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SUPERIOR COURT - STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE

DENISE COLLINS; CHRISTOPHER )  
COLLINS, )  
 )  
 PLAINTIFFS, )  
 )  
 V. )  
 )  
 CPV SENTINEL ENERGY CENTER, )  
 LLC; MOTT MACDONALD, LLC; )  
 GEMMA POWER SYSTEMS, LLC; and )  
 DOES 1 to 15, Inclusive, )  
 )  
 DEFENDANTS. )  
 )  
 \_\_\_\_\_ )

Case No. PSC1901096

REPORTER'S PARTIAL TRANSCRIPT OF TRIAL PROCEEDINGS  
PLAINTIFFS' CLOSING/REBUTTAL ARGUMENTS  
BEFORE THE HONORABLE MANUEL BUSTAMANTE  
July 26, 2022

(APPEARANCES OF COUNSEL ON NEXT PAGE.)

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OFFICIAL REPORTER PRO TEMPORE

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Plaintiffs' Closing Argument..... 1  
Plaintiffs' Rebuttal Closing Argument..... 40

1 PALM SPRINGS, CALIFORNIA; JULY 26, 2022

2 BEFORE THE HONORABLE MANUEL BUSTAMANTE

3 --o0o--

4 (The following proceedings commenced at 10:29  
5 a.m.)

6 PLAINTIFFS' CLOSING ARGUMENT

7 MR. BASILE: You know, over a month ago is when  
8 we started. That's kind of hard to believe. And, you  
9 know, we talked in jury selection about what an  
10 important case this is and I think you see that now, to  
11 judge corporate conduct and determine what's full  
12 accountability. I can't tell you how proud I am that we  
13 got 12 left here. There was 15 when we started and you  
14 three have taken the place. And I must say my hands  
15 were a little sweaty this morning when I was hoping that  
16 12 would show, but it shows your commitment to this case  
17 and I thank you and appreciate you for that.

18 I know some of you have been jurors before, but  
19 I want to talk to you a little bit about juries. You  
20 see, juries go way back with this country, way back.  
21 And it was -- a lot of people don't realize this, but  
22 the right to a jury trial was one of the primary reasons  
23 for the Revolutionary War to break away from England. I  
24 know freedom of religion was a big one. But what was  
25 happening was England was controlling the colonies and  
26 overtaxing them and forcing on them oppressive laws,  
27 tyranny. And juries weren't putting up with it. Juries  
28 were letting people go that the king would bring. And

1 so the king said no more juries. And the founding  
2 father says no, wait a minute.

3 That was a motivating factor for the  
4 Revolutionary War. And the reason is, this is the  
5 purest form of democracy that we have today because it's  
6 not represented democracy. None of you are running for  
7 office. None of you are getting paid much for on here.  
8 None of you are seeking political contributions or  
9 anything. You're members of the community. And what I  
10 like to believe and what a lot of people consider, you  
11 are the conscious of the community to make these  
12 decisions.

13 So I wanted to start off just to tell you the  
14 importance of juries and the power that comes with it.  
15 That was in the Constitution, not in the Bill of Rights  
16 once but twice in the Sixth and Seventh Amendment.

17 Now, we said your job was going to be judging  
18 corporate conduct. So I wanted to say something about  
19 corporations before we begin. There's a lot of good  
20 corporations. Right here in Palm Springs you have the  
21 Betty Ford Center; Jonas Salk Institute over in  
22 San Diego doing tremendous research in the vaccines and  
23 cancer research; St. Jude's Hospital back in Nashville  
24 treating children's cancers. Many civil rights  
25 organizations are incorporated in corporations.

26 But we've seen there's another side of  
27 Corporate America. There's corporations that will use  
28 the corporate structure to hide from their

1 responsibility. There are some corporations that will  
2 use the corporate structure to distort the facts, to  
3 distort the facts on who's really responsible. There's  
4 corporations that will use the corporate structure to  
5 get the benefit from the business but use that structure  
6 to avoid the responsibility that should come with it.  
7 That's something I wanted to say about corporations  
8 before we begin.

9 Now, this case began almost over five years ago  
10 when a wife and a son learned that a man got blown up at  
11 a power plant and they were told that gas was trapped  
12 while he was removing a lid and he was killed. Seven  
13 months or so went by and they still wondered why they  
14 weren't getting any answers. Family friends led them to  
15 Mr. Sullivan. Mr. Sullivan asked me to help him.  
16 That's all we knew. Daniel Collins was blown up and  
17 someone said gas was trapped at this big power plant  
18 while he was removing a lid.

19 We had to begin somewhere. Who built the  
20 plant? Who designed the plant? Who's operating the  
21 plant? After years of depositions, after years of  
22 deposing people on the corporate structure, who's who  
23 and who's what, we found the responsible party hiding  
24 behind that corporate structure and we brought them here  
25 to you, Diamond Generating Corporation. There will be  
26 no other jury to ever hear this case. There will be no  
27 other opportunity for you to decide. This is the one  
28 and only time that this case will be decided, and we go

1 back to the power that you will have.

2 So you're going to be given a verdict form like  
3 this to answer. There's 22 questions on it. And I'm  
4 going to go through some of those now, but the judge is  
5 going to give you that packet he read. I know they were  
6 long and you were wondering, but he's going to give you  
7 three different packets of those instructions that you  
8 guys can -- can refer to and I'm going to go over some  
9 of them.

10 But I want to point out two -- probably the  
11 most important one of them all, and that's this one  
12 about the burden of proof. Those are just legal numbers  
13 up on top, but you can refer to those, CACI 200. The  
14 burden of proof is when you're deciding any of these  
15 questions that we're going to go over, is it more likely  
16 true than not, and that's only 51 percent. And nine of  
17 you have to agree. But here's the key. When you're  
18 deliberating and looking at answers for those questions,  
19 once you reach yeah, that's 51 percent, yeah, it's more  
20 likely true than not, you can move on. You don't have  
21 to keep weighing the evidence and going up more and  
22 more, further and further.

23 Likewise, only nine of you need to agree on  
24 each question. So if nine of you go yeah, more likely  
25 than not, that's it, you can move on. And I know you  
26 might want to bring your friends along or your friends  
27 might have a different opinion, which you should respect  
28 everyone's opinion when discussing this, but once you

1 reach 51 percent you can move on to the next question.  
2 So it's 22. Once nine agree, move on to the next one.  
3 So that's -- that applies to all the questions.

4 So let's start here. How many witnesses did I  
5 ask in this case on that witness stand that agreed with  
6 me businesses, corporations in the business of producing  
7 and selling electricity should pay as much attention to  
8 the safety as they do production and profits? Every  
9 executive that was in here, every expert, Mr. Forsyth,  
10 Mr. Johnson, even the current plant manager, they all  
11 agreed to that.

12 But let's look at the evidence. Actions speak  
13 louder than words, don't they, in this case? Actions  
14 speak louder than words. They all said yeah, we should  
15 pay as much attention to safety as we do production, but  
16 let's look at some of the evidence. The first question  
17 on this verdict form that you're going to get -- and  
18 each of you are going to get one of these verdict forms  
19 to keep track of your answers on it and there will be  
20 one official one that the foreperson, whoever you  
21 select, will put your official -- but you guys will each  
22 have one of these to follow.

23 And the first question there is this one: "Did  
24 Diamond Generating Corporation voluntarily or for a  
25 charge render services related to Sentinel Energy Center  
26 worker safety?" That's pretty clear on this. They  
27 hired Mr. Walker. They gave him safety policies. They  
28 established all the LOTO sheets were reviewed by them.

1 Their LOTO sheets had -- were Diamond Generating  
2 Corporation documents on there. They reviewed him,  
3 Walker, annually. Many other services were provided.  
4 They were directly involved in that whole thing. In  
5 fact, you can almost see that Diamond Generating  
6 Corporation Operations were one. Walker even said about  
7 that.

8 So I wanted to point out this exhibit, though,  
9 when you're looking at that question. It's Exhibit 172.  
10 Exhibit 172. You may want to look at it closely because  
11 it says -- this is their fact sheet, this is what they  
12 put out -- "DGC's role is." And it tells about other  
13 project benefits and things here, but you should read it  
14 carefully. And they acknowledge -- they acknowledge  
15 that they had an ownership and owned it, ownership and  
16 maintenance. So they were directly involved.

17 Did they render services? Yes to the first  
18 question. Second question: "Were the services rendered  
19 of the kind that Diamond Generating Corporation should  
20 have recognized as needed for protection of the workers  
21 at the Sentinel Energy plant?" That's another gimme. I  
22 mean, that's all these policies were about. That's all  
23 these things were was about safety at that fuel filter  
24 skid. It was about the safety process whenever they'd  
25 have the annual shutdowns.

26 And if you remember Mr. Forsyth, this is from  
27 the trial transcript testimony. We asked the reporter  
28 to provide us actual trial testimony from here. And



1 Mr. Forsyth, who is the safety and compliance manager  
2 for Diamond Generating Corporation, and I asked him, And  
3 in September, remember those e-mails that were going  
4 back and forth, we were reviewing safety policies,  
5 safety procedures -- in the fall of 2016 leading up to  
6 January '17, Diamond Generating Corporation was  
7 reviewing safety procedures at Sentinel Energy facility;  
8 isn't that true? And he said yes. We all know that.

9 But this is their head of corporate -- of  
10 compliance and safety was saying that. What else did he  
11 say? Right here, and you can keep this in mind through  
12 the whole thing -- through this whole -- whatever I'm  
13 saying and whatever's going on. And I didn't mention  
14 this at the beginning. This is more years than I'd like  
15 to acknowledge doing this, 41 years. And I know -- I  
16 know they call it argument, but I'm trying to do --  
17 let's reason together about this. You can take -- and  
18 I'm an advocate, I'll give you that, but I'm trying to  
19 present this, let's come together and reason together  
20 about this.

21 So he said, "Diamond Generating Corporation was  
22 responsible for safety at the Sentinel Energy Center  
23 when Daniel Collins was killed. Is that what you're  
24 telling us? Yes. Yes. Then, Up to the date when  
25 Daniel Collins was killed, are you aware of any evidence  
26 that there was annual review of the Lock Out/Tag Out  
27 procedure? No. Talked about production, not safety.

28 So were the services rendered of the kind that

1 Diamond Generating Corporation should have recognized as  
2 needed for the protection of the workers? Yes.

3 Question 2.

4 Question 3, Did they fail to exercise  
5 reasonable care in rendering those services? Well,  
6 let's take a look. Remember opening statement I put  
7 this same slide up here and I was telling you this is  
8 about a safety system. This is about a plant that they  
9 claim is the largest high-pressure gas plant of its kind  
10 in the world. And so you need a safety system in place.  
11 And safety starts at the top. Some of them even  
12 acknowledged it when I was asking them. And you need to  
13 develop the policies, train the workers and review and  
14 enforce those policies, those audits and reviews. We  
15 talked about those.

16 So you guys heard the evidence. I'm going to  
17 go through this quickly because I trust you, I saw you  
18 guys paid attention. It always troubles me when --  
19 being a lawyer here, you know, we got to stand here and  
20 watch you walk in and I try to watch you while we're  
21 asking questions. Man, I wish I knew what he was  
22 thinking, or I wish I knew what she was doing. Is he  
23 really with me or is he following this, or geez, should  
24 I ask this again? All that stuff runs through my head.  
25 But I trust you guys to do this, and so I'm not going to  
26 go over in detail but you guys have heard it.

27 That training, the training was crazy. I mean,  
28 they did it at the beginning with that SMP-3 where they

1 went out and they did the hands-on training. And they  
2 did it in 2013 but then it was never done again. It was  
3 never done again. Their own standard said it was to be  
4 done annually. It was to be hands-on annually. And it  
5 wasn't done. And then the records that showed up close  
6 were just people sitting at a computer screen going  
7 through routine stuff over and over.

8 And so one question we might ask is, where are  
9 the records of training? You know, they haven't -- this  
10 is all we found. They gave us a big stack. This is it.  
11 There was none. You heard Mr. Gonzalez say he never had  
12 training when that thing -- when the ISO valve two was  
13 changed. I'm going to go over that. So that was one  
14 failure, the training.

15 There was no separate energy control procedure,  
16 everyone agreed to that. Remember, down here is that  
17 fuel filter skid. Everyone said there should have been  
18 a separate energy control procedure just for that.  
19 Instead, they had this outage shutdown on that LOTO  
20 sheet that covered all these systems where workers would  
21 have to be gone from one place to another to another and  
22 then back over there, then again and move and back. And  
23 you saw -- I'm going to talk a little bit about their  
24 animation. But you saw their animation, how crazy it  
25 was, how they got it running around everything. So  
26 another failure was no separate procedure because that's  
27 where that high pressured gas is coming into that fuel  
28 filter. Of all the places you need a separate energy

1 control procedure, that's it. And they didn't have it.  
2 And even their current plant manager admits that they  
3 should have had it on that.

4 Those annual reviews was another thing that  
5 was, you know, just head shaking. Walker was required  
6 to do it by their own standards to review that policy to  
7 make sure that the Lock Out/Tag Out was being done  
8 properly and how it was supposed to be done, like we  
9 talked. First, the installer goes out, puts the tag,  
10 locks it. Then after he's done with all the steps, then  
11 the verifier comes out and they're recording it. And  
12 they're recording the times on the sheets and that's  
13 supposed to be reviewed.

14 In opening statement they were trying to say  
15 that they go out together. And the first witness says  
16 no, no, that's not how it's supposed to be done like  
17 that. And even in their animation they're showing them  
18 still gone together. But the point being is why weren't  
19 there any audits and reviews? That's a critical safety  
20 system. And we're going to talk about what they were  
21 looking at in a few minutes, but that was another.

22 That near miss. Four years before, the exact  
23 same thing that's going to kill Daniel Collins happens  
24 and nothing is done about it. Ben Stanley is very  
25 critical about that. When there's failures like that,  
26 there has to be a root cause analysis done then, not  
27 after someone dies.

28 Communicate the change, you know, we went over

1 that a lot. It was so interesting they'd gone through  
2 all those e-mails with the corporate executives, with  
3 Kromer, with Aberg, and even Sheppard was on that agenda  
4 for the 27th where we're going to talk about changes.  
5 Remember, the workers aren't there. The managers of the  
6 plants are there at that 27 -- January 27th meeting.  
7 And on that agenda is how are we going to communicate  
8 change. And nothing was ever communicated to them.

9 So there's more, and this confusion, it goes  
10 back to -- I mean, different valves aren't marked. And  
11 this one up here is -- which was the old ISO valve two,  
12 is now halfway down and this one is close. This is  
13 after the fact. All that confusion and the unusual  
14 venting on that date. If the system had been in place,  
15 it would have been properly marked. And whenever there  
16 was that unusual venting, if a safety system was in  
17 place, we're shutting this down. They didn't do that  
18 because we don't want these outages to be too long. We  
19 don't want these outages to be too long. And you're  
20 going to hear about that in a minute.

21 So it was a systems failure, safety systems  
22 failure. And the interesting thing to note, you guys  
23 may remember, who all said it was a systems failure?  
24 Their head of safety said it was a systems failure.  
25 Dennis Johnson, the current plant manager, said it was a  
26 systems failure. Ben Stanley, their manager that did  
27 the root cause analysis, said this was a systems  
28 failure. And then the only safety expert that was

1 called was by us and that was Mr. Lane. The only -- it  
2 was a systems failure.

3 So what was going on? What was going on? We  
4 went back when we found him and took Walker, the plant  
5 manager at the time this happened, his deposition for it  
6 was -- it's a deposition, but we noticed it as trial  
7 testimony because he was so far away. When witnesses  
8 are more than 150 miles from the courthouse you can tell  
9 the other side I'm going back and we're going to take  
10 his trial testimony, and you have to tell them weeks  
11 ahead of time that you're going to do that. So Diamond  
12 Generating's corporate lawyer knew we were going to do  
13 this. They had weeks' notice.

14 Before I began his deposition --

15 MR. SCHUMANN: Improper argument, Your Honor.

16 THE COURT: Sustained on the facts not in  
17 evidence.

18 MR. BASILE: Okay. We went back there, and you  
19 heard at the beginning of his deposition that I played  
20 for you, I asked him have you had time to meet with  
21 Mr. Reid? And he said yes. Do you need any more time  
22 to meet with Mr. Reid? He said no. I played that for  
23 you guys, what you saw. And then these reviews, annual  
24 reviews were for safety. No one else was reviewing them  
25 for safety. None of those other people that they're  
26 mentioning, all those other corporate layers and stuff,  
27 none of them are reviewing it for safety. Diamond  
28 Generating corporate executives are reviewing it for

1 safety. Not only that, but that's who his boss are  
2 [sic]. Diamond Generating corporate executives are his  
3 boss who he's reporting to.

4 So what's going on with Mr. Walker? So we  
5 asked him, you know, what about these reviews? I mean,  
6 they were good reviews. You know, what's -- what's the  
7 story? You know, what was going on?

8 (The video deposition played in open court.)

9 MR. BASILE: Yes, it was Diamond Generating  
10 Corporation. What's more likely true than not? Who's  
11 doing the reviews? Diamond Generating Corporation. And  
12 he said did that tell you you were doing a good job? He  
13 says I got high -- not just a bonus, high bonus and a  
14 high salary increase every year. What was the only  
15 item? Even though Mr. Walker said -- if you remember  
16 his testimony when we asked him, you know -- well, when  
17 they were doing his reviews, did they have access to all  
18 the information at the plant? Yes. Could they review  
19 the LOTO sheets? Yes. Could they review the procedures  
20 and safety? Yes. They had free access to everything,  
21 he said.

22 But when they reviewed him for safety, it looks  
23 on the reporting in his review the only thing they're  
24 asking is, was there any reportable incidents during the  
25 past year, reportable injuries? And we asked him well,  
26 what's a reportable injury? And he said a reportable  
27 injury is if someone has to go to the urgent care or the  
28 hospital. And as long as no one is going to the urgent

1 care or the hospital, here's a bonus, here's a raise,  
2 keep up the good work, Mr. Walker. That was Diamond  
3 Generating Corporation. So the reportable incident that  
4 happened wasn't -- wasn't an urgent care visit or a  
5 hospital visit. It was a trip to the morgue in pieces  
6 before they do anything.

7 So Mr. Sheppard, he was who Walker was  
8 reporting to, along with Aberg, all corporate executives  
9 and Kromer that were doing the reviews. And you might  
10 ask yourself where's Mr. Kromer? Where's Mr. Aberg?  
11 Why didn't they call Mr. Kromer and Mr. Aberg to come in  
12 and say oh, we weren't really reviewing them for safety  
13 or we weren't whatever? Where is he? We don't have  
14 that burden. We got their stack of documents and we saw  
15 these reviews. Where's Kromer and that -- and hearing  
16 Sheppard say he was the VP of asset management at 14 of  
17 these plants. Walker got a big bonus, big raise. You  
18 can infer that someone else was getting bonuses and  
19 raises with that production too.

20 MR. SCHUMANN: Argumentative. Not in evidence.  
21 Improper arguments.

22 THE COURT: Overruled.

23 MR. BASILE: Thank you, Your Honor.

24 Now I just want to touch this dangerously  
25 different change, and I want to say this up front to you  
26 folks. You know, they took, I don't know, hours on --  
27 going through printouts and pressure gauges and  
28 pressure -- pressure in the tank and pressure at the



1 skid and pressure in the turbine and all this and what  
2 time this was read and what time that was read.  
3 Remember all that time they spent doing that? All that  
4 time they spent doing that?

5           The mere fact that they're taking that time to  
6 do all that tells you there was a problem with the  
7 system. If there wasn't a problem with this system,  
8 they could have come in and said look, here's the LOTO  
9 sheet, here's how everybody should have done it, this is  
10 what is done, here's our training records, here's  
11 everything. Instead, they continue with that pattern  
12 from the beginning to distract, to distort, to deny and  
13 to blame everybody from looking at their own corporate  
14 self.

15           So that's just the mere fact we're talking  
16 about it, the orders and all that thing tells you there  
17 was a system. But let me address that for a moment.

18           This ISO valve two, ISO valve one, close,  
19 close, open these vents, everything gets drained nice  
20 and clean here. Now, over here ISO valve two gets  
21 changed to down here on this. Delaney and Gonzalez are  
22 two witnesses, I think -- you know, Judge gave you those  
23 instructions on how to weigh witnesses. Delaney and  
24 Gonzalez are no longer associated with Diamond  
25 Generating Corporation. Delaney doesn't work there  
26 anymore. Gonzalez is off in, I think, it was South  
27 Dakota or Minnesota in the Midwest. We took his  
28 testimony from Zoom and played it for you.

1           And what do they say? Delaney said, "I didn't  
2 know what was going on." He's an operator. He said, "I  
3 don't know how this operated. I didn't know which valve  
4 was which. I never had hands-on training on the thing,"  
5 was Delaney. Gonzalez said, "I was confused. I was  
6 never told of changes." But we know there were changes  
7 on -- that ISO valve two change is way down in Step 14  
8 on the sheet.

9           So they're trying to say -- I think if I was  
10 following right, they were trying to say that ISO valve  
11 two was never changed, that it was always down here.  
12 Well, if it was always down here and they were doing it  
13 the way they were doing it, it would have been like  
14 another near miss or someone getting blown up. Because  
15 if you close this valve and this valve and there's the  
16 vents, that's the only area that's going to get drained.  
17 This is going to remain pressurized.

18           So they could not -- and remember, Mr. Johnson,  
19 when he took over at the plant, he wrote that e-mail.  
20 It's Exhibit 60 where he's saying, you know, the problem  
21 in light of the events of March 6th, everybody's doing  
22 something different. Everybody's doing something  
23 different. We're not on the same page. That's a  
24 problem. Everybody was doing something different  
25 because people were doing it this way. And then Daniel  
26 Collins comes in that day and he has to ask Robert Ward  
27 where's ISO valve two? And he told him on the sheet  
28 look, it's further down. But no one's saying that it

1 pointed out.

2 Now I want to say something about Mr. Ward.  
3 You know, he teared up and said he really liked Daniel  
4 Collins and all that. But he was kind of like in  
5 between on dumping on him or not. And Ward said  
6 something that really stuck out to me when he said -- he  
7 was like tearing up almost. He says, you know, if I'd  
8 been working with Daniel that day, this would have never  
9 happened. Because he knows, he knows that Daniel didn't  
10 have the information he needed. He knows that Daniel  
11 didn't have the information that he needed. In  
12 hindsight, had he worked closer with him, he would have  
13 made sure this happened.

14 And I can't help but feel that Robert Ward has  
15 a little guilt inside him and it's kind of hard for him  
16 to accept that he may have contributed. But he should  
17 feel bad. He should feel bad because he was part of  
18 that system that they had in place. If one person makes  
19 a mistake in a system of operation, well, you might say  
20 that's you in error. But when you have Jason King,  
21 Robert Ward, all these other people making mistakes,  
22 it's not human error. It's a dangerous system that they  
23 let in place.

24 So that's what ended up. But like I said,  
25 going back, if you're even talking about this, it shows  
26 that there's a safety system. The confusion that Tony  
27 Gonzalez -- he goes by Juan Tony Gonzalez. Were you  
28 told on two? No. Were you trained on two? No,

1 nothing. And they had that meeting in January where the  
2 executives at the 27th floor high-rise in L.A. on their  
3 agenda, how are we going to communicate change with our  
4 employees? Paul Sheppard was even on the agenda about  
5 update on operational procedures. Wasn't it interesting  
6 when Sheppard was here and I tried to ask him about  
7 that? Well, I don't really remember. I don't really  
8 remember. I even showed him -- Sheppard a picture of  
9 the control room and he didn't even recognize Daniel  
10 Collins at first in it. Maybe that's what this case  
11 means to them.

12 So the verdict form, "Did Diamond Generating  
13 Corporation fail to exercise reasonable care in  
14 rendering those services?" Absolutely. But again,  
15 51 percent, more likely than not, yes. Here's what they  
16 were doing. They buried their head in the sand like an  
17 ostrich. We had all those red flags that we talked  
18 about. We had the near miss that they ignored. We had  
19 that change, that change, where instead of being  
20 together, now they've moved it here, different valve,  
21 different time and different place, all that confusion.  
22 And we have that aimless update, how are we going to  
23 communicate change, that doesn't get communicated.

24 What were they paying attention to? It  
25 certainly wasn't safety. They received daily reports.  
26 Diamond Generating Corporation would get a daily report  
27 from the Sentinel Energy Center. And what was on that  
28 daily report? What were the outages for each of those

1 units? And when it's zero, that means no outages, no  
2 duration. We're producing electricity, we're selling  
3 electricity, we're making money.

4           Every day they would get these reports. And if  
5 you remember, they would -- on the outages, the detail  
6 that they went to on what the workers and the outside  
7 contractors would have to do on an outage day, there was  
8 like 178 steps. They spend their time on all the  
9 details of that, and Forsyth even said well, yeah, we  
10 reviewed the LOTOs. Why didn't they spend a little more  
11 time on safety? All these steps.

12           And then Mr. Delaney, again, who's no longer  
13 associated with the company, said they had that  
14 incentive program. Remember it said that came out that  
15 morning and they were scheduled Monday to have it done  
16 by Saturday but they were going to try to get it done by  
17 Friday because they get a bonus on availability. When  
18 that unit's up and running, bonuses are tied to that.  
19 So talk about a corporate mentality to put production  
20 and profits ahead of safety. Corporations must pay  
21 attention to safety. But as you see, actions, they do  
22 speak louder than words. That's why we have you.

23           Now I want to talk a little bit about this  
24 whole thing. And remember -- I might as well show you  
25 this right now. I'll put this up. This is Diamond  
26 Generating Corporation. This is their case outline:  
27 distract, distort, deny and blame. That's what they've  
28 done this whole case, and here's one of the ways they

1 did it. Now, I want you to keep in mind when you hear  
2 all this, remember Ben Stanley did that root cause  
3 analysis to see, you know, what the root cause was. And  
4 it's Exhibit 34. If you look at his root cause  
5 analysis, you will not find the name of any of those,  
6 you know, the Mott MacDonald, the Sentinel CPV, the  
7 other ones that are layers that I'll talk about briefly  
8 in a few minutes.

9           When do they show up? They show up whenever it  
10 comes to court so that they can distract you, they can  
11 distort you, they can continue to deny and they can  
12 blame everybody but themselves. Now they're playing  
13 this asset manager thing about well, Mark McDaniels, you  
14 know, he was the guy that we had this big contract and  
15 then this contract. That was another thing. They took  
16 a long time going through all that. He had this  
17 contract and Mark McDaniels was the guy and he was the  
18 one that really had safety and all that. And then I  
19 asked him on cross, who are you working for now? He's  
20 working for Diamond Generating -- or DGC Ops, which  
21 is -- might as well say Diamond Generating Corporation.  
22 It's wholly owned. That's who he's working for now. So  
23 back then, you think they brought him in to kind of fall  
24 on the sword here? And Sheppard too.

25           So again, when we went back there and took his  
26 trial testimony, Diamond Corporation's lawyers, not me,  
27 lawyers, asked him, well, did -- Mr. McDaniels, wasn't  
28 he in charge of safety? Wasn't he the guy that you were

1 working with Mr. Walker at safety? Listen to this.

2 (The video deposition played in open court.)

3 MR. BASILE: It's not in the root cause  
4 analysis. But whenever we show up in court and we know  
5 we're in trouble -- I'm speaking about them -- now let's  
6 try to distort.

7 Then Paul Sheppard, who is now the COO of  
8 Diamond Generating Corporation -- and I think that  
9 stands for the chief operating officer -- at the time,  
10 he was the vice president of the portfolio management of  
11 all their power plants and an asset manager. He come in  
12 here on the stand, and I don't know if he was looking me  
13 in the eye, but he said oh, I wasn't the asset manager  
14 at Sentinel, that wasn't me. They're trying to distort  
15 and distract and point the finger at someone else.  
16 Well, Walker was the manager of the plant, and I asked  
17 him who was the asset manager there?

18 (The video deposition played in open court.)

19 MR. BASILE: Was Diamond -- the fourth -- "Was  
20 Diamond Generating Corporation's failure to exercise  
21 reasonable care a substantial factor in the death of  
22 Daniel Collins?" And I want to move on because I think  
23 I addressed that other stuff enough. I want to get  
24 through these questions for you. Was it a substantial  
25 factor? Well, here's the instruction for this. It's a  
26 substantial factor that contributed to the harm. And  
27 again, you only need 51 percent. You guys could  
28 probably spend hours in there listing all the factors

1 that they failed, that contributed to the harm of Daniel  
2 Collins in building that -- I can't even say safety  
3 system -- and having that system involved. There would  
4 be multiple factors.

5 But don't take my word for it. Ben Stanley,  
6 their own manager that did the root cause analysis,  
7 here's what he says about this substantial factor and  
8 the cause of Daniel Collins' death.

9 (The video deposition played in open court.)

10 MR. BASILE: So verdict form, "Did it  
11 contribute?" Yes. Question 4.

12 Question 5, "Did Diamond Generating's failure  
13 to use reasonable care add to the risk of harm to the  
14 Sentinel workers?" Well, of course.

15 And this is just one that I haven't addressed,  
16 but you can add them up to all the other ones we talked  
17 about. All those years from when that near miss until  
18 this happened, all the time from before 2017 up until  
19 there, all they needed to do was put -- check the  
20 pressure gauge on there. It was never added to their  
21 sheet. It was never -- never had a separate energy  
22 control procedure.

23 And look what Dennis Johnson said. I think  
24 this is the one where like he denied it. Remember I had  
25 to read from his deposition? He denied it initially,  
26 then I read from his deposition. The things that would  
27 have prevented -- we know there's a lot of things --  
28 would have prevented this from occurring, one of them



1 would have been the reminder on the sheet that required  
2 the operator to actually record the pressure on the  
3 pressure gauge on the tank before they start to remove  
4 the lid, is that right? Correct.

5 And about this increased risk of harm. This is  
6 the last clip I believe I'm going to play of  
7 Mr. Stanley. He kind of sums this up. Remember how he  
8 talked about this safety person who was supposed to be  
9 at the plant, Lily Cardenas? Where is she? Why didn't  
10 they bring her in? And about how she was being ignored  
11 there. And he also spoke of that near miss reporting.  
12 But all these things that increase the substantial risk  
13 of harm, here's what he said. Remember we're back there  
14 and their lawyers are there and we're going to do this  
15 for the jury, we're going to play this for the jury.  
16 Here's what he said.

17 (The video deposition played in open court.)

18 MR. BASILE: And if I might just remind you of  
19 the filings with the Secretary of State that we  
20 haven't -- you know, there were three times throughout.  
21 Diamond Generating Corporation has to file. Please  
22 state the name of your manager. Diamond Generating  
23 Corporation is their manager. Filed official document,  
24 Secretary of State, who the manager was of the Sentinel  
25 facility. None. In addition to Forsyth saying who is  
26 responsible for safety at the plant, Diamond Generating  
27 Corporation.

28 So did their failure to use reasonable care add

1 to the risk? Certainly. Number 5, yes.

2 Now, this next one is important also. "Were  
3 Diamond Generating Corporation's services related to  
4 Sentinel Energy worker safety rendered to perform" --  
5 and here's the key -- "a duty that DGC Operations owed  
6 to the workers at Sentinel Energy Center, including  
7 Daniel Collins?" So was the stuff that they were  
8 supplying -- the policies, the review, the managers, the  
9 reporting, the boss of the managers and all that -- was  
10 that rendered to perform a duty that DGC owed? Well,  
11 the judge instructed you on what that duty is. It says  
12 "An employer shall," down here, "adopt and use methods  
13 and processes reasonably adequate to render employment  
14 in place of employment safe." Diamond Generating  
15 Corporation took over that duty right there.

16 So on Number 6 on the verdict form, that's yes.

17 Then there's one more question. "Was he killed  
18 because DGC Operations relied on Diamond Generating  
19 Corporation services?" Yes.

20 Now, 1, 2, 3, 4, those questions, and then 5, 6  
21 and 7, it says to answer all of them, the ones I just  
22 went through, 5, 6 and 7. But you only need one yes on  
23 5, 6 or 7. You'll see what I mean on the verdict form  
24 when you see it, but you can answer yes on all of them.

25 So now I'm going to share -- talk with you  
26 about what is justice in this case and what is, more  
27 importantly, the lack of responsibility. You see, that  
28 word "responsibility" really means the ability to

1 respond. Who had the ability to respond? Who held  
2 themselves out as a worldwide leader in the safe  
3 production of electricity? Who hired the manager? Who  
4 did all those things? Who had the ability to respond?  
5 Who had the response ability but didn't do it? When  
6 someone fails in their response ability, justice is to  
7 hold them accountable. So -- and hold them fully  
8 accountable for all the harm that they have caused.

9           We talked in voir dire about that, about being  
10 fully accountable for all the harm. So how do we get  
11 there? The first thing you got to do is look at who  
12 this man was. And we're not looking for sympathy here.  
13 This family and their friends that are here today,  
14 they've provided a lot of sympathy. So we're not -- I'm  
15 not putting Daniel up here and going to talk about him  
16 to ask for your sympathy. Certainly, you're going to  
17 feel sympathy. But that's not what justice is in this  
18 case. Justice is not sympathy. Justice is what we're  
19 going to talk about.

20           So who -- the first stepping thing is we got to  
21 pause when you get to this in the verdict form. And  
22 this is a wrongful death case. So whose death are we  
23 talking about? Daniel Collins. Grew up on that farm up  
24 in Whidbey Island. Bob Goodman told you about it, how  
25 they went to high school and they both planned to go  
26 into the military right in high school. And Daniel  
27 called late and went in and had to have his parents sign  
28 to go into the military, and when they graduated Bob

1 backed out but then went in the Air Force later. Daniel  
2 did 25 years in the service of the country. Bob Goodman  
3 has said Daniel loved two things, his family and the  
4 country.

5 25 years in the service. And what did he do in  
6 those 25 years? We didn't go over all them, but I had  
7 Christopher tell you about some of the ribbons and  
8 medals he had. Two tours of duty in Afghanistan,  
9 special accomodation for his involvement in the war on  
10 terror, a tour of duty in Iraq. 25 years. 25 years in  
11 attaining a enlisting man's rank as chief. Just about  
12 the highest you can go in the Navy as an enlisted person  
13 is chief. And this is the thing that really kind of  
14 twists me when you think of this case. There's a man  
15 that served his country and was full of training and  
16 following orders for 25 years. You heard those  
17 accommodations he had for all that. Now, do you think  
18 for one minute if he would have had proper training and  
19 the proper orders to check gauges on that this would  
20 have happened? A man like that? But they're going to  
21 blame him, that man that served us.

22 So anyhow, you do need to look at who the  
23 person is that was taken, and that was Daniel.

24 And I'm just going to highlight a couple of  
25 things. Remember Dr. Gianna O'Hara? She's now a  
26 medical doctor, a geriatrics doctor. This was her when  
27 Christopher was a young boy and she was there playing  
28 with Daniel on his back. And what was the thing that

1 told her that made him unique? When she was doing her  
2 residency -- or I think it was an intern program in  
3 Hemet, Daniel asked her to come and stay with them for  
4 free and all that. And she was kind of -- at that point  
5 in her life didn't feel good about marriage. There was  
6 some divorces in her family, didn't feel good about  
7 marriage. And she told you from the stand when she  
8 lived there for those months with Daniel and Denise,  
9 she'd never seen a closer marriage and it changed her  
10 attitude about life partners and what it means to have  
11 someone like that. And it was the best that she'd seen,  
12 about their marriage.

13 Who else? Remember the young man, Brian  
14 Caprino. With Gianna, it was about marriage. With  
15 Brian, it was Christopher's best friend. He said he  
16 never talked about it before in his life, never told  
17 that story when he and Christopher and Daniel were in  
18 San Diego and Christopher had to stay in San Diego. And  
19 that ride back it was just Brian and Daniel. And  
20 Brian's dad was a lot older than him and Daniel was  
21 closer to his age. And he said, Daniel changed my  
22 relationship with my dad. He talked to me about that  
23 age difference and it was really something special and  
24 it changed my relationship with my dad. So there's a  
25 special guy. Marriage, father, two witnesses, just  
26 that.

27 And the funny thing -- the thing that I heard  
28 from Beth Goodman was that when I asked her, I said --

1 you know, it was the end and she gave great testimony.  
2 And I was right here and I said what was his best  
3 quality? You know, what was his best value that Daniel  
4 had? And she said -- she hesitated and she looked down  
5 and said he had lots of qualities, but he -- I'll never  
6 forget what she said -- he loved out loud. Here's an  
7 example.

8 (The video played in open court.)

9 MR. BASILE: So we could watch that, and I  
10 heard friends back there chuckling about that. But  
11 that's what the man was. He loved out loud. With his  
12 son too. How about the hockey game they went to and  
13 they honored him as a service member, calling him out on  
14 the ice between periods? And then this aviation warfare  
15 medal that Christopher earned during a deployment. And  
16 he could have got it during the deployment, the award  
17 pinned on him, but he waited until he got back onshore  
18 so his dad could pin him with that aviation award.

19 And I want to play for you, you know, another  
20 love out loud. I'm not playing this to be sad, even  
21 though I am kind of getting sad. I don't mean to, but  
22 talk about loving out loud. When Christopher was on his  
23 way to Vegas, his dad couldn't reach him and he left  
24 that voicemail. This is a dad loving out loud.

25 (The audio played in open court.)

26 MR. BASILE: It's funny. I love you, we're  
27 going to the beach next weekend. Well, the next weekend  
28 was their last trip to the beach that he's talking

1 about. But that's a guy that's loving his son out loud.

2 So it gets to the justice in this case. The  
3 only justice, the only power to give justice in this  
4 case, is this jury to come up with money. Nothing else  
5 can we do to recognize this man's life and these  
6 relationships. It's just money. But that's the  
7 language that some people understand. It's the language  
8 that some corporations understand. So those are the  
9 questions for both Chris and her. What are the past  
10 noneconomic damages for the loss of Daniel Collins? And  
11 this is the law: the loss of love, compassion, comfort,  
12 care, assistance, society. Past, from when he was  
13 killed to today, over five years. And then if you just  
14 go with the 32 years, that would be another 27 years  
15 that was taken for this. So here's the law. I want to  
16 take you through the steps to what the law provides on  
17 how you come up with these numbers.

18 The first is Step 1, and the judge read this to  
19 you. It's 3900. This is the jury instruction here.  
20 And it says "The amount of damages must include an award  
21 for each item of harm." So you must include for each  
22 item of harm. So that means all these items, both past  
23 and future, that I just went over. And you got to  
24 determine them separately too. They don't get a  
25 discount because there's two. It's not a twofer here,  
26 you know. It could just be Denise if he didn't have  
27 kids, or if he didn't have a spouse it could just be  
28 Christopher. But they don't get a reduction. The judge

1 told you you got to evaluate both of those claims  
2 separately.

3 And think about each one. You got to include  
4 an award for each. Love, 32 years, companionship,  
5 comfort, care, assistance, protection, affection,  
6 society, enjoying life together as a couple, moral  
7 support, enjoyment of intimacy, training and guidance.  
8 And I think what sums up their relationship -- I'm not  
9 going to go into a whole lot of it, but I think what  
10 sums it up is here's a man that wrote her poems from  
11 '92. For 25 years he was writing her poems. And if we  
12 just look at those two poems, I got the first one and  
13 the last one.

14 '92, I just want to read the second one. "Our  
15 world is all brand new, not because of I, but because of  
16 you. I love you, you love me. Those feelings set me  
17 free." So I mean, that's in '92. And here, just weeks  
18 before he's killed on Valentine's Day, he's still  
19 writing her poems. And right there at the bottom, this  
20 is the paragraph that I think kind of shows -- "So when  
21 you feel sad, go to this beach" -- I can't read that  
22 word.

23 UNIDENTIFIED SPEAKER: Grasp.

24 MR. BASILE: -- "grasp ahold of our memories,  
25 making it never out of reach."

26 I think those two poems, you know, show the  
27 love that he had and what they wanted for the future,  
28 where they were going to move, what they were going to



1 do. And the same items all apply to Christopher, the  
2 same thing.

3 Now, Step 3 -- so 1 is must for each of these  
4 items. Step 2, look at all the items. Step 3, how long  
5 is it? And it's 32 years. You guys might choose 40  
6 years, 35, based on how it went. But let's just go with  
7 32 years for each. That's 64 years taken. And you got  
8 to say well, what's going to be an equal trade dollar  
9 value? Nothing is higher priced in our society, nothing  
10 is valued more or precious than relationships and love  
11 and life. And I have this one example. For example,  
12 like in the military, they have \$500 million planes.  
13 And if something's blinking or going wrong in that  
14 plane, they don't tell the guy to stay in the plane and  
15 see what you can do. It's bail out. Let the \$500  
16 million plane go. Get out. Save your life. You bail  
17 on it. There's nothing higher.

18 So the question that you all are going to have  
19 to answer is not how much is too much in this case,  
20 because no amount would be too much for what was taken.  
21 We said in voir dire how these things are priceless.  
22 Nothing would be too much that you come up with. The  
23 challenge we have is how much is going to be enough to  
24 hold them fully accountable for all the harm? How much  
25 would be enough? It's a debt that's owed for these two  
26 relationships.

27 So there's two alternatives you can look at in  
28 coming up with this number. One is through the eyes of

1 the people that lost Daniel. So you can ask yourself,  
2 what would Chris and Denise do to have one moment back  
3 with him? He went to work and was gone like that. They  
4 didn't get to say goodbye. But what would they do if  
5 they could just have one moment back? They'd do  
6 anything. They'd clean public restrooms. They'd pick  
7 up trash on the freeway. They would get second and  
8 third jobs. They would sell everything they had. They  
9 would do anything literally to have one moment with  
10 Daniel.

11 What moment would they choose if they could  
12 have one moment back? Maybe they would choose -- Denise  
13 would choose like another day on the beach, a moment on  
14 the beach, holding hands and watching the sunset for one  
15 moment. Maybe it would be when they moved to Whidbey  
16 Island and they opened up that dog rescue center that  
17 they wanted to, the grand opening for that. Maybe it  
18 would be that one minute. What minute would they  
19 choose?

20 What minute would Christopher choose? Would it  
21 be to be at one of his baseball games that he's still  
22 playing that his dad set him off with when he was young  
23 with the tee-ball? Would it be when Christopher is  
24 going to call his dad and say, Dad, you're going to be a  
25 grandfather? Would it be that moment? Would it be a  
26 moment with, Hey, Dad, come over, let your son hit a  
27 tee-ball like I did? Which moment would they choose?

28 Maybe Daniel -- maybe Daniel would choose the

1 last moment. Daniel's 90 years old. Time to go. He's  
2 holding his hand, he's looking in his dad's eye and he  
3 says, Dad, you were a great dad. Great dad. I'm going  
4 to be fine, the kids are going to be fine. It's time to  
5 go. Maybe he'd choose that one.

6 They've all been taken, and they're each a  
7 million-dollar moment. Every moment's a million-dollar  
8 moment. So now you're probably thinking, my God, what's  
9 this lawyer going to do? Is he going to want a million  
10 dollars for every moment he would have ever lived? No,  
11 no. I want to be reasonable. No. How many  
12 million-dollar moments would there be? We know there  
13 would probably be at least one a year, one a month.

14 So the question you're going to have to ask is  
15 not what's too much but what's enough. So I submit to  
16 you the least amount for each year that was taken is a  
17 million dollars, the least amount. But you folks can  
18 come up with a just amount, hearing what you've seen and  
19 heard in this courtroom, what is a just amount to hold  
20 them fully accountable for all the harm.

21 That's one alternative through their eyes.  
22 Here's another alternative. Remember they called those  
23 three -- I called them paid witnesses, which they were.  
24 They were paid witnesses that they called. None of them  
25 were safety people. None of them were safety people.  
26 None of them had put a LOTO -- had done a LOTO. I  
27 think -- Mr. Krauss, I don't think he's ever got his  
28 hands dirty working. He had a pretty smile when he came

1 in here and looked at you and smiled. I don't think he  
2 ever got his hands dirty. Never -- he'd never been to  
3 the plant, works for this company called Exponent who  
4 does \$200 million a year in litigation support, mostly  
5 on behalf of corporations. Corporations, you heard him  
6 say, involved with asbestos, car manufacturers, tobacco.  
7 Who else does he work for? This law firm of Diamond  
8 Generating Corporation, 23 different cases with them.

9 And they paid him what would come out to be  
10 \$50,000, having never gone to the scene or anything, to  
11 come in here and say to you well, even if there had been  
12 a warning on that sheet and even if there'd been a  
13 warning on that tank, Daniel Collins would have never  
14 paid any attention to it. I guess you get what you pay  
15 for, huh? A guy 25 years in the Navy, they're going to  
16 bring in a pretty boy like this to tell you oh, he would  
17 have ignored that, and pay him 40,000 bucks?

18 Who else did they call? Held. He's the one we  
19 stipulated to. He's the one they paid and they went out  
20 there and they made that animation and everything. And  
21 remember I asked Johnson, I go, well, geez, 40,000  
22 bucks -- I didn't say that to Johnson, but I'm thinking,  
23 they paid 40,000 bucks after someone is killed to try to  
24 generate a video to play to you to distort, distract and  
25 deny and confuse you with that. Why didn't they pay  
26 someone to make a training video before this happened?  
27 They paid him \$40,000 for that, and nothing was ever  
28 done for the training before. We're still wondering

1 when are they going to come in with the training  
2 records, let alone that?

3 Then Mr. Mason came in. Again, you're not a  
4 safety person, are you, I said. Nope. You'd defer to  
5 Mr. Lane, wouldn't you? Yeah. Mr. Lane's the safety  
6 person in this case? Yes. He agreed to all that. They  
7 called him in to say what? To say well, if the LOTO had  
8 been followed, this wouldn't have happened. No kidding.  
9 If the training would have been right, if the red flags  
10 review and all that would have been right. But they  
11 paid him 18,000.

12 So another way to evaluate, I figured that out,  
13 what does -- this is about 600 bucks an hour that  
14 they're paying him. This is about two weeks and this is  
15 about two more weeks. So this is about a month's work  
16 worth of paying that they've paid to avoid their  
17 accountability. So you may want to take that total  
18 times 12 months, comes out to about 1.3 million a year.  
19 I said one million a year is the least amount. Find the  
20 just amount. This is what they've paid to avoid  
21 accountability. It's their evaluation of this case.

22 So what are Denise Collins' past noneconomic?  
23 The least amount is one million per year. That would be  
24 \$5 million for the past. But you guys can decide. Some  
25 of you might think it's too much, a million bucks a  
26 year. But -- and some of you might think it's not  
27 enough and you go higher. Now, the other thing you  
28 might be thinking is geez, \$5 million for five years,

1 that's a lot of money. Or someone would say well, gee,  
2 that's a lot of money. But remember we talked in voir  
3 dire, just because it's a high number that's not a  
4 reason not to come up with it, just on the size of the  
5 number alone, and we all agreed.

6 Another thing that they may say or someone may  
7 say oh, look, they're going to get over it. You know,  
8 they're going to get over it in ten years if they're not  
9 over it in five. They're going to get over it. It's  
10 not -- they're not going to miss him that much down the  
11 road and all that. So do they get a discount because  
12 they killed this guy and say oh, they'd get over it?  
13 Why do they have to get over it? Because they took  
14 their loved one. So don't give them a discount on that.  
15 Come up -- and I submit a million bucks a year is the  
16 least amount.

17 Other jurors after cases have sometimes said  
18 what they do in deliberations --

19 MR. SCHUMANN: Argumentative, Your Honor.  
20 Improper. Other jurors -- other juries.

21 THE COURT: Sustained. Just rephrase,  
22 Mr. Basile.

23 MR. BASILE: I'll rephrase, yeah.

24 What you can do when you get to how much per  
25 year, you can all in that jury room just sit there in a  
26 moment of silence and think about it and each write down  
27 a number that you feel is the least amount per year,  
28 each of you, before you talk. What's the least amount

1 per year for Chris and Denise? And you each write it  
2 down before you say anything, write it on your notepad.  
3 Then after everybody does it, then you talk as a group,  
4 share that and decide what's a just amount. So write  
5 the least. Then as a group, come together as a just  
6 amount to hold them fully accountable, fully accountable  
7 for all this harm.

8 Same thing for Christopher, no discount. I  
9 already talked about that. It's the same thing, least  
10 is one. And, you know, this man represented a lot to a  
11 lot of people and he's not coming back. And the only  
12 justice is what you come up with, and we trust you that  
13 you will do justice in this case.

14 Now I want to talk to you about this and about  
15 their distract, distort and deny, their ultimate way in  
16 what they're going to be -- distract, distort and deny.  
17 They're going -- on the verdict form, they're going to  
18 have each of these names and it's going to say were they  
19 negligent, were they a substantial factor in causing  
20 harm. They're going to have that on the verdict form  
21 for each. Like I said, Mott MacDonald, I mean, they're  
22 going to try to say well, they should have put a warning  
23 or something on there. Mott MacDonald should have put a  
24 warning? Why doesn't DGC got to put a warning? This is  
25 four or five years later. So anything that they did,  
26 that wasn't the substantial factor. The substantial  
27 factor was, all that time, that they had to do  
28 something. So Mott MacDonald, it should be nothing, it

1 should be zero that they contributed.

2           Sentinel Energy, who are they? Who are they?  
3 That's one of their shell games they want you guys to  
4 join in with, join in with who's who. In the root cause  
5 analysis where he's finding who caused this death, none  
6 of these people are mentioned other than DGC Ops, and  
7 we're going to talk about them in a minute. None of  
8 these people were other ones that are mentioned. Daniel  
9 Collins too. But these should all be zero. CPV  
10 Sentinel, that's -- they're now employing McDaniels.  
11 They're going to try to get him to fall on the sword.  
12 Don't fall for their shell game. It's only meant to  
13 avoid being fully accountable.

14           Now, they're going to blame DGC Ops. They're  
15 going to try to enlist you to join in their corporate  
16 structure where you guys have found with those first  
17 four or five questions that they were responsible for  
18 safety at the plant, and then they want to say we did  
19 such a terrible job, you should reduce our  
20 responsibility because the people at DGC Ops, they were  
21 the ones that screwed up, not us. Well, who was the  
22 manager of Ops? Don't fall for that. That should also  
23 be zero here because anything you put on there is just  
24 going to be a reduction of their responsibility, of  
25 their accountability that they're going to ask you to  
26 buy in by their distract, distort and deny.

27           Now, what about Daniel Collins? I've already  
28 talked about that. They're going to stand up with what



1 the circumstances -- under the circumstances of that  
2 day, what was going on. Daniel Collins was just part of  
3 that system. Daniel Collins, like I said, 25 years in  
4 the Navy. Had he been properly trained and given the  
5 proper orders, this would have never happened. It's all  
6 on them. So this is all part of their distract, distort  
7 and deny. I ask you not to fall for it like they're  
8 going to talk about. Was he negligent? No. No. He  
9 was part of the system, doing the system that he was  
10 thrown in. No. And even if you were to say he was, it  
11 certainly wasn't a substantial factor; it was all the  
12 other things. So you can say no there too.

13 So that brings us to you. I was up on top of  
14 your tram, that beautiful sight up there, and I took  
15 this picture because that Sentinel Energy Center is  
16 here. L.A. is over here with the big high-rise where  
17 they're doing it, but we're here. We're here. Every  
18 day you folks have come in. Every day you've come in to  
19 hear this case, to have that power that no one else can  
20 do, the direct democratic power, democracy, conscious of  
21 the community in action, and you have it right here  
22 where you sit. Chris and Denise have stood up through a  
23 lot for a long time since they were just told by Diamond  
24 Generating Corporation oh, there was a gas trap that  
25 blew up, killed him. They fought to bring this here so  
26 that you can judge corporate conduct and hold them fully  
27 responsible for all the harm.

28 I'll have one last word after they speak, but I

1 trust you all to do the right thing. Thank you.

2 (The partial proceedings ended at 11:43 a.m.)

3 (The following proceedings commenced at 3:23  
4 p.m.)

5 PLAINTIFFS' REBUTTAL CLOSING ARGUMENT

6 MR. BASILE: I was trying to keep track of that  
7 time that he spoke to you, and I think it was close to  
8 two hours hour, an hour and 40 minutes, something like  
9 that. If Diamond Generating Corporation were to spend  
10 as much time with plant manager Walker on one of those  
11 reviews looking at the LOTO sheets, looking at whether  
12 he did the audits, looking at safety as it was supposed  
13 to be at that plant, looking at training on how it was  
14 supposed to be at that plant, if they would have taken  
15 as much time as they just took to try to confuse you and  
16 do all the things I said, none of us would probably be  
17 here. Only one person would be here; that would be  
18 Daniel Collins. He took all that time to do what I just  
19 said.

20 Now, Exhibit 172, please.

21 I mentioned this in the beginning when they're  
22 saying who's in charge of who and all this CPV and all  
23 that stuff. Take a look at 172. That's their fact  
24 sheet saying that they are the owners and managers of  
25 that plant, in addition to what I said about the filings  
26 with the Secretary of State. And there's three  
27 witnesses that you want to always keep in mind  
28 throughout your deliberations, and that is Mr. Forsyth

1 who said Diamond Generating Corporation is responsible  
2 for safety at the Sentinel Energy Center. He said that.  
3 You can always go back to that, no matter where they  
4 want to point their fingers or anything. Number two,  
5 the plant manager Walker, who's your boss? Who do you  
6 answer to? Diamond Generating Corporation, Auden Aberg,  
7 Mike Kromer, Paul Sheppard. You can always go back to  
8 Walker.

9           And finally, keep in mind this is the third,  
10 Ben Stanley, their own manager that came to that root  
11 cause analysis. And I know if you remember the  
12 testimony of him and how he said before he wrote the  
13 final report, who did he meet with? Paul Sheppard. Who  
14 assigned him? According to him, not according to  
15 Sheppard, according to Stanley, Sheppard did. And  
16 before he wrote the final report he met with Paul  
17 Sheppard. And that's when they called Daniel Collins  
18 brush fire. Did you hear anyone come in and say that  
19 other than that report, he was called brush fire? Where  
20 was all the discipline they said they were going to come  
21 in with about Daniel Collins.

22           And, you know, I'll let you all judge for  
23 yourself, though. We saw who Daniel Collins was. And  
24 they called him, if I heard right, a forger. They  
25 called him someone that lies. They called him someone  
26 that makes stuff up. We know who Daniel Collins was,  
27 don't we?

28           Now, Paul Sheppard, the COO -- and remember I

1 put this up in opening statement, Diamond Generating  
2 Corporation wholly-owned subsidiary is Ops and then all  
3 their power plants there. They're now trying to point  
4 the finger at everyone. But remember Question 4 when  
5 you get to this. I'm sorry. By the time you get to  
6 Question 4, once you see -- once you answer this  
7 question, "Did Diamond Generating Corporation fail to  
8 exercise reasonable care," once you answer yes to those  
9 there and listen to Forsyth, they are the ones that are  
10 in charge of safety, you've now satisfied.

11 And it was interesting he tried to change the  
12 wording of the first question. This man here, His  
13 Honor, is the one that instructs what that first  
14 question is. And that's the first question on here.  
15 It's not what he was trying to narrow it down or do  
16 something. He said it could be something else. His  
17 Honor tells you what that first question is.

18 So when you get to that first question, they  
19 provided services, when you get down to Number 4, that  
20 they're now in charge, how can they then, when they're  
21 in charge, point the finger at Ops other than to try to  
22 use this shell game of corporate structure to try to  
23 avoid responsibility? That's what this whole thing is  
24 about.

25 So the choice -- put that up there. Let's see  
26 the next one. Here's the choice. He said 2 to 3  
27 million. In rebuttal to that, I would like to go back  
28 to if Paul Sheppard and Daniel left for work that day,

1 called Denise and Christopher on the phone and said, I  
2 want to tell you something. We've haven't been doing a  
3 very good job at safety at that plant. Daniel is going  
4 to be confused today like all the other workers. If it  
5 was just one person, it would be human error, but  
6 everyone is confused and we haven't marked those valves  
7 or done anything. And this is the last day you're ever  
8 going to see your husband.

9 MR. SCHUMANN: Improper Golden Rule, Your  
10 Honor.

11 THE COURT: I'm sorry?

12 MR. SCHUMANN: Improper Golden Rule argument.

13 THE COURT: Overruled. Just be careful,  
14 Mr. Basile.

15 MR. BASILE: Thank you.

16 Yeah. I -- and Shepard says if you seek  
17 justice for what's going to happen that day, we're going  
18 to first, not tell you what happened. We're just going  
19 to say he got trapped and we're --

20 THE COURT REPORTER: Counsel, I can't hear you,  
21 I apologize.

22 MR. BASILE: We're going to have to make you  
23 file a lawsuit. We're going to have to make you sort it  
24 out for yourself who owned the plant, who's in charge of  
25 the plant, who's doing what. And then if you seek  
26 justice, we're going to take your deposition and then  
27 we're going to make you come into court and we're going  
28 to make your friends come into court and we're going to

1 call Daniel a liar, an abuser and whatever they were  
2 saying and all that. But in exchange for that, we'll  
3 give you a million bucks a year for as long as Daniel  
4 would live, 32 million to each of you. You think they'd  
5 take that offer? I don't care how many houses they say  
6 it would buy. Those are materials. This is love,  
7 compassion. This is who we are. This is who we are.  
8 They'd never take that.

9 I have to read what I wrote. I was thinking  
10 last -- last night about this whole case, what I'd say  
11 and I want to make sure I get it right. So excuse me.  
12 I usually don't read, as you see, from this stuff, but I  
13 want to read you this. Distort, deny, blame others  
14 until they face you. Until they face you. Your duty  
15 and responsibility now is to speak loud and true, loud  
16 and clear the truth to which they have hidden, covered  
17 up and confused. We ask you to hold them accountable  
18 for all this harm. Let your verdict serve as an  
19 indelible reminder of what they should have done to  
20 maintain safety at the largest power plant of its kind  
21 in the world.

22 It has been -- I'm in my 41st year. It has  
23 been a privilege to represent this family and that man,  
24 but all I am is a messenger. You are the ones with the  
25 power. You're the ones with the truth. You're the ones  
26 that we're putting Daniel Collins' life in your hands.  
27 And what is that? No one else can do it. There won't  
28 be another jury. I want us to walk out that courtroom

1 door together after the verdict. I want you all to be  
2 talking to your grandkids about how you stood up for  
3 justice. There's good corporations. I said that. But  
4 I want you to be proud about how you stood up for  
5 justice against this corporation. It's been my  
6 privilege. I will look forward to speaking with you  
7 after this is over. Thank you.

8 (The partial proceedings ended at 3:32 p.m.)

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SUPERIOR COURT - STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE

DENISE COLLINS; CHRISTOPHER  
COLLINS,

PLAINTIFFS,

V.

CPV SENTINEL ENERGY CENTER,  
LLC; MOTT MACDONALD, LLC;  
GEMMA POWER SYSTEMS, LLC; and  
DOES 1 to 15, Inclusive,

DEFENDANTS.

Case No. PSC1901096

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I, SHAYNA MONTGOMERY, REPORTER PRO TEMPORE OF  
THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE  
COUNTY OF RIVERSIDE, DO HEREBY CERTIFY THAT I DID  
CORRECTLY REPORT THE PARTIAL PROCEEDINGS CONTAINED  
HEREIN AND THAT THE FOREGOING PROCEEDINGS PAGES 1  
THROUGH 45, INCLUSIVE, COMPRISE A FULL, TRUE, AND  
CORRECT TRANSCRIPT OF THE PROCEEDINGS AND TESTIMONY  
TAKEN IN THE MATTER OF THE ABOVE-ENTITLED CAUSE ON  
TUESDAY, JULY 26, 2022.

DATED THIS 2ND DAY OF AUGUST, 2022.

*Shayna Montgomery*

SHAYNA MONTGOMERY, CSR NO. 13452



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