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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
SOUTHERN DIVISION

CHRISSY ISRAEL MAZZEO,)	
)	
Plaintiff,)	CASE NO.: 2:08-cv-01387-RLH-PAL
)	
JAMES ARTHUR "JIM" GIBBONS;)	
SIGMUND "SIG" ROGICH;)	
LAS VEGAS METROPOLITAN POLICE)	
DEPARTMENT; BILL YOUNG)	
DONALD J. CAMPBELL;)	
PENNIE MOSSETT-PUHEK;)	
DOES 1-20,)	
)	
Defendants.)	

**PLAINTIFF CHRISSY ISRAEL MAZZEO'S RESPONSE TO
DEFENDANT JAMES ARTHUR "JIM" GIBBONS' MOTION FOR SUMMARY
JUDGMENT AND TO DEFENDANT SIGMUND "SIG" ROGICH'S JOINDER
TO MOTION FOR SUMMARY JUDGMENT AND TO DEFENDANTS LVMPD AND
BILL YOUNG'S JOINDER TO DEFENDANT JAMES GIBBONS'
MOTION FOR SUMMARY JUDGMENT**

COMES NOW, Plaintiff, CHRISSY ISRAEL MAZZEO, by and through her attorney,
ROBERT J. KOSSACK, ESQ., of KOSSACK LAW OFFICES, and herein responds to
Defendant JAMES ARTHUR "JIM" GIBBONS' MOTION FOR SUMMARY JUDGMENT
(Doc. 169) and Defendant Sigmund "Sig" Rogich's JOINDER TO MOTION FOR SUMMARY
....

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POINTS AND AUTHORITIES**Introduction**

At the time of the incident giving rise to the complaint filed in the above-entitled action, Plaintiff, Chrissy Israel Mazzeo (“Chrissy”), was working as a cocktail waitress at Wynn Las Vegas, and Defendant, James Arthur “Jim” Gibbons (“Gibbons”), was a United States Congressman from Nevada’s Second Congressional District running for Governor of the State of Nevada. Gibbons subsequently won his election and is now Governor of Nevada. Defendant, “Sig” Rogich (“Rogich”), was Gibbons’ campaign advisor. Defendant, Donald J. Campbell (“Campbell”), was Gibbons’ lawyer. Defendant, Bill Young (“Young”), was the Sheriff of Clark County and the Chief Executive Officer of Defendant, Las Vegas Metropolitan Police Department (“Metro”).

More than two months before the end of discovery, Gibbons filed a Motion for Summary Judgment in which Rogich subsequently joined. A motion of a Rule 56(f) continuance is filed concurrently herewith to supplement this response once discovery is completed. Nevertheless, sufficient facts have already come to light to prove the act and the conspiracy. The following summary will be more fully described and supported by citations to the record in the Statement of Facts. A map, Exhibit 1 (see box), is provided to familiarize the Court with the area in question: Chrissy alleges, has testified in deposition, and directly following the incident, told the 911 operator, told her sister, told her friend and/or told the police her recollection of the incident as follows:

On October 13, 2010, Chrissy and her then friend, Pennie Mossett-Puhek (“Pennie”), joined Gibbons’ and Rogich’s table in the bar of the McCormick & Schmick’s Seafood Restaurant (“McCormick & Schmick’s”) and drank with their party. *See*, Second Amended Complaint (Corrected), ¶¶ 14, 16.

Gibbons made advances toward Chrissy, played footsie with her, put his hand on her thigh, told her they could crawl to his hotel room and said he wished he could have her affection. *Id.*, ¶ 17.

....



EXHIBIT 1 – KEY TO HUGHES CENTER

- | | |
|-------------------------------------------------|----------------------------------|
| 1 McCormick & Schmick's Seafood Restaurant | 7 La Quinta Inn and Suites |
| 2 McCormick & Schmick's valet parking lot | 8 Gordon Biersch Brewing Company |
| 3 Hughes Center 5-story parking garage | 9 Cozymel's Mexican Grill |
| 4 Marriott Residence Inn 2-story parking garage | 10 Hamada of Japan |
| 5 Marriott Residence Inn | 11 Bahama Breeze |
| 6 Fed/Ex Starbucks Coffee | |

When Chrissy left her keys on the table and went to the restroom, Gibbons stole her keys, waited in the rain for her to come out of the bar, and after being informed she could not find her keys, Gibbons said, "Don't worry. We'll find them. I'll take you to your car." *Id.*, ¶¶ 19-24.

1 Chrissy and Gibbons walked into a parking garage, and then Gibbons pushed and pinned
2 her against a wall, gave her the alternative to either have sex with him or *try* to escape,
3 banged her against the wall, fastened his grip on her upper arms with increasing pressure,
and said, "You can try to run away or you can let this happen. I'm not going to fuck you.
I'm going to rape you." *Id.*, ¶¶ 26-37.

4 Chrissy tried to talk Gibbons out of raping her, said she had a baby, pleaded with him not
5 to do it, said there was a camera, reminded him he was running for Governor, asked him,
"Are you seriously going to rape me?" and began to pray. *Id.*, ¶¶ 27, 32-34, 42

6 Gibbons response when Chrissy told him she survived cancer was, "Lucky you," and
7 Gibbons said, "This isn't what I want from you, you have two choices, you can try to run
away or you can let this happen...I don't care about the cameras...You either listen to me
8 and do what I say, or you're fucked!" *Id.*, ¶¶ 30-33, 37.

9 Chrissy remembers teenagers running through the garage startling Gibbons and diverting
his attention, she kicking Gibbons in the shins, freeing herself from his grasp, escaping,
10 turning and saying to Gibbons, "Now say something!...Now who's fucked?" Gibbons
replying, "Chrissy, you are!" running away, hiding, feeling trapped, running to the La
Quinta Inn and Suites ("La Quinta") and making her first call to 911. *Id.*, ¶¶ 42-43, 45.

11 From La Quinta Chrissy called Pennie and told her she had called 911 only to be told by
12 Pennie she had made a mistake and needed to "undo" her phone call. She called her
friend, Stefanie Damelio ("Damelio"), then she called her sister, Anna Marie Freteluco
13 ("Anna"), and she hung up on Anna and tried to hide behind a pillar when she saw
Gibbons come up to the La Quinta lobby doors. *Id.*, ¶ 48.

14 Chrissy ran out the lobby doors and tried to run past Gibbons who grabbed her and said,
15 Wait, I need to talk to you...You screwed up because you called 911...You'll be sorry."
She pulled herself free of Gibbons' grasp, pointed her finger at Gibbons and responded,
16 "Go fuck yourself." *Id.*, ¶ 48.

17 Chrissy ran to the Starbucks Coffee ("Starbucks") and called 911 a second time, then to
18 the Gordon Biersch Brewing Company ("Gordon Biersch") where she called 911 a third
time.
Id., ¶¶ 48-50.

19 The Metro police took some statements that evening, one of the officers told Chrissy and
20 Anna they believed Chrissy and had Gibbons on tape. That same police officer told Chrissy and
21 her sister that they had to wait to arrest Gibbons. The police knew where Gibbons was staying
22 and knew Gibbons was alleged to have taken Chrissy's keys, but they failed to secure a search
23 warrant for Gibbons or his hotel room, and they failed to interview Gibbons that evening. *Id.*,
24 ¶¶ 53-59,

25 The police took a taped statement from Chrissy and followed her home and took pictures
26 of her injuries. *Id.*, ¶ 62.

1 Early the next morning, October 14, 2006, private investigator David Groover
2 (“Groover”) called James Kimsey (“Kimsey”) who Groover knew was instrumental in designing
3 the placement of cameras at the Hughes Center complex where the incident occurred, and that
4 morning Groover with the help of Kimsey identified all cameras which could have filmed
5 Gibbons and Mazzeo the evening before. Later, the video surveillance recording equipment at
6 McCormick & Schmick’s was said not to be working, the tapes from nearby businesses were said
7 to have been recorded over, the outside garage cameras were said not be have been recording,
8 and the surveillance tapes from inside the Hughes Center parking garage and the La Quinta were
9 altered before being released to the press. Two minutes, eleven seconds of the video which
10 should have shown Gibbons and Chrissy entering the Hughes Center 5-story parking garage were
11 spliced out based on a comparison of the times shown on the two multiplex recorders. The
12 garage cameras were operated by Rogich’s client, Crescent Real Estate Equities.

13 Young had already talked to Rogich by 8:00 am the next morning and would talk to him
14 throughout the day. Gibbons’ political advisor, Jim Denton, was notified that the police needed
15 to speak to Gibbons, and Denton notified Gibbons, and Young personally called Gibbons at
16 9:23 am and talked with Gibbons for fifteen minutes. The police did not interview Gibbons until
17 later that afternoon, treated Gibbons with kid gloves, never asked Gibbons to search him or his
18 hotel room for Chrissy’s keys, and never even asked Gibbons if he stole Chrissy’s keys.

19 Pennie maintained contact with Rogich, and early on the morning of October 14, 2006,
20 Pennie began telling Chrissy that she needed to call the police and withdraw her complaint, that
21 her name would be released to the press, that her family was in danger, that there was money to
22 be had if she signed a silence agreement and that it was better to take the money than to have her
23 child’s arms severed. Pennie told Chrissy that she needed to say that alcohol was involved and
24 that it was a misunderstanding. *Id.*, ¶¶ 63-65.

25 When Chrissy succumbed and told the police she was withdrawing her complaint because
26 of who Gibbons was and because she did not want to get involved in a three-ring circus, Pennie
27
28

1 frantically told Chrissy she had used the wrong words and needed to call the police back and tell
2 them that alcohol was involved and it was a misunderstanding. No evidence exists in the police
3 record that Chrissy ever uttered those words, but Young was quick to dismiss the complaint
4 when speaking to the press, and Young said Chrissy admitted she was intoxicated and that it was
5 all a misunderstanding.

6 Even though the incident was an attempted sexual assault and a sexually motivated act of
7 coercion, Chrissy's police file was released to the press and her identity was generally made
8 known in violation of Nevada statute and Metro policy, Campbell's investigator, Groover, called
9 Chrissy and attempted to meet with her to reconcile Gibbons' and her statements, she was
10 hounded by the press, her address appeared on the Internet, her garage door opener was stolen
11 from out of her truck, and her home was entered without any signs of forced entry, the tires of
12 Anna's truck were slashed in front of Chrissy house, and the Metro police refused to make a
13 report. Meanwhile, Young and Rogich talked regularly on the telephone, with more than a dozen
14 telephone calls between them. Rogich had also been Young's campaign advisor, and Young had
15 already come out and publically supported Gibbons in his campaign for Governor. Rogich
16 continued to talk to Pennie, and Chrissy was offered money for her silence.

17 Chrissy had been traumatized during the incident and further emotionally battered by the
18 subsequent acts; she and Anna moved from hotel room to hotel room, going to Chrissy's house
19 for only minutes while Chrissy ran in and grabbed only what she needed. An attorney in
20 California who was Chrissy's former boyfriend referred Chrissy to attorney Richard Wright
21 ("Wright") who held a press conference bringing the public up to date how Chrissy's name was
22 illegally released and how she was pressured to drop the charges. Chrissy was pressured in her
23 job, left working at Bellagio Las Vegas, and could not find subsequent work. She suspected she
24 was being followed, lived in constant fear, and after nine months, Chrissy left the state the State
25 of Nevada and went to live in California.

26

1 In response to Wright's press conference, Young held a press conference; he commented
2 on how allegations which were made by people who were drunk were generally dismissed; he
3 defended his officers failure to interview Gibbons the evening of the incident; he defended his
4 calling Gibbons personally about the matter; he defended and stated his agreement with the
5 release of Chrissy's name and the police investigating documents to the press; he made clear in
6 the face of substantial evidence to the contrary that even if all of Chrissy's allegations were true,
7 her complaint only amounted to a complaint of a misdemeanor battery; he claimed there was no
8 evidence of any injury and that the police could not make an arrest as the incident did not occur
9 in their presence, and Young told the press he still supported Gibbons in his run for Governor.

10 When interviewing witnesses, Metro investigators failed to follow up on statements
11 damaging to Gibbons; they argued with witnesses favorable to Chrissy's version of the events
12 and told them Chrissy and Gibbons did not appear on the garage video and that the tape could not
13 have been altered. In their written reports, the Metro detectives falsely claimed one witness
14 favorable to Chrissy was evasive, they lied about one witness's description of Gibbons outside
15 La Quinta, and they discounted and minimized or completely left out of their written summaries
16 statements which were damaging to Gibbons, and their manipulated, biased reports were relied
17 upon by the District Attorney in his decision that the case against Gibbons could not be proven
18 beyond a reasonable doubt and would not be prosecuted.

19 Some of this response will rely upon statements which appear in police reports and
20 voluntary statements given to the police. Some of those statements have separate legal
21 significance with respect to what information was available to the police at what time, and some
22 of those statements are included simply to show what additional admissible evidence should
23 become available once all depositions are concluded. This response will attempt to make the
24 distinction by informing the Court when a person's deposition has not yet been taken.

25

26

1 Gibbons' motion is almost entirely based on an affidavit proffered by an expert retained
2 by Gibbons who has rendered an *opinion* that a video tape showing the first floor of the Hughes
3 Center parking garage on the evening in question was not altered and, therefore, Gibbons argues
4 that if neither he nor Chrissy appear on the video tape, then the incident could not have taken
5 place. Further, Chrissy tired during her deposition and was unable to recall all the evidence
6 developed by her counsel of a conspiracy among the various defendants to deprive her of her
7 civil rights and that she was retaliate against, but a lot of that evidence will be presented herein,
8 and there is more such evidence to gain before the end of discovery. Finally, even though
9 Gibbons physically battered, kidnaped, falsely imprisoned, coerced and attempted to sexually
10 assault Chrissy, threatened to rape her, scared her into hysterics and made her so fearful that she
11 moved out of her house, shuffled herself around to various hotels to avoid detection and,
12 ultimately, fled the state, fled her family and fled her friends, Gibbons argues that Chrissy has not
13 suffered sufficient emotional distress to support an intentional infliction of emotional distress
14 claim. Gibbons arguments will be shown to be frivolous.

15 Gibbons motion is lacking in admissible evidence as citations are made to reports and
16 memorandums containing hearsay and double hearsay, not to prove notice given to Young or
17 other Metro officers before they released Mazzeo's name and made unsubstantiated statements
18 about her to the press, but to prove the facts alleged therein without those facts being supported
19 by sworn testimony, affidavit or declaration under oath. The videos contained in Exhibit 9 of
20 Gibbons' motion are presently inadmissible for lack of foundation, and the hearsay statements
21 contained in the following exhibits should also be excluded:

22 Gibbons' Exhibit 3 Detective Colon's Officer's Report dated 10-14-2006;
23 Gibbons' Exhibit 5 Detective Hnatuick's Officer's Report dated 11-30-2006;
24 Gibbons' Exhibit 6 Robert Clavier's Voluntary Statement dated 10-26-2006;
25 Gibbons' Exhibit 7 David Roger's Memorandum dated 12-26-2006; and,
26 Gibbons' Exhibit 8 Detective Hnatuick's Memorandum to Captain Dillon dated
27 10-30-2006.

1 **Statement of Facts**

2 **Chrissy and Gibbons both happened to be at McCormick & Schmick's.**

3 Chrissy met Pennie when she worked at Pennie's husband's dental office where Pennie
4 worked as office manager. *See*, Exhibit 2, Deposition of Chrissy Israel Mazzeo taken January 18,
5 2010, p. 32; Exhibit 3, Deposition of Pennie Mossett Puhek taken December 17, 2009, p. 13-14.
6 Chrissy went to work for Dr. Puhek after the 9/11 terrorist attack which caused her and a number
7 of other people to be laid off from Bellagio Las Vegas, and she worked for Dr. Puhek for three
8 months before being asked to come back to work as a cocktail waitress at Bellagio Las Vegas
9 because business was back up; Pennie had previously worked as a been a cocktail waitress for
10 eight years at the Flamingo, and she and Chrissy became friends and shared some social
11 occasions. *See*, Exhibit 2, p. 671-672; Exhibit 3, pp. 10-11,14-15, 21. Chrissy left Bellagio Las
12 Vegas and opened Wynn Las Vegas working cocktails in the pool area. *See*, Exhibit 2, pp. 32,
13 36-37. When Chrissy later brought her daughter to Dr. Puhek's office to get her teeth cleaned,
14 Chrissy and Pennie made arrangements to get together, and that is what led them to their meeting
15 each other at the McCormick and Schmick's at 4:20 pm the afternoon of October 13, 2006. *See*,
16 Exhibit 2, p. 66; Exhibit 3, p. 22. Chrissy was not dressed in any provocative way. She was
17 wearing tennis shows, jeans and a black top. *See*, Exhibit 3, p. 23.

18 Rogich (whose deposition had not yet been taken) owns Rogich Communications Group
19 which he says is entrepreneurial, builds and develops projects and real estate, does public
20 relations work and engages in crisis management around the world. Rogich contributed to
21 Gibbons political campaign for Governor (*see*, Exhibit 4, Deposition of Jim Gibbons taken
22 February 5, 2010, pp. 24-25) and was working for Gibbons primarily in the area of fund-raising,
23 acting as a political consultant, speech writing and public statements. On October 13, 2006,
24 Rogich had planned on Gibbons meeting with him and some donors from California. *See*,
25 Exhibit 5, Sig Rogich Metro Voluntary Statement taken November 2, 2006, pp. 3-4. Dinner was
26

1 scheduled to be at McCormick & Schmick's beginning at 6:30 pm. *Id.*, p. 5. Gibbons said he
2 arrived at McCormick & Schmick's sometime between 6:00 and 6:30 pm. *See*, Exhibit 4, p. 27.

3 **There was no set-up; it was a chance meeting between Gibbons and Chrissy.**

4 It started raining at 6:30 pm. *See*, Exhibit 2, p. 67. It was a hard rain, and when Gibbons
5 and Rogich finished dinner at about 8:00 pm and went to leave, it was a deluge, so they decided
6 to go back in and wait out the rain. *See*, Exhibit 4, p. 29; Exhibit 5, pp. 7-8. Gibbons and
7 Rogich first stood at the bar (*id.*, p. 7-8) and then ended up in a bar booth having joined Michelle
8 Diegel ("Michelle") and Georgeanne Bradley ("Georgeanne") who both worked in a law firm
9 sharing office space with Rogich. Gibbons and Rogich sat facing each other on the outside of the
10 booth (*see*, Exhibit 4, p. 32-33; Exhibit 5, pp. 9-10, 16), and they sat with Michelle and
11 Georgeanne for about 40 minutes before being approached by Pennie. *Id.*, p. 17.

12 Pennie recognized Gibbons from his political campaigns and Michelle from high school
13 and offered to buy Gibbons' table a round of drinks. Gibbons waived them over, and Pennie and
14 Chrissy were invited over to join their group. Sig said, "Why don't you just come over and sit
15 and join us and we'll talk," *See*, Exhibit 6, Metro Voluntary Statement of Jim Gibbons taken
16 October 14, 2006, p. 3. Chrissy and Pennie brought their chairs over from their table, and
17 Chrissy sat next to Gibbons and Pennie sat next to Rogich. *See*, Exhibit 2, p. 68, 84; Exhibit 3,
18 p. 31-35; Exhibit 4, p. 34-35, 39-40; Exhibit 5, p. 10-11; Exhibit 7, Julie Lauren Vick Metro
19 Voluntary Statement taken November 6, 2006, p. 6. Chrissy did not even recognize Gibbons. *Id.*,
20 p. 6. As Chrissy described it,

21 ...it was so crammed in there. I was sitting next to [Gibbons]. Pennie was next to
22 me. And I really didn't pay attention to the ladies...I was paying attention to
Pennie. I was bored with their conversation, first of all. *See*, Exhibit 2, p. 84.

23 * * * *

24 I told [Gibbons] I didn't care about politics. I wasn't registered to vote. I just
25 started talking about my kid...I just don't care about politics at all...He did tell me
he thought politics were boring too. *Id.*, p. 89.

26

1 Chrissy's sister, Tammy Shaw ("Tammy") (whose deposition has not yet been taken),
2 responded to police questioning,

3 Q. Do you think...she might've had an agenda that night?

4 A. Not at..nuh-uh, not at all. Maybe you've seen her. She gets picked up on
5 all the time. That's not...that's really not an issue. She... she thought... she
6 didn't really even know who he was. She's not political or anything like
7 that. I'm more political. She... she has no idea. Was her agenda? No,
probably not. I personally don't think so. I think his... he had an agenda
and I think he felt he could get away with it... See, Exhibit 8, Tammy
Shaw Metro Voluntary Statement taken November 10, 2006, p. 11.

8 Gibbons testified there was very little room to move and no way for him to leave without
9 actually having to ask the women to move, but Gibbons says he was not pressed up next to
10 Chrissy. See, Exhibit 4, p. 35-36.

11 **Gibbons greets Chrissy with drinks and flirtatious conversation.**

12 Rogich told police Gibbons had one glass of wine at dinner, and when they first went
13 back, "into the bar and stand there and have a glass of wine." See, Exhibit 5, pp. 7-8. Gibbons
14 told the police he had a glass of wine at dinner ("I may have had one glass of wine"), a glass of
15 wine when he and Rogich were sitting with just Michelle and Georgeanna ("We have a glass of
16 wine with...those two people") and two glasses of wine once they were joined by Chrissy and
17 Pennie ("Sig said, 'Why don't you just come over and sit and join us and we'll talk.' And I think
18 we had, we had two glasses of wine.") See, Exhibit 6, p. 3. Gibbons said he was not worried
19 about being cited for a DUI because he was staying at the Marriott Residence Inn ("Residence
20 Inn"), which was within walking distance of McCormick and Schmick's. *Id.*, p. 6. Thus,
21 Gibbons may have had five glasses of wine, one at dinner, one upon re-entering the bar, one with
22 Michelle and Georgeanna, and two more after being joined at their table by Chrissy and Pennie.
23 Michelle and Georgeanne had been drinking since before Gibbons and Rogich came back inside
24 from the rain, and were drinking exotic, funky-colored martinis (Rogich's description) such as
25 Cosmopolitans and Red Apples (Vick's description). See, Exhibit 5, p. 10; Exhibit 7, p. 5.
26 Gibbons admitted to drinking with the women an hour and a half. See, Exhibit 4, p. 124.

1 Chrissy had four to five drinks from the time she arrived at 4:20 pm to the time she left at
2 about 10:00 pm, and she too had something to eat for dinner. *See*, Exhibit 2, p. 67, 68; Exhibit 3,
3 p. 25-28, 53-54. Pennie testified she had drinks with Chrissy and had never seen Chrissy drunk
4 (including the evening in question). *See*, Exhibit 3, p. 15. Gibbons described Chrissy as a
5 pleasant, wonderful, nice, young lady to whom he would be happy to apologize. *See*, Exhibit 6,
6 p. 6. When asked if Chrissy was intoxicated, Gibbons answered,

7 She was quiet. She didn't talk a lot. Uh, uh...you know, I, I'm not the kind of an
8 experienced person that can look at somebody and tell 'em if they're intoxicated
9 or not. I don't know. But she was quiet. She just seemed like a, a nice person.
10 *Id.*, p. 10.

11 There were flirtations conversations at the table. *See*, Exhibit 2, p. 69. According to Julie
12 Lauren Vick ("Vick"), the cocktail server (Vick's deposition has not yet been taken), "Everybody
13 at the table had been drinking heavily. The atmosphere at the table was getting flirty, dirty jokes,
14 etc." *See*, Exhibit 9, Julie Lynn Vick Metro Voluntary Statement written October 14, 2006, p. 2.
15 At one point, Diegel put her foot on the table to show off her new high heeled shoes. *See*,
16 Exhibit 7, p. 10. At another point, one of the women spilled her drink all over Gibbons. *Id.*,
17 p. 12. Vick considered cutting Gibbons' table off and stop serving them anymore alcohol. *Id.*,
18 p. 8. Vick described it, "they were all laughing, drinking, getting...leaning into each other." *Id.*,
19 p. 11. Gibbons even admitted, "It was a little loud...and I couldn't even keep track of whose
20 conversation was doing what." *See*, Exhibit 6, p. 9. But Rogich said it was never that noisy, and
21 it would be impossible not to hear conversations going on between people within the group. *See*,
22 Exhibit 5, p. 17.

23 After the incident, Gibbons told the press, "I'm a happily married man..." (*see*,
24 Exhibit 10, Kathleen Hennessey article for the Associated Press entitled, "Gibbons denies
25 improper conduct," dated October 20, 2006, p. 583), and Gibbons wife, Dawn Gibbons
26 ("Dawn"), told the press, "We have a wonderful marriage and a wonderful family." *See*,
27 Exhibit 11, Molly Ball article for the *Las Vegas Review Journal* entitled, "Gubernatorial debate
28

1 turns to 'judgment' Gibbons parking-garage incident adds import to routine question, " dated
2 October 21, 2006, p. 601. Such was not the case.

3 Gibbons started telling Chrissy about his marriage being boring. *See*, Exhibit 2, p. 89.
4 Gibbons later admitted he had not had sex with Dawn since 1995 (*see*, Exhibit 4, p. 47), that his
5 relationship with Dawn was "strained," and that he was the one who initiated divorce
6 proceedings against her. *Id.*, p. 47. Gibbons married Dawn in 1986, and testified under oath that
7 he had never had any sort of an affair with any other women during the time of their marriage
8 (*id.*, p. 46) adding up to the astonishing, less than believable revelation, that Gibbons is claiming
9 to have been completely celibate for the last fifteen years. As hard as Gibbons tried, he was not
10 to break out of his slump on Friday the 13th of October, 2006, by bedding down Chrissy.

11 **Gibbons' engaged in previous indiscretions.**

12 Gibbons admitted being friends with Leslie Furant Sferrazza ("Sferrazza") for 14 years.
13 *Id.*, p. 48. Sferrazza was the woman to whom Gibbons sent 867 text messages, and with whom
14 he was photographed hugging at the Reno rodeo. *Id.*, p. 189; Exhibit 12, Barry Ginter article for
15 the *Nevada Appeal* dated June 27, 2008; Exhibit 13, Mike Resposts; The Blog article entitled,
16 "America's Worst Governor Caught Making Out with Playboy Playmate in Parking Lot."
17 Gibbons denied ever giving Sferrazza a kiss on the lips as she sat parked in front of his house
18 (*id.*, p. 50), and he denied accepting a bag on cash money from Sferrazza delivered to him in the
19 parking lot of Adele's Restaurant in Reno. *Id.*, p. 168. Gibbons also admitted knowing Kathy
20 Karrasch ("Karrasch") since 1990. *Id.*, p. 51. Karrasch is the woman similar in appearance to
21 Chrissy who Gibbons recently lied to the press about having accompanied him on a flight to
22 Washington, D.C., for a governor's convention, a lie for which Gibbons later apologized "for any
23 ambiguity or confusion caused by my answers..." *See*, Exhibit 14, Jonathan Humbert article
24 entitled, "Gov. Gibbons Responds to I-Team Investigation and Apologizes," on LasVegasNOW.
25 com; Exhibit 15, Statement to Jonathan Humbert from Governor Jim Gibbons dated February 23,
26 2010.

1 Gibbons' testimony is refuted by Wendy Mazaros ("Mazaros") who had her deposition
2 taken in Gibbons' divorce case. According to Mazaros, Sferrazza, referred to a condominium
3 where she and Gibbons would meet until three in the morning as their "love condo," and
4 Sferrazza thought Gibbons was going to marry her, and she was going to be the first lady; she
5 told Mazaros she and Gibbons were going to move Dawn into the back house. *See*, Exhibit 16,
6 Deposition of Wendy Mazaros taken May 18, 2009, pp. 14, 32, 51, 61, 67. Mazaros was witness
7 to Gibbons being in La Jolla with Sferrazza on at least two occasions and saw them begin their
8 drive back to Reno together. *Id.*, p. 51. When Mazaros and Sferrazza lived together, Sferrazza
9 confided in Mazaros that she was pregnant with Jim Gibbons' baby. *Id.*, p. 49. According to
10 Mazaros, many times she and Sferrazza would go and park in front of Gibbons' house, and on
11 one occasion, Gibbons came over to the car and kissed Sferrazza on the lips. *Id.*, p. 14.

12 Mazaros testified that on a number of occasions she accompanied Sferrazza when
13 Sferrazza picked up and delivered packages of cash money to deliver to Gibbons. On one
14 occasion, Sferrazza became frantic and called Gibbons on her cell phone when Sferrazza and
15 Mazaros were headed back to Reno with a bag reportedly containing \$150,000 in cash, and a
16 police officer pulled Sferrazza over for speeding and started searching the Jeep. *Id.*, pp. 12, 54-
17 55. Mazaros testified that on another occasion, she personally witnessed Sferrazza hand
18 Gibbons a bag full of money in the parking lot of Adele's Restaurant. *Id.* pp. 15, 40, 56-58.

19 Mazaros testified that she witnessed Sferrazza and Karrasch get into a heated argument
20 over Gibbons in the doctor's office where Karrasch worked. *Id.*, pp. 16, 64-65. Sferrazza
21 accused Gibbons of being unfaithful to her with Karrasch, and on another occasion, Sferrazza
22 chased Karrasch away from Gibbons' house which resulted in a car chase up Windy Hill. *Id.*,
23 p. 64-66. Through Sferrazza, Mazaros was threatened to keep her mouth shut about the money.
24 *Id.*, p. 21, 49, 69 Mazaros stopped associating with Sferrazza when she saw the last big bag of

25

26



Dawn Gibbons



Jim Gibbons with Leslie Sferrazza



Kathy Karrash



Chrissy Mazzeo

EXHIBIT 17: GIBBONS' WOMEN

cash that had about a \$150,000 in it, and “it scared the holy crap out of me.” *Id.*, p. 50. Gibbons has not been truthful regarding his extra-marital relations; he has affairs; his claim of celibacy is not credible; he was a philanderer, and Chrissy was his target on the evening of October 13, 2006.

Gibbons’ failed to seduce Chrissy so he stole her keys.

Gibbons described Chrissy as “very pretty.” *See*, Exhibit 6, p. 7. He placed his hand on Chrissy’s leg and started playing footsies with her and, in response, Chrissy slid over in her chair toward Pennnie and away from Gibbons. *See*, Exhibit 2, pp. 69, 74. According to Chrissy, she was practically in Pennnie’s chair so far over away from Gibbons had she slid. *See*, Exhibit 2, p. 94. Pennnie testified that Chrissy hugged on to her and told her at the time [a present sense impression, *see*, FRE 803(1)] that Gibbons had his foot wrapped around her foot and that Chrissy had slid over closer toward her. *See*, Exhibit 3, pp. 45, 63, 207. As Chrissy slid toward Pennnie and held on to Pennnie, Gibbons said, “I wish I could get that kind of affection from her.” *See*, Exhibit 2, pp. 94-95. Gibbons even went so far as to tell Chrissy that he was staying at the Residence Inn, and said it was close enough, “we could crawl back there.” *See*, Exhibit 2, p. 89. Chrissy reported to the police that evening that Gibbons had said, “that we could basically *crawl* back to his hotel room.” *See*, Exhibit 18, Chrissy Israel Mazzeo Metro Voluntary Statement

1 taken October 14, 2006, p. 8. When Gibbons was
 2 interviewed by the police the next day, he said, "I knew I
 3 wasn't driving, so I didn't have to worry about a DUI
 4 because I could have *crawled* back here [to the Residence
 5 Inn]." See, Exhibit 4, pp. 115-116; Exhibit 6, p. 6.

6 According to Gibbons, it is an old military term that one
 7 uses when something is close by. See, Exhibit 4, p. 38.

8 Gibbons left the bar at McCormick & Schmick's
 9 because people were starting to take pictures with their cell
 10 phones, and Rogich told Gibbons [a present sense
 11 impression, see, FRE 803(1)] , "You better settle down."
 12 See, Exhibit 2, p. 69. Pennie said Chrissy mentioned that
 13 people were taking pictures with their cell phones at the
 14 table behind her [a present sense impression, see FRE
 15 803(1)]. See, Exhibit 3, p. 64. Rogich admitted they left
 16 following the discussion about cell phone pictures in the
 17 following exchange,

18 A. ...I don't think I saw any cell phones..

19 Q. Was it shortly after that, uh, the
 20 Congressman decided to leave?

21 A. Well, yeah. When I told him that it was
 22 time to go, he got up and we...we left.
 See, Exhibit 5, p. 20.

23 According to Chrissy and Vick, Gibbons left 15 to
 24 20 minutes before Chrissy left. See, Exhibit 2, p. 69;
 25 Exhibit 7, p. 9. Pennie testified Gibbons and Rogich were
 26 outside about five minutes before Rogich returned, Chrissy
 27 was still at the table when Rogich returned, and Chrissy

TIMELINE, p. 1 DAY ONE
Oct. 13, 2006

21:50	Gibbons and Rogich leave McCormick & Schmicks (est.)
21:54	Rogich returns to McCormick & Schmick's to pay check (est.)
21:56	Rogich pays McCormick & Schmick's via credit card (CCDA-1 0889)
22:04	Chrissy leaves McCormick & Schmick's (est.)
22:05	Creasey witnesses Chrissy and Gibbons in valet parking lot (est.)
22:07	Garcia witnesses Chrissy and Gibbons in valet parking lot (est.)
22:08	Chrissy and Gibbons enter parking garage (est.)
22:09	Gibbons attacks Chrissy in parking garage (est.)
22:11	Chrissy hides in Residence Inn parking garage (est.)
22:12	Rogich calls designated driver service, 1 min. (CCDA-2 0550)
22:12	Creasey sees Gibbons and Chrissy near entrance to Residence Inn (see, Exhibit 19, Deposition of Christopher Creasey taken February 8, 2010, p. 31, from time on tape plus 2' 11")
22:13	Rogich, Puhek, Bradley and Diegle leave McCormick & Schmick's (est.)
22:14	Rogich and Bradley enter Hughes Center parking garage (time on tape plus 2' 11")

**WHY WOULD ROGICH WANT TO
DRIVE GIBBONS HALF A BLOCK
TO HIS HOTEL ROOM?**

Rogich must have known Gibbons had it in his mind to pray on Chrissy after having witnessed how much Gibbons had to drink, having witnessed Gibbons trying to seduce Chrissy in the bar, having needed to tell Gibbons to settle down, having extracted Gibbons from the bar before more cell phone pictures could be taken and, perhaps, because he witnessed Gibbons take Chrissy's keys off the table.

left as Rogich returned. *See*, Exhibit 3, p. 66-67.

Gibbons testified he left with Rogich and went outside where he stood with Rogich for three to five minutes while Rogich attempted to convince him to allow him (Rogich) to drive him (Gibbons) to his hotel room a block away (actually less than a block according to the aerial view). *See*, Exhibit 1; Exhibit 4, p. 52. Gibbons went back in to pay the bill, which totaled \$362.12. *See*, Exhibit 20, Rogich's receipt from McCormick & Schmick's. Rogich claims he bought food and drinks for other people beside Gibbons and the women, but

cannot remember who they were. *See*, Exhibit 21, Rogich's Answers to Interrogatories, Answer No. 1. Sometime later, Mazzeo came out of the restaurant. *See*, Exhibit 4, pp. 54, 55).

Before Gibbons left to go outside, Chrissy had placed her keys on the table and had gone to the restroom. When Chrissy came back to the table, Gibbons was gone and so were her keys. *See*, Exhibit 2, p. 676-677. Pennie remembers Chrissy looking for her keys, going through her purse and saying that she had put them on the table and could not find them and saying with respect to Gibbons [a present sense impression, *see*, FRE 803(1)], "I think he took my keys...I'm going to go find out," before she left the table and went outside. *See*, Exhibit 3, pp. 65-66.

....

**THE DISAPPEARANCE OF
CHRISSY'S KEYS WAS ALWAYS AN ISSUE.**

The disappearance of Chrissy's keys was an issue during the investigation from the beginning. Detective Colon wrote in his report, "Mazzeo felt the reason that Gibbons said, 'Are you looking for me?', was because Gibbons possibly had her car keys, which Mazzeo was never able to locate." *See*, Exhibit 22, M. Colon Officer's Report, p. 3.

When Gibbons was first questioned by the police he was asked, "...somebody at the table may have picked up her keys...I was just wondering if you were helping her find her car if she might have given you the keys at some point...?" *See*, Exhibit 6, p. 18.

Neither Gibbons nor his room were searched.

According to Vick, Rogich and Georgeanna were hugging as they left. *See*, Exhibit 9, p. 2. Michelle said she did not feel she could drive home, and Rogich offered to call a driver's service. *See*, Exhibit 3, p. 56. At 10:12 pm, Rogich called a designated driver service. *See*,



EXHIBIT 24

Sig Rogich and Georgeanne enter the parking garage which according to the clock for this particular camera was at 22:11:51.

Exhibit 23, Declaration of Carman Grider

Regarding Sig Rogich's Call to a Designated Driver Service, ¶ 2. Instead of Michelle going home with a designated driver, she left with Pennie. *See*, Exhibit 3, p. 52. According to the video tape offered by Gibbons, Rogich is seen following Georgeanne into the parking garage just seconds before 10:12 pm (*see*, Exhibit 24), and he does not look like he is about to pull out his cell phone and call a designated driver service. This was one of the tip-offs that the video tape had been doctored. Rogich called the

designated driver service while still in the bar at the time of the discussion about how Michelle was going to safely get home. Such discussion would probably be at least two minutes prior to Rogich and Georgeanne being seen on camera entering the Hughes Center 5-story parking garage.

Gibbons waited in the rain for Chrissy to come out, and he tried to romance her while she played along trying to get her keys back from him.

When Chrissy came outside the McCormick and Schmick's, Gibbons was standing in the rain waiting between two bushes. He came up to Mazzeo and asked, "Are you looking for me?" Chrissy answered, "No, I'm looking for my keys." *See*, Exhibit 2, p. 69. Gibbons acted as if Chrissy finding her keys was of no absolutely consequence, and he said, "Well, don't worry about it. I'll take you to your car." *See*, Exhibit 2, p. 70.

1 Chrissy thought it odd that she saw Gibbons
2 backed up toward the bushes, and then he spoke out.

3 According to Chrissy,

4 ...I turned around, walked back towards him. I
5 said, "Do you have my keys"... That's weird."
6 And he goes, "No. I'll take you to your car." I
7 said, "Do you have my keys?" He never said yes
8 or no. He goes, "I'll just help you find your car."
9 I said, "I know where my car's at." So he just
10 said, "I'll take you to your car." So, I assumed he
11 had my keys. *See*, Exhibit 2, p. 102.

12 Q. ...your car was actually to the left?

13 A. To the left, yes.

14 Q. So why did you go with him?

15 A. Because I thought he had my keys. I
16 thought he had my keys. He said, "I'll
17 just take you to your car." I said, "Do you
18 have my keys?" He goes, "Just come with
19 me. I'll take you to your car. *Id.*, pp. 102-
20 103

21 Chrissy never did find her keys. *Id.*, p. 105.

22 Gibbons then took Chrissy up and down the
23 McCormick and Schmick's valet parking lot. *See*, box
24 stories of the various routes Gibbons says he took back to
25 the hotel, Exhibits 25-27, *infra*. Gibbons told the police
26 he never touched Chrissy. *See*, Exhibit 6, p. 8. Gibbons
27 claims Chrissy could not find her car on a dark night, he
28 volunteered to help her look for her car because, "it
seemed like the gentlemanly thing to do," and then he
started to help her look for her truck by walking to the
west end of the parking lot in front of the McCormick &

TIMELINE, p. 2 DAY ONE
Oct. 13, 2006

22:18 Bradley drives out of Hughes
Center parking garage
(CCDA-1 0908)

22:19 Rogich drives out of Hughes
Center parking garage
(CCDA-1 0909)

22:23 Chrissy's first call to 911 from
La Quinta, 3 min. (CCDA-1
0820)

22:26 Chrissy calls Pennie, 2 min.
(CCDA-2 0025)

22:27. Metro 911 attempts to call
Chrissy back and receives her
voice mail (LVMPD000067)

22:29 Chrissy attempts to call Joey
Hernandez, 1 min. (CCDA-2
0025)

22:30 Chrissy calls Stefanie Damelio,
15 min. (CCDA-2 0025)

22.32 Anna calls 911 (CCDA-1 0836)

22:45 Chrissy attempts to call Joey
Hernandez , 1 min. (CCDA-2
0025)

22:46. Chrissy calls Anna from a
phone which does not show
Chrissy's caller ID (est.).

22:46. Gibbons comes up to La Quinta
and Anna hears Chrissy gasp
over the phone and say, "it's
him." (est.).

22:47. Gibbons grabs a hold of
Chrissy as she walks past him
and Chrissy yells at Gibbons
and shakes her finger in his face
(est.).



EXHIBIT 25: GIBBONS' FIRST STORY OF HIS ROUTE BACK TO THE HOTEL

Gibbons stayed at the Residence Inn over 30 times, and his usual route back from McCormick & Schmick's (where he had eaten over 10 times) was through the hotel's back gate. *See*, Exhibit 4, p. 30. Gibbons told police on October 14, 2006, Chrissy had pointed in the direction of this "parking structure," tripped "around the corner," (*see*, Exhibit 6, p. 13) "at the entrance of that parking structure," (*id.*, p. 14) with "a wall or a bench... right there" (*id.*, p. 20), "...she walked away...I went off into the hotel...That's it." *Id.*, p. 14, 20-21.

Gibbons told police on November 10, 2006, he had no changes to make to his prior statement, and he drew on an aerial photo where the events occurred. *See*, Exhibit 28, Metro Voluntary Statement of James Gibbons taken November 10, 2006, p. 3; Exhibit 29, Aerial Photo of the Hughes Center bearing markings and the signature of Jim Gibbons dated 11-10-'06. Gibbons' description of his route to the hotel as shown in the above diagram is based on information contained in Exhibits 28 and 29 as specified: **Point 1** is where Gibbons said he first met Chrissy outside the McCormick and Schmick's. *See*, Exhibit 29 referred to in Exhibit 28, p. 5. **Point 2** is the furthest west in the valet parking lot Gibbons said he walked with Chrissy looking for her truck. *Id.*, p. 5-6. **Point 3** is where Gibbons said Chrissy allegedly tripped and fell, and he said he needed to catch her. *Id.* **Point 4** is where Gibbons said he went through the gate and into the hotel through the back door. *Id.*, p. 11. Gibbons told police, "...I stand her back up...she walked away...I turned and went back to the hotel...I went down – there is a gate right here, Point 4,...this gate goes to a back door that's right here." *Id.*, at 10-11. When asked, "And from there, where did you go?" Gibbons answered, "To my room. Directly to my room." *Id.*, pp. 10-11.



EXHIBIT 26: GIBBONS' SECOND STORY OF HIS ROUTE BACK TO THE HOTEL

Gibbons' told police on November 10, 2006, he thought he was back in his hotel room by 10:10 pm and no later than 10:15 pm. *See*, Exhibit 28, pp. 12-13. Gibbons said once in the hotel he went straight to the elevator and up to his room without stopping to talk to anyone. *Id.*, p. 13. Gibbons further elaborated how his key card would get him through the gate, and he could walk past the pool into the back entrance. *Id.*, p. 17.

But Gibbons was then told that the Residence Inn records for lock interrogations show his room was not entered until 10:47 pm, and Gibbons was asked why it would take him so long to get to his room especially since Rogich drove out of the parking garage at 10:18 pm. *Id.*, p. 14; Exhibit 30, Room Record, p. CCDA-1 0912.

The above diagram memorializes Gibbons change of statement. Upon being confronted with the time discrepancy, Gibbons claimed that when he first tried the back gate it would not open for him. *Id.*, p. 18. Gibbons said he walked around to the front door of the hotel, but he did not have his key at that point. He told the police he turned around thinking he had dropped his key along the way, walked very slowly back to the gate looking for his key, found his key dropped by the gate, tried the key in the gate and jiggled it, "And this time it opened. That's when I went...in that gate and up to my room." *Id.*, pp. 18-19. In Gibbons' second story, he does not at first enter the back gate, he first walks from the back gate to the hotel's front doors then, instead of getting a new key card from the front desk clerk, turns around and walks to the back gate searching for his key card, finds his key card by the back gate, jiggles his key card to make it work, opens the back gate, enters through the back gate and goes directly up to his room. If the extra trip to and from the hotel's front doors took fifteen minutes, Gibbons was still left with fifteen to twenty unaccounted for minutes.



EXHIBIT 27: GIBBONS' THIRD STORY OF HIS ROUTE BACK TO THE HOTEL

At deposition, Gibbons marked on diagrams of Hughes Center where certain events occurred. *See*, Exhibit 4, p. 59-63; Exhibit 31, which is Exhibit 2 to Gibbons' deposition showing an aerial view of Hughes Center; Exhibit 32, which is Exhibit 3 to Gibbons' deposition showing a map view of Hughes Center. Gibbons testified that after Chrissy walked on what he supposed was the sidewalk between the parking garage and the hotel, he, "walked toward the hotel...and then decided to enter the back of the hotel where I normally go." *See*, Exhibit 4, p. 77. Gibbons' story at deposition was, "I walked to the back gate, couldn't get my key to open the gate, turned around and walked to front of the hotel to access the front door....I didn't have my key with me...(see, Exhibit 4, pp. 83-84)...I started looking for my key...check all...pockets...took a while for me to search thoroughly my steps in tracing back to the back gate...I didn't walk very fast...Maybe ten minutes." *Id.*, pp. 85-86. Gibbons found his key on the ground next to the back gate (*id.*, p. 86), then, "I picked the key up and went back to the front door," where Gibbons said he entered the front of the hotel and from there went up to his room. *Id.*, p. 87. Gibbons agreed that on his second attempt, his key card worked the back gate but, then, instead of going through the back gate, across the pool area and into the hotel as was his original plan, he decided to walk (in the rain) to the front of the hotel and enter the hotel from the front. *Id.*, p. 161. Thus, Gibbons' story describing his route back to the hotel changed once again. Although Gibbons claims he answered all questions the police posed in an honest fashion, "as honestly as I could," (*id.*, p. 107), in deposition Gibbons testified contrary to his initial statements to the police; Gibbons admitted he gave the police wrong information (*id.*, p. 150), and Gibbons swore he took the remarkably inconvenient, redundant path back to the Residence Inn as shown in the above diagram.

Schmick's. *See*, Exhibit 4, pp. 56, 57. During this time, Gibbons denies having had his arm around Mazzeo during any portion of said walk. *Id.*, p. 58. However, this is precisely what the sworn testimony of one of the valet parkers, who is also a fourth year college student at UNLV, George Anthony Garcia ("Garcia"), refutes. *See*, Exhibit 33, Deposition of George Anthony Garcia taken February 12, 2010, p. 11.

Garcia was employed by Parking Solutions on October 13, 2006, and was working the event at McCormick & Schmick's. *Id.*, pp. 16-17. Garcia heard a female voice laugh or scream or just some sort of commotion coming from their direction, and he saw two people coming toward him, did not know if they were trying to get a hold of him and figured they were going to hand him a ticket. *Id.*, p. 34-36. Garcia knew it was Gibbons. *Id.*, p. 41. He recognized him right away because he was running for office, and Garcia considered Gibbons to be well known. *Id.*, pp. 52, 70-71. Gibbons brushed Garcia off like he wanted Garcia to go away (*id.*, pp. 37-38); Gibbons shushed him away like he did not want Garcia to bother them; Gibbons waved his hand to try to get rid of him. *Id.*, pp. 71-72. Gibbons had his arm around Chrissy and was protecting her from the rain with his coat. *Id.*, p. 38. The woman Garcia saw Gibbons with that evening matched Chrissy's

TIMELINE, p. 3**DAY ONE
Oct. 13, 2006**

22:47 Gibbons opens his hotel room door (CCDA-1 0912); Gibbons contests this time and feels it could be up to 30 minutes fast, meaning Gibbons could have entered his room as late as 23:17 (*see*, Exhibit 4, p. 181) allowing him to be at La Quinta during this time as Chrissy described.

22:48 Chrissy attempts to call Puhek inside Starbucks, 1 min. (CCDA-2 0005).

22:49 Chrissy attempts to call Joey Hernandez, 1 min. (CCDA-2 0025)

22:53 Police arrive at La Quinta (LVMPD000067)

22:53 Chrissy's second call to 911 from Starbucks, 2 min. (CCDA-2 0025)

22:58 Chrissy attempts to call her mother (CCDA-2 0025)

22:59 Chrissy calls Anna, 12 min. (CCDA-2 0025)

23:14 Chrissy's third call to 911 from Gordon Biersch, 12 min. (CCDA-0826-0835)

Oct. 14, '06

00:14 Metro, calls Pennie Puhek, 5 min. (CCDA-2 0045), *see* M. Colon's Report (CCDA-1 0134)

00:39 Chrissy writes out a voluntary statement for Metro (*see*, Exhibit 52.5)

description, her distinct features, big eyes and full lips. *Id.*, p. 75. The woman did not appear to be drunk, and it looked like she and Gibbons were just together, like they were a couple, and Gibbons looked like he was being flirtatious with her. *Id.*, pp. 72, 75. Garcia testified,

Just how close they were. You could tell. I mean, if someone is trying to pick up on someone at a club, at a bar or at a restaurant, there's a distance, you know. They're talking to each other. They were close. They were hugging. *Id.*, p. 87.

They were not positioned the way they were simply because it was raining. *Id.*, p. 97.

Gibbons attacked Chrissy.

Gibbons told the police he crossed the street (Hughes Center Drive), they were "walking down" and that he presumed Chrissy's car was in the structure,

So I just walked over there. She tripped. I grabbed her to straighten her up. I said, "Are you okay?" She walked away. I walked away. And I went into the, into the hotel, came up here and went to bed. *See*, Exhibit 6, p. 4.

Chrissy remembers going down some steps and into a parking garage. She did not trip as Gibbons was later to claim. In the garage, Gibbons grabbed her arms and pushed her against the wall, and Chrissy got scared. She said to Gibbons, "Are you really going to rape me?" To which Gibbons

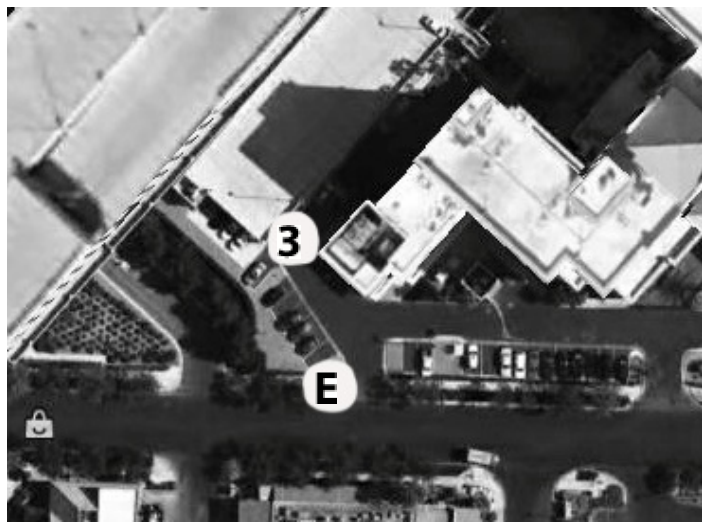


EXHIBIT 33: GIBBONS CHANGES HIS STORY OF WHERE HE SAYS CHRISSY "STUMBLED"

On November 10, 2006, Gibbons looked at an aerial view of Hughes Center and marked as Point 3 where he told police Chrissy stumbled and he caught her. *See*, Exhibit 28, p. 6; Exhibit 29. The location Gibbons marked on November 10, 2006, matched his description of the location in his October 14, 2006, statement to the police as being at the entrance of the parking structure around the corner next to a wall. *See*, Exhibit 6, p. 13-14, 20.

At deposition, Gibbons marked as Point E the location where he swore Chrissy stumbled and where he allegedly kept her from falling. *See*, Exhibit 4, p. 71-72; Exhibit 31; Exhibit 32. As shown in the above diagram, Point E is out in the open; Point 3 is more secluded.

1 responded, "You've got two choices. You can *try* and run or you can let this happen." *See*,
 2 Exhibit 2, pp. 70-71. Chrissy described it,

3 ...then I looked at him, and I knew something was wrong by looking at him. And then I
 4 said, "Are you serious?" And then I said, "There's cameras right there." He said, "I
 5 don't care about the cameras." And then he also said too – I said – and that's when I
 6 started like crying. And he goes – I said, "Are you serious? Are you
 7 going to rape me." And he said, basically you have two choices. And then he
 8 said – I said, there's cameras. And I said, I just went through cancer. Are you
 9 really going to try – he said basically are – you have two choices. You can try to
 10 get away or you can let this happen. *Id.*, p. 113.

11 And I remember saying a prayer and I remember there was kids running through
 12 the garage. And then I shook away. And I told him, I said, "Now who's fucked."
 13 And he said, "You're fucked." *Id.*, p. 113.

14 I remember running over to La Quinta, sitting down in the lobby. *Id.*, p. 113. I said,
 15 "Let's see who's fucked now." *Id.*, p. 114.

16 * * * *

17 ...I said, "Are you serious? Are you going to rape me?" I said, "Aren't you
 18 running for governor?" He said, "I don't care about the tapes." He kept saying
 19 that he did not care about the tapes, the cameras. And then that was – and that's
 20 when I shook away and I ran off and I told him to fuck off. And that was it. I ran
 21 out of the garage. *Id.*, p. 115

22 Chrissy fended off defense counsel's questions,

23 Q. ...So even assuming it's really thin material, how is it that you get a scrape
 24 on the upper part of your right arm...on your shoulder area?

25 A. From the wall because it was so thin, the material, it was really super thin.
 26 *Id.*, p. 515.

27 Q. Did you fall back into the wall?

28 A. Yeah, when he was holding me, I was pushed against the wall....He
 grabbed both my arms....And then he was holding me. And then that's
 when he pushed me against the wall. *Id.*, p. 516.

Chrissy described some of her injuries in her deposition.

Q. The redness on the arm in the picture to the right you claim was caused
 when Congressman Gibbons grabbed your arm, correct?

A. Yes.....About the muscle area....That's my left arm, yes. *Id.*, p. 513.

Q. ...in the top left-hand photograph you have redness around the muscle area
 of your right arm, correct?

1 A. Yep, that's correct.

2 Q. You're contending that that was related.

3 A. Yeah. *Id.*, p. 514.

4 And some deposition humor,

5 Q. You never lost any sleep before '06?

6 A. No, did not. Never had a problem sleeping.

7 Q. Even when Nick beat you up?

8 A. It actually helped me sleep because I had a concussion.

9 Q. Maybe send him a thank you card. *Id.*, p. 522.

10 **Calls Chrissy made from La Quinta talking about the incident.**

11 When Chrissy escaped and ran to La Quinta and called her sister, she was hysterical,
 12 crying, frantic, speaking louder than what the phone would initially allow Anna to understand,
 13 and in this excited state Chrissy told Anna [an excited utterance, *see*, FRE 803(2)] that Gibbons
 14 said, "I'm not going to fuck you. I'm going to rape you." *See*, Exhibit 34, Deposition of Anna
 15 Marie Freteluco taken March 2, 2010, pp. 49-50, 154. After Chrissy escaped, Gibbons
 16 threatened Chrissy by telling her, "You're fucked." *See*, Exhibit 2, p. 71, 155-156. Anna
 17 testified,

18 That night [Chrissy] was so hysterical...I remembered when she said that she
 19 kicked him in the shins....I remember her telling me that she didn't know how to
 20 get out of the garage....I remember that she said that she couldn't get out because
 there was a fence all the way around -- like she felt like she was trapped." *See*,
 Exhibit 34, pp. 24-26.

21 * * * *

22 [E]very call she was frantic, and every call she...made she was crying, and I was
 23 trying to calm her down." *See*, Exhibit 34, p. 27. "[S]he kicked him in the shins
 and she broke free, but she said that she didn't see a way out, that she was by the
 24 elevators. *Id.*, p. 28.

25 Anna testified,

26 A. The first call I told her, asked her what was wrong and she was, sounded
 like she was very frantic and yes. I told her to call 911.

1 Q. ...And that call you were interrupted during the course of it? She hung up?

2 A. Yes.

3 Q. You tried to call her back and could not get hold of her, correct?

4 A. That's true.

5 Q. And at that point, you yourself called 911?

6 A. Yes. I did. *Id.*, pp. 29-30.

7 * * * *

8 A. ...she told me that he became violent with her, pushed her up against the
9 wall and she couldn't break free and that she was crying and that she saw
an elevator... *Id.*, p. 47.

10 * * * *

11 Q. ...you made a call to 911 –

12 A. Only after I knew something was wrong with her. She's crying, she's
13 upset. She couldn't find Pennie. She said she was by an elevator. She
said she couldn't get out. She was crying; she was upset. I said, "Well,
14 then call 911."

15 Q. ...And that was when you called 911?

16 A. I told her to call. I wasn't sure if she did or not. So then I called. *Id.*,
p. 48.

17 Q. ...you told [911] your sister had been raped, correct?

18 A. Yes.

19 Q. Now had your sister told you that?

20 A. She hadn't said if she had or not. She said he got aggressive with her. He
21 said that, "I'm not going to fuck you, I'm going to rape you." So I was not
sure if he did or not.

22 Q. So why would you tell the 911 operator he did, if you weren't sure?

23 A. Because I didn't understand why she was crying. I didn't understand. I
24 knew that he got aggressive with her, but I didn't understand why she was
crying, why was she so frantic, why was she so upset. So I didn't
25 understand.

26 But she used the word "rape" and she was upset and loud anyway and I
couldn't understand what she was saying. *Id.*, p. 49.

1 Q. ...according to her the Governor had told
2 her, "I'm not going to fuck you, I'm going
3 to rape you," correct?

4 A. Yes. Yes.

5 Q. Now what in that sentence led you
6 to believe that your sister had been
7 raped?

8 A. The phone call got cut off. *Id.*,
9 p. 50.

10 Stefanie Damelio ("Damelio") was one of
11 Chrissy's co-workers at Wynn Las Vegas. They both
12 worked in the pool area and became friends. *See*,
13 Exhibit 36, Deposition of Stefanie Damelio taken
14 February 12, 2010, pp. 18-19. Damelio remembers
15 Chrissy calling her at home at 10:26 pm on October 13,
16 2006, and having a 15 minute phone conversation with
17 her. At first, Chrissy was panting, hyperventilating,
18 crying, screaming, excited, rambling and hysterical, and
19 at first, Damelio could not understand what she was
20 saying. Finally, Damelio learned from Chrissy that she
21 had been flirting with Gibbons, that they had walked out
22 together, and he had attacked her in a parking garage. *Id.*,
23 Exhibit 36, pp. 32-33, 35, 44, 54, 80, 87. Chrissy told
24 Damelio that Gibbons had been rubbing her leg, that she
25 had scooted closer to Pennie, that she thought she had
26 taken her keys out of her purse and placed them on the
27 table, that when she went to leave, she could not find her
28 keys, that when she left, Gibbons was off in the bushes,
and that Gibbons had just assaulted her. *Id.*, Exhibit 36,

TIMELINE, p. 4 DAY TWO
Oct. 14, '06

01:30	Sexual Assault Sergeant Crickett is notified of the incident and states that the incident did not fit the criteria of a sexual battery (<i>see</i> , Exhibit 22, p. 6)
01:30	Chrissy gives a taped voluntary statement to Metro (<i>see</i> , Exhibit 18)
02:40	Chrissy is photographed by Metro ID Officer E. McGhee (CCDA-1 0914)
03:47	Chrissy calls Stefanie Damelio, 16 min. (CCDA-2 0005)
04:00.	Sergeant Bunker orders Detective Colon to fax him a copy of the entire incident (<i>see</i> , Exhibit 22, p. 6)
07:22	Pennie tries to call Chrissy, 1 min. (CCDA-2 0005)
07:30	David Groover calls James Kimsey to meet him at the Hughes Center to scope out all cameras (<i>see</i> , Exhibit 35, Declaration of James Kimsey)
07:58	Chrissy calls Pennie, 8 min. (CCDA-2 0005)
08:06	Pennie calls Metro Officer Darin Cook, 8 min. (CCDA-2 0045)
08:15	Chrissy tries to call Pennie (CCDA-2 0005)
08:16.	Unknown caller calls Pennie, 4 min. (CCDA-2 0045)
08:20	Unknown caller calls Pennie Puhek, 1 min. (CCDA-2 0045)

pp. 83-85. Chrissy said she had called 911 and then had called and spoken to Pennie, and Pennie told her she had to call the police and tell them to forget it, that she could not do this...not to call the police. *Id.*, pp. 65, 86-87.

When Chrissy was starting to calm down and was not quite as hysterical, Damelio recalls Chrissy saying she told Gibbons she was looking for her keys and asked Gibbons if he had them and that Gibbons had answered that he would walk her to her car, that as they were walking, Gibbons grabbed her arms and told her she was fucked, that Chrissy said she asked him if he was planning on raping her and told him she had survived cancer and, in response, Gibbons told her she had two choices, either do what he said or she's fucked, and that he kept banging her against the wall. *Id.*, pp. 85-86.

Chrissy told Pennie she called 911, and Young notified Rogich.

Chrissy's and Pennie's phone records show Chrissy made a two minute phone call to Pennie on October 13, 2006, at 10:26 pm. *See*, Exhibit 38, Chrissy Mazzeo's submission to District Attorney David Roger dated November 3, 2008, consisting of a cover letter by Richard A. Wright, Esq., and Chrissy Mazzeo's phone records with handwritten notations of who she called and who called her; p. CCDA-2 0123; Exhibit 39, Chrissy

**TIMELINE, p. 5 DAY TWO
Oct. 14, 2006**

09:05	Young calls Rogich, 9 min (<i>see</i> , Exhibit 37, Bill Young's Supplemental Response to Plaintiff's Request for Production of Documents, Response No. 6, Young's phone records, p. 7; converted to Pacific Daylight Time)
09:23	Gibbons calls Young, 15 min. (<i>id.</i>)
09:38	Young calls Deputy Chief Greg McCurdy, 7 min. (<i>id.</i>)
09:46	Young calls Rogich, 23 min. (<i>id.</i>)
10:30	David Groover meets James Kimsey at Hughes Center to identify all cameras (<i>see</i> , Exhibit 35).
11:57	Chrissy calls Pennie, 3 min. (CCDA-2 0006)
12:01	Unknown caller calls Pennie, 2 min. (CCDA-2 0045)
12:03	Chrissy calls Pennie, 3 min. (CCDA-2 0006)
12:44	Rogich tries to call Young, 1 min. (<i>see</i> , Exhibit 37, Young's phone records, p. 7; converted to PDT)
12:47	Young calls Rogich, 7 min. (<i>id.</i>)
12:52	Pennie calls Chrissy, 2 min. (CCDA-2 0124)
14:55	Gibbons interviewed by Det. Hnatuick and Det. Baker (<i>see</i> , Exhibit 6)
15:11	Time when Detective Hnatuick says Metro received a call saying Chrissy was ready to drop charges (LVMPD000093)

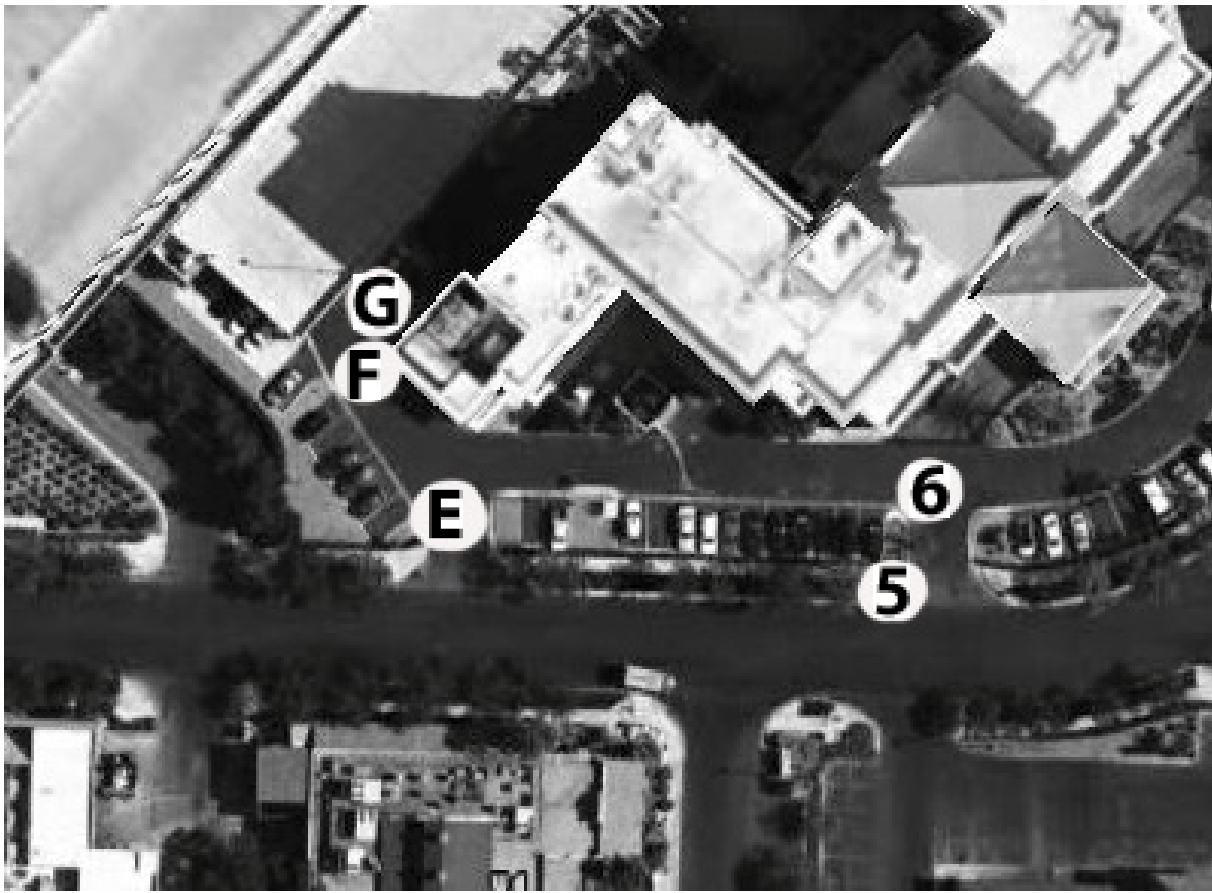


EXHIBIT 40: WHEN DID GIBBONS' LAST SEE CHRISSEY?

In his deposition, Gibbons testified Chrissy stumbled and he caught her at Point E. *See*, Exhibits 31 and 32 referred to in Exhibit 4, p. 71-72. Gibbons testified he then stayed at Point E while Chrissy walked at a slightly quicker pace to Point F. *Id.*, p. 80. Gibbons testified he continued to stay at Point E when Chrissy disappeared into the shadows at Point G where he last saw her. *Id.*, pp. 80-81. Gibbons walked in the same direction as Chrissy after remaining at Point E for 10 seconds but took offense at any insinuation that he followed Chrissy into the parking garage. *Id.*, p. 83.

Independent witness, Christopher Creasey ("Creasey"), testified he saw Gibbons and Chrissy as he drove east on Hughes Center Drive. *See*, Exhibit 36, Deposition of Christopher Creasey taken February 8, 2010, p. 25. He recognized Gibbons who was 10 to 15 feet into the Residence Inn parking lot, and he recognized Chrissy from her picture. *Id.*, p. 26; Exhibit 37, Exhibit B to Creasey deposition. Chrissy was trying to get someone's attention and called out, and Gibbons turned around at the time, and Gibbons and Chrissy were 10 to 15 feet apart. *See*, Exhibit 36, p. 27. Gibbons had stopped for the moment to turn around because someone had said something. *Id.*, p. 28. Chrissy was at Point 5 and Gibbons was at Point 6 when Creasey saw Gibbons stop, turn and look at Chrissy. *Id.*, p. 47, 51-52; Exhibit 38, Exhibit 2 to Creasey's deposition. Creasey's testimony impeaches Gibbons' testimony. Chrissy called out to Gibbons to chastize him on her way over to La Quinta.

Mazzeo's submission to District Attorney David Roger consisting of a cover letter by Karen C. Winckler, Esq., Karen's Chronology, Mazzeo Telephone Calls record, pp. CCDA-2 0005, CCDA-2 0116; Exhibit 41, District Attorney's Office Subpoena to Jill Sparks/Legal Compliance, Custodian of Records for Sprint Spectrum LP for records for (702) 808-8917, p. CCDA-2 0428-0230; Exhibit 42, Sprint Nextel response to subpoena for Case No. 0610133774 for phone number 7028088917 belonging to Pennie Puhek, p. CCDA-2 0584 (shows an incoming call at 10:28 pm for two minutes); Exhibit 43, District Attorney's Office Investigator Michael Karstedt (Mr. Karstedt's deposition has not yet been taken), Subscriber Information summary, pp. CCDA-2 0002-0004; Exhibit 44, Mazzeo Telephone Calls analysis by District Attorney's Office Investigator Michael Karstedt, p. CCDA-2 0025; Exhibit 45, Puhek Telephone Calls analysis by District Attorney's Office Investigator Michael Karstedt, CCDA-2 0045.

Chrissy recalls first calling 911, and ex-Metro-boyfriend, Joey Hernandez, who did not answer, then Pennie who Chrissy told she called 911. Chrissy told Pennie what had happened in the garage, and Pennie said to Chrissy, "Oh my God, oh my God, you gotta undo that. You can't call 911 on him. You gotta undo it. You gotta undo it." Chrissy told Pennie she already called 911 to

TIMELINE, p. 6 DAY TWO
Oct. 14, 2006

16:00	Pennie tries to call Chrissy (CCDA-2 0124)
16:01	Pennie Puhek calls Chrissy, 12 min. (CCDA-2 0124)
16:08	Rogich calls Young, 11 min. (see, Exhibit 37, Young's phone records, p. 7; changed to PDT)
16:11	Chrissy gives a taped voluntary statement withdrawing charges (CCDA-1 0162-0166)
16:14	Chrissy calls Pennie, 9 min. (CCDA-2 0006)
16:24	Pennie tries to call Chirssy (CCDA-2 0045)
16:25	Pennie tries to call Chrissy (CCDA-2 0045)
16:30	Detective Hnatuick calls Chrissy (Bates 255)
16:37	Pennie tries to call Chrissy (CCDA-2 0045)
16:38	Pennie calls Metro Officer Darin Cook, 8 min. (CCDA-2 0045; Exhibit 2, p. 107-108)
16:46	Pennie tries to call Chrissy (CCDA-2 0045)
16:47	Chrissy calls Pennie, 18 min. (CCDA-2 0045)
17:18	Rogich calls Young, 3 min. (see, Exhibit 37, Young's phone records, p. 7, changed to PDT)
17:23	Young calls McCurdy, 3 min. (id.)

1 which Pennie responded, "I don't care. You need to
 2 undo it." Chrissy asked Pennie what she was supposed
 3 to do and that Gibbons was wrong, and Pennie said,
 4 "You need to undo it. Do not call me back tonight. Do
 5 not call me back tonight." See, Exhibit 2, p. 128.

6 Rogich answered a series of police questions
 7 posed to him by Detective J Hanover which had some
 8 reference to when Pennie first learned of the incident
 9 between Gibbons and Chrissy and that Chrissy had
 10 called the police,

11 JH When was the first time you found out
 12 about the incident?

13 A. The next morning.

14 JH And who made you aware of it?

15 A. Well, I called Bill, you know, uh,
 16 Young, and I couldn't find him.
 17 And then, uh, uh, Chris Cole, my
 18 assistant called me and said, uh,
 19 that, uh, uh, Michelle had called
 20 him. He... she said, uh, Pennie
 21 called her late at night and they
 22 couldn't connect. And, uh,
 23 Michelle said she called to be sure
 24 Pennie was home safe. And then
 25 Pennie called her later and said,
 26 you won't believe what's
 27 happened. This girl filed this –
 28 this girl is crazy,, she filed this
 report. And Michelle said, this is
 nutsy. You know, it's late and
 I'm goin' to bed. She said, this is... she laughed about it – she thought it
 was kinda just like a surrealistic dream. And then, uh, Pennie called her
 back the next day and, uh, told her that this girl had done this and Pennie
 said to her, I don't know what she's thinking or doing. And, uh, Michelle
 called Chris Cole and he told me that this girl wa...had done this stuff. But
 I didn't know any of the detail.

...I could've heard from Bill, uh, that there's somethin' goin' on and I
 don't know enough about it and I'll... and I don't have a report in front of

TIMELINE, p. 7 DAY TWO
Oct. 14, 2006

17:33 Young calls Rogich, 5 min. (see,
 Exhibit 37, Young's phone
 records, p. 7)

17:49 Chrissy calls and leaves a
 message for Detective M.
 Colon, 1 min. (CCDA-1 0124)

17:55 Detective Hnatuick calls Chrissy
 when she is suppose to tell him
 to be sure to add that alcohol
 was involved and the incident
 was a misunderstanding, 2 min.
 (CCDA-1 0124)

18:00 Young calls McCurdy, 2 min.
 (see, Exhibit 37, Young's phone
 records, p. 7; changed to PDT)

18:03 Young calls Rogich, 2 min. (id.)

18:04 Young calls Rogich, 2 min. (id.)

18:05 Pennie calls Chrissy, 4 min.
 (CCDA-2 0124)

18:45 Rogich calls Young, 2 min. (see,
 Exhibit 37, Young's phone
 records, p. 7, changed to PDT)

18:46 Young calls Rogich, 2 min. (id.)

20:07 Chrissy tries to call Metro, 1
 min. (CCDA-2 0124).

20:10 Chrissy tries to call Metro, 1
 min. (CCDA-2 0124).

me and I can't...there's nothin' I can talk about. 'Cause he didn't know. *See*, Exhibit 5, pp. 28-29.

Rogich further told the police,

.....I pondered it. Uh, I did try to get statements from the girls when they were fresh in their minds. You know that. I asked Michelle... uh, I asked Michelle to ask Pennie if she would give a statement. Uh, and she finally did on Wednesday. She came down to the office. I had her talk to her attorney....I said, just write your statements while it's fresh in your mind. I said, it'll be important. And I made notes to myself, you know, and then, uh, that was it....I think I left about 10:15 from the garage. *Id.* p. 30.

Thus, to the police, Rogich said Michelle said on October 14, 2006, Pennie said she had been called by Chrissy the night before. To the police, Rogich confirmed he was communicating with Pennie through Michelle. Rogich tells the police that Pennie called Michelle and Michelle called Chris Cole and that Chris Cole told him, but also says he could have heard the information through Young before Young had a report and had more to say about it. Rogich answered to an interrogatory that Young was the first one to tell him that someone had made an allegation to the police concerning Gibbons on October 13, 2006, and that Young was the first to tell him this information at 8:00 am the next morning, which was roughly five hours after the police

finished up with Chrissy. *See*, Exhibit 21, Answer No. 2. Gibbons campaign must have been informed before that because investigator David Groover called James Kimsey at 7:30 am that

TIMELINE, p 8

Oct. 15, 2006

08:13 Young calls Rogich, 17 min. (*see*, Exhibit 37, Young's phone records, p. 8; converted to PDT)

09:03. Unknown caller calls Pennie k, 4 min. (CCDA-2 0045)

09:50 Rogich calls Young, 2 min. (*see*, Exhibit 27, Young's phone records, p. 9; changed to PDT)

14:05 Young calls Rogich, 5 min. (*id.*)

14:32 Young calls Rogich, 6 min. (*id.*)

18:38 Pennie calls Chrissy, 3 min. (CCDA-2 0007)

18:38 Chrissy calls Pennie, 7 min. (CCDA-2 0046)

19:19 Pennie calls Chrissy, 14 min. (CCDA-2 0007)

Oct. 16, 2006

07:15 Chrissy calls Pennie, 3 min. (CCDA-2 0007)

15:20 Young calls McCurdy, 6 min. (*see*, Exhibit 27, Young's phone records, p. 8; converted to PDT)

15:34 Chrissy calls Pennie, 12 min. (CCDA-2 0008)

17:09 Unknown caller calls Pennie, 5 min (CCDA-2 0046)

17:46 Young calls Rogich, 3 min (*see*, Young's phone records, p. 8; converted to PDT)

1 morning and wanted Kimsel to accompany him to the
 2 Hughes Center to scope out all the cameras which could
 3 have caught Gibbons and Mazzeo on tape. *See*, Exhibit
 4 35.

5 Gibbons' campaign advisor, Jim Denton, told
 6 Gibbons of the allegations in a ten minute phone call to
 7 Gibbons' hotel room phone the next morning. *See*,
 8 Exhibit 4, Gibbons Depo., p. 28. Gibbons knew to phone
 9 Young to schedule a convenient time for Youngs's
 10 detectives to call and schedule an appointment to
 11 interview Gibbons in his hotel room.

12 **The police documented visible physical**
 13 **injuries Chrissy received in the attack.**

14 Pictorial evidence of the Gibbons' attack upon
 15 Chrissy was preserved by Metro I.D. Officer E. McGhee
 16 who reported,

17 Digital images were captured to show
 18 views of a Caucasian female adult,
 19 CHRISSY MAZZEO, wearing blue jeans
 20 and a black shirt, for identification and
 21 overall condition, to include slight redness
 22 to her left and right upper arms, a red
 23 scratch on her right shoulder, a red scratch
 24 on the back of her left shoulder, and
 25 redness to her chest area. *See*, Exhibit 46,
 26 Metro ID Officer E. McGhee's Crime
 27 Scene Report dated October 14, 2006, at
 28 2:40 A.M.

Damelio received another telephone call from
 Chrissy at 3:47 am early the following morning when
 Chrissy told Demalio that the police were at her home
 checking for bruises wanting to see if there was any evidence of the attack. *Id.*, pp. 44-45.

TIMELINE, p.9

Oct. 17, '06

16:19 Pennie Puhek tries to call
Chrissy (CCDA-2 0046)

16:33 Young calls Rogich, 1 min. (*see*,
Exhibit 37, Young's phone
records, p. 9; converted to PDT)

17:13 Chrissy tries to call Pennie
Puhek (CCDA-2 0009)

17:16 Chrissy tries to call Pennie
Puhek (CCDA-2 0009)

17:30 David Groover calls Chrissy, 6
min. (CCDA-2 0009)

18:18 Unknown caller calls Pennie
Puhek, 11 min. (CCDA-2 0046)

18:29 Pennie Puhek tries to call
Chrissy (CCDA-2 0046)

Oct. 18, '06

16:49 Pennie calls Rogich, 7 min.
(CCDA-2 0047)

17:35 Pennie calls Rogich, 15 min.
(CCDA-2 0047)

17:51 Pennie calls Chrissy, 12 min.
(CCDA-2 0011)

18:02 Pennie calls Rogich, 2 min.
(CCDA-2 0047)

18:06 Pennie calls Rogich, 3 min.
(CCDA-2 0047)

18:09 Unknown caller calls Pennie
(CCDA-2 0047)

18:12 Unknown caller calls Pennie
Puhek (CCDA-2 0047)

Chrissy raced to La Quinta, and Gibbons followed her and threatened her again.**THE POLICE KNEW
WHERE GIBBONS WAS STAYING**

In her first taped interview with the police, Chrissy told the Detective Colon, "...and he told me that he was staying at Resi- Resident Inn... See, Exhibit 18, p. 8.

Christopher Creasey wrote in his statement at 1:11 am on October 14, 2006, "...Looks like Jim Gibbons... This same gentleman...I noticed this same two people walking to the Residence Inn." See, Exhibit 47, Christopher Lynn Creasey Metro Voluntary Statement written October 14, 2006.

Detective Colon wrote in his October 14, 2006, Officer's Report, "Creasey noticed the same male that he had recognized as Jim Gibbons walking with the female toward the Residence Inn." See, Exhibit 22, Detective M. Colon Officer's Report dated October 14, 2006, p. 6.

The Residence Inn front desk clerk could have confirmed to the police that Gibbons was a guest of the hotel.

Chrissy escaped and ran to the La Quinta Inn where she made her first phone call to 911. Everything was vague and blurry to her at the time. She then remembers sitting in the Starbucks bathroom and then calling 911 again. Chrissy made her third telephone call to 911 from Gordon Biersch where she was first contacted by the Metro police. See, Exhibit 2, p. 71; Exhibit 48, Transcription of 911 calls for October 13th, 2006 - 22.23.35 hours, Call #1 under Event Number 061013-3534, p. CCDA-1 0821-0822; Exhibit 49, Transcription of 911 calls for October 13th, 2006 – 22.52.55 hours, Call #2 under Event Number 061013-5434 from Chrissy Mazzeo, p. CCDA-1 0824; Exhibit 50, Transcription of 911 calls for October 13th, 2006 – 23.14.19 hours, Call #3 under Event Number 061013-5434 from Chrissy Mazzeo, p. CCDA-1 0827.

Regarding the three teenagers running through the parking garage Chrissy answered the following questions,

Q. Do you recall anything about the guys?

A. Nope. Nothing. I remember being scared.

Q. Did you call out for help to them?

A. I did not. He obviously looked over at them, and I think he got startled too. And – not startled but kind of surprised. And then that's when I shook away.

* * * *

1 I was very scared at that point,...I got scared, and I just ran. that's what I
2 did, I ran....and I ran over to La Quinta. See, Exhibit 2, p. 117.

3 Chrissy was not positive of which exit she ran out of the garage. She says she went down
4 a ramp and could see the La Quinta in front of her. *Id.*, p. 118.

5 Chrissy describe herself as "you're kind of like a little bit delirious...kind of shocked."
6 *Id.*, p. 119. She looked at the Gordon Biersch; it was crowded, and she did not want to stop
7 there. She saw the La Quinta, it did not look busy, so she ran across the street into La Quinta.
8 *Id.*, p. 121. "I remember sitting at La Quinta and making the first set of phone calls." *Id.*, p. 124.

9 Anna testified regarding the last statement Chrissy made to her over the phone from La
10 Quinta, a present sense impression under FRE 803(1), as follows:

11 Q. Did their come a time where she gasped?

12 A. Oh, this is at La Quinta. At La Quinta she called me and she was upset
13 and she went (indicating), I said, "What's wrong?" She goes, "The doors
14 just opened up and he's standing outside." But at this point, she was not
crying...she was frantic...She gasped ...

15 * * * *

16 That was a gasp. She did gasp on the phone. She did do that noise...And I
said that's what made me ask her "What's wrong?"

17 Q. Did you tell the police back on November 2nd, 2006, quote, "That's what
18 I'm trying to, because I know that she, she breathed and she goes
(indicating). She goes, 'There's, there he is or there's someone in a suit,'
19 and she was afraid," unquote. Is that what you told the police.

20 A. Yes. See, Exhibit 34, pp. 157-158.

21 Before Chrissy had the transcript of the voluntary statement Kimberly Lynn Harnett
22 ("Harnett) gave Metro investigating officers pursuant to Metro's initial discovery production in
23 this case, Chrissy alleged in paragraph 48 of her Second Amended Complaint (Corrected),

24 Gibbons came up to the La Quinta Inn lobby windows with his jacket off.
25 Mazzeo, looking south through the La Quinta Inn lobby windows saw Gibbons
26 looking in at her from the outside, and in response, Mazzeo ran out the lobby
27 door, past Gibbons, across Paradise Road, through the hedges on the south side of
the Starbucks Coffee ("Starbucks") parking lot bordering Paradise Road and into
the Starbucks where she called 911 a second time at 10:52 PM to tell the operator

1 of her new location, and Mazzeo then took refuge in the Starbucks' women's
2 bathroom and sat on the bathroom floor. As Mazzeo passed Gibbons just outside
3 the La Quinta Inn lobby, Gibbons grabbed her arm and said, "Wait, I need to talk
4 to you. You screwed up because you called 911. You'll be sorry." Mazzeo
pulled herself free of Gibbons' grip, pointed her finger at Gibbons and responded,
"Go fuck yourself." The night desk clerk for the La Quinta Inn, Kim Hartnett,
witnessed this altercation.

5 Hartnett, a night auditor at La Quinta (whose deposition has not yet been taken) told the
6 police an incident occurred outside the front doors of the La Quinta lobby around 10:30 pm. *See*,
7 Exhibit 51 Kimberly Lynn Hartnett Metro Voluntary Statement taken November 4, 2006, 8.
8 Hartnett told the police,

9 ...when the cop came in, the lady cop...[a]nd she asked me if I'd seen anything. I
10 said, yeah, it was like right there, but I don't know where they went. She said, do
you know what they looked like? And I described him. *Id.*, p. 5.

11 * * * *

12 Q. The girl was yelling. And as you were describing the yelling, uhm, you
13 were kinda using some hand and some finger motions.

14 A. Yes.

15 * * * *

16 She was the one. She...she...she waved her hand in his face. He was still holding
her.

17 ...it looked like she fell to me....and the way he was holding her. And...and she
18 was already pretty much up. She was already like upright pretty much, 'cause she
looked like she had, you know – And then she like put her hair back. So her hair
was like – her hair was actually, you know, kind of back. *Id.*, pp. 19-21.

19 * * * *

20 Q. Now un...understand that the photograph you're looking at – first off, the
21 photograph that you're looking at is a photograph of Congressman Jim
22 Gibbons.

23 A. Right.

24 Q. But, uhm, it's also a black and white photograph.

25 A. yeah.

26 Q. Uhm—

HARTNETT'S DESCRIPTION OF THE COUPLE OUTSIDE THE LA QUINTA INN

	HARTNETT'S DESCRIPTION	Ref.	GIBBONS' ACTUAL
RACE:	White or Hispanic	5-6	White
HEIGHT:	Six foot	3	Six foot
BUILD:	Good shape	7	Good shape
AGE:	Fifties, really could not tell	7	Sixty-one
HAIR:	Salt and pepper with more gray	3-4	Gray (when not wet from rain)
FACE HAIR:	None	7	None
GLASSES:	None	7	None
SHIRT:	White dress	17	White dress
PANTS:	Dark dress	17	Dark dress
	HARTNETT'S DESCRIPTION		MAZZEO'S ACTIAL
RACE:	White	7	White
HEIGHT:	Five...five [feet] seven inches	18-19	Five feet four inches
WEIGHT:	125 pounds	34	125 pounds
HAIR:	Long dark	7	Long dark
APPEARANCE:	Pretty	33	Pretty
DRESS:	Dark business jacket, skirt, not all that long	4, 18	Dark designer stretch top with designer blue jeans

Kimberly Lynn Hartnett was working at La Quinta the night of the incident. *See*, Exhibit 51, p. 2. Men were congregated outside the sliding front doors drinking and laughing (*id.*, p. 3), she heard some “ooohs” and leaned forward to look (*id.*, p. 3), she saw a man holding onto a lady (*id.*, p. 4), a flight attendant came up and asked to change her room, and when she looked up, the couple was gone. *Id.*, p. 5. The man was too far away for her to discern his exact age (*id.*, p. 7), the front doors kept opening and closing (*id.*, p. 13), and she witnessed the event for only a few seconds. *Id.*, p. 14. It was pretty dark (*id.*, pp., 16, 21), and she was not really able to focus on the couple (*id.*, pp. 21-22). The light from the indoors made it appear darker outside (*id.*, p. 22), and Hartnett had to look between a couple of the men. *Id.*, p. 19. It was sprinkling outside (*id.*, p. 21), and she did not get a real good view of either of the couple’s faces. *Id.*, p. 22. According to Hartnett, she was looking at the man’s left side (*id.*, p. 32), and she was looking at the woman’s right side. *Id.*, p. 7. Still, Hartlett exactly identified six out of nine descriptors for Gibbons (see inner box), and with respect to the remaining descriptors, the question of whether the man could have been Hispanic, seeing the man’s hair as a little darker and missing the man’s age (fifties instead of early sixties), could easily be explained by Hartnett seeing out into the dark and Gibbons’ hair

being moistened by the rain. Hartnett exactly identified four out of six descriptors for Chrissy and was correct as to the range of Chrissy’s age and was only half wrong with respect to what Chrissy was wearing.

1 A. Uhm, you know, *it—it could be*, but I really—I don't know. It just doesn't
2 look like it to me.

3 Q. Okay. Let me show you a second—

4 A. If I had like a side profile maybe, but — 'cause I saw him...I think I was
5 looking at his left side, his left profile. And it kinda just doesn't look like
6 it. *Id.*, p. 32 (*emphasis added*).

7 Thus, Hartnett could not make a positive identification from the pictures she was shown
8 after seeing the side of Gibbons for only seconds, but she said, "it could be," asked for a side
9 picture, and could not exclude Gibbons as the man outside the La Quinta holding on to the
10 woman just as Chrissy described Gibbons did to her. Hartlett's correct description of a number
11 of Gibbons' and Chrissy's identifiers after seeing them outside for only seconds under poor
12 conditions is remarkable. *See*, box story. The event at the La Quinta falls within Chrissy's
13 timeline. By the end of Chrissy's second 911 call from Starbucks, she can see the patrol car at
14 the La Quinta and confirmed such it to the 911 operator. *See*, Exhibit 49, p. CCDA-1 0825.



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21 Picture of Chrissy Mazzeo taken
22 by Metro ID following the
23 incident.



24
25 Picture of Chrissy Mazzeo taken
26 by news photographers at
27 Richard Wright's news
28 conference.

EXHIBIT 52

Hartnett told police that
the woman did not look like the
same lady she remembers seeing
in the news conference, "I
probably wouldn't be able
to...recognize it anyway," she said
(*see*, Exhibit 51, p. 31), but the
police never showed Hartnett
pictures of Chrissy taken the
evening of the incident, they only
showed her a picture of Chrissy

25 taken at Richard Wright's news conference (*see*, Exhibit 51, pp. 32-33) and, indeed, they do not
26 look the same. Chrissy's picture taken by Metro ID following the incident shows the picture of a
27
28

1 woman who had just been crying and put through a traumatic event, and the picture taken by the
2 press at Richard Wright's press conference shows a woman who had just prepared herself to be
3 photographed by the press. *See*, Exhibit 52, box story, and Declaration of Robert J. Kossack,
4 Esq., in Support of Exhibit 52.

5 **Chrissy was not intoxicated.**

6 Gibbons and Chrissy both had something to eat. Gibbons had four to five glasses of wine
7 in four hours, and Chrissy had four to five glasses of wine in five and one-half hours. Gibbons
8 probably weighs 75 pounds more than Chrissy, but Chrissy was 32 years old, and Gibbons was
9 61 years old, so being 29 years younger than Gibbons, Chrissy probably processed her alcohol
10 more efficiently. Further, according to Rogich, it was unusual for Gibbons to drink, and when he
11 did drink, he would not usually drink very much (*see*, Exhibit 5, p. 8). With respect to
12 intoxication, the evidence points to neither Gibbons nor Chrissy being at or above the legal limit
13 for driving a car. Any testimony Chrissy was unsteady needs be put in context.

14 Chrissy is seen unsteady in the McCormick & Schmick's valet parking lot when Gibbons
15 tried to flirt with her and tried to hold his coat over her head and wrap his arm around her at the
16 same time. Chrissy is seen unsteady on the sidewalk on the north side of Hughes Center Drive
17 soon after Gibbons tried to have sex with her by slamming her against a wall and saying to her
18 face that he was going to rape her. Chrissy is seen unsteady outside the front doors of La Quinta
19 when Gibbons grabbed her as she tried to leave and escape to Starbucks.

20 No Metro officer personally observed Chrissy drunk. None of the Metro officers who
21 were first to arrive at the scene wrote a single word about Chrissy being drunk, not Metro Officer
22 Edward Ortega who took Chrissy first handwritten statement (*see*, Exhibit 52.5, Chrissy Mazzeo
23 Metro Voluntary Statement dated October 14, 2009), not Metro Detective M. Colon who took
24 Chrissy's first taped statement (*see*, Exhibit 18, p. 1), not Metro ID Officer E. McGhee who filled
25 out the first Crime Scene Report and captured digital photos of Chrissy's injuries (*see*, Exhibit
26 46), not Metro Officer M. Gillis who physically impounded Gibbons' campaign card and a
27

1 printout of Rogich's receipt as evidence (*see*, Exhibit 53, Metro Officer M. Gillis Las Vegas
2 Metropolitan Police Department Property Report dated October 14, 2006, at 0400), and in the
3 Officer's Report of October 16, 2006, signed by Detective M. Hnatuick with input from
4 Detective T. Barker's and Detective Sergeant McCarthy, there is absolutely no mention of
5 Chrissy ever saying she was intoxicated or that the incident was a misunderstanding. *See*,
6 Exhibit 54, Detective M. Hnatuick Las Vegas Metropolitan Police Department Officer's Report
7 dated October 16, 2006.

8 **Pennie applied pressure for Chrissy to drop the charges.**

9 Chrissy told Anna she was shocked. and, "I went home and laid down...after Pennie
10 started calling." *See*, Exhibit 2, p. 109.

11 ...I remember Pennie calling me...started telling me I needed to change the
12 statement or undo everything. She told me the night before when I talked to her
13 that I had to undo everything. And then that's when she started giving me
instructions and stuff...I think it was 7:28 [am]. *Id.*, pp. 109-110

14 Mazzeo later told Damelio she was receiving threats about speaking regarding the
15 subject. *See*, Exhibit 36, p. 47. Mazzeo told Damelio she had been receiving phone calls from
16 Pennie "basically telling her to not move forward with anything, that she had been contacted by
17 the Gibbons camp, Pennie had been contacted by the Gibbons camp; and there was a payoff
18 amount of some sort that they were offering her. *Id.*, p. 51. "I was told by Chrissy that Pennie
19 had been paid off and that they were willing to pay off Chrissy, as well." *Id.*, p. 51. At
20 deposition, Damelio testified,

21 Q. Did you ever hear Chrissy make any statements that Pennie said that they
22 were going to kill you or cut her daughter's arms off?

23 A. Now that you just said cut her daughter's arms off, I do remember that
24 statement: I can't tell you if it was Pennie that told Chrissy, but I do
25 remember that statement. *Id.*, pp. 51-52.

26

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Q. ...and it say, "The gist of that phone conversation was I said, 'What – what are you gonna do?' I said. She said, 'What do you think of this? I'm gonna call the police and drop the charges.' And I said, 'Okay, well why do you feel you're gonna do that?' She said, 'Well, Pennie is calling me, telling me if I don't drop the charges, you know, something's gonna happen to myself and Paris.'"

Do you recall that phone conversation?

A. Yes. now I do. *Id.*, pp. 89-90.

Q. And that occurred early in the morning on the 14th?

A. I believe it occurred the next day. *Id.*, pp. 89-90.

Q. And then the next answer, you say, "She was getting threats. She was getting death threats is what she told me."

Do you recall her telling you that?

A. At this point, I only recall the death threats to her daughter, but, yes, yes. *Id.*, p. 90.

Q. And I believe you testified earlier that the cutting the arms off is something that you specifically remember?

A. Yes. Yes. *Id.*, p. 91.

Q. Do you recall Chrissy telling you at that time Pennie said she had to come down and sign a confidentiality agreement?

A. Yes. *Id.*, p. 91.

Q. So she's telling you that Pennie is telling her that Pennie got money for signing a confidentiality agreement?

A. Yes, that's correct. *Id.*, p. 92.

Q. Did she tell you that Pennie had also relayed to her that you could also, meaning Chrissy, that Chrissy could also be paid money if she would sign a confidentiality agreement?

A. Yes. *Id.*, p. 92.

Q. ...it say, "That if Pennie were to come forward about what she knew about that night, that she can bury him."

A. Bury him. Yes, I do remember that.

Q. You do recall Chrissy telling you that?

A. Yes. *Id.*, p. 94

1 Metro Detective Barker argued with Damelio during his questioning of her,

2 One of the things that she has been absolutely adamant about is that – and – and
3 Mr. Wright has brought it up in his press conferences and – and his grandstanding
4 and everything else. But that it happened the way that she says it happened, and,
therefore, she must be on video in the parking garage because she puts herself
right in front of the camera. *See*, Exhibit 36, Demailio statement, p. 28.

5 * * * *

6 But the fact of the matter is that, regardless of what Mr. Wright say, there is no –
7 there has been no doctoring of any videotapes. It would be too hard to even
attempt to do it on a multiples system”? *Id.*, p. 96.

8 Chrissy’s sister, Anna, who was with Chirssy between October 13 and the end of
9 November, 2006. *See*, Exhibit 34, p. 101, Anna actually heard what Pennie said over the phone.
10 Anna testified,

11 ...the thing also that was scaring her in all this was Pennie’s calls to Chrissy,
12 which yes, I kown it was Pennie because I heard her talking on the phone... *See*,
Exhibit 34, p. 94

13 * * * *

14 ...Pennie kept calling her and started making her afraid, so we packed up and we
15 left. So maybe we were there at the house maybe a couple of weeks...from
October 13th...up until shortly after Halloween. *Id.*, p. 95.

16 * * * *

17 ...during the whole time that I was with her, all her calls, the majority of them
18 were from Pennie. *Id.*, p. 96.

19 * * * *

20 I know because she would always repeat Pennie’s name and I knew, yes.....
21 Pennie’s calls came throughout the entire time I was with her. I was with Chrissy
for three weeks. *Id.*, p. 97.

22 * * * *

23Her cell phone is actually loud and I can hear Pennie talking. It’s not too hard
24 to overhear a conversation...Chrissy would answer the phone or she would look at
the caller I.D. and it would say Pennie. Whenever she would answer the phone or
she would look at the phone. “It’s Pennie. I need to get this.” *Id.*, p. 99.

25 * * * *

26 She had said, “Crissy,” she said “Just get out of it, just drop it,”...She said that a
27 lot. She said, “Drop this, Chrissy.” *Id.*, 100

1 * * * *

2 Anna testified, “‘They could hurt your children,’ that I did hear.... ‘sever your arms,’ that
3 I did hear...‘to get their point across,’ because then that also followed severing of the arms, to get
4 their point across. That I remember [Pennie saying].” *Id.*, p. 191.

5 As a result of the pressure from Pennie, Chrissy initially dropped the charges against
6 Gibbons. Chrissy admitted to lying to Detectives Hnatuick and Barker when they asked her if
7 anyone had influenced her to drop the charges, and she had said that no one had for the best
8 reason in the world, “I was scared.” *See*, Exhibit 2, pp. 406-407.

9 **The police fudged their reports.**

10 In her previous statement to the police, Anna had told them that Chrissy did not sound
11 drunk (*id.*, p. 11), that Chrissy was very afraid, hysterical, crying (*id.*, p. 11), that Chrissy said
12 Gibbons said, “I’m not going to fuck you, I’m going to rape you” (*id.*, p. 17), that the man’s
13 name was Jim Gibbons (*id.*, p. 18), that she was in a parking garage “or something like that,” (*id.*,
14 p. 20).

15 As with Damelio, who also gave testimony favorable to Chrissy, the police argued with
16 Anna,

17 Q. She, by her own admission...has placed herself in front of three or four
18 cameras in that parking structure. The night of the 13th we have the
19 videos. She is not any of those cameras, neither is Jim Gibbons. Can you
explain that?.... *See*, Exhibit 55, Anna Marie Freteluco Metro Voluntary
Statement taken November 2, 2006, p. 43

20 A. ...she is not lying about this. *Id.*

21 Q. ...let’s say we can authenticate the tapes and they’re not doctored, would
22 you have an explanation as to why she wouldn’t be on any of those
23 tapes?....Even with hard evidence that the tapes are not doctored, you
would believe that the tapes were doctored? *Id.*, p. 44.

24 The statements given to the police by Anna, Tammy, Damelio and Hartnett incriminated
25 Gibbons. They included excited utterances, present sense impressions, prior consistent
26 statements, verifications of Chrissy’s apolitical nature, and a description which matched Gibbons
27 outside La Quinta, but this is how Detective M. Hnatuick (“Hnatuick”), who would not have

ordinarily been assigned the case, summarized their statements in his report which was forwarded to the District Attorney's Office:

KIMBERLY HARTNETT

....During the interview with Hartnett she said she observed what appeared to be a domestic dispute outside the lobby of the hotel around 2230 hours. Based on physical descriptions of the persons involved, their style of dress and viewing a picture of Mazzeo and a picture of Gibbons, Hartnett stated the domestic dispute was not Gibbons and Mazzeo....

STEFANIE DAMELIO

....Stefanie Damelio is a friend of Mazzeo's and someone who she called the night of the incident. During the interview with Damelio she was evasive at times when questioned regarding the details told to her by Mazzeo the night of the incident....

ANNA FRETULUCO

....Fratelucio said Mazzeo sounded panicked and said she had just been attacked by Jim Gibbons. Fretelucio later called 911 in an attempt to check on her sister. When she found out where Mazzeo was with police, she responded to the scene....

TAMMY SHAW

....According to Shaw, she had several conversations with Mazzeo about the incident however, she had no direct knowledge of the incident that evening....*See*, Exhibit 56, Detective M. Hnatuick Officer's Report dated November 30, 2006, pp. 18-19

The transcribed statements were included, but anyone reading Hnatuick's report would clearly be misled into thinking that Hartnett had excluded Gibbons and Chrissy as being the couple in front of the La Quinta, a lie, that Chrissy made no incriminating statements to Damelio and that Damelio was evasive, a lie, that Chrissy simply told Anna that she was attacked and not that Gibbons had talked about raping her and that Anna called 911 simply to check on her sister, a lie, and that neither Anna nor Tammy had any information about the threats Chrissy was receiving from Pennie if she did not drop her complaint against Gibbons, a lie.

The video tape was doctored.

Even though Gibbons has presented no admissible evidence establishing a foundation for the admission of the surveillance videos, their significance will be addressed. First, one needs to examine the following Exhibits 57 and 58:



EXHIBIT 57



Exhibit 58

**EXHIBIT 59**

Close-up of cat passing through garage at 21:59:45 according to the clock for the first floor southeast garage camera.

**EXHIBIT 60**

Close-up of cat reaching the front of the car parked on the east side of the garage at 21:59:57 according to the clock for the first floor southeast garage camera.

Gibbons' expert used electrical devices to help him formulate *an opinion* that the video tape of the Hughes Center parking garage first floor was not altered. However, the viewable evidence supports the conclusion that two minutes, eleven seconds of the tape were cut out and the tape re-recorded to add in the time sequence based on the cat Gibbons' expert missed. A stray alley cat passes through the garage on the west side of the parking garage and is seen by one of the elevator cameras in the vicinity of the first floor southwest elevator between 21:59:55 and 22:00:01 (*see*, box Exhibit 57) The same cat is then seen by the first floor camera mounted in the southeast corner of the parking garage (the same view showing Rogich and Georgeanna entering the parking garage in Exhibit 24) crossing on the other side of the garage between 21:59:59 and 21:59:57. *See*, box Exhibit 58. *See also*, box Exhibit 59 and box Exhibit 60 showing close-ups of the cat passing through the southeast corner of the garage. Since the cat cannot be two places

1 at the same time (and it takes no expert to come to that conclusion), *prima facie* evidence exists
2 that the tape was cut and spliced. The next question is was enough time spliced out of the film
3 for the incident to have happened?



20 **EXHIBIT 61**

21 The cat is in front of the elevator at 21:57:41 as shown by the southeast garage camera.

22
23 To discover the answer to this question, one needs view the same tape on which Rogich
24 and Bradley are seen and look for the cat coming out from beside the elevator in the same
25 location as the cat is shown in the middle picture of Exhibit57, and this occurs at
26 21:57:47 as seen in Exhibits 61 (the close-up of Exhibit 61 is Exhibit 62).

**EXHIBIT 62**

Close-up of cat in front of elevator at 21:57:41 as shown by the southeast garage camera.

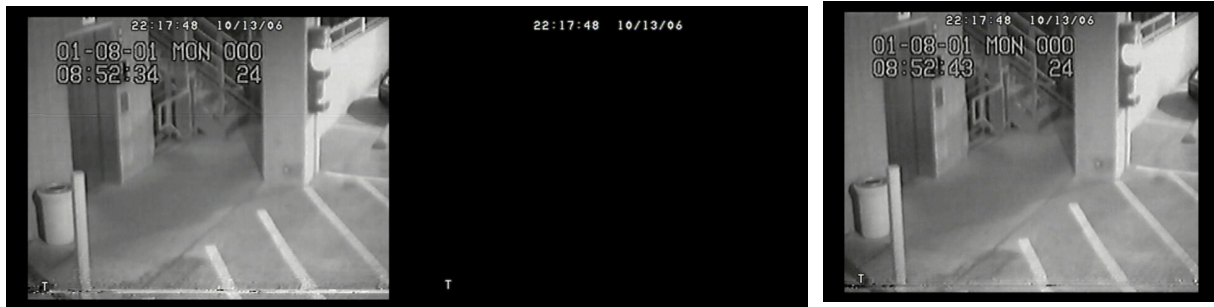
In sum, the cat appears on the multiplex shot of the first floor southwest elevator at 21:59:58, and the same cat appears on the camera view taken from the southeast stairwell at the same location in front of the first floor southwest elevator at 21:57:47, or 2 minutes and 11 seconds earlier by the clock for the southeast elevator camera. Rogich thought he could not have entered the garage as early as 22:12 and he was right. He entered at 22:14. The film from the

southeast elevator camera made it appear as if he had entered the garage 2 minutes, 11 seconds earlier because that is how much film was spliced out, which is enough time for the incident to have happened and both Gibbons and Chrissy make their escape.

With the visible evidence being that 2 minutes 11 seconds was cut from the tape, the jury can consider, for what it is worth, Gibbons' expert's opinion for which he charged \$25,358.42 for his services. *See*, Exhibit 63, Invoices from Stuchman Forensic Laboratory. Gibbons' expert was not paid over \$25,000.00 to render an opinion contrary to Gibbons' position, but one would at least think he would have noticed the cat. Gibbons' expert opinion may be found useful to the jury in coming to its conclusion about whether or not the tape was altered, but such opinion,

1 flying in the face of *prima facie* visible evidence to the contrary, does not create an “undisputed
 2 physical fact” as Gibbons would like this Court to believe. Far from it. Gibbons’ expert is
 3 nothing more than someone paid to give an opinion and only an opinion.

4 There is more visual evidence of tape manipulation. When one watches the tape of the
 5 second floor southwest elevator, there is a blacked out gap which occurs at 22:17:48, right about
 6 the time when Rogich and Georgeanne were on the second floor. This blackout lasts for about
 7 two and one-half seconds in real time (remember, one second on the tape is three seconds in real
 8 time), just enough time for someone to pass in front of the camera. See, Exhibit 64, Blackout on
 9 second floor elevator camera. If Georgeanne and Rogich entered at 22:14 and did not leave until
 10 22:18 and 22:19, respectfully, was there something which took place in front of that camera
 11 which Rogich also wanted kept from public view?



19 **EXHIBIT 64**

20 Blackout which occurs at second floor southwest elevator camera at 22:17:48.

22 There is also evidence that the surveillance tape of the lobby of La Quinta Inn was also
 23 altered as Hartnett described a woman who she said had come up to the front desk, and who
 24 should have been seen on the video, but said woman is not seen on the video when viewed by
 25 this counsel’s investigator. See, Exhibit 65, Declaration of Carman Grider Regarding Review of
 26 the La Quinta Video.

1 Robert Clavier ("Clavier"), the keeper of the Hughes Center parking garage tapes, was
2 less than credible. Defense counsel's court reporter has still not yet notified this counsel that
3 Clavier's deposition is ready for purchase, but from the pages attached to Metro and Young's
4 joinder, the following is evident: First, three other people had access to the tapes other than
5 Clavier. *See*, Exhibit 66, Deposition of Robert Clavier taken March 9, 2010, p. 84. (Clavier also
6 testified he could not be certain the tapes were fully secured, and one of the people with access,
7 Mr. Tingle, was fired for falsifying FCC documentation.) Second, Clavier claims there were two
8 females walking with Rogich, one of which left with him in his car, but only one female is seen
9 on the video. *Id.*, p. 91-92; Exhibit 24. So much for Clavier's power of observation when he
10 claims to have watched the tapes and seen nothing.

11 **The cover up.**

12 Garcia had previously been contacted by reporters right after the incident but was told by
13 McCormick & Schmick's management and by the Parking Solutions managers not to talk to
14 reporters about the incident. *See*, Exhibit 33, p. 15. Garcia's boss at the time, Danny Austin,
15 told him to tell the press "no comment" because he said one girl had said something, and now
16 she was being sued or had been fired, and Garcia felt Austin was trying to discourage him from
17 talking to any reporters about the incident. *Id.*, pp. 56-57, 76. Vick told police she told the press,
18 "I can't talk. I knew my job was in jeopardy. If I would have talked to the press I would of been
19 fired. So after they knew that they left me alone." *See*, Exhibit 7, p. 29. Heavy hands were at
20 work.

21 Pennie claims to have tried to stay uninvolved with respect to this whole controversy with
22 Gibbons and Mazzeo, and the incident between them. *See*, Exhibit 3, pp. 79-80. According to
23 Pennie, "I never had any contact with anybody, and the first time I had contact with Mr. Rogich
24 was on the 18th." *Id.*, p. 87.

25 However, according to the time line developed with the aid of the phone records, Pennie
26 was the first to call Chrissy the next morning at 7:22 am around the same time as private
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1 investigator Groover called Kimsey. Chrissy called Pennie back at 7:58 am. Between then and
2 4:00 pm, Pennie spoke to two unknown callers and called Chrissy two more times. After Chrissy
3 gave her statement to the police withdrawing her complaint because she did not want to be
4 involved in a three-ring circus, Pennie called Chrissy four times until Chrissy called Metro back
5 and ultimately spoke with Detective Hnatuick at 5:55 pm. Young has not yet produced his phone
6 record showing when he spoke to reporters on October 14, 2006 (although ordered to do so).
7 Young did talk to McCurdy at 6:00 pm and then Rogich immediately thereafter. Chrissy was
8 told by Pennie exactly what to say, and Chrissy wrote down on the back of Hnatuick's business
9 card that it was a misunderstanding and that alcohol was involved. *See*, Exhibit 67.

10 For someone who did not want to get involved, Pennie was getting involved in a big way,
11 and she was communicating with Rogich through Michelle and had two conversations with an
12 unknown caller.

13 Meanwhile, Young first called Rogich at 9:05 am (Las Vegas time) on October 14, 2006,
14 the morning after the incident, and spoke to Rogich for 9 minutes, but by then, Rogich must have
15 already known about the incident because Groover had already been put in action trying to
16 identify all the cameras. Rogich also stated in an answer to an interrogatory that Young first
17 informed him someone had made an allegation to the police concerning Gibbons at
18 approximately 8:00 am that morning. *See*, Exhibit 21, Rogich's Answers to Interrogatories,
19 Answer No. 2. (*See also*, Exhibit 68, Documents received from the Clark County District
20 Attorney's Office "CCDA" in support of the Timelines herein.) Young then called Gibbons at
21 9:25 am and spoke to him for 15 minutes followed by a 23 minute conversation with Rogich at
22 9:46 am. Young and Rogich then called each other 9 more times that day. None of the three can
23 remember a word about their conversations except to say they were merely finding a convenient
24 time for Gibbons to be interviewed by the police. When asked to be as specific as possible in
25 describing what he discussed with Young during each telephone conversation, Rogich merely
26 responded, "We talked about various things, including this case and anything from campaigning
27

1 to movies to baseball.” *Id.*, Answer No. 7. Not a very credible answer in consideration of the 11
2 phone calls which took place on October 14, 2006, between Young and Rogich at the height of
3 the frenzy. The logical conclusion from the circumstantial evidence is that damage control was
4 in full gear, and this damage control culminated in Young telling the press that evening, “No
5 crime occurred. It’s just a misunderstanding...[the woman was] very intoxicated [when she made
6 her initial statement to the police, which she did not sign]. [Gibbons said he had two glasses of
7 wine over the course of the evening and was not intoxicated].” *See*, Exhibit 69, Molly Ball and
8 David Kihara article entitled, “ASSAULT COMPLAINT: Gibbons cleared by police Woman
9 decides not to pursue charges in incident outside LV restaurant” dated October 15, 2006, p. 554.

10 Without any evidence in the police record that Chrissy told Hnatuick that she was
11 intoxicated and it was a misunderstanding, Young must have been receiving information from
12 Rogich of what Chrissy was being pressured to say. Greater certainty will be found when
13 Young’s phone record is supplemented to answer the question of whether Young talked to *Las*
14 *Vegas Review Journal* reporter David Kihara before or after 8:55 pm that evening?

15 Young lied about Chrissy not signing her initial statement. Chrissy signed her initial
16 statement twice. *See*, Exhibit 52.5. Young also lied about Gibbons’s drinking. Gibbons
17 admitted to drinking more than two glasses of wine, and Gibbons was never asked and never said
18 whether or not he was intoxicated.

19 Even though Rogich and Gibbons received a substantial benefit from Pennie scaring
20 Chrissy into initially dropping the charges, that was not enough. Contrary to what Rogich told
21 the police, the statement Pennie signed was a statement prepared by Rogich’s office, she was
22 simply asked to sign it, and she was not interviewed before the statement was prepared. *See*,
23 Exhibit 3, p. 46. Pennie’s statement was already made out and ready for her signature. *Id.*,
24 p. 46-47. Rogich’s crew had written in words (placed in *italics*) which Pennie refused to
25 acquiesced to such as, “They purchased a drink for us *and for a group of others who were*
26 *cheering Mr. Gibbons on, and we talked about the campaign...*” *Id.*, pp. 50-51. Also their
27
28

1 words, “At about 10:00 p.m. or so...the rain stopped, and Mr. Rogich said it was time to go.”
 2 *Id.*, p. 51. Also their words, “Mr. Rogich said he was going back in to use the restroom and pay
 3 the check while we waited. That was about 10:15 or so.” *Id.*, pp. 51-52. Finally their words,
 4 “Mr. Gibbons did not appear to be in any way intoxicated.” *Id.*, p. 53.

5 **The release of Chrissy’s name to the press was an illegal act.**

6 Chrissy had obviously reported a sex crime. Consider the following information which
 7 was available to the police at the end of the first evening:

8 From Chrissy’s third 911 phone call, 11:14 P.M., 10-13-2006:

9 ...he said “are you looking for me?” ...and I said “no” and he said I’m going to
 10 walk you to your truck anyways, and then he walked me upstairs and then he
 11 pushed me against the wall....I started crying, I was crying, I told him I survived
 12 cancer 11 years and I, someone assaults me...I don’t care about rape I care about
 13 survival and he says “survival ain’t going to be your problem bitch,” *See*,
 14 Exhibit 50, p. CCDA-1 0829.

15 ...he said to go with him cause he was staying at Embassy Suites...He said he was
 16 staying at Embassy Suites and follow him and then we were on the second floor
 17 and there were people following us...um...and that’s when he grabbed my arms
 18 really tight and he shoved me back and told me to shut up and I kept telling him
 19 that I survived cancer and all this...and he said he didn’t care... *Id.*, p. CCDA-1
 20 0831.

21 From Chrissy’s Voluntary Statement, 00:39 hours on October 14, 2006:

22 ...met w/ Jim Gibbons, after left going to truck he was standing there, walked with
 23 him, he pushed me back forcing my arms against wall saying I’m “fucked”... *See*,
 24 Exhibit 52.5.

25 From Chrissy’s Voluntary Statement, 01:30 hours on October 14, 2006:

26 ...he just, just started talking about how, his marriage wasn’t successful and how
 27 he had two children. He was married for 20 years and that, uh, marriage wasn’t
 28 everything that it was cracked up to be and that’s when he gave me his card....then
 29 that’s when he started. He started playing like footsie’s with like, uh, with me and
 30 then Penny noticed it and some of the waitresses noticed it. And so I started
 31 hugging Penny and I started telling everybody at the table that Penny was my best
 32 friend. I was, what I was trying to do was actually move away from him....he put
 33 his hand on my leg. And then I just scooted closer to Penny....He just said, “Oh, I
 34 wish I could have that kind of affection...from her. *Id.*, p. 6.

35 ...At that point I already knew that he was making it, you know, unwanted
 36 advances but... *Id.*, p. 7.

37 ...Jim, uhm, said that he wanted to leave and he told me that he was staying at

1 Resi-Resident Inn and then he said that we could basically crawl back to his hotel
2 room. *Id.*, p. 8.

3 And he said, "Are you lookin' for me?" And then that's when I said, "No." And
4 he goes, "Well, uhm, well I'll, I'll take you to your truck" *Id.*, p. 9.

5 I remember the staircase. We walked down there, and then that's when he
6 grabbed my, my arms, the top of my arms....And he pushed me against the wall.
7 *Id.*, p. 10.

8 ...I thought he was joking at first and then that's when he said, uhm, he, he said,
9 "You have two choices." And I said, "Are you really, you know, rape me at this
10 time?" And he said, "You have two choices right now." And I said, "What are
11 my choices?" And he just said basically you can, uh...and I said, "What?" And
12 he goes basically you, you have one choice, you can leave or you can do the other
13 choice. And I said, "No way." I said, "I've survived cancer and then you're going
14 to turn around and do this," and then that's when he said - I said that I thought I
15 saw three people running across the parking. *Id.*, p. 11.

16 Q. Okay. I need to just back up a little bit. He said you have two choices.

17 A. Um.

18 Q. And one was you could leave?

19 A. One, where you could try to leave...

20 Q. Uh-huh.

21 A. ...and the other one, or you could just do what he says.

22 Q. So, he, he actually said that?

23 A. Yes. *Id.*, p. 11.

24 ...that was the time and I said, "Are you serious? I said, "I, I just survived cancer
25 for 11 years...and you're really going to do this right now?" And he said, "Lucky
26 you. You survived cancer." *Id.*, p. 12.

27 The question by the officer, "...he actually said that," shows the police understood at the
28 time that the allegation was more than just one of a mere battery. This understanding of the
sexual nature of the allegation is further evidenced by the questions the police asked Gibbons the
next day.

From Detective Hnatuick's questioning of Gibbons the next day, October 14, 2006:

Her allegation here is that near the parking structure you basically, forcefully
grabbed her by both arms, held her and said some things of a sexual overtone to

1 her....And so the, the allegation of forcefully grabbing her and detaining her in
2 some way in an attempt to...kiss her, talk her into...having sex with you..." See,
Exhibit 6, p. 15.

3 ...one of the allegations that has been made is that, for lack of a better word, you
4 and this girl Chris were playing footsies under the table and that at some point you
placed your hand on her knee in a, in a flirtatious way, or on her leg in a flirtations
way." *Id.* at 17.

5 ...do you remember her, remember her ever asking you anything to the effect of,
6 "Are you planning on raping me? Or anything like that?" *Id.* at p. 20.

7 If Chrissy's allegations were proven, Gibbons could have been charged with sexually
8 motivated coercion, the applicable statute being as follows:

9 NRS 207.190 Coercion.

- 10 1. It is unlawful for a person, with the intent to compel another to do or abstain from
11 doing an act which the other person has a right to do or abstain from doing, to:
 - 12 (a) Use violence or inflict injury upon the other person...or threaten such
violence or injury;
 - 13 (c) Attempt to intimidate the person by threats or force.
- 14 2. A person who violates the provisions of subsection 1 shall be punished:
 - 15 (a) Where physical force or the immediate threat of physical force is used, for
16 a category B felony by imprisonment in the state prison for a minimum
term of not less than 1 year and a maximum term of not more than 6 years,
and may be further punished by a fine of not more than \$5,000.

17 NRS 207.193 Coercion: Hearing to determine whether sexually motivated.

- 18 1. Except as otherwise provided in subsection 4, if a person is convicted of coercion
19 or attempted coercion in violation of paragraph (a) of subsection 2 of
NRS 207.190, the court shall, at the request of the prosecuting attorney, conduct a
20 separate hearing to determine whether the offense was sexually motivated.

21 * * * *

- 22 6. For the purposes of this section, an offense is "sexually motivated" if one of the
23 purposes for which the person committed the offense was his or her sexual
gratification.

24 Gibbons could also have been charged with attempted sexual assault, the applicable
25 statutes being as follows:

26 NRS 193.330 Punishment for attempts.

1. An act done with the intent to commit a crime, and tending but failing to accomplish it, is an attempt to commit that crime.

NRS 200.366 Sexual assault: Definition; penalties.

1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct, is guilty of sexual assault.

Gibbons told Chrissy he was going to rape her, his plans were simply foiled. And yet, Deputy Chief Greg McCurdy, in filling out the Request for Investigative Reports claimed that there was nothing in the reports which was highly sensitive or embarrassing to an identified individual such as a victim of a sexual assault. *See*, Exhibit 70, Request for Investigative Reports dated October 17, 2006. Police then released Chrissy's police report records and the 911 calls.

NRS 200.377 regarding victims of certain sexual offenses states in pertinent part,

The Legislature finds and declares that:

1. This State has a compelling interest in assuring that the victim of a sexual offense...:

(a) Reports the sexual offense...;

(b) Cooperates in the investigation and prosecution of the sexual offense...; and

(c) Testifies at the criminal trial of the person charged with committing the sexual offense or offense involving a pupil.

2. The fear of public identification and invasion of privacy are fundamental concerns for the victims of sexual offenses... If these concerns are not addressed and the victims are left unprotected, the victims may refrain from reporting and prosecuting sexual offenses ...

3. A victim of a sexual offense...may be harassed, intimidated and psychologically harmed by a public report that identifies the victim. A sexual offense...is, in many ways, a unique, distinctive and intrusive personal trauma. The consequences of identification are often additional psychological trauma and the public disclosure of private personal experiences.

4. Recent public criminal trials have focused attention on these issues and have dramatized the need for basic protections for the victims of sexual offenses...

1 5. The public has no overriding need to know the individual identity of the
2 victim of a sexual offense...

3 6. The purpose of NRS 200.3771 to 200.3774, inclusive, is to protect the
4 victims of sexual offenses...from harassment, intimidation, psychological trauma
5 and the unwarranted invasion of their privacy by prohibiting the disclosure of their
6 identities to the public.

7 NRS 200.3771 regarding victims of certain sexual offenses and confidentiality of records
8 and reports that reveal identity states in pertinent part,

9 1. Except as otherwise provided in this section, any information which is
10 contained in:

11 * * * *

12 (b) Intelligence or investigative data, reports of crime or incidents of
13 criminal activity or other information;

14 that reveals the identity of a victim of a sexual offense...is confidential, including
15 but not limited to the victims photograph, likeness, name, address or telephone
16 number.

17 * * * *

18 5. The willful violation of any provision of this section or the willful neglect
19 or refusal to obey any court order made pursuant thereto is punishable as criminal
20 contempt.

21 NRS 179D.097 regarding the definition of a sexual offense states in pertinent part,

22 1. “Sexual offense” means any of the following offenses:

23 * * * *

24 (b) Sexual assault pursuant to NRS 200.366.

25 * * * *

26 (p) Any other offense that has an element involving a sexual act or sexual
27 conduct with another.

28 * * * *

 (r) An offense that is determined to be sexually motivated pursuant to
 NRS 175.547 or 207.193.

 Gibbons was accused of a sexual offense. The release of Chrissy’s name to the public
was a criminal act.

Young and the police lied to the press in order to minimize political harm to Gibbons.

The decision not to treat Gibbons' crimes as including a sexual battery was made by Sergeant Crickett before Chrissy was even interviewed by the police and a taped statement taken from her. *See*, Exhibit 22, M. Colon's Officer's Report dated October 14, 2006, p. 6.

The police inaccurately told the press that Chrissy had originally *recanted* her story, and Lieutenant Chris Jones inaccurately told the press that Chrissy had left the restaurant before Gibbons so it would not appear as if Gibbons lay in wait for Chrissy, which he did. Lieutenant Jones also told the press he could tell Chrissy was drunk and that the incident had been blown out of proportion and from the information gathered the events occurred, "just in fact the way Mr. Gibbons explained them to have happened." *See*, Exhibit 71, Sam Skolnik, J. Patrick Coolican and Jeff German article for the *Las Vegas Sun* entitled, "Police to release Gibbons information," dated October 18, 2006, pp. 561-562.

On October 21, 2006, Young told the press, "I told [Gibbons] what had happened. Young also told the press he received a call from Rogich and said, "[Rogich] wanted to know where Metro went from here...and I told him nowhere...from here on out, it's going to be the congressman's word against her word." Finally, Young told the press, "I believe in Jim Gibbons...I am still voting for Jim Gibbons, and I urge every Southern Nevadan to consider the political ramifications of this case – and the timing." *See*, Exhibit 72, Jeff German article for the *Las Vegas Sun* entitled, "Young says he told Gibbons about probe," dated October 21, 2006, pp. 603-604.

There is no record of Young requesting any retraction of any of his statements reported by the press. Young later admitted to the press that his misstatements were the result of wrong information given to him by his chief of investigations and the fact that he was out of town when he answered the Review-Journal's questions about the incident. *See*, Exhibit 73, Molly Ball article for the *Las Vegas Review Journal* entitled, "Young says he would have conducted probe differently," dated October 25, 2006, p. 638.

1 Young claimed that he was never trying to downplay the incident, but that he was just
2 repeating the facts that he was given by Deputy Chief Greg McCurdy. *Id.*, p. 639. Young was
3 quoted as saying, "It was told to me exactly as I told it to David Kihara...But I'm doing this from
4 Boston, secondhand from Chief McCurdy." *Id.*, p. 639. McCurdy told the press that the
5 inaccurate statements were a case of "the sheriff being caught being out of town," as well as the
6 fact that all the statements in question hadn't yet been transcribed. McCurdy told the press that
7 "misunderstanding" was Young's choice of language. *Id.*, p. 639. According to McCurdy, "Our
8 officers went and did a good job...the only thing they did not do the night of Oct. 13 was contact
9 Jim Gibbons, and they didn't know for certain where he was." *Id.*, p. 640.

10 On October 26, 2006, Young held a press conference. Statements he made in the press
11 conference are as set out in Exhibit 74, Declaration of Carman Grider Regarding Statements
12 Made by Bill Young at a Televised Press Conference Held October 26, 2006. These statements
13 will be discussed in the order they were made and are listed as statements "a" through "u" in
14 paragraph 3 of Exhibit 74:

15 a. "Today I want to address some of the allegations made by attorney Richard
16 Wright."

17 Young was responding to a press conference held by attorney Richard Wright who had
18 discussed the illegal release of Chrissy's name and the pressure placed on her to drop her
19 complaint against Gibbons.

20 b. "I'm speaking to you as the Sheriff of Clark County and the Metropolitan Police
21 Department."

22 Young sets Metro policy, so Metro is liable for Young's actions.

23 c. "There was no preferential treatment given to any person for any reason at any
24 time during this investigation period."

25 The fact that Gibbons was not interviewed the evening of the event, the fact that
26 numerous discussions were held between Young and Rogich, the fact that Young personally
27 spoke to Gibbons about the incident, the fact that Chrissy's name was released to the press, and
28 the fact that Gibbons had already lied to the press about the incident dispel this lie.

d. "Based on my initial understanding of this incident as given to me in Boston, Massachusetts, I concluded... an important part of that investigation would be taking Congressman Gibbons' statement. Secondly, that as the head of Metro, I felt it was my duty to personally undertake this responsibility of calling the Congressman and telling him that we needed to interview him. This is not an uncommon practice in law enforcement. Many times the head of an agency will contact a high profile individual and advise him or her that they will be contacted for an interview."

Such a simple conversation would not take 15 minutes and would not require numerous conversations with Gibbons' campaign advisor, Rogich.

e. "The reports and the 911 tapes were released to the public shortly after the incident."

f. "Richard Wright...has made several assertions that are just flat wrong..."

g. "Mr. Wright has asserted that Ms. Mazzeo's right to privacy as a victim of sexual assault has somehow been violated by Metro's release of her name; that too is wrong."

h. "There was no claim of sexual assault made to the officers who interviewed her nor was there any outward signs of sexual assault such as torn clothing or physical marks or injuries."

These are lies. Chrissy did make a claim of an attempted sexual assault, there were outward signs of injuries, and a sexually motivated coercion would also qualify for protection under NRS 200.2771.

i. "Based on our preliminary investigation, probable cause does not exist to indicate a sexual assault occurred. That is why officers pursued the investigation as a possible misdemeanor battery. Therefore, the release of those 911 tapes was and still is both appropriate and legal per NRS 200.3771."

j. "Here, we wanted to be careful the crime was appropriate to release...the decisions to be made I fully support."

As the head of Metro, Young personally condoned the release of Chrissy's name.

k. "They did interview Pennie Puhek, but I believe she was still around. ...Mr. Rogich my understanding was long gone before any policeman or detectives arrived. I thought I saw a written statement from her."

Pennie did not talk to the police until November 1, 2006.

l. "I understand that, a, there was some scratches on her but she did not claim to my detectives that night; she did not know where she got them, because I specifically asked that of my folks."

1 Chrissy had described Gibbons banging her into the wall, and scratches on her back
2 evidencing such were photographed. Chrissy had described Gibbons as squeezing her arms, and
3 redness on her arms evidencing such were photographed.

4 m. "They chose to based on several circumstances that were evident there not to try
5 to reach out for Mr. Gibbons that night even though they had one person and one
6 person only telling them where he lived or where he was at, and I believe that was
7 the Residence Inn."

8 There are no circumstances appearing in the record to justify Gibbons not being
9 interviewed that evening. Chrissy told the police Gibbons said he was staying at the Resident
10 Inn, and Creasey confirmed that Gibbons and Chrissy were walking toward the Residence Inn. A
11 simple check with the desk clerk would have confirmed that Gibbons was a guest.

12 n. "I stand by that we believe this at best to be a misdemeanor battery. Not a felony
13 sexual assault as Mr. Wright claims. I think, a, I want to make that point very,
14 very, clear, this is a very experienced criminal attorney, he knows and I know this
15 is not a sexual assault case, let's get that straight, there was no claim by her of
16 sexual assault."

17 o. "It was not a felony crime."

18 The big lies. Based on what Chrissy told the police, Gibbons could have been charged
19 with four different felonies, attempted sexual assault, sexually motivated coercion, false
20 imprisonment and kidnapping.

21 p. "She had obviously been drinking, ah, I don't know how intoxicated she was, and
22 I'm not trying to cast aspersions on her in any way, shape or form, but it was
23 pretty evident to the working cops that were out there she had, she was under the
24 influence of alcohol."

25 While saying he was not trying to cast aspersions, that is exactly what Young was doing.
26 There was no mention of Gibbons' drinking. No police officer said he observed Chrissy drunk.
27 (Lieutenant Jones never filed any written report).

28 q. "I think they did a stellar job investigating this case."

r. "Unfortunately in society the use of alcohol by anyone, male or female or
anybody, does plant a little seed of doubt in anybody's mind when the people that
you're talking to are intoxicated, it's just natural human behavior...we didn't just
drive there, ask a couple of questions, and say, oh, she's drunk, he's drunk, you
know, he grabbed her arm, you know, he's gone and she's gone, ...those patrol

officers in any other situation would have done that folks, I'm telling you, that's the way it is..."

s. "And, ya know, followed up with her the next day when we knew she would be in, ya know, in sobriety, and asked her is everything as it was yesterday, and the minute when she said, 'No, I'm not going any forward with this,' I'm sorry, the case is closed, that's the way it is, no buts, that's the way it is, the case is closed..."

Young casts the aspersion that Chrissy was intoxicated and drunk, and not a woman to be believed, at least not that evening in her intoxicated, drunken state.

t. "I was in Boston, Massachusetts, fortunately or unfortunately for the International Association of the Chiefs of Police annual meeting. I was there, I got in late Thursday night, I was in meetings all day Saturday, Sunday, Monday, Tuesday and Wednesday and returned on Thursday...I don't have all the firsthand information as far as who did what..."

u. "In this case it caught me. It did. It caught me. I was at a banquet, it's not the reporter's fault, I was at a banquet in Boston, and he called me and asked me if I knew anything about this case, and I don't lie, I said, 'Yes, I do.' And he says, 'Well, tell me about it.' I said, 'Well, I don't have, they're working on it right now.' There's a three hour time lapse. I called him back. Between, I got up about fifteen times, I had several of my employees, I was sitting with the police chief of LA and a couple of other police chiefs at the head table. I got up numerous times to try to find out what was going on from Greg McCurdy, and I got the best story I could on a cell phone in a room with five, six hundred people and a band playing, and I called, a, this reporter back.

Young, Rogich and Pennie were working on it all right, to get Chrissy to tell the police that she was intoxicated and the whole matter was a misunderstanding. Young did everything he could to paint Chrissy as an intoxicated person not to be trusted, to minimize the claimed offense and to clear Gibbons. Young's phone records do not show fifteen phone calls to Metro. *See*, Exhibit 37.

The intentional infliction of emotional distress.

Anna testified that after the incident, Anna and Chrissy stayed in hotels as opposed to living at Anna's or Chrissy's house. *See*, Exhibit 34, p. 90.

...we were in her truck for weeks, I think we, I was with her for three weeks during all of this, we went back to her house, and all four of my tires were flat, so we, I guess we all of a sudden just thought, you know, something must be wrong here...it made us scared. *Id.*, p. 91.

Anna told how they stayed away from Chrissy's house. *Id.*, p. 93.

1 Chrissy testified that she moved out of her house because she did not feel safe there with
2 her keys missing. *See*, Exhibit 2, p. 523

3 Metro and Young recently were given permission to subject Chrissy to an independent
4 psychiatric examination based on her claims that she has suffered from anxiety, panic attacks,
5 paranoia, fear, nightmares and insomnia related to the incident. *See*, Exhibit 75, Answers to
6 Defendant Bill Young's Interrogatories to Plaintiff, Answer No. 12. In the present instance, there
7 was an attempted rape, coercion, forced movement and confinement (constituting kidnaping and
8 false imprisonment) and battery, there was police favoritism shown the defendant, there was the
9 release of Chrissy's name to the press, and there was the Sheriff lying about the nature of the
10 allegations and insinuating Chrissy was intoxicated and unreliable, and great mental distress was
11 the result. This case clearly qualifies to go to trial on the tort of intentional infliction of
12 emotional distress under any standard.

13 **What route did Chrissy actually take?**

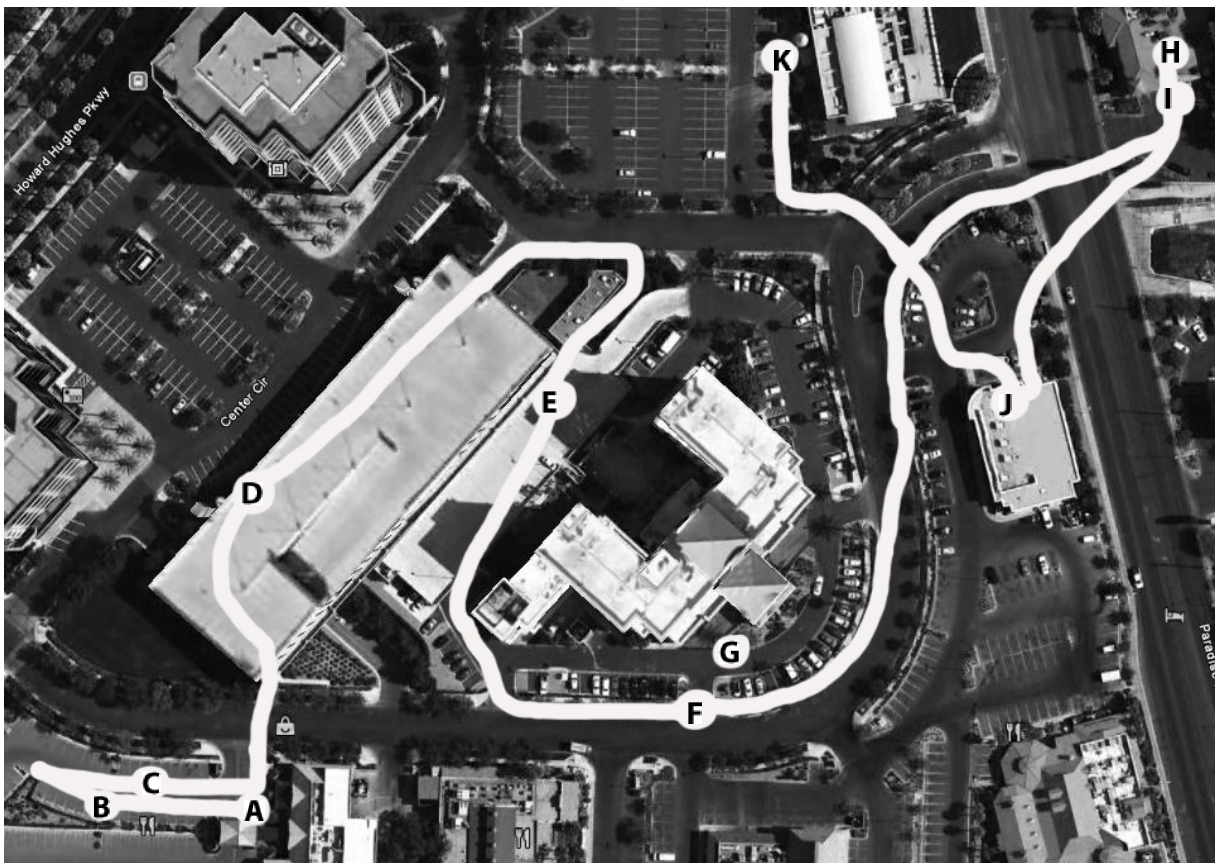
14 Chrissy believes the attack occurred in the Hughes Center 5-story parking garage. But
15 she was traumatized and could be mistaken. If Gibbons is to be believed, he followed in her
16 direction after she went into the Residence Inn parking garage, where there are no cameras.
17 Chrissy told the 911 operator during her third call,

18 ...And then he walked me upstairs and then he, that's when he pushed, pushed me
19 against the wall. And I'm hoping there is – I'm, I'm assuming that there's
20 cameras everywhere. I don't know for sure...I just, I started crying....And well
you'll see the stuff on camera if they have a camera on that. *See*, Exhibit 50, p.
CCDA-1 0829.

21 Chrissy description to the 911 operator is not consistent where she later remembered the
22 event happening on the first floor. Chrissy also did not recall an excursion into the McCormick
23 & Schmick's valet parking lot.

24 The testimony of the independent witnesses, Creasey and Garcia cannot be discounted.
25 They both seem fairly certain in their recollections. Creasey and Garcia both saw Chrissy and
26 Gibbons in the valet parking lot, and Creasey saw Chrissy on the sidewalk on the north side of
27

Hughes Center Drive and Gibbons walking into the front entrance of the Residence Inn. Based on all the information gleaned in this case so far, the following map is this counsel's best



CHRISSY'S ROUTE BASED ON THE PRESENT EVIDENCE

- | | | | |
|----------------|------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------------------------------------|
| A 22:04 | Chrissy is approached by Gibbons. | F 22:12 | Creasey hears Chrissy call out to Gibbons |
| B 22:05 | Creasey observes Chrissy sitting on the curb searching through her purse for her keys as Gibbons lords over her. | & G | from Point F and sees Gibbons turn around from Point G to acknowledge Chrissy's call. |
| C 22:07 | Garcia recognizes Gibbons as he flirts with Chrissy and shoos Garcia away. | H 22:23 | Chrissy calls 911 from La Quinta. |
| D 22:09 | Gibbons attacks Chrissy in parking garage. | I 22:47 | Gibbons grabs Chrissy outside La Quinta. |
| E 22:11 | Chrissy hides in Residence Inn parking garage. | J 22:53 | Chrissy calls 911 from Starbucks. |
| | | L 23:14 | Chrissy calls 911 from Gordon Biersch. |

1 estimate of the route Chrissy took on the night of the incident, but with Gibbons credibility nil
2 and Chrissy traumatized at the time, we may never know the exact route, but we can still say the
3 event happened based on Gibbons' attempts to seduce Chrissy, the drastic change in Chrissy's
4 demeanor following the incident, the scratches to her back and the bruising of her arms,
5 Gibbons' appearance outside La Quinta, and Chrissy's truck being broken into with no signs of
6 forced entry to whomever Gibbons gave her keys and set about to terrorize her.

7 One of the factors which influenced Chrissy's recollection was Officer Ortega coming up
8 to Anna's truck and saying that they had Gibbons on tape. Anna testified the officer came up to
9 her truck and said, "We found tape. We have him on tape." "We got him on tape." *See*,
10 Exhibit 34, p. 57, 153. Ortega was deposed and denies making the statement.

11 **Gibbons received favored treatment.**

12 Gibbons denied attacking Chrissy with expressed sexual intent on his mind, and he
13 claimed to have only caught a woman who stumbled; he laughed and thought it "funny" Chrissy
14 would say she asked him if he was going to rape her. *See*, Exhibit 6, p. 20. Gibbons has reason
15 to laugh for the police did Gibbons three huge favors no other sexual assailant could expect to
16 receive. First, he was not questioned that evening when he would have been off his guard,
17 second, he was notified of the allegations against him and that the police were going to come and
18 interview him allowing him time to rid himself of Chrissy's keys and, third, he was given time to
19 sober up and prepare himself for his questioning. Conversely, Chrissy was treated differently
20 from other sexual assault victims. Her name was released to the press, her witnesses were
21 harassed, the facts of her case were lied about publically to the press by the police, without any
22 determination by a finder of fact, her case was dismissed as nonmeritorious, and the chief law
23 enforcement officer insinuated that Gibbons was set-up for political purposes and that Gibbons
24 had his backing in his election for Governor.

25

26

**NOTICE OF ELECTRONIC FILING PURSUANT TO LOCAL RULE 5-3
AND SERVICE PURSUANT TO LOCAL RULE 5-4**

I hereby certify under penalty of perjury, that I am an employee of Kossack Law Offices, and pursuant to the Local Rules of Practice of the United States District Court District of Nevada (“LR”), Rule 5-3, on the 16th day of April, 2010, I caused to be electronically filed with the Clerk of the Court a true and correct copy of the foregoing PLAINTIFF CHRISSY ISRAEL MAZZEO’S RESPONSE TO DEFENDANT JAMES ARTHUR “JIM” GIBBONS’ MOTION FOR SUMMARY JUDGMENT AND TO DEFENDANT SIGMUND “SIG” ROGICH’S JOINDER TO MOTION FOR SUMMARY JUDGMENT AND TO DEFENDANTS LVMPD AND BILL YOUNG’S JOINDER TO DEFENDANT JAMES GIBBONS MOTION FOR SUMMARY JUDGMENT using the CM/ECF system and, thereby, pursuant to LR 5-4 such Notice of Electronic Filing constitutes service of the filed document upon each party in the case who is registered as an electronic case filing user with the Clerk of the Court of which such parties’ attorneys of record are on the following list:

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