruce
25 Franklin, the assistant director. He said, "Well,

1 that would take five or six people, because it's not
2 just paying those guys. It's also paying an escort.
3 It's also paying security. It's also paying somebody
4 from the mountain. And we just decided we didn't
5 want to spend that money."

6 Other times, they get a pre-call, which
7 means they get called, instead of 5:30 to be there at
8 the same time as everybody else, they're told to be
9 there at 4:00 so you can get the equipment ready so
10 you can be ready to go. And he said unless those
11 things happen, then we assume when we get there at
12 5:30 -- because this is our practice in the
13 industry -- we're going to have time to get set up,
14 time to go look at things, time to do things right.

15 And we did. We got there at 5:30. There
16 was no rush immediately. We got there at 5:30. We
17 went to the briefing. We were listening. We were
18 taking our time, and all of a sudden it changed.

19 So the camera crane went up in this
20 shape. You get to decide what --

21 The last thing you're going to hear --
22 well, I don't know about the last, but there's also
23 going to be some testimony about seat belts. And
24 what you're going to learn is Mr. Razo didn't have
25 his seat belt on when he was riding on this. And

1 the, testimony again, is going to be really clear. I
2 think the manual -- there's a manual, and it says
3 something about a seat belt. No question about that.

4 They were driving less than five miles an
5 hour. Joe Datri says probably about two or three
6 miles an hour. He says when you're going those
7 speeds on bumpy roads with the camera crane in the
8 shape it was in -- meaning weights on it and not
9 secured, as in locked down -- a seat belt's not
10 advisable. A seat belt's not the safest option at
11 that point. And it may be that the seat belt, had
12 Mr. Razo had it on, who knows what would have
13 happened? It may have been worse.

14 But, ultimately, they're going to ask you
15 to put fault on Mr. Razo because of that. And the
16 question you need to ask yourself is was it
17 reasonable? How do reasonable people operate this
18 equipment?

19 But let's -- you know, we also talked
20 about this in jury selection. Ultimately, Mr. Razo
21 accepts his responsibility. He accepts that he was
22 the driver. He accepts that he had been in this
23 field for 15 years. He was a specialist who had
24 operated this equipment all over the world. And it
25 was his job to do so in a manner that was safe and in

1 a manner that was consistent with what production was
2 asking him to do.

3 And we certainly believe that -- and
4 Mr. Razo -- trust me. There's no one in the world
5 who wishes more that something else had happened on
6 that day. Because of how much he was doing in the
7 dark and how much was taken away from him, it is our
8 position that Mr. Razo does bear some responsibility.
9 And, ultimately, you'll get to decide.

10 But the way the power structure was on
11 that day, the way the lack of planning, we believe
12 that his percentage of fault in this was 20 to 25
13 percent.

14 You may think it's less; you may think
15 it's more. You ultimately get to decide that. 80 to
16 85 percent, or 80 percent to 75 or plus, whatever you
17 decide, we believe is with Black Label Media and No
18 Exit. It was their set and their job, and they put
19 Mr. Razo in an impossible situation, and now they
20 want to blame James for following their orders.

21 I know I'm -- there's two other issues I
22 want to talk to you all about. One of them is
23 employment. One of the issues that this jury is
24 ultimately going to get to decide -- and it's an
25 important one -- is No Exit is going to say, well,

1 James was our employer. So -- James was our
2 employee, which means, really, we're not accountable
3 for anything.

4 So let's look at the facts. What are the
5 facts about Mr. Razo? The movie company hires
6 employees; they work the entire production. Mr. Razo
7 was not hired by the movie company. Mr. Razo was
8 appointed by Chapman/Leonard. Chapman/Leonard said,
9 "You want to rent our crane, you also rent our
10 driver." Chapman/Leonard didn't become the owner of
11 the crane any more than they became the employer of
12 Mr. Razo.

13 He drove the equipment out, and then when
14 they were done using the equipment -- and this was
15 supposed to be a four-day job. It's a three-month
16 production, but he was going to be there for four
17 days. When the equipment's done, he drives it back.
18 He had no contract with No Exit or Black Label. And
19 there's no contention that he was an employee of
20 Black Label. It's really just No Exit. He had no
21 contract with them.

22 He was not part of any department. He
23 wasn't part of the grip department. He was the crane
24 operator. He was the contractor. He was the
25 independent day player that operated the crane. They

1 told him what time to be there. They told him where
2 to go. And they told him what time to be at the set.
3 But in terms of control over his exercise of his job,
4 meaning driving the crane, that's not -- that's not
5 within their realm. They had an obligation to
6 provide him a safe route, but he's the one that
7 drives it.

8 Ultimately, we believe that the evidence
9 is going to be overwhelming that Mr. Razo was
10 independent of No Exit; that as an operator of a
11 crane, he was independent. He was appointed by
12 Chapman/Leonard, and he was there with their
13 equipment.

14 And we asked one of the owners of Black
15 Label Media. Ms. Smith is her name. She's one of
16 the founders of it, and she's the founder. So we
17 asked her. She was the expert. She was somebody
18 they put up as their corporate representative.
19 Unequivocally, she said, "He is not our employee."
20 We think that information is very telling.

21 The burden of proof in a case like this
22 is more likely than not. So what that means is what
23 we have to prove on our case is that No Exit and
24 Black Label were, more likely than not, unreasonable,
25 and that, more likely than not, their conduct was one

1 of the causes of Mr. Razo's injuries in this
2 incident. Had they not put him on that hill at that
3 part of the day under that pressure and had they
4 scouted and used the alternate route, this incident
5 most likely would not have happened.

6 And that standard is different than some
7 other cases. You may have some doubts about this.
8 You may think, well, I'm not really sure. But if you
9 feel like, more likely than not, what we claim is
10 true, then we've met the burden in this case.

11 Now, ultimately, we're not here simply to
12 talk about a root cause analysis of right and wrong.
13 What we're here for is because Mr. Razo's injuries,
14 the extent of the harm that happened to him on that
15 day, was life-altering.

16 Now, I want to talk to you about the
17 harms and losses, not because we're asking for
18 sympathy -- because, quite honestly, the time for
19 that is long gone. You may feel bad for Mr. Razo,
20 but, ultimately, you can't make your decision based
21 on that. What you have to make your decision on is
22 basically, as a jury, you're the appraisers of what
23 happened. And you look at what happened and make a
24 decision on what you believe is fair and reasonable
25 compensation for everything that occurred to Mr. Razo

1 and to his wife, Susan.

2 Now, I want to mention that you can tell
3 Mr. Razo -- you saw him at jury selection. He's not
4 here in the courtroom, and he won't be here in the
5 courtroom, except you will get to hear from him
6 testify. He's here in Santa Fe, but due to the
7 extent of his injuries, having him sit in a courtroom
8 for eight hours a day would simply not be something
9 that would be fair to him or, frankly, to anybody
10 else.

11 So we trust you. Obviously, as I said,
12 you're here. Ms. Weinmuller is here, but I just
13 wanted you to know the reason that Mr. Razo is not.
14 But you will get to hear from him testify tomorrow.

15 When the crane landed on Mr. Razo, it
16 broke his pelvis into -- it fractured his pelvis in
17 multiple places. It lacerated his liver and his
18 spleen. It broke three different levels of vertebrae
19 in his neck. It broke bones in his lower back. And
20 he immediately went to surgery and had surgery on his
21 hip. I mean, that's an x-ray that you can see kind
22 of at the bottom -- was his hip. They put a bunch of
23 screws in there to try to hold everything together as
24 best they could.

25 This really started the last six years of

1 his life. The last six years, he's been in a
2 hospital for over 77 days. He's had over 1,050
3 doctors' appointments and therapy appointments. He's
4 had eight different surgeries. And he's had
5 surgeries on his neck, his low back, his two
6 surgeries on his hip, surgery on his internal organs,
7 surgery on his shoulder.

8 And what you're going to learn is that
9 the extent of those injuries left him with permanent
10 spinal cord damage. And the spinal cord damage -- he
11 can still walk. It's difficult, but he can still
12 walk. But the spinal cord damage has basically set
13 his body on fire. The nerve pain that he has -- I
14 mean, we've all had where you hit a funny bone or
15 your arm falls asleep or your leg falls asleep. And,
16 you know, he has those experiences every day.
17 Sometimes the nerve pain is such that it causes a
18 limb to go into spasm and just kind of locks.
19 Sometimes it's just the tingling that's kind of a
20 constant reminder for him when he tries to step down
21 on things. He doesn't feel his foot the same way
22 that you and I do.

23 That's the battle that he's in every day
24 now.

25 Even at night. He says he can only sleep

1 a few hours a night because if you lay in one
2 position for too long, the nerve pain starts in that
3 area, and he has to get up and shift position.

4 But James is a fighter, and you're going
5 to get to hear that. He has taken this on like a
6 full-time job. He battles every single day to stay
7 active, to keep moving, to still be an active part of
8 his community, an active part of his life with his
9 family, and to do everything he can to maintain what
10 he still has.

11 And what he has -- I want to talk to you
12 about Mr. Razo before all of this. So when he was in
13 his 20s, he started a camera company, a camera repair
14 business, and got it up to the point where he had a
15 whole bunch of employees. He had his life going, and
16 he was proud of it. He had purchased a home. I
17 think at some point around there he met Susan. They
18 started a family. And then the camera business kind
19 of went away when everybody got cameras on their
20 phones.

21 So he shifted, and he said, "Well, I can
22 still work with cameras. I'll just do it in the
23 movie industry." So he started driving camera
24 cranes. Started working with Chapman/Leonard because
25 that's part of their business. His skill set

1 translated perfectly. And he had carved out a great
2 life for himself. He was making an incredibly good
3 wage. He was supporting his family.

4 Bless you.

5 THE JUROR: Thank you.

6 MR. HUNT: He was taking care of what was
7 important to him, which was his career and his
8 family.

9 When this happened, all of that was taken
10 away. He's still the same man. And you're going to
11 get to hear that, you know, there's been some of this
12 that's also on the psychological cognitive side of
13 it, that it's not quite the same mentally. And
14 there's some effects from all of this that affects
15 everything about James's everyday life, from the
16 simplest things of tying his shoes to the simple
17 things that all of us, at the end of the day, we just
18 want to go -- you know, look forward to a good
19 night's rest. He doesn't ever get those anymore.

20 And it's important to understand. You're
21 going to get to hear from his doctor. Dr. Terrazzino
22 has been his primary doctor for the last almost six
23 years. Sees him every six to eight weeks. What he's
24 going to tell you is that what James lost was his
25 independence -- his independence of mobility, his

1 independence of daily activity, his independence of
2 living the life that he wanted.

3 There's also a claim here on behalf of
4 Susan. New Mexico recognizes that, in addition to
5 things like medical expenses and lost wages, there's
6 also compensation a jury must consider on lost
7 enjoyment of life, is what it's called. And you're
8 going to hear some testimony about that. Really, the
9 important stuff. And pain and suffering, which is
10 now Jim's constant companion.

11 New Mexico also recognizes that when
12 there's a injury that affects a spouse -- when a
13 spouse now becomes a little bit less of a spouse and
14 a little bit more of a caregiver, New Mexico
15 recognizes that there's harm there too. And we're
16 going to present that to you.

17 That's James and his family, his son
18 Derrick, daughter Dari, and wife Susan. Obviously,
19 this was before the incident.

20 This is medical costs that you're going
21 to hear testimony on. The 1,359,000 is past medical
22 expenses. We're going to present an expert witness
23 who will testify to you; Dawn Cook is her name.
24 She's going to testify. She interviewed, looked at
25 all his thousands of pages of records, interviewed

1 Mr. Razo, interviewed his doctors, and is going to
2 tell you that, for his future care, future surgeries,
3 future medical needs, including future nursing care,
4 when Mr. Razo reaches the age of -- he's in his early
5 50s now. When he reaches the age of 60 and 65 and
6 70, as he continues to age, what Dr. Terrazzino is
7 going to tell you, the decline is going to be steep
8 for him. He will need home nursing care. It's
9 likely, at some point, he'll need -- he'll need
10 wheelchair assistance. The future medical care takes
11 into account all of those costs.

12 Lost wages. Mr. Razo was earning,
13 between benefits and wages, about 229,000 per year at
14 the time that this happened. He needed to continue
15 working for another three years to get benefits
16 through the union. So they kind of gave him some
17 jobs to let him get that time over those three years.
18 So between 2017 and 2020, he was still able to work a
19 little bit as a consultant, essentially. Once he got
20 those 15 years, they -- those jobs kind of dried up
21 because he cannot work in any capacity as he did
22 before.

23 So the past lost wages and the future
24 wages, had he continued to work for an additional
25 15 years, I think that would have taken him to --

1 well, you'll get to hear the testimony on that --
2 through 2036, 4,600,000 is the total of that.

3 And we believe that all of those earnings
4 are supported by the evidence in this case, of what
5 Mr. Razo would likely have earned and what he no
6 longer will.

7 And ultimately, this case is not just
8 about medical expenses. It's not just about lost
9 wages. It's also about the lost value of Mr. Razo's
10 life. We think the wages and the medical expenses,
11 which really just go to pay other people, is the
12 small part of this case. The harm to his life, the
13 daily struggles that now are with him always are the
14 biggest part of this. And ultimately, at the end of
15 this case when you get to decide those things, we ask
16 you to consider them, how easy this was to prevent
17 and the significance of the harm.

18 And we looked forward to presenting the
19 evidence to you, and we thank you, on a week where
20 many of us would rather be other places, for being
21 willing to commit to this case at this time. It's
22 important, and we thank you.

23 THE COURT: All right. Members of the
24 jury, we're going to take our morning recess. If you
25 would be ready to enter the courtroom in 15 minutes.