

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

ELIYAHU MIRLIS, : CASE NO. 3:16-CV-00678 (MPS)  
Plaintiff, :  
v. :  
: :  
RABBI DANIEL GREER and YESHIVA OF :  
NEW HAVEN, INC., :  
Defendants. : JUNE 28, 2017

**MOTION FOR NEW TRIAL OR, IN THE ALTERNATIVE, FOR REMITTITUR**

Pursuant to Federal Rule of Civil Procedure 59(a), Defendants Daniel Greer (“Greer”) and Yeshiva of New Haven, Inc. (“Yeshiva”) (collectively “Defendants”) respectfully move that this Court order a new trial, or in the alternative, a remittitur of the jury’s award of \$15,000,000 in compensatory damages entered against the Defendants on June 6, 2017. (Doc. # 163, Judgment). As is set forth more fully in the accompanying Memorandum of Law, the jury’s award, which is entirely comprised of non-economic damages, is not reasonably supported by the testimony and other evidence adduced at trial and is dramatically out of line with non-economic damages awards made by juries deciding cases involving similar claims of sexual abuse, both within Connecticut and throughout the country. For these reasons, as we discuss in the Memorandum of Law, a new trial should be ordered; in the alternative, a remittitur of the jury’s award should be ordered, to an amount substantially less than \$1,000,000.

**THE DEFENDANTS,**

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**CERTIFICATE OF SERVICE**

I hereby certify a copy of the foregoing Motion for New Trial or Remittitur was filed electronically on June 28, 2017. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing. Parties may access this filing through the Court's system.

/s/ Amanda C. Nugent

Amanda C. Nugent

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION  
FOR NEW TRIAL OR, IN THE ALTERNATIVE, FOR REMITTITUR**

Defendants Daniel Greer (“Greer”) and Yeshiva of New Haven, Inc. (“Yeshiva”) (collectively “Defendants”) respectfully submit this Memorandum of Law in support of their motion, pursuant to Federal Rule of Civil Procedure 59(a), for an order granting a new trial in this matter or, in the alternative, a remittitur of the jury’s award of \$15,000,000 in compensatory non-economic damages entered against the Defendants on June 6, 2017.<sup>1</sup> (Doc. # 163, Judgment). As we discuss below, the evidence presented at trial simply cannot support the jury's exorbitant verdict in this case, which is dramatically out of step with non-economic damage awards by juries in cases involving similar claims of sexual abuse, both in Connecticut and throughout the country. The Court should exercise its power under Rule 59(a), and either order a new trial, or reduce the damage award to an amount substantially below \$1 million.

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<sup>1</sup> Because the Court’s awards of \$5,000,000 in punitive damages and \$1,749,041.10 in offer of compromise interest were a mathematical function of the jury’s compensatory damages award, any new trial or remittitur of the compensatory damages will necessarily decrease those sums as well. Accordingly, Defendants do not address separately the award of punitive damages and interest.

## **I. Introduction**

One bedrock principle of American jurisprudence is that cases must be decided based on fact and law – and not be influenced by extraneous forces such as sympathy, anger, or prejudice. This case featured key elements that increased the likelihood of such extraneous factors affecting (and infecting) the decision-making process. First, the very nature of the claims – centering on sexual abuse – was likely to stir strong emotions with the jury. Second, as noted in our pretrial motion *in limine*, the prospect of a civil defendant invoking Fifth Amendment rights, and having to do so in the presence of the jury, is rife with potential for undue prejudice. These twin factors combined to create a legal tinderbox, with dramatically heightened risk of a result inflamed by passion, and untethered to the actual evidence presented in the case.

This volatile tinderbox unfortunately ignited in this case, resulting in the \$15 million damage award returned by the jury. The Court attempted to blunt the potential for unfair prejudice in its instructions, both during the trial evidence and at the conclusion of the case. However, despite the Court's best efforts, the jury returned an unprecedented verdict, unsupported by the evidence and far out of line with similar cases in Connecticut and other states. In every case – even one where sexual abuse is alleged, and the defendant has invoked his constitutional privilege – the plaintiff bears the burden of proving his claims. The evidentiary record in this case – which included undisputed testimony from plaintiff and his wife that he had repeatedly honored defendant Greer, insisting he play a critical part in the most important milestones of his life; had voluntarily and regularly involved himself in Greer's life from great distance, over many years; and had not displayed critical behaviors that plaintiff's own expert testified were essential to a valid diagnosis of Post-Traumatic Stress Disorder – simply cannot support an award of \$15 million in non-economic damages.

The power vested in the Court under Rule 59, to grant a new trial or order a remittitur, is intended precisely to address situations like this, where a runaway verdict is returned that the cold record cannot support. This case cries out for an exercise of that power.

## **II. Relevant Factual Background and Key Trial Testimony**

As the Court is aware, this case arose from plaintiff Eliyahu Mirlis's ("Mr. Mirlis" or "Mirlis") claim that he was sexually abused and molested by Daniel Greer during plaintiff's sophomore, junior and senior years at Yeshiva (between the fall of 2002 and spring of 2005). Mr. Mirlis further alleged that during this period of time, senior administrators and officials at Yeshiva, including Yeshiva's assistant principal, actually knew and/or should have known of the abuse and yet they did nothing to stop it.

Mr. Mirlis filed this case in May of 2016, 11 years after he graduated from Yeshiva. In his initial complaint, Mr. Mirlis sought damages for a claimed inability to lead and enjoy a normal life, physical pain and suffering, an inability to enter into and maintain physical, sexual and emotional relationships, and "permanent damage to his educational and career prospects and to his past, present and future earnings." (Doc. #1, Complaint, ¶¶29-31; 33). Before trial, however, plaintiff amended his complaint to remove the claim for diminished earning potential and/or lost earnings, and at trial pursued only non-economic damages: an inability to enjoy life's activities and to engage in a normal life, and "mental, psychiatric and emotional injures". (Doc. #136, Third Amended Complaint, ¶¶29-32). At the time of trial, Mr. Mirlis was 29 years of age, married, with three children. He had a total life expectancy of 84.5 years. (Transcript of Trial Testimony of May 15, 2017, Vol. II, p. 315, lines 12-13; p. 366, lines 17-21 (hereinafter "Tr. Vol II at \_\_\_\_."). Copies of the cited portion of this volume of trial testimony are attached hereto as Exhibit 2; Doc. #137, Stipulation re: Life Expectancy).

Mr. Mirlis's trial testimony included few specifics about the alleged abuse. He testified in detail about the first alleged encounter between him and Greer, in which he said Greer kissed Mr. Mirlis on the lips. (Tr. Vol. II at 319, line 18-320, line 25.) Mirlis said generally that things "snowballed" between them over the next few years, until the two were engaging in a variety of explicit sexual activity, including oral sex.<sup>2</sup> (Tr. Vol. II at 321, lines 21-25). The only other incidents described with any detail were an overnight stay in Paoli, Pennsylvania, and an outdoor encounter in Bethany. Mr. Mirlis was unable to provide specific dates for any of the claimed incidents of abuse. (Tr. Vol. II at 344, lines 14-18). He testified that the frequency of encounters varied widely – weekly, he testified, during much of his 10<sup>th</sup> grade year, but in other periods, including the 11<sup>th</sup> grade, he said he avoided Greer's overtures for weeks at a time by saying, "no, I can't". (Tr. Vol. II at 325, lines 3-18).

Mr. Mirlis also testified that he enjoyed his time at Yeshiva, and felt happy and comfortable there. (Tr. Vol II at 331, lines 10-15; Tr. Vol. II at 332). When asked why he did not report the alleged abuse at the time he said it occurred, Mr. Mirlis candidly responded,

I wanted to finish high school out. I didn't want to have to start at a new place. I appreciated the education I was getting there. I liked New Haven. I liked Avi. I liked Ezi. **I liked what was going on. I liked the community as a whole and I was comfortable there.** So I didn't want to start over.

(Tr. Vol II at 331, lines 10-15, emphasis added).

As the Court recalls, there was substantial evidence at trial of Mr. Mirlis's significant, continuing, and voluntary relationship with Greer following his 2005 graduation from high school. Mirlis testified that in 2006, after having returned from a school year in Israel, he drove

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<sup>2</sup> As the Court is aware, in light of a pending criminal complaint made by Mr. Mirlis, on the advice of counsel, Mr. Greer invoked his constitutional right under the Fifth Amendment to decline to respond to questions relating to the alleged abuse at trial. (Tr. Vol. II at 375, lines 21-25; Transcript of Trial Testimony given May 11, 2017, Vol. I, at p. 61, lines 22-24 (hereinafter Tr. Vol. I at \_\_\_\_.) Copies of the cited portions of this volume of trial testimony are attached hereto as Exhibit 1).

from New Jersey to Connecticut to have a sexual encounter with Greer in a motel in Branford. (Tr. Vol. II, p. 340, lines 1-9). Mr. Mirlis would have been 18 years of age in the summer of 2006.

Mirlis also testified to regular, ongoing contact with Greer that had absolutely no sexual component. Later in 2006, Mirlis's father passed away; he invited Greer to speak at the traditional memorial service held 30 days after his burial. (Tr. Vol. II at 353, lines 5-22). When he was married, in December 2007, Mirlis asked Greer to serve as one of the two most important witnesses to the ceremony, under the wedding canopy – a position of great honor and ceremonial significance. (Tr. Vol. II at 353, line 23-355, line 2). When his first child, a boy, was born in 2010, Mirlis chose Greer to serve in the two most important roles at his son's circumcision service - making Greer "the most important person" at that event. (Tr. Vol. II at 362, line 3-364, line 7). In addition, Mirlis traveled from New Jersey to New Haven to visit Greer on many high holy days and other religious holidays for 8 years following his graduation, and brought his wife and children with him on those trips. (Tr. Vol. II at 364, line 3-p. 365, line 12; p. 366, lines 14-24). On some of these visits, Mirlis participated in religious services with Greer, standing next to Greer as he conducted the services. (Tr. Vol. II at 366, lines 1-11).

When asked why he continued to seek out Greer to be part of his life, Mirlis responded, "I looked up to him as an important figure in my life...I felt it was appropriate for what he had done for me by education and, you know, whatnot, helping me financially when he did." (Tr. Vol. II at 332, lines 9-13). He also testified that he never expressed a desire to "get away from [Greer]." (Tr. Vol. II at 362, lines 1-2).

Shira Mirlis, plaintiff's wife, corroborated Mr. Mirli's testimony regarding his ongoing involvement with Greer after 2006. She recalled an average of 6 to 8 visits each year from their

home (either New York or New Jersey) to New Haven. (Tr. Vol. I at p. 162, lines 22-23). These included overnight trips for the high holy days or Sabbath. (Tr. Vol. I at p. 163, line 2-p. 165, line 18). Mrs. Mirlis objected to the repeated trips to see Greer and other members of the New Haven community; she and her husband fought “non-stop” about the trips, “[e]very single time, the entire ride up”. (Tr. Vol. I at p. 145, lines 2-17). She also admitted that she did not want Greer to even be present at their 2007 wedding, but her husband insisted on him serving in the role of honor; the same was true of the positions of honor at the circumcision ceremony in 2010. (Tr. Vol. I at p. 155, line 9-p. 157, line 21). In general, she found her husband's ongoing relationship with someone who supposedly had abused him as a minor to be “weird” and “strange”. (Tr. Vol. I at p. 145, lines 2-4; Tr. Vol. II at p. 178, lines 19-20).

Plaintiff's testimony regarding his claimed emotional distress and suffering – the sole basis of his damage claim - was sparse at best. His entire discussion of the topic spans less than one page of transcript; it consists of only four pairs of questions and answers. First, Mr. Mirlis was asked how Greer's alleged abuse affected his relationship with his wife. He responded:

We have and continue to have our ups and downs. It doesn't allow me to, I guess, you know, connect with my wife how I'm supposed to. I hold everything very close to the vest. And I'm very, you know, everything's all good all the time, but I'm unable to share with her how it's supposed to be.

(Tr. Vol. II at 333, line 24-334, line 4). Second, Mr. Mirlis was asked whether he can share with anybody. He responded with a simple “no.” (Tr. Vol. II at 334, lines 5-6). Next, Mr. Mirlis was asked if there was anyone he could trust, to which he responded, “I don't trust anybody. I second guess everybody and anybody.” (Tr. Vol. II at 334, lines 10-11). Finally, he was asked what he sees as his future with his wife and children. He answered, “[a]n uphill climb. You know, we've been married just about 10 years and we've had our ups and downs and we've

fought through it. And I'm sure we will continue to have ups and downs and continue to fight through. It's definitely not easy." (Tr. Vol. II at 334, lines 16-20)<sup>3</sup>. These four short exchanges are the entirety of what the jury heard from the plaintiff regarding his claimed emotional pain and suffering, and "inability to lead a normal life", for the past 12 years as well as into the future.

Mr. Mirlis's testimony was also noteworthy for what it did not include. He said nothing about (and claimed no damages for) having received treatment for his claimed trauma – beyond acknowledging that he had not done so until October 2015, after retaining counsel.<sup>4</sup> (Tr. Vol II at p. 370, lines 18-25). He did not even attempt to explain the reasons behind his failure to seek treatment – even though his wife indicated she had urged him to do so for at least 8 years. (Tr. Vol. II at p. 182, lines 10-15). He also did not testify as to any plans to seek treatment in the future. Finally, beyond the limited testimony discussed above, he said absolutely nothing about how his supposedly permanent, debilitating traumatic condition had affected, or was affecting, his life.<sup>5</sup>

Plaintiff attempted to bolster his damage claims through the testimony of psychologist Julian Ford, a hired expert in Post-Traumatic Distress Disorder ("PTSD"). Dr. Ford, who rendered no treatment to Mr. Mirlis, and who was engaged solely to conduct a forensic examination and offer testimony, opined that Mr. Mirlis suffers from PTSD, had been suffering from it from 2005 (or earlier), and likely would continue to be afflicted by the condition.

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<sup>3</sup> Plaintiff's wife, Shira Mirlis, also described her relationship with her husband. That testimony adds nothing new to the record as regards plaintiff's damages. Mrs. Mirlis simply echoed her husband's sentiment that plaintiff is not emotionally intimate or vulnerable, and that their relationship is "not satisfying." (Tr. Vol. I, p. 149, lines 17-22; p. 150, lines 12-19). However, she also professed great love and respect for her husband, describing him as "a very good person. He has an amazing heart. He is selfless, kind, strong. He's just a very good person." (Id. at 152, lines 23-25).

<sup>4</sup> Plaintiff did mention having sought marital counseling with his wife. (Tr. Vol. II at p. 379, lines 2-5).

<sup>5</sup> In particular, as discussed below, plaintiff did not testify to many of the behaviors/symptoms upon which his expert witness based his diagnosis of Post-Traumatic Stress Disorder.

Dr. Ford's testimony suffered from several flaws, however. First, by his own admission, his opinions rested on an assumption that Mirlis was telling him the full and complete truth. The evidence at trial showed that, in many important areas, Dr. Ford did not have the full and complete truth from the plaintiff – a flaw that Dr. Ford conceded could undermine the validity of any professional conclusions. (Tr. Vol. II, p. 275, line 3-p. 276, line 3). For instance, it was Dr. Ford's understanding that the plaintiff "saw [Greer] occasionally in public events at the school". (Tr. Vol. II, p. 291, lines 11-18). This statement, which Dr. Ford indicated came from Mirlis, is simply false; it is clear Dr. Ford had no knowledge about the honored roles plaintiff chose for Greer in his wedding and the circumcision of his child, or even his dozens of long trips to New Haven for high holy days, Sabbaths, and other occasions. Dr. Ford also was under the mistaken impression that Mirlis had only recently told his wife of his claimed history of abuse; both Mr. and Mrs. Mirlis testified to the contrary. (Tr. Vol. II, p. 293, lines 3-25; *id.* at p. 340, lines 10-21; *id.* at p. 183, line 23-p. 184, line 4). Thus, Dr. Ford was also unaware that Mirlis insisted, over his wife's objections, on continuing to visit Greer, and honor him, over such a long period of time. Indeed, Mirlis freely admitted that he did not share full information with Dr. Ford; as he cavalierly stated: "If he didn't ask me, then I did not tell him". (Tr. Vol. II, p. 377, line 3). The lack of complete knowledge, as we discuss in the Argument section below, vitiates Dr. Ford's testimony – regardless of his expert credentials.

In addition, apart from any credibility issues, many bases for Dr. Ford's PTSD diagnosis find little support in the factual record. Put simply, the Eliyahu Mirlis described at trial by Dr. Ford is difficult to reconcile with the individual who actually testified. For instance, Dr. Ford stated that on a daily basis, Mr. Mirlis experienced unwanted or intrusive memories of the abuse that range from flashbacks to "just a vague feeling that something terrible is happening or will

happen” (Tr. Vol. II at 254, line 19-p. 255, line 9); Mr. Mirlis did not testify to any such memories or flashbacks (even when frequently in Greer’s presence). He said that Mirlis experiences feelings of depression, anger, self-loathing and disgust for himself (Tr. Vol. II at 255, lines 9-12); Mirlis articulated no such feelings in his trial testimony. Dr. Ford further stated that Mr. Mirlis feels “shaky, trembling, heart racing, heart pounding” (Id. at lines 18-19); again, Mirlis himself said nothing about ever having experienced such physical symptoms, for instance, during one of the many times he was in Greer’s presence after 2005.

Finally, Dr. Ford testified that one of the required behaviors which must be present in order to make a valid PTSD diagnosis was avoidance of reminders of the traumatic event(s). (Tr. Vol. II, p. 292, line 15-p. 293, line 2; *id.* at p. 306, lines 10-16). Without evidence of such behavior, one cannot accurately make a PTSD diagnosis under the applicable diagnostic manual, DSM-V. Dr. Ford opined that plaintiff met this criterion – yet was under the impression, based on statements by the plaintiff, that since the claimed abuse ended Mr. Mirlis had seen Greer only occasionally, at public events at the school. The factual flaws underlying that are, as we discuss below, fatal to the credibility of Dr. Ford's opinion.

### **III. Law and Argument**

#### **A. General Legal Standard**

Federal Rule 59(a) (1)(A) provides that after a jury trial, a district court may grant a new trial “for any reason for which a new trial has heretofore been granted in an action at law in federal court.” A new trial “must be granted if the court determines that the verdict is against the weight of the evidence, that the damages are excessive, or that, for other reasons, the trial was not fair to the party moving.” *Santa Maria v. Metro–North Commuter R.R.*, 81 F.3d 265, 273 (2d Cir. 1996). A jury verdict is excessive if it is “so high as to ‘shock judicial conscience.’” *Pace v.*

*Nat'l R.R. Passenger Corp.*, 291 F. Supp. 2d 93, 104 (D. Conn. 2003), quoting *Schneider v. Nat'l R.R. Passenger Corp.*, 987 F.2d 132, 137-38 (2d Cir.1993).

The decision to grant a new trial is “committed to the sound discretion of the trial judge.” *Metromedia Co. v. Fugazy*, 983 F.2d 350, 363 (2d Cir.1992). A trial judge hearing a motion for a new trial under Rule 59 is free to weigh the evidence and need not view it in the light most favorable to the verdict winner. *Grisanti v. Cioffi*, No. CIV399CV490JBA, 2001 WL 777435, at \*3 (D. Conn. June 14, 2001), aff'd, 38 F. App'x 653 (2d Cir. 2002); *Song v. Ives Labs., Inc.*, 957 F.2d 1041, 1047 (2d Cir.1992).

If a trial court does find that the amount of damages awarded is excessive in light of the evidence presented, it may order a new trial, order a new trial as to damages, or “under the practice of remittitur, may condition a denial of a motion for a new trial on the plaintiff's accepting damages in a reduced amount.” *Tingley Sys., Inc. v. Norse Sys., Inc.*, 49 F.3d 93, 96 (2d Cir.1995). A remittitur compels a plaintiff to choose between reduction of an excessive verdict and a new trial. *Chopra v. Gen. Elec. Co.*, 527 F. Supp. 2d 230, 244 (D. Conn. 2007), citing *Cross v. New York City Transit. Auth.*, 417 F.3d 241, 258 (2d Cir.2005); accord *Gasperini v. Ctr. for Humanities, Inc.*, 518 U.S. 415, 433 (1996) (district court's discretion to grant new trial includes “ordering a new trial without qualification, or conditioned on the verdict winner's refusal to agree to a reduction (remittitur).”). “Remittiturs are a common procedure used by the courts to, in effect, reduce the amount of a damage award that the court concludes is impermissibly high.” *Turley v. ISG Lackawanna, Inc.*, 774 F.3d 140, 167 (2d Cir.2014).

In considering a motion for a new trial or remittitur as to a state law claim, “[t]he role of the district court is to determine whether the jury's verdict is within the confines set by state law, and to determine, by reference to federal standards developed under Rule 59, whether a new trial

or remittitur should be ordered.” *Vera v. Alstom Power, Inc.*, 189 F. Supp. 3d 360, 375 (D. Conn. 2016), appeal dismissed (Aug. 16, 2016); *see also Munn v. Hotchkiss Sch.*, 795 F.3d 324, 335 (2d Cir. 2015). Under Connecticut law, “[i]f the court at the conclusion of the trial concludes that the verdict is excessive as a matter of law, it *shall* order a remittitur and, upon failure of the party so ordered to remit the amount ordered by the court, it shall set aside the verdict and order a new trial.” Conn. Gen. Stat. § 52-216a (emphasis added). “The claim that the amount of a verdict is excessive raises a question of law and not of fact.” *Champagne v. Raybestos-Manhattan*, 212 Conn. 509, 556 (1989).

In *Saleh v. Ribeiro Trucking, LLC*, 303 Conn. 276, 280-82 (2011), the Connecticut Supreme Court fleshed out our state’s remittitur standard, stating:

The ultimate test which must be applied to the verdict by the trial court is whether the jury’s award falls somewhere within the necessarily uncertain limits of just damages or whether the size of the verdict so shocks the sense of justice as to compel the conclusion that the jury [was] influenced by partiality, prejudice, mistake or corruption ....

We have explained the reason underlying the great breadth of the trial court’s discretion over such matters: There are, to be sure, sometimes, verdicts of this kind, when the trial judge is required by the interests of justice to set them aside.... This power of supervision and correction which the judge has over the verdict is an essential part of the jury system. (Citations omitted; internal quotation marks omitted.)

The court’s “broad power to order a remittitur should be exercised only when it is manifest that the jury [has] included items of damage which are contrary to law, not supported by proof, or contrary to the court’s explicit and unchallenged instructions.” *Id.* at 281 (internal quotation marks and citations omitted); *accord Bracey v. Bd. of Educ. of City of Bridgeport*, 368 F.3d 108, 117–18 (2d Cir.2004). Thus, an essential component of the court’s analysis, particularly of a non-economic damages award, is whether a plaintiff has provided evidence sufficient for the

finder of fact to make a fair and reasonable estimate of those damages. *See Willow Springs Condominium Ass'n, Inc. v. Seventh BRT Development Corp.* 245 Conn. 1, 59 (1998).

In making decisions regarding non-economic damages, the jury is not entitled to punish the Defendant or be generous to the Plaintiff. *Burrell v. Yale University*, 2004 WL 3049083 (Conn. Super. Nov. 22, 2004) (Schuman, J.). Our law has long prohibited juries from basing a verdict on sympathy. *Atchison v. Lewis*, 131 Conn. 218 (1944). Because “awards for mental and emotional distress are inherently speculative and the judicial system has an obligation to ensure that such awards for intangibles be fair, reasonable, predictable and proportionate, greater scrutiny is given to large jury awards for mental and emotional harm to ensure that they are in line with comparable cases”. *Vera v. Alstom Power, Inc.*, 189 F. Supp. 3d 360, 376 (D. Conn. 2016) (internal quotations omitted).

When a verdict is excessive as a matter of law, the amount of the remittitur rests largely within the discretion of the trial court. “[I]n ordering a remittitur, the court is obligated to determine damages de novo and not merely bring the verdict just ‘within the ballpark.’” *Cohen v. Yale-New Haven Hosp.*, 2000 WL 1337660, \*25 (Conn. Sup. Aug. 31, 2000) (Levin, J.). If this Court decides to order a remittitur, it should not be to the highest number the jury could legitimately have awarded; the remittitur should be to the amount the Court believes is the proper one. *See Grisanti v. Cioffi*, No. CIV399CV490JBA, 2001 WL 777435, at \*8 (D. Conn. June 14, 2001), *aff'd*, 38 F. App’x 653 (2d Cir. 2002) (ordering remittitur of jury’s award of \$2.5 million in non-economic damages for four incidents of sexual assault on an adult woman by her former partner who was the father of her child to \$1.25 million). “In the ordering of a remittitur, a fair appraisal of compensatory damages, and not the limit of legitimate generosity, is the rule.” *Buckman v. People Exp., Inc.*, 205 Conn. 166, 177 (1987).

**B. Relevant Precedents in Connecticut and Other States**

The question whether to order a new trial is not guided solely by the general legal standards discussed above. Instead, under both the Rule 59 and state law analysis, “a court should look to awards in comparable cases, bearing in mind the unique facts and circumstances of each case.” *Vera v. Alstom Power, Inc.*, 189 F. Supp. 3d 360, 375–76 (D. Conn. 2016), appeal dismissed (Aug. 16, 2016); *Wood v. Bridgeport*, 216 Conn. 604, 611 (1990); *see also Scala v. Moore–McCormack Lines, Inc.*, 985 F.2d 680, 684 (2d Cir.1993) (*quoting Nairn v. Nat’l R.R. Passenger Corp.*, 837 F.2d 565, 568 (2d Cir.1988)) (when evaluating whether an award is excessive, “courts have reviewed awards in other cases involving similar injuries, ‘bearing in mind that any given judgment depends on a unique set of facts and circumstances.’”) We discuss below numerous precedents, both from Connecticut and other jurisdictions, that we believe help illustrate the extreme nature of the damage award in this case.

In *Doe v. Archdiocese of Hartford et al.*, Docket No. UWYCV-08-5010702-S (Conn. Super.), plaintiff contended that when he was a 13 and 14-year old grammar school student at one of the defendant’s parochial schools, he was subjected to multiple incidents of sexual abuse by a priest, who was also the director of his school. The plaintiff contended that another altar boy and he were repeatedly molested by the priest and the priest’s friend over an approximate two-year period, including in the school’s locker rooms, in the school’s basement where supplies were kept, at sleepovers in the school rectory, and at sleepovers at the home of the priest’s friend. *Doe v. Hartford Roman Catholic Diocesan Corp.*, 317 Conn. 357, 367 (2015). Much like claims made by Mr. Mirlis, the plaintiff in *Doe* described the abuse and molestation as consisting of voyeurism, oral sex, fondling of genitals, the forced viewing of pornography, and culminating in the priest sodomizing him in the basement of the school. *Doe*, 317 Conn. at 367.

The plaintiff contended that he suffered PTSD that was manifesting in anxiety, depression, nightmares and flashbacks of the incidents. *Doe v. Hartford Roman Catholic Diocesan Corp.*, 27 N.Eng. J.V.R.A. 8:C7, 1000 WL 181316 (2015). The plaintiff's psychotherapist testified that the plaintiff continues to feel guilt and shame about the incidents. (*Id.*) The plaintiff's psychologist/PTSD expert contended that the plaintiff will require psychotherapy for the foreseeable future and that it is likely that he will continue to suffer the effects of the disorder to some degree, permanently. (*Id.*) Accordingly, in *Doe*, the jury was presented with corroborated evidence of long-lasting and intrusive emotional harm suffered after two years of repeated sexual abuse by a trusted religious advisor and school administrator, as well as by a second perpetrator, while the plaintiff was roughly the same age as Mr. Mirlis claims he was when abused. On the basis of this corroborated testimony, the jury found for the plaintiff and yet awarded him only \$1,000,000 in compensatory damages. *Doe v. Hartford Roman Catholic Diocesan Corp.*, 317 Conn. at 360.

In *Blair v. LaFrance*, No. CV 980149622S, 2000 WL 1508232, at \*2-5 (Conn.Super.Sept. 27, 2000), a female plaintiff brought suit against her uncle alleging that he sexually molested her on three occasions when she was 8, 12 and 14 years old. The first two incidents of sexual abuse occurred in the plaintiff's own bed; the third on a family vacation. Plaintiff brought claims sounding in negligent infliction of emotional distress, invasion of privacy, intentional infliction of emotional distress and assault and battery.

At trial, the plaintiff in *Blair* testified to myriad symptoms following the abuse. She testified that she was significantly depressed, anxious and fearful and had attempted suicide; testified that she slept in sweat pants and a sweat shirt and always slept away from the door and against the wall; and that she had extremely low self-esteem and a history of an eating disorder.

She also testified that she “hates herself” following the abuse; had high degrees of rage and distrust; and exhibited those feelings by being short-tempered and yelling at her husband and young daughter. She testified to obsessive compulsive behaviors, and said she had been seeking therapy since she first disclosed the sexual abuse to her husband several years before the trial.

The plaintiff's expert witness confirmed and corroborated these claims, and, based upon two evaluative interviews, opined that the *Blair* plaintiff suffered from depression, anxiety and PTSD. Plaintiff's expert also testified that it is rare for a sexual abuse victim to ever be fully cured and that normally, a sexual abuse victim needs seven to ten years of weekly therapy to work through her issues and also often needs antidepressant medication.

Based upon these facts and this corroborated testimony, the trial court awarded plaintiff \$75,200 for economic damages and \$500,000 for non-economic damages. At the time of the trial, the plaintiff in *Blair* was 30 years old and had an additional life expectancy of approximately 50 years.

In *Srb v. Johnson*, No. MMXCV085004782, 2009 WL 5730549, at \*1 (Conn. Super. Ct. Dec. 28, 2009), the plaintiff alleged that over a period of approximately six months to a year, when the plaintiff was about fourteen to sixteen years of age, the defendant, a horse trainer, sexually assaulted the plaintiff on approximately five occasions at a horse stable where plaintiff was taking horseback riding lessons. The sexual assault included sodomy and restraint of the plaintiff. At trial, the evidence disclosed that the plaintiff had been a student of the defendant for a number of years in his youth. The plaintiff maintained that he was extremely interested in horseback riding, that the defendant appeared to be an authority figure and contended that the defendant utilized this status as a trusted expert and authority to take advantage of him.

ANDREW SRB vs. ROBERT L. JOHNSON AND QUARRY TOWN STABLES INC., 26 N.Eng. J.V.R.A. 3:C2, 1000 WL 181253 (2015).

As a result of this sexual assault, the plaintiff testified that he was significantly traumatized and suffered, and continued to suffer, significant psychological injuries including alcohol dependence, a history of opiate dependence, depression, emotional distress, shame, embarrassment, anxiety, an inability to maintain regular employment, insomnia, nightmares, flashbacks, relationship problems, loss of enjoyment of life's activities and impaired social functioning. He indicated that all of these conditions required, and continued to require, in depth inpatient and outpatient mental health treatment, hospitalization and counseling. He was diagnosed with post-traumatic stress disorder, alcohol dependence and a history of opiate dependence. *Srb*, 2009 WL 5730549, at \*1; 26 N.Eng. J.V.R.A. 3:C2. The jury in *Srb* awarded the plaintiff \$1,270,000 in compensatory damages. 26 N.Eng. J.V.R.A. 3:C2.

In *Doe v. Thomas Valley Council for Cmty. Action, Inc.*, No. X04CV 930115438S, 2000 WL 254608, at \*3 (Conn. Super. Ct. Feb. 23, 2000), *aff'd sub nom. Doe v. Thames Valley Council for Cmty. Action, Inc.*, 69 Conn. App. 850, 797 A.2d 1146 (2002), a Connecticut jury awarded both economic and non-economic damages to four very young children who were sexually assaulted by their van driver while enrolled in a Head Start day care program.<sup>6</sup>

At trial plaintiffs' expert, who evaluated all four minor children, testified that the defendant's sexual abuse, with reasonable medical probability, will have a profound, long-term psychological impact on the thinking and emotions of the children and on their approach and reactions to relationships. According to that expert, at certain critical life junctures, such as puberty and adolescence, the children will be at great risk for the development of an assortment

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<sup>6</sup> Plaintiff's expert, Dr. Ford, testified that the most detrimental time periods to suffer sexual abuse are early childhood and adolescence, making this case analogous in its severity to the allegations in the case at bar. (Tr. Vol. II at 296, lines 3-8).

of mental, emotional and relationship disorders. The expert opined that relationship problems will continue throughout their adult lives, and the children's injuries were considered to be permanent. A need for treatment and the disastrous consequences of problems left untreated were also mentioned. Based on this evidence of permanent and wide-ranging psychological damages, the jury awarded economic damages ranging from \$30,000 to \$60,000 per child, and non-economic damages ranging from \$35,000 to \$75,000 per child.

In *Andalora v. Falanga*, Docket No. CV125005758S (Conn. Super.), the plaintiff, now 47 years old, alleged that in the 1980s, when she was a child, the defendant, who was dating her mother at the time, repeatedly sexually abused her over a period of seven years. *ANDALORA vs. FALANGA*, 32 N.Eng. J.V.R.A. 1:15, 2014 WL 12538902. The *Andalora* plaintiff claimed she suffered emotional distress, depression and developed low self-esteem, an eating disorder and addiction issues as a result of the years of abuse. The defendant denied the allegations and disputed both causation and damages. At the conclusion of the trial, the jury returned a verdict in favor of the plaintiff in the amount of \$2,750,000. The verdict consisted of \$70,000 in economic damages and \$2,680,000 in non-economic damages.

In *Powell v. Fabbozzi*, 2005 WL 4721673, No. CV02 039 33 64S (Conn.Super. 2005), a 43-year-old male alleged that he suffered emotional distress after he was sexually assaulted, abused, and molested from ages 9-13 at a church by the 76-year-old male defendant. *See Powell v. Fabbozzi*, JVR No. 1008130022, 2005 WL 6522254 (Conn.Super.) (Verdict and Settlement Summary). The defendant denied liability. The jury awarded the plaintiff \$3,000,000 in non-economic damages for his pain and suffering. *Powell v. Fabbozzi*, 2005 WL 4721673 at \*1. With compensatory damages, punitive damages and interest, the total verdict in that case exceeded

\$9,000,000. However, the non-economic damages portion only comprised approximately 1/3 of the total amount awarded.

The only Connecticut case our research has revealed that even comes close to the verdict returned in this case was the recent case of *Doe v. Boy Scouts of America Corporation*, 323 Conn. 303, 315, 147 A.3d 104, 111, reconsideration en banc denied, 323 Conn. 942, 151 A.3d 841 (2016). In that case, plaintiff brought suit against the Boy Scouts of America for sexual abuse he suffered at the hands of Hepp, a Boy Scout patrol troop leader during the mid-1970s. Hepp sexually abused the plaintiff on three separate occasions, all of which involved forced oral or anal sex. *Doe v. Boy Scouts of Am. Corp.*, 323 Conn. at 310–11.

Years later, the plaintiff brought suit alleging that he had suffered physical, emotional and psychological injuries as the result of the sexual assaults, and that the defendant organization was liable for his damages because it had negligently failed to take adequate steps to prevent his injuries. In addition, the plaintiff alleged that the defendant had negligently inflicted emotional distress, that its conduct was reckless and that its conduct constituted a CUTPA violation. *Id.* at 311.

At trial, the plaintiff's theory was that the Boy Scouts organization had been negligent because, even though it had been aware of numerous incidents of sexual abuse during scouting activities in the decades preceding the 1970s, both by adult and by minor Boy Scout participants, it failed to take appropriate precautions against sexual abuse. In support of his claims, the plaintiff presented expert testimony by an associate professor of family studies and human development, with special expertise in the subject of institutional responsibilities for keeping children safe. The expert testified that, in his opinion, the defendant's failure to inform the public about the risk of sexual abuse during Boy Scout activities created a dangerous situation for

members of the Boy Scouts and was negligent. In addition, a clinical psychologist with expertise in helping institutions set up programs to prevent sexual abuse in institutional settings, testified that, on the basis of his review of the ineligible volunteer files, it was his opinion that the defendant must have been aware before the mid-1970s of incidents of sexual abuse of members of the Boy Scouts by fellow members. *Id.* at 311–12.

On the basis of this evidence, the jury in *Doe* returned a verdict for the plaintiff on all counts and awarded \$4 million in compensatory damages on the plaintiff's negligence claim and \$3 million in compensatory damages on the claim of negligent infliction of emotional distress.<sup>7</sup> After including CUTPA damages, attorneys' fees and interest, the total damages award reached \$11,854,166.11. *Id.* at 314.

Relevant precedent from other jurisdictions also highlights the exorbitant nature of the verdict in this case. In *B.K. v. Kelley*, 89 Mass. App. Ct. 1127, 51 N.E.3d 510, review denied, 475 Mass. 1103, 60 N.E.3d 1172 (2016), the defendant admitted that he sexually molested and abused his two daughters on thousands of occasions. He molested one daughter approximately three to five times per week when she was between the ages of twelve and fifteen, and continued to molest her on various occasions when she was sixteen and seventeen years old. Similarly, the defendant began molesting his other daughter when she was twelve, and continued to do so through her middle school and high school years. The abuse happened almost every night unless the defendant was away.

Both daughters testified extensively about the impact, devastation, and emotional distress caused by the years of abuse from the defendant. The plaintiffs' expert, a forensic psychiatrist, testified that in his opinion, to a reasonable degree of medical certainty, both daughters suffered

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<sup>7</sup> We have been unable to determine what portion of the damage award was non-economic. For purposes of this motion, we have assumed that the full \$3 million awarded for negligent infliction of emotional distress consisted of non-economic damages.

emotional injuries caused by the defendant's sexual abuse. He opined that the sexual abuse caused the plaintiffs' depression, anxiety, suicidal ideation, and problems with sexual relationships. On the basis of this evidence, the jury awarded the plaintiffs \$1.5 million each on their claims for assault and battery and \$3.5 million each on their claims for intentional infliction of emotional distress, for a total award of \$5,000,000 for each woman following *thousands* of *admitted incidents* of sexual abuse and molestation at the hands of the most trusted adult in their lives—their own father. *B.K. v. Kelley*, 89 Mass. App. Ct. 1127 at \*1.

In *Mrozka v. Archdiocese of St. Paul & Minneapolis*, 482 N.W.2d 806, 810 (Minn. Ct. App. 1992), a former parishioner sued the Archdiocese and Diocese (collectively, the “Church”), alleging that they negligently allowed a priest, with a documented history of child sexual abuse, to sexually abuse him over a period of years when he was a minor. The Church admitted negligence. The jury awarded Mrozka \$855,000 in compensatory damages and \$2,700,000 in total punitive damages (which, in that jurisdiction, are used to punish and deter the same or similar conduct). Finding this verdict *excessive*, the trial court remitted the punitive damages award to approximately \$187,000, for a total award of just over \$1,000,000 after years of *admitted sexual abuse* by a religious leader.

Similarly, in *DeLucia v. Great Stuff, Inc.*, No. CV N13C-02-009 FSS, 2015 WL 5157127, at \*1 (Del. Super. Ct. Apr. 10, 2015) the trial court ordered a remittitur of a jury award of punitive damages against two men. In *DeLucia*, the plaintiff alleged that when he was 17 years old, he was given alcohol and drugs and then sexually abused and assaulted by his 49 and 33 year old male bosses on five to ten occasions. Some of these assaults spanned 8-10 or more hours. Because he was under the influence of drugs and/or alcohol during the assaults, the plaintiff had very little recall of what was done to him. However, the plaintiff in *DeLucia*

nonetheless testified that because of what the defendants did, he felt disgusted, and he became resentful, confused, and more reclusive. Further, he “spent a lot of time in [his] own head.” Plaintiff described his emotional condition as inner turmoil; he hated himself and struggled every day with the events.

On the basis of this evidence, the jury awarded a collective total of only \$80,000 in compensatory damages. The jury also awarded punitive damages: \$200,000 each against individual defendant and \$100,000 against the company they controlled. Finding this punitive damages award excessive, the court reduced it to a total of \$240,000. *DeLucia*, 2015 WL 5157127, at \*4.

C. **The Jury's Award of \$15,000,000 in Non-Economic Damages Was So Excessive as to Shock the Judicial Conscience and Requires a New Trial**

The jury’s award of \$15 million in non-economic damages in this case should not be allowed to stand. The magnitude of the verdict is unsupported by the evidence, and grossly out of line with similar awards in other sexual abuse cases in Connecticut and elsewhere. It can only be understood, or explained, as the product of understandable (but impermissible) emotion, anger and prejudice, triggered by the nature of the allegations in the case and defendant Greer’s invocation of his constitutional rights in the jury’s presence. Under the authorities discussed above, the Court has plenary power to remedy this wrong; indeed, this is exactly the type of situation that calls out for the Court's power to regulate “runaway” juries. In order to prevent a miscarriage of justice, the Court should exercise that power, and either order a new trial outright, or order a remittitur to an amount substantially below \$1 million in damages.

Two general points of law noted above bear repeating. First, under the *Grisanti* and *Song* cases, the Court is free to weigh the trial evidence afresh, and is not required to construe it in the

light most favorable to the plaintiff. Second, the applicable authorities in certain instances impose mandatory, not discretionary, obligations: the *Santa Maria* case from the Second Circuit speaks of how a new trial “must” be granted if a verdict is against the weight of the evidence, and the applicable Connecticut statute, Section 52-216a, provides that a remittitur “shall” be ordered if a verdict is excessive as a matter of law.

It is impossible to reconcile the trial record with a conclusion that Mr. Mirlis suffered \$15 million in "fair, just and reasonable" non-economic damage; that amount should "shock the judicial conscience". Mr. Mirlis stated that he was sexually assaulted, against his will, multiple times over a period of three years. Yet he also freely admitted continuing to associate regularly with his alleged abuser for many years after he said the abuse ended, traveling great distances with his young family in order to do so. He insisted, over his wife's repeated objections, not just on making dozens of visits to Daniel Greer and the New Haven community, but also on honoring him with vital roles in the most important events of his life. The incongruity of this behavior could fairly lead one to question whether the claimed abuse had occurred at all; no testimony, expert or otherwise, was offered to attempt to explain plaintiff's post-high school insistence on continuing to associate with, and honor, Greer. At minimum, however, it raises a critical question: Based on his admitted behavior between 2005 and the present, how much emotional damage could plaintiff reasonably have suffered?

We expect that plaintiff's position will be similar to the argument made to the jury in closing – essentially, that this case involves sexual abuse, and that no amount of money is too high to compensate someone in Mr. Mirlis's position. That is not the law, however; the Court must review the jury verdict in light of the evidence in the case, and a plaintiff has the burden of proving his damages. As discussed above, the only testimony from the plaintiff as to his own

pain and suffering was that he is emotionally closed, that he is distrustful of others, and that his marriage is an “uphill climb” (which can be said of many marriages, regardless of whether one spouse has suffered sexual abuse). (Tr. Vol. II at 333, line 24-334, line 20). Mr. Mirlis also conceded that in many ways, he is leading a normal or even above-average life. He testified that he is a successful business man and owner of several businesses, that he owns his own home, and that he adequately supports his family. (Tr. Vol. II at 372, line 15-373, line 6). His wife spoke about him with great love and respect, calling him “a very good person. He has an amazing heart. He is selfless, kind, strong. He’s just a very good person.” (Tr. Vol. II at 152, lines 23-25). He has three children, and was emotionally present and overcome with love at their births. (Tr. Vol. I at 152, lines 6-13). All told, this evidence paints a picture of a man who, even if one credits his claims of abuse (as the jury did), has recovered remarkably well. It certainly does not support a finding that, as claimed in the complaint, the plaintiff is unable to lead and enjoy a normal life.

Dr. Ford's testimony also cannot support a finding of \$15 million in fair, just and reasonable non-economic damages. As discussed above, the credibility of Dr. Ford's conclusions is fatally undermined by the flawed information on which he reached those conclusions. It was crystal-clear from his testimony that he lacked critical information about the Greer-Mirlis relationship between 2005 and the start of this lawsuit – and that plaintiff's lack of candor, or openness, was to blame for that lack of information. Dr. Ford opined that Mr. Mirlis had suffered daily from potentially debilitating PTSD symptoms, including unwanted memories and avoidance behavior, since 2005 or before, but the record flatly contradicted the factual assumptions critical to that opinion. Dr. Ford conceded that the "garbage in, garbage out" phenomenon applied to the type of forensic analysis he undertook in this case, and that if a subject is not candid, flawed conclusions can result. We urge the Court on this basis to dismiss

Dr. Ford's testimony in its entirety, or at minimum accord it minimal weight in assessing the basis for the jury award.

While we believe that a new trial is warranted simply based on the shortcomings in this trial record, the history of awards in comparable cases provides a further basis to set aside the jury's verdict, and order a new trial. In general, the non-economic awards<sup>8</sup> range from a low of less than \$100,000 to a high in excess of \$3 million, with many cases grouped roughly in the \$500,000 to \$2.5 million range. The precise facts underlying each award are not always evident from the authorities cited, but our research has not uncovered any cases involving the type of incongruous behavior discussed above, i.e., a plaintiff voluntarily associating with an alleged abuser for years into his adulthood, and conferring an honored role upon him in the most important events of his life. That fact alone is sufficient to warrant a lower award here, if a new trial is not granted in its entirety. As these precedents demonstrate, juries throughout the country have consistently made vastly lower awards to plaintiffs suffering injuries similar to, or in some cases more extensive than, those Mr. Mirlis alleges here. They further support a conclusion that the jury's award in this case is so excessive as to "shock the conscience".

In the *Doe v. Archdiocese* case, there was a claim of repeated abuse by a religious leader; \$1,000,000 in compensatory damages was awarded (which may not have been entirely non-economic), a small fraction of the jury verdict here. Similarly, in the *Blair* case, the plaintiff had symptoms far more extensive than those claimed by Mr. Mirlis, but received a non-economic award of \$500,000. The plaintiff in *Blair* was almost the exact same age as Mr. Mirlis is now. Similarly, in the *Srb* case, which also involved multiple claims of sexual abuse by an authority

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<sup>8</sup> As noted in the case discussion, in some cases it is difficult to determine what portion of the compensatory damages was attributed to non-economic injury, and what portion for economic.

figure, the plaintiff also testified to symptoms more serious than those claimed by Mr. Mirlis. The total damage award was \$1.27 million.

The two highest damage awards noted, in the *Doe v. Boy Scouts* and *B.K. v. Kelley* cases, still do not approach the exorbitant non-economic figure awarded by the jury here. Even if one assumes that the entire award in the *Boy Scouts* case (\$7 million) is attributable to non-economic damage, it is still less than 50 per cent of the \$15 million awarded in this case. Put otherwise, the verdict in this case exceeds the greatest "outlier" uncovered in our research by more than 100 per cent.

For all of these reasons, the Court should exercise its authority under Rule 59, and order a new trial in this matter. Indeed, in our view, a new trial, or in the alternative a remittitur, must be granted in order to remedy a clear mistake. The jury, while perhaps well-intentioned, simply reached a conclusion that cannot be justified by law, fact or precedent, but is best understood as the product of passion and emotion. Fortunately, our system of justice has built-in safeguards to ensure that such miscarriages of justice can, and should, be remedied. We urge the Court to use its remedial power, and either grant a new trial, or order a remittitur substantially below \$1 million. This amount, in our view, fairly reflects the unusual testimony at trial, and the awards in similar cases discussed above.

**Conclusion**

For the foregoing reasons, the Court should exercise its authority under Rule 59 and grant a new trial in this case. In the alternative, a remittitur should be ordered, in an amount substantially less than \$1 million.

**THE DEFENDANTS,**

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**CERTIFICATE OF SERVICE**

I hereby certify a copy of the foregoing Memorandum of Law in Support of Motion for New Trial or Remittitur was filed electronically on June 28, 2017. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing. Parties may access this filing through the Court's system.

/s/ Amanda C. Nugent

Amanda C. Nugent

**EXHIBIT 1**

**TO MEMORANDUM OF LAW IN SUPPORT OF  
MOTION FOR NEW TRIAL OR, IN THE  
ALTERNATIVE, FOR REMITTITUR**

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF CONNECTICUT

3 ELIYAHU MIRLIS,  
4 Plaintiff,

3:16CV678 (MPS)

5 vs.

May 11, 2017

6 RABBI DANIEL GREER and  
7 YESHIVA OF NEW HAVEN, INC.,  
Defendants.

Volume I

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9 450 Main Street  
Hartford, Connecticut

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T R I A L B Y J U R Y

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B E F O R E:

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THE HONORABLE MICHAEL P. SHEA, U.S.D.J.

13 A P P E A R A N C E S:

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Court Reporter:

Martha C. Marshall, RMR, CRR

24

25 Proceedings recorded by mechanical stenography, transcript  
produced by computer.

1 Aviad Hack ran the school?

2 A. Yes.

3 Q. At the time that Eli attended the Yeshiva, do you  
4 know that Connecticut law required the school and its  
5 administrators and employees to report suspected child abuse  
6 to state child welfare and law enforcement authorities?

7 A. Yes.

8 Q. And at the time of Eli's attendance at the school,  
9 do you know that Connecticut law required the school and  
10 those people to immediately report to state child welfare  
11 authorities if they had reasonable cause to believe that one  
12 or more students were in danger of being sexually abused,  
13 even if they did not have reasonable cause to suspect that  
14 any such abuse had actually occurred?

15 A. Yes.

16 Q. Do you know that it was from September 2001 to June  
17 of 2005 that Eli Mirlis attended Yeshiva?

18 A. Yes.

19 Q. Do you know that when he began the school he was 13  
20 years old and he then was 14, 15, 16 and 17?

21 A. Presumably, yes.

22 Q. And you first met him then when he got to the  
23 school in 2001?

24 A. Yes -- No. It was when he was brought there by his  
25 principal in the winter of 2001.

1 he needed them.

2 Q. And how did you view the relationship between the  
3 two of them?

4 A. Very messed up and weird.

5 Q. Did you talk to Eli about your observations and try  
6 to persuade him?

7 A. Yeah, we fought non-stop about it.

8 Q. You did?

9 A. Yes.

10 Q. Did you fight every time you had to drive up to New  
11 Haven?

12 A. Every single time, the entire ride up.

13 Q. And what would he say in response to your  
14 concerns?

15 A. That I didn't understand the need that he had for  
16 them, how much they did for him when he was younger. How  
17 much he needed them basically.

18 Q. And would you say this is the man who abused you  
19 when you were a kid?

20 A. I did.

21 Q. And how did he explain this continuing desire to  
22 want to be near Rabbi Greer?

23 A. He would sometimes say he didn't understand it  
24 either. And sometimes he would say he just -- it wasn't  
25 necessarily about Rabbi Greer, he needed the community as a

1 connect with him in some way, how does he behave? What's his  
2 reaction?

3 A. He doesn't usually react. He just stays very  
4 neutral, very emotionless.

5 Q. If you express strong feelings to him, does he  
6 express them back again?

7 A. No.

8 Q. Did he at some point in your relationship express  
9 feelings better than he does now?

10 A. He did a little bit in the beginning before we were  
11 married and a little bit after we were married. As years  
12 went on, it got less and less.

13 Q. Does he have strong relationships, strong  
14 friendships with other people?

15 A. He has relationships, but he doesn't really let --  
16 he doesn't let people in.

17 Q. And how does he interact with your children? Is he  
18 emotionally intimate and vulnerable with the kids at all?

19 A. No.

20 Q. Is he emotionally intimate and vulnerable with you  
21 at all?

22 A. No, very little.

23 Q. So tell us about his work. How does work affect  
24 his life?

25 A. It is his life.

1 Q. And so what does that mean on a daily, weekly  
2 basis?

3 A. It means that Eli focuses on work non-stop. It's  
4 like his outlet. Work is a hundred percent all the time.

5 Q. What happens, for example, if during the workday if  
6 you want to have a conversation with him about something  
7 serious? Is he able to engage in that?

8 A. No.

9 Q. And what does he do?

10 A. He'll give like one word responses, be very short  
11 about it and, you know, basically hang up.

12 Q. Without -- I don't want to get into really personal  
13 stuff about you and him, but in terms of physical intimacy  
14 and love in the relationship, is that something you have  
15 found to be satisfying or is that something that's caused  
16 some difficulties?

17 A. You're asking for me?

18 Q. Yes.

19 A. No, not so much satisfying.

20 Q. And does that have to do with some of the things  
21 you've told us about, about him not being emotionally present  
22 and vulnerable?

23 A. Yes.

24 Q. Do you have a sense at all of what his biggest fear  
25 is? And, again, not from something he's told you, but

1 Q. Have you formed some impressions about that as  
2 well?

3 A. Well, I think his biggest fear is being vulnerable.  
4 And his fear is if he allows somebody in that he's going to  
5 get hurt.

6 Q. Are there times -- have there been times in your  
7 marriage since you've known him when he has been vulnerable  
8 and emotionally present?

9 A. Very minimally, but yes.

10 Q. Tell us about those.

11 A. He's been emotional present when I've given birth  
12 to my kids. Those are pretty much the times that I could  
13 think of.

14 Q. Do you remember what his reaction was when his dad  
15 died?

16 A. Cried hysterically.

17 Q. And when you gave birth to your children, what was  
18 his behavior?

19 A. He cried hysterically.

20 Q. There are reasons, I take it, years ago why you  
21 fell for this man and there's reasons why you stay with him  
22 notwithstanding the problems you told us about. Why?

23 A. Well, he's A very good person. He has an amazing  
24 heart. He is selfless, kind, strong. He's just a very good  
25 person.

1 A. Yes.

2 Q. And you're certain that the first time he told you  
3 was when you first met in Israel? You're certain of that?

4 A. Yes.

5 Q. Moving forward to your wedding a couple of years  
6 later, you knew about the allegations of the complaint prior  
7 to marrying Eli, right?

8 A. Yes.

9 Q. And regardless of that, he proposed on July 4th,  
10 2007, and you married him on December 16, 2007, right?

11 A. Yes.

12 Q. And this is about three years after he had  
13 graduated from the Yeshiva? He's already out, right?

14 A. Yes.

15 Q. And Mr. Greer (sic) invites him to your wedding?  
16 Not just his wedding, but your wedding as well. Right?

17 A. Yes.

18 Q. That was one of the most important days of your  
19 life, I assume?

20 A. Yes.

21 Q. And did you want him there?

22 A. I did not.

23 Q. And it was your day as well as Eli's?

24 A. Yes.

25 Q. And yet your husband insisted that he be there?

1 A. Yes.

2 Q. And not only did he ask him to be at the wedding,  
3 he asked him to be one of only two witnesses to the marriage,  
4 right?

5 A. Yes.

6 Q. And that is A very, very prominent role, isn't  
7 it?

8 A. Yes.

9 Q. He stands under the canopy with you, right?

10 A. Yes.

11 Q. He's a witness to the marriage contract, right?

12 A. Yes.

13 Q. And knowing what you say you knew about your  
14 husband's relationship with Greer, you gave Greer one of the  
15 most pivotal roles in your wedding. Not just your husband,  
16 but you did it, right? That was your decision as well. I'm  
17 assuming that was a joint decision to invite Mr. Greer.

18 MR. PONVERT: Asked and answered.

19 THE COURT: I'll sustain the objection as to form,  
20 but you can ask the question differently.

21 Q. You extended that role to Mr. Greer, is that  
22 correct?

23 MR. PONVERT: Objection.

24 THE COURT: Overruled.

25 Q. You invited him as well, right?

1           A.     The way it works is each person gets to invite  
2 their people. So this was who he chose. Him and I discussed  
3 it. I wasn't a fan of the idea, but it was what he needed at  
4 the time. So I went ahead with it.

5           Q.     It's a little more than that. It's not just each  
6 person gets to invite their people. He had a pivotal role?

7           A.     Yes.

8           Q.     And you agreed to that role?

9           A.     Yes.

10          Q.     On the most important day of your life?

11          A.     Yes.

12          Q.     And you did this -- I know you said you thought it  
13 was odd or weird, right?

14          A.     Yes.

15          Q.     And you did this because this was someone your  
16 husband deeply respected?

17          A.     He needed him, yes.

18          Q.     Not only did he need him, but he still deeply  
19 respected him, and this is three years after he graduated  
20 from the Yeshiva, right?

21          A.     Yes.

22          Q.     After the wedding you have something called a Sheva  
23 Brachot? Am I pronouncing that correctly?

24          A.     Sheva Brachot.

25          Q.     I apologize for mispronouncing it.

1 A. Yes.

2 Q. And Daniel Greer had a prominent role in both of  
3 those days in your life, right?

4 A. Yes.

5 Q. Going a little further. You continued your  
6 relationship. You and your husband moved to New Jersey  
7 eventually, right?

8 A. Right.

9 Q. When was that?

10 A. You're saying our current place?

11 Q. No. When did you move to New Jersey from New York,  
12 Rockaway?

13 A. We lived in Lakewood, New Jersey in 2011 to 2013.

14 Q. And to get from New Jersey to Connecticut, you'd  
15 have to pass through New Jersey, New York, and then  
16 Connecticut, right?

17 A. I think so.

18 Q. Three states. You could have stayed in New Jersey,  
19 but you and your husband chose to repeatedly return to New  
20 Haven to visit the Greers, correct?

21 A. Yes.

22 Q. Between 2007 and 2013, you would return an  
23 estimated six to eight times per year, wouldn't you?

24 A. Sounds about right.

25 Q. It's an approximation?

1 A. Yes.

2 Q. You would come for the high holy days, right?

3 A. Yes.

4 Q. You would come for Rosh HaShana?

5 A. Yes.

6 Q. That's the Jewish New Year?

7 A. Yes.

8 Q. And when you would come for Rosh HaShana, you would  
9 stay overnight, correct?

10 A. That's what the holiday is. You have to, yes.

11 Q. And you would stay in one of the Greer's -- I think  
12 you call them a shabbos?

13 A. Apartment, yes.

14 Q. It's a place for guests to say when you would  
15 come?

16 A. Right.

17 Q. You would also come up for Yom Kippur I believe you  
18 testified?

19 A. Sometimes, yes.

20 Q. When is Yom Kippur?

21 A. Ten days after Rosh HaShana.

22 Q. And what does that celebrate?

23 A. I don't know like the exactly. It's a fast day  
24 representing the destruction of the Beit HaMikdash. I don't  
25 really know how to explain that.

1 Q. It's a far more, I don't want to say serious day,  
2 but a day of fasting and prayer?

3 A. Yes.

4 Q. You would also come up for the Sukkot, am I  
5 pronouncing that correctly?

6 A. Sukkot. We had gone for Sukkot, yes.

7 Q. Is that the day where you sleep over in these  
8 little huts that you make to recreate the exodus from --

9 A. We eat in the huts, yes.

10 Q. And you eat in the huts. Is there a celebration at  
11 the Sukkot?

12 A. Can you rephrase?

13 Q. Do you get together at somebody's house?

14 A. Well, we have a lot of meals together.

15 Q. And did you ever have any of those meals at the  
16 home of Daniel Greer?

17 A. Yes.

18 Q. And by this time, 2011, 2013, you are eight years  
19 past his graduation and he is still voluntarily driving from  
20 New Jersey to Connecticut with his wife to spend time with  
21 Daniel Greer and his family and you're with him, right?

22 A. Yes.

23 Q. You would come up for Passover on occasion?

24 A. I don't think we ever went for Passover.

25 Q. What about Hanukkah?

1 A. Could be. I don't remember.

2 Q. And you would also come up for Shabbat, right?

3 A. Yes.

4 Q. And that's the Jewish Sabbath day?

5 A. Yes.

6 Q. You would arrive Friday evening. You'd have to be  
7 by Sun down, correct?

8 A. Yes.

9 Q. So you would arrive on Friday evening and last all  
10 day Saturday and return Sunday?

11 A. Yes.

12 Q. So you would spend weekends of Shabbat with the  
13 Greers as well?

14 A. Yes.

15 Q. And would you bring your children I assume?

16 A. Yes.

17 Q. How many children do you have?

18 A. Now I have three.

19 Q. Would you leave those children with Sarah Greer or  
20 Daniel Greer?

21 A. No.

22 Q. Who would you leave them with sometimes?

23 A. I mean, most of the time they were with me or  
24 Eli.

25 Q. And you would come up six to eight times from 2007

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C E R T I F I C A T E .

I, Martha C. Marshall, RMR, CRR, hereby certify that the foregoing pages are a complete and accurate transcription of my original stenotype notes taken in the matter of Mirlis v Greer, et al, which was held before the Honorable Michael P. Shea, U.S.D.J, at 450 Main Street, Hartford, Connecticut, on May 11, 2017.

/s/Martha C. Marshall  
Martha C. Marshall, RMR, CRR  
Official Court Reporter

**EXHIBIT 2**

**TO MEMORANDUM OF LAW IN SUPPORT OF  
MOTION FOR NEW TRIAL OR, IN THE  
ALTERNATIVE, FOR REMITTITUR**

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF CONNECTICUT

3 ELIYAHU MIRLIS,  
4 Plaintiff,

3:16CV678 (MPS)

5 vs.

May 15, 2017

6 RABBI DANIEL GREER and  
7 YESHIVA OF NEW HAVEN, INC.,  
Defendants.

Volume II

8

9 450 Main Street  
Hartford, Connecticut

10

T R I A L B Y J U R Y

11

B E F O R E:

12

THE HONORABLE MICHAEL P. SHEA, U.S.D.J.

13

A P P E A R A N C E S:

14

For the Plaintiff :

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16

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WILLIAM J. WARD, ESQUIRE  
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Litchfield, CT 06790

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Court Reporter:

Martha C. Marshall, RMR, CRR

24

25

Proceedings recorded by mechanical stenography, transcript  
produced by computer.

1 Q. And that was eleven years after he had graduated  
2 from the Yeshiva school?

3 A. Yes.

4 Q. And it was eleven years after the alleged abuse  
5 he's making in this case had occurred?

6 A. Yes.

7 Q. And he's trying to blame the sexual gratification  
8 on his relationship with Daniel Greer?

9 MR. PONVERT: Objection.

10 THE COURT: Grounds?

11 MR. PONVERT: Speculating what's in someone else's  
12 mind.

13 THE COURT: I'll sustain that.

14 MR. WARD: I'll withdraw it.

15 Q. You also said that you constantly fought on the  
16 ride up from New Jersey to New Haven about whether you should  
17 go, right?

18 A. Yes.

19 Q. You said the relationship was weird, strange,  
20 correct?

21 A. Yes.

22 Q. And he told you that you didn't understand how much  
23 these people had done for him, right?

24 A. Right.

25 Q. And he also told you that they were like his second

1 A. For many years, yes.

2 Q. From 2008, I believe, until 2015, right?

3 A. From when I found out until -- I had always urged  
4 him.

5 Q. So that would be 2005 to 2015?

6 A. I would say it's from when we came back from  
7 Israel.

8 Q. '06 to '15?

9 A. Right.

10 Q. So that would be eight years you had asked him to  
11 seek counseling?

12 A. Yes.

13 Q. And he didn't seek any counseling until after he  
14 hired Attorney Ponvert, correct?

15 A. Seems like it, yes.

16 Q. So his wife urges him for eight years, his attorney  
17 urges him for six months and he decides to seek counseling?

18 MR. PONVERT: Objection. There's no evidence at  
19 all, first of all, when I was retained; and, secondly, about  
20 conversations I had with my client.

21 MR. WARD: Your Honor, there is evidence --

22 THE COURT: Wait, wait. I'm going to overrule that  
23 objection.

24 Q. He didn't seek counseling until after he retained  
25 Attorney Ponvert?

1           A.     He seeked counseling after he came to the ability  
2     to deal with this.

3           Q.     Which was sometime after he retained Attorney  
4     Ponvert I believe you said?

5           A.     It was all in the same time that he was able to  
6     deal with this and accept this and coming out with it and  
7     searching for an attorney.

8           Q.     Nothing for eleven years and then counseling,  
9     right?

10          A.     Correct.

11                 MR. WARD: Thank you.

12                 THE COURT: Redirect.

13                 MR. PONVERT: Thank you.

14                         REDIRECT EXAMINATION

15     BY MR. PONVERT:

16           Q.     Hi.

17           A.     Hi.

18           Q.     So I did not do a terribly good job of putting you  
19     at ease last time and I know you were nervous. So just  
20     breathe. I have a few questions. Okay?

21           A.     Okay.

22           Q.     Good morning, ladies and gentlemen.

23                         You testified that when you and Eli first began  
24     dating in 2006 in Israel, he told you at that time that Rabbi  
25     Greer had molested him when he was a student at Yeshiva.

1 A. Yes.

2 Q. Is there any doubt at all in your mind that he told  
3 you that at that time?

4 A. No.

5 Q. And then from time to time after that the fact of  
6 the abuse and Eli's continuing contact with Rabbi Greer was a  
7 topic, as you said, of conversation and some very intense  
8 feelings on your part?

9 A. Yes.

10 Q. Nevertheless, you kept coming up to New Haven  
11 seeing Greer, among other people?

12 A. Yes.

13 Q. Who else, when you and Eli and sometimes your  
14 children, when you would come up to New Haven for high  
15 holidays, for these other events that you have been asked  
16 about, who else would you see?

17 A. We would Ezi and Rena Greer, Avi and Kayla Hack,  
18 and Dovi and Sima Greer.

19 Q. And Ezi and Dovi are Rabbi Greer's sons?

20 A. Yes.

21 Q. And we know who Avi Hack is. At the time were  
22 those good friends of Eli's?

23 A. Yes.

24 Q. And so you would come to New Haven, but it wasn't  
25 only to see Rabbi Greer or only to stay with Rabbi Greer or

1 Q. So you told us what you learned, you told us about  
2 your methodology, your impressions of him, and the  
3 information that you're basing your opinions on. And I take  
4 it from all of this body of information, you did reach some  
5 conclusions about whether he suffers from PTSD and other  
6 related mental and emotional psychiatric injuries?

7 A. Yes.

8 Q. If you would, tell us what your opinions are and  
9 how you reached them?

10 A. My professional opinion is that Mr. Mirlis  
11 definitely suffers from post-traumatic stress disorder. It  
12 is severe and chronic. It has -- its onset at some point  
13 shortly after -- during or after the sexual abuse. What we  
14 know about post-traumatic stress disorder if the abuse is  
15 continuing, then it's an ongoing traumatic stress disorder.  
16 And this is what happens when it continues after the trauma.  
17 That that has continued pretty much, I should say, completely  
18 without any abatement in the period since the abuse occurred  
19 and subsequent to its stoppage. That pretty much on a daily  
20 basis Mr. Mirlis described having the four different types of  
21 symptoms that really define post-traumatic stress disorder.  
22 Should I just?

23 Q. Sure.

24 A. And those include what we all understand which is  
25 the unwanted memories. It's called intrusive reexperience.

1 So these are memories of the sexual abuse, of the actions  
2 that he took and that the Rabbi took when they were engaged  
3 in sexual activities. Those come back to him on a very  
4 frequent basis. There are many reminders he said. And  
5 that's not at all atypical, unfortunately. And when he  
6 experiences those memories, sometimes as if it's happening  
7 all over again, right then and there, which is what we call a  
8 flashback. Other times it's just a vague feeling that  
9 something terrible is happening or will happen, and it's  
10 accompanied by deep feelings of depression, anger,  
11 self-loathing in many cases, disgust for himself and for the  
12 activities that he was involved in. And with very strong  
13 physical symptoms too. This is not just a mental disorder.  
14 This is really a disorder that affects the person's entire  
15 body, I'll explain in a moment, the level of tension,  
16 physical tension that this causes is just enormous. So  
17 experiences all kinds of physical symptoms when he's  
18 reminded. Just feeling shaky, trembling, heart racing, heart  
19 pounding, almost as if he was back in that same situation all  
20 over again.

21 The second set of symptoms are exactly as you might  
22 expect and, that is, a desire and attempt to avoid those  
23 memories. To shut out any reminder of any of those memories  
24 or to shut them off when he starts to experience them. He  
25 described doing that, in part, through the sexual

1 reenactments with the massage parlor, but also by being a  
2 workaholic. He was quit frank that while he loves his work  
3 and he really likes being involved in it, that he uses it to  
4 absolutely distract himself. And that if he didn't have his  
5 work as a distraction, he would be really terrified of the  
6 emotional impact of having those memories flood in would have  
7 on him.

8           So he's doing a classic kind of reaction of trying  
9 to protect himself by avoiding those memories and the  
10 emotions. And tragically, when that happens, the avoidance  
11 never works or it only works partially. It limits the  
12 intensity of the distress temporarily and then it leads to  
13 some deeper effects, which are the third set of PTSD  
14 symptoms. And those are changes in core beliefs and  
15 emotions.

16           So here we have a person who, by his description, he  
17 was a shy, quiet, but happy and energetic boy, little boy,  
18 and since -- during and since the abuse, he has become a very  
19 angry, deeply angry, a very, very anxious, deemly fearful and  
20 anxious, very depressed and dysphoric, that is, unhappy.  
21 He's had that level of emotional intensity go way up in very  
22 different ways than he'd ever experienced before the abuse  
23 happened. This also changed his beliefs. As I mentioned, he  
24 clearly said to me I trust no one. And fundamentally he  
25 doesn't believe that this kind of action is ever going to be

1 stopped or can be stopped, even though he really wishes it  
2 could be. He doesn't trust people in authority. He doesn't  
3 trust anyone who he feels emotionally close to because those  
4 are the people that can most harm him. He believes that the  
5 world is a very dangerous place because things like this can  
6 happen when you feel protected and that he has to keep his  
7 guard up at all times.

8           And that's the four set of symptoms and those are  
9 called hypervigilance. So he is a person who is on guard all  
10 the time, looking for any potential sign that somebody is  
11 going to take advantage of him. It's not just sexually.  
12 It's across the board. Any form of potential betrayal of  
13 trust, of exploitation. And that has pushed him in some  
14 ways, as he described, to be very successful in business, but  
15 at a great cost psychologically and in his relationships and  
16 him personally. Someone who could never let down their guard  
17 is someone who cannot be happy except for fleeting moments.  
18 And that's what he described. That he only has fleeting  
19 moments of happiness. He may seem like a very successful  
20 person, but he is a deeply unhappy person, which is a very  
21 tragic outcome.

22           So that's, in a nutshell, that's post-traumatic  
23 stress disorder. And tragically there are no symptoms of  
24 PTSD that I found that were not present. And very common to  
25 diagnose PTSD with only a subset of the symptoms. In

1 THE COURT: I recognize that, but the question is in  
2 line with that, no?

3 MR. GRUDBERG: I think he's asking for a  
4 professional opinion as an expert and I don't think the  
5 report addresses that.

6 THE COURT: I'm going to allow the question.

7 MR. GRUDBERG: Thank you, Your Honor.

8 Q. So I guess just to rephrase it. The fact that  
9 someone waits this long to report abuse after it occurred,  
10 does that cause you to doubt your opinions in the case about  
11 PTSD or to doubt anything he told you?

12 A. No, it does not. It is entirely consistent with  
13 the degree of shame and fear of retribution and further shame  
14 that most individuals who experience childhood sexual abuse  
15 feel, and that lead many to delay their revealing of the  
16 events for years, if not decades.

17 Q. Okay. And now I want to just ask you about the  
18 future for him. Does one get over PTSD?

19 A. One can recover in the sense that the symptoms of  
20 PTSD become less of an impairment, but one does not lose the  
21 indelible memories and the emotional distress that those  
22 memories cause. So when treatment for PTSD is successful,  
23 and this is something that I do, and I wouldn't do it if  
24 there wasn't the possibility that people could recover to a  
25 reasonable degree. The recovery really is an ability to

1 Q. Spouse?

2 A. Yes.

3 Q. Siblings, yes?

4 A. Uh-huh.

5 THE COURT: I'm sorry, sir, just for the record, you  
6 need to say yes or no.

7 A. Sorry.

8 THE COURT: That's okay.

9 Q. Am I correct that during the course of your career  
10 at times, Doctor, you have in fact availed yourself of that  
11 potential source of other knowledge, namely, reaching out to  
12 family members or spouse and so on too?

13 A. Actually, rather rarely. Because in most cases the  
14 interview with the individual is more than sufficient. If  
15 there are inconsistencies or areas of concern, I might  
16 certainly consider collateral sources.

17 Q. How would you know if there was an inconsistency if  
18 you only spoke to one person?

19 A. Based upon the consistency of what they tell me as  
20 well as what I see when I'm interviewing them.

21 Q. The accuracy of what's being told to you is always  
22 a concern in a setting such as the one you found yourself  
23 with Mr. Mirlis, correct?

24 A. Yes.

25 Q. You used the term factitious reporting in your

1 report, correct?

2 A. Yes.

3 Q. Would you tell us what factitious reporting is?

4 A. That's when someone makes up something that's not  
5 true.

6 Q. And if someone makes up something that's not true,  
7 that can be a problem -- that can affect your conclusion, the  
8 validity of your conclusion, is that fair?

9 A. Absolutely.

10 Q. Are you familiar with the phrase garbage in,  
11 garbage out?

12 A. I certainly am.

13 Q. What does it mean to you?

14 A. Same thing. If it's not true, then the conclusions  
15 are probably going to be in error.

16 Q. I don't mean to insult you by comparing you to a  
17 computer, but would you agree with me that we've often heard  
18 that phrase in connection with a computer doing work?

19 A. Sure, of course.

20 Q. The computer is only as good as the data that's put  
21 in, and if it's bad data then you can get bad results?

22 A. Definitely.

23 Q. Am I correct that in a situation like this, where  
24 you're interviewing somebody at the request of their lawyer,  
25 being paid by their lawyer for purposes of a lawsuit, there

1 is a greater concern about the possibility of factitious  
2 reporting?

3 A. Yes.

4 Q. And why is that?

5 A. Because there's obviously a motivation on the part  
6 of the individual and the attorney to come to a conclusion  
7 that will be favorable for their case.

8 Q. And that's something that's in your mind when  
9 you're interviewing someone such as Mr. Mirlis under these  
10 circumstances?

11 A. Very much so.

12 Q. And one of the things you considered in this case  
13 is whether to administer some testing to try to filter out or  
14 detect the potential for factitious reporting?

15 A. I considered that. And I'll be glad to explain why  
16 I didn't, if you'd like.

17 Q. Let's take it a step at a time. There is testing  
18 that can be done to try to further examine the potential for  
19 factitious reporting, correct?

20 A. The testing that can be done actually has been  
21 shown to not be entirely accurate for people who have PTSD.

22 Q. Is that noted in your report?

23 A. No.

24 Q. Any particular reason why you didn't put it in  
25 there?

1 A. No.

2 Q. In any event, you did not reach out to Mr. Mirlis'  
3 mother to talk about, for instance, the accounts of trauma as  
4 a child involving Child Protective Services, correct?

5 A. That's right.

6 Q. Another option to acquire knowledge would have been  
7 to seek records relating to that foster care placement from  
8 his childhood, correct?

9 A. That would be a possibility.

10 Q. And you didn't do that either?

11 A. No, I did not.

12 Q. And you didn't speak with his wife to get her  
13 perspective on the reports that Mr. Mirlis had given you  
14 regarding his behavior, correct?

15 A. No, I did not.

16 Q. Certainly nothing either professionally or  
17 logistically that would have have prevented you from reaching  
18 out to her, correct?

19 A. No.

20 Q. And you didn't speak with any of his siblings to  
21 ask them about the childhood events that had been reported to  
22 you by Mr. Mirlis, correct?

23 A. That's right, I did not.

24 Q. Would it be fair to say that other than the  
25 therapist records from Mr. Wolf-Powers, you basically relied

1 on what Mr. Mirlis told you?

2 A. That's correct.

3 Q. And you concluded that Mr. Mirlis was telling you  
4 the truth, correct?

5 A. Yes.

6 Q. And that conclusion that he was telling you the  
7 truth shaped the later conclusions you drew about his  
8 condition, his symptoms, his diagnoses, correct?

9 A. Yes.

10 Q. Let's focus on those three hours that you spent  
11 with him. Now, you said some of the time, your estimate was  
12 ten minutes, was spent on business calls, correct?

13 A. Approximately, yes.

14 Q. I want to get a picture of what was going on there.  
15 You're interviewing Mr. Mirlis and his phone rings?

16 A. Yes.

17 Q. And he breaks away from talking to you and answers  
18 the phone?

19 A. That's right.

20 Q. Goes elsewhere in your office?

21 A. No. Just sat right there and excused himself and  
22 briefly talked with someone who appeared was a business  
23 associate, that he said later was.

24 Q. And it was more than one conversation, to your  
25 recollection?

1 2005 period with Mr. Mirlis, but you reviewed his entire  
2 life's history, correct?

3 A. That's right.

4 Q. Up to the present?

5 A. That's right.

6 Q. Including what he did after graduation, right?

7 A. Yes.

8 Q. You understood that he spent some time in Israel  
9 after graduating from the Yeshiva in New Haven?

10 A. Yes.

11 Q. And am I correct that you -- it was your  
12 understanding that Mr. Mirlis saw the Rabbi/Principal  
13 occasionally in public events at the school? Referring to  
14 the period after he graduated.

15 A. That's what he described, yes.

16 Q. That information came from Mr. Mirlis and no one  
17 else, correct?

18 A. That's right.

19 Q. Now, the -- let's talk a little bit about your  
20 findings that you spoke about toward the end of Attorney  
21 Ponvert's questioning.

22 Now, you reached an overall conclusion that  
23 Mr. Mirlis has experienced chronic PTSD, correct?

24 A. Yes.

25 Q. Since the abuse he says he experienced as an

1 adolescent, correct?

2 A. Yes.

3 Q. So that would be I was going to be '05 forward, but  
4 he actually said it may have begun earlier than that?

5 A. It may have.

6 Q. Certainly from '05 forward?

7 A. Yes.

8 Q. And I believe the symptoms that you identified were  
9 described to you as having been experienced continuously  
10 since the sexual abuse, correct?

11 A. That's correct.

12 Q. So that would be certainly at least '05 to present,  
13 if not earlier than that, correct?

14 A. Yes.

15 Q. And all of these particular factors, you talked  
16 about four different ones, all of those were necessary to  
17 your diagnosis of PTSD, correct?

18 A. That's correct.

19 Q. And one of the factors that you concluded fell into  
20 that category, namely, continuous since the sexual abuse  
21 occurred, was avoidance behavior, correct?

22 A. That's right.

23 Q. Avoidance of reminders of the traumatic event?

24 A. Yes.

25 Q. And you reached that conclusion based upon what

1 Mr. Mirlis described to you, correct?

2 A. That's right.

3 Q. Let me talk about something else Mr. Mirlis -- you  
4 may have said -- is it your understanding that Mr. Mirlis did  
5 not tell his wife of the sexual abuse until they were -- you  
6 said he did not disclose it in couples therapy was your  
7 understanding?

8 A. That's my understanding.

9 Q. Did you ever ask to get any records of their  
10 couples therapy to check that out?

11 A. No.

12 Q. You certainly would have been within your rights to  
13 do that, right?

14 A. Yes.

15 Q. If you believed that that was important to your  
16 conclusions, you could have asked him to sign the release and  
17 that would have permitted those records to be provided to  
18 you, correct?

19 A. Yes.

20 Q. You didn't do that, correct?

21 A. Correct.

22 Q. And was it your understanding that Mr. Mirlis never  
23 told his wife about the sexual abuse he claimed to have  
24 suffered until very recently?

25 A. That is my understanding.

1 occurs in childhood, but it is still a percentage and not  
2 all.

3 Q. And in terms of childhood, you said the greatest  
4 impact of childhood sexual abuse would have been the  
5 pre -- at preschool level children, correct?

6 A. Actually what I said was that it's either in  
7 adolescence or in early childhood that the greatest impact  
8 occurs.

9 Q. Let's go back to the unwanted memories and the  
10 reexperiencing the traumatic events. In addition to physical  
11 symptoms, I think the examples you gave were shakiness,  
12 correct?

13 A. Yes.

14 Q. Trembling, correct?

15 A. Yes.

16 Q. Heart racing, correct?

17 A. Yes.

18 Q. And these would all be triggers associated with  
19 unwanted memories, correct?

20 A. Yes.

21 Q. Your description of how Mr. Mirlis was -- well,  
22 withdrawn.

23 You've described how he presented himself to you  
24 personality wise in some detail in your testimony here today  
25 and in your report, correct?

1 the impersonal sex to the abuse that ended in '05, correct?

2 A. As a coping mechanism for the symptoms of PTSD that  
3 began at that time, yes.

4 Q. You said abuse ended as far as you were told in  
5 '05, correct?

6 A. That's right.

7 Q. But your diagnosis, PTSD began immediately, if not  
8 before, correct?

9 A. Correct.

10 Q. And continues to the present and will continue for  
11 the foreseeable future, correct?

12 A. Yes.

13 Q. But in linking the sexual behavior to the abuse,  
14 was it not significant to you if the behavior just started,  
15 say, in 2015, rather than immediately after the abuse began  
16 or sometime shortly thereafter?

17 A. No. Actually it's not, because people who  
18 experience sexual abuse cope in many different ways and it  
19 often changes over time. And actually the engagement in the  
20 impersonal sex is very consistent with a kind of a build up  
21 and intensification of the PTSD symptoms which sometimes  
22 takes years. They could be severe, but they could also be  
23 different levels or gradations of severity. So it's entirely  
24 consistent with a build up of the emotional and physical  
25 pressure of the symptoms over time. And it could have

1 treatment for sexual abuse until October of 2015, correct?

2 A. That's right.

3 Q. And those are the records that you referred to  
4 from -- Mr. Wolf-Powers, he not a psychologist like you, is  
5 he?

6 A. I think he's a social worker, a psychoanalyst by  
7 training. He is an LCSW licensed clinical social worker.

8 Q. Thank you. Now, you spoke about the potential for  
9 recovery or treatment of PTSD condition and symptoms,  
10 correct?

11 A. Yes.

12 Q. But it's fair to state that in order to do that one  
13 has to be committed to treatment, correct?

14 A. Yes.

15 Q. And if one doesn't pursue treatment then you'd  
16 expect you -- you would not expect any improvement or  
17 dissipation of the conditions that you've described for us  
18 here?

19 A. Not typically, that's right.

20 Q. One of the other factors that was key to your PTSD  
21 diagnosis was hypervigilance, correct?

22 A. That's right.

23 Q. And you said that typically involves being, you  
24 know, on guard or alert or fearful for any potential trigger  
25 that might bring back some of the traumatic memories,

1 that was directly associated with the abuse, correct?

2 A. That's right.

3 Q. Certainly that exposure to an abuser would be one  
4 example of how hypervigilance would come into play?

5 A. That is correct.

6 Q. But it wouldn't necessarily have to be -- it could  
7 be triggered by other factors having absolutely nothing to do  
8 with an alleged abuser, correct?

9 A. That's right.

10 Q. Now, the fact that someone has been diagnosed with  
11 or suffers from PTSD is not a sort of one size fits all  
12 description of an individual, correct?

13 A. That's right.

14 Q. PTSD can manifest itself among different people in  
15 very different ways, correct?

16 A. Correct.

17 Q. In some people it can significantly impair their  
18 functioning, correct?

19 A. Yes.

20 Q. Both on a personal level, right?

21 A. Yes.

22 Q. In their relationships, right?

23 A. Yes.

24 Q. And in their ability to carry on a career,  
25 correct?

1 A. Yes.

2 Q. But there might be other people who suffer from  
3 PTSD who are able, nonetheless, to succeed in their business  
4 aspect of their life or carrying on the business aspect of  
5 their life unaffected, right?

6 A. Just to be clear, a person has to have impairment  
7 in some area or areas of their life in order to have PTSD,  
8 but it does not necessarily extend to all areas or in exactly  
9 the same way, that's correct.

10 Q. And while we're on requirements, isn't it true,  
11 Doctor, that the avoidance factor that you talked about,  
12 avoidance of reminders for the traumatic event, that is  
13 another required element in order to make a PTSD diagnosis,  
14 correct?

15 A. It is required. It takes many different forms and  
16 it's often very subtle.

17 Q. But if that's not there then -- the avoidance isn't  
18 there then you can't make accurately the diagnosis under  
19 DSM-V, correct?

20 A. If there is no evidence of avoidance then you could  
21 not make that diagnosis, that's correct.

22 MR. GRUDBERG: Nothing further, Your Honor.

23 THE COURT: Okay.

24 Redirect.

25 REDIRECT EXAMINATION

1 THE WITNESS: Eli Mirlis, Edison, New Jersey.

2 THE COURT: Mr. Ponvert.

3 DIRECT EXAMINATION

4 BY MR. PONVERT:

5 Q. The jury knows quite a lot about you right now, but  
6 there's a few things that you and I need to talk about that  
7 nobody else can tell them so we'll try to do that.

8 How are you feeling?

9 A. Okay.

10 Q. So we'll take it slow and breathe, and you tell me  
11 if you need a break.

12 All right. What's your date of birth?

13 A. 10-27-87.

14 Q. So during the time that you're at Yeshiva, is it  
15 true you started when you're 13 years old?

16 A. Yes.

17 Q. And then graduate when you're 17?

18 A. 17, yeah.

19 Q. And just briefly, tell us about your background,  
20 where did you grow up and sibling, parents, stuff like that?

21 A. I grew up in Brooklyn, New York, in Sea Gate and  
22 Passaic New Jersey, mostly Passaic. I'm the oldest of nine  
23 siblings -- eight. Parents --

24 Q. What does your dad do for a living when you were  
25 growing up?

1 every year. The laws of meat and milk was the 10th grade,  
2 but the other years were other classes.

3 Q. Obviously, we're going to have to talk about what  
4 he did, but before that started happening. So in your  
5 freshman year and when you come back at the very beginning of  
6 your sophomore year, if someone had asked you then, you know,  
7 describe your relationship with Rabbi Greer, how would you  
8 have described that?

9 A. He's the principal of the school and we were scared  
10 of him and he ran the school and, you know, I mean that's  
11 what he did, and we interacted with him when we needed to.

12 Q. Okay. So that changed obviously?

13 A. Yes.

14 Q. At some point. And broadly I want to ask what he  
15 did to you, but perhaps the best way to start that is how did  
16 it start and what can you tell the jurors about where you  
17 were when it happened and what he did?

18 A. The first time was in 777 Elm Street, the first  
19 floor. It's the house directly next door to the school. He  
20 asked me to meet him there one night and I did. I didn't  
21 know what he wanted. And he had brought alcohol and some I  
22 think nuts and cashews of some sort. And we were talking  
23 about my family and my past and my history and, you know, my  
24 life up until that date. And I had -- I was inebriated and  
25 he tried to kiss me and I just remember -- I remember

1     freaking out and heart palpating.

2           Q.     Did he try to kiss you? Was he successful in  
3     kissing you?

4           A.     He kissed me.

5           Q.     Did he put his lips on your lips?

6           A.     Yes, he did.

7           Q.     And this was in the midst of a conversation that  
8     you and he are having about your family and your past?

9           A.     Yes.

10          Q.     Do you recall what the subject matter was or how  
11     you were feeling at the time that he leaned over and kissed  
12     you on the lips?

13          A.     We were discussing how my parents, you know, were  
14     probably struggling financially with so many kids and, you  
15     know, things were tough. And he was telling me I need to  
16     worry about myself in order to help my family later on. So I  
17     should worry about my grades and what I'm doing and not worry  
18     about my family back in Passaic.

19          Q.     So after he kisses you, what is your reaction?  
20     What did you do or say?

21          A.     My words were, I don't know what you just did, but  
22     it's not acceptable. And he responded, oh, it's nothing. I  
23     do this to my kids all the time. Which I don't know if he  
24     meant it literally or was trying to calm me. We went back to  
25     talking a little bit and then the night ended.

1 Q. And at some point I take it that things progressed  
2 to something more in terms of his physically touching you?

3 A. Yes.

4 Q. How did it progress and what do you recall  
5 happening next?

6 A. You know, it could be it was a month later or six  
7 weeks later and then he asked to meet me again. More alcohol  
8 and more conversation. Things just snowballed from there.

9 Q. And did there come a point where it was much more  
10 than kissing?

11 A. Yes.

12 Q. And I'll ask you just broadly, did these events  
13 with him where he had sex with you, did they continue  
14 throughout your sophomore year and your junior year and your  
15 senior year?

16 A. Yes.

17 Q. And did it progress to something much more than  
18 kissing?

19 A. Yes, it was sex.

20 Q. You don't have to get into too much detail, but the  
21 jury does need to know what exactly did he do to you over the  
22 course of those months and years and what did he have you do  
23 to him?

24 A. We had oral sex, anal sex, kissing. Anything  
25 within the realm of sexual conduct I guess.

1 where it was I'd say longer, three weeks, four weeks before I  
2 couldn't resist, you know, him pushing me to meet him.

3 Q. Did you ever, even on one of these occasions, did  
4 you ever once, as a 14, 15, 16, 17 year old boy, want this 60  
5 something year old man to be having sex with you?

6 A. No.

7 Q. Did you express that to him?

8 A. He knew. Especially the times when I put a stop to  
9 it for those intervals. You know, he was well aware I didn't  
10 want to be going at night with him to the houses or to the  
11 motel, and definitely didn't want to go on these long trips  
12 with him.

13 Q. All right. And when you said that sometimes as it  
14 progressed there would be periods of time where you'd be able  
15 to sort of fend him off for a while, how would you accomplish  
16 that and how would he then get you back for the next event?

17 A. I mean, I accomplished it by, you know, not in 10th  
18 grade, but in 11th grade saying no, I can't. I came up with  
19 excuses or there were points where I just said I don't want  
20 to. I was I guess confident enough to say no. But then, you  
21 know, I'd get screamed at in classes or my grades would  
22 suffer. You know, you could tell he was picking on me to get  
23 me to submit to what he wanted.

24 Q. How would he do that? How would he pick on you to  
25 get you to submit?

1 of time?

2 A. There was or I thought it was happening  
3 simultaneously, but I had no way of really knowing. But it  
4 was -- it was my intuition he was.

5 Q. This is probably a hard question to answer, but I'm  
6 going to ask you to try. When this started and then  
7 continued and you didn't want it to happen, why did you not  
8 report it to somebody? Why did you stay silent and keep  
9 going back?

10 A. I wanted to finish high school out. I didn't want  
11 to have to start at a new place. I appreciated the education  
12 I was getting there. I liked New Haven. I liked Avi. I  
13 liked Ezi. I liked what was going on. I liked the community  
14 as a whole and I was comfortable there. So I didn't want to  
15 start over.

16 Q. Did you ever or did -- did you ever have a question  
17 in your mind that if you did tell and say you're 14 and  
18 Greer's the Rabbi, and if you had told someone, did you have  
19 a feeling whether you'd be believed?

20 A. It would have been very difficult to be able to  
21 tell somebody and feel validated that they believed what I  
22 was actually saying was reality.

23 Q. So then there's a pretty long period of time where  
24 you continued to see him. So we know that you were in Israel  
25 for a couple of years and then you'd come back. And Shira's

1 told us and we know from other testimony in the case that you  
2 would come back for high holidays, would visit Greer, among  
3 others, that you invited him to play some important roles in  
4 your wedding and the bris of your son. Can you explain to  
5 the jury how those two things can co-exist, on the one hand  
6 he abused you sexually as a child, and on the other hand  
7 you're voluntarily continuing to engage with him? Do you  
8 understand how those things existed?

9 A. I looked up to him as an important figure in my  
10 life and therefore, you know, I wanted him to be at my  
11 wedding, you know, and give him one of the honors I felt it  
12 was appropriate for what he had done for me by education and,  
13 you know, whatnot, helping me out financially when he did.  
14 You know, New Haven was my family or my second family and I  
15 was very comfortable there, and I felt important there when I  
16 went for the high holidays and I enjoyed it there. And so  
17 I'd go back to visit, you know, the community, Avi, Ezi,  
18 Dovi.

19 Q. And at the point that you're doing this, am I  
20 right, that your dad had passed away in 2006?

21 A. Yeah. My dad passed away and Greer was the one  
22 that was -- that person that I looked up to for direction or  
23 where I wanted to go to in terms of how I saw my religious  
24 education with my secular education meshing.

25 Q. And so then fast-forward to just recently. You

1 eventually -- you do decide to go public with this, to file a  
2 complaint. And what changed? What led you to that  
3 decision?

4 A. I bought a house with my wife in Edison. We found  
5 our community. And I was then comfortable enough where I  
6 didn't need New Haven. I didn't need Greer. I felt I was  
7 able to sort of stand on my own two feet. I'd be able to  
8 come out, come out with it.

9 Q. Now, you learned you knew that you had an option to  
10 file a lawsuit using a pseudonym, using a John Doe instead of  
11 Eliyahu Mirlis, and you knew that would become public. Why  
12 did you choose to use your own name in the case knowing that  
13 it would then become known to the world?

14 A. I felt it would give it credibility that I'm not  
15 hiding behind a John Doe. I went to that school. I was part  
16 of New Haven for a long time and this happened. I didn't  
17 want to hide it.

18 Q. We've heard some testimony from Shira and from  
19 Dr. Ford about your relationship, your marriage, and your  
20 interactions with other people. If someone were asking what  
21 affect did what Greer did to you have on your marriage, your  
22 relationship with your wife, how would you describe that? If  
23 you can.

24 A. We have and continue to have our ups and downs. It  
25 doesn't allow me to, I guess, you know, connect with my wife

1 how I'm supposed to. I hold everything very close to the  
2 vest. And I'm very, you know, everything's all good all the  
3 time, but I'm unable to share with her how it's supposed to  
4 be.

5 Q. Can you share with anybody?

6 A. No.

7 Q. Is there, if you think about it, everyone you know,  
8 your friends, your family, is there anybody that you feel you  
9 can really trust?

10 A. I don't trust anybody. I second guess everybody  
11 and anybody.

12 Q. We've heard that you are seeing a therapist. We  
13 know at times you've been in counseling with Shira. Just  
14 focusing on her and on your kids and your relationship with  
15 them, when you look into the future, what do you see?

16 A. An uphill climb. You know, we've been married just  
17 about ten years and we've had our ups and downs and we've  
18 fought through it. And I'm sure we will continue to have ups  
19 and downs and continue to fight through. It's definitely not  
20 easy.

21 MR. PONVERT: Thank you.

22 THE COURT: Cross-examination.

23 CROSS-EXAMINATION

24 BY MR. WARD:

25 Q. Good afternoon, Mr. Mirlis.

1 Q. So you drove up from Passaic after you had  
2 graduated high school, you're saying you met Dan Greer at the  
3 Branford Motel, and you engaged in an alleged sexual  
4 encounter with Dan Greer at that motel in the summer of '06  
5 after your graduation, right?

6 A. Yes, I did.

7 Q. And you weren't still in high school so the  
8 graduation wasn't a concern. You had graduated, right?

9 A. I had graduated, yes.

10 Q. And this was after you met your wife Shira in  
11 Israel, correct?

12 A. Yes.

13 Q. And you and Shira weren't married yet, but you had  
14 met and you were dating?

15 A. We were dating.

16 Q. In fact, you had disclosed this relationship to her  
17 in Israel you said, right?

18 A. I'm sorry, what was that?

19 Q. In fact, you disclosed your relationship with Greer  
20 to your wife while you were still in Israel, right?

21 A. Yes.

22 Q. You claim that you and Greer went to the Branford  
23 Motel, you drove up from Passaic, and you two had sex,  
24 right?

25 A. Yes, we did.

1 specific locations or dates?

2 MR. PONVERT: What line?

3 MR. WARD: Line three, four to six.

4 MR. PONVERT: On 42.

5 Q. Do you recall any specific dates? I can't tell you  
6 any specific locations or dates. That was your answer. Do  
7 you recall that?

8 A. My answer was I can't give you specific dates,  
9 locations and places all the same.

10 MR. PONVERT: Judge, I ask that the entire question  
11 be read in, not just parts.

12 THE COURT: Let's let him look at the transcript,  
13 Mr. Ward.

14 Q. The question was: Do you recall any specific  
15 dates, correct?

16 A. That is the question.

17 Q. And what was your answer?

18 A. I can't tell you any specific locations or dates.

19 Q. You do recall that nothing ever happened at the  
20 school facility itself, right?

21 A. Correct.

22 Q. How many times have you visited Dan Greer in your  
23 home since your graduation?

24 A. Just him or the family?

25 Q. The whole family. How many times have you been

1 A. Yes.

2 Q. And that entire time Daniel Greer was remaining in  
3 New Haven, right?

4 A. Yes.

5 Q. And your father passed away in 2006, is that  
6 correct?

7 A. Yes.

8 Q. And he spoke at the Shloshim, correct?

9 A. Okay.

10 Q. Yes?

11 A. I don't recall.

12 Q. And what is the Shloshim?

13 A. Shloshim means 30 days. It's 30 days after the  
14 burial.

15 Q. And that was after you had graduated from Yeshiva,  
16 right?

17 A. Yes.

18 Q. And after any sexual relationship with Greer had  
19 ended he came to your father's Shloshim?

20 A. Correct.

21 Q. And he spoke?

22 A. Yes.

23 Q. And you got married in December of 2007 you said,  
24 right?

25 A. Yes.

1 Q. And Mr. Greer was invited to your wedding, wasn't  
2 he?

3 A. Yes.

4 Q. Not only did you invite him, you asked him to be  
5 one of only two witnesses to the marriage?

6 A. Correct.

7 Q. What do they call that?

8 A. They call that Eid Kiddushin, E I D, K I D D U S H  
9 I N.

10 Q. And you would agree that these two witnesses played  
11 A very pivotal role in the ceremony?

12 A. The Jewish wedding you need two specific  
13 witnesses.

14 Q. And they play a very important role, right?

15 A. Okay.

16 Q. Yes?

17 A. Yes.

18 Q. And they signed the marriage contract, right?

19 A. They do.

20 Q. They affect the marriage?

21 A. Part of it.

22 Q. And they stand under the canopy with you and your  
23 wife when the vows are exchanged, don't they?

24 A. They do.

25 Q. And you invited him to take on this role on one of

1 the most important days of your life, didn't you?

2 A. I did.

3 Q. And that was after the sexual relationship ended,  
4 and this was after you graduated from high school, within  
5 three years after, correct?

6 A. Correct.

7 Q. I want to show you a photograph. Can you see that  
8 picture?

9 A. I see it.

10 Q. And that is a picture that was taken at your  
11 wedding, right?

12 A. Yes.

13 Q. And that's you hugging Rabbi Greer, right?

14 A. Yes.

15 Q. And he's also hugging you back?

16 A. Yes.

17 Q. Is it unusual for men to hug at a Jewish wedding,  
18 Orthodox Jewish wedding?

19 A. Not right after the ceremony.

20 Q. In fact, who is the gentleman standing right behind  
21 Greer?

22 A. Harold Hack.

23 Q. Was he standing in line to hug you as well?

24 A. Yes.

25 Q. So it's not unusual for men to be hugging at a

1           A.     I don't think I said I wanted to get away from  
2     him.

3           Q.     When your first son was born, for example, right?

4           A.     Yes.

5           Q.     That was in 2010?

6           A.     Yes.

7           Q.     And now we're four years after the alleged events  
8     in the complaint, right?

9           A.     Yes, from graduating.

10          Q.     And you had a bris, correct?

11          A.     My son had a bris.

12          Q.     For your son?

13          A.     Yes.

14          Q.     And who was the person that holds the child during  
15     the circumcision?

16          A.     The Sandek.

17          Q.     And that is the important position in the bris,  
18     right?

19          A.     It's arguable, but it's an important position.

20          Q.     What would there to be argue about, is that an  
21     important decision?

22          A.     Some people think naming the baby is the most  
23     important.

24          Q.     And isn't it true that Dan Greer also named the  
25     baby?

1 A. Yes.

2 Q. So he held both positions at the bris?

3 A. Yes.

4 Q. So we're four years after the events alleged in  
5 your complaint and you make him the most important person at  
6 your first born son's bris?

7 A. Correct.

8 Q. Now, in Orthodox Jewish culture, isn't it the woman  
9 who decides who is the Sandek at the bris?

10 A. No.

11 Q. It's not?

12 A. Not that I'm aware of.

13 Q. For the first born son?

14 A. Not that I'm aware of.

15 Q. And Greer, in fact, named your child after your  
16 father at that bris, right?

17 A. Yes.

18 Q. After your marriage and after the birth of your  
19 child, your children at this point, you're still going back  
20 and forth to New Haven?

21 A. Yes.

22 Q. You're not avoiding New Haven at all?

23 A. No.

24 Q. You're going all the time?

25 A. I wouldn't say all the time, but we went.

1 Q. A lot?

2 A. Okay.

3 Q. You went for all the high holy days, right?

4 A. That's twice a year.

5 Q. What about Rosh HaShana, that would be a high holy  
6 day, right?

7 A. Yes.

8 Q. Yom Kippur?

9 A. That's twice.

10 Q. I believe you said you went for Sukkot?

11 A. We went for the Simchat Beit HaShoeivah  
12 sometimes.

13 Q. What is that?

14 A. That's the party during the days of Sukkot.

15 Q. So that's the Sukkot party. You went up for that  
16 as well?

17 A. Yes.

18 Q. Is that a high holy day?

19 A. No.

20 Q. Is passover a high holy day?

21 A. No.

22 Q. Did you go over for passover?

23 A. Maybe just to visit Ezi and the kids.

24 Q. And you also went up for Shavis frequently?

25 A. I wouldn't say frequently, but we went up for

1 Shavis.

2 Q. And you continued to go to New Haven from New  
3 Jersey until 2013, is that correct?

4 A. Okay. We went up. I don't know what year we  
5 stopped.

6 Q. Did you go in 2013?

7 A. I don't recall.

8 Q. And in 2013 you, would have been how many years  
9 after graduation, nine? 13 minus 2004.

10 A. 2005.

11 Q. 2005 is your graduation. So eight years?

12 A. Okay.

13 Q. You went back and forth. Instead of avoiding New  
14 Haven, you went back and forth to see Dan Greer and his  
15 family time and time again, right?

16 A. I go to see Avi and Ezi and Dovi.

17 Q. And you went to Dan Greer's home during that time,  
18 right?

19 A. Some of the times.

20 Q. You went there for Sukkot?

21 A. When there was at party there, yes.

22 Q. When you did go, did you also go to services over  
23 which Dan Greer provided?

24 A. I went to the services of the school, the  
25 Yeshiva.

1 Q. And you didn't just go to those services, you were  
2 one of two people standing next to Greer during those  
3 services when you would come up, right?

4 A. For Rosh HaShana and Yom Kippur, yes.

5 Q. And those are the two biggest holidays, aren't  
6 they?

7 A. Yes, they are.

8 Q. So you would come up after you graduated and after  
9 the events alleged in your complaint and you could stand  
10 right next to him during the two biggest holidays?

11 A. Yes.

12 Q. One of two guys standing next to him, right?

13 A. It was one on either side, yes.

14 Q. And he wasn't going down to New Jersey, you were  
15 coming up here to New Haven?

16 A. I would go to New Haven, yes.

17 Q. And you would load your whole family into the car,  
18 right?

19 A. My wife and son, yes.

20 Q. Well, you have three children, right?

21 A. Now.

22 Q. Did you continue to come when the second child was  
23 born?

24 A. Yes.

25 Q. So you would load the two children in the car,

1 respect to these allegations prior to bringing these  
2 claims?

3 MR. PONVERT: What page?

4 MR. WARD: Page 65, line 14 to 17.

5 A. I'm sorry, what was the question?

6 Q. Do you recall being asked:

7 Did you ever go into counseling specifically with  
8 respect to these allegations prior to bringing these  
9 claims?

10 A. I don't recall that specific question.

11 Q. I'm showing you a copy of your transcript. The  
12 question was: Did you ever go into counseling specifically  
13 with respect to these allegations prior to bringing these  
14 claims?

15 A. Okay.

16 Q. And your answer was: No, not specifically.

17 A. Correct.

18 Q. So you never went to counseling for these claims  
19 until after you brought this action, until after you brought  
20 this claim, is that correct?

21 A. Correct.

22 Q. And it was after you hired Attorney Ponvert, is  
23 that correct?

24 A. I don't have the date that he was hired but, yes, I  
25 would assume so.

1 A. Yes.

2 Q. And you're licensed for that position in the State  
3 of Connecticut as an administrator?

4 A. I do have a Connecticut license as an  
5 administrator, yes.

6 Q. You also have an administrator's license in New  
7 Jersey?

8 A. Yes.

9 Q. And you get paid for being an administrator,  
10 right?

11 A. I don't get for being an administrator. I get paid  
12 for --

13 Q. Being an owner?

14 A. Being an owner, yes.

15 Q. And you have six to seven of these nursing homes in  
16 Connecticut?

17 A. Yes.

18 Q. Could you tell me where they are, what their names  
19 are?

20 A. There's one in Greenwich, Connecticut. There's one  
21 in Southport, Connecticut. New Haven, West Haven, Waterbury,  
22 Prospect and Torrington.

23 Q. And you make sufficient money to support your wife  
24 and three children, right?

25 A. Yes.

1 Q. You have your own home?

2 A. Yes.

3 Q. And yet the allegations in the complaint is that it  
4 impaired your ability to live or carry on a normal life,  
5 correct?

6 A. Correct.

7 Q. Now, you started going to massage parlors for  
8 sexual gratification in 2015, correct?

9 A. Correct.

10 Q. And you went to massage parlors in Edison, New  
11 Jersey, right?

12 A. Okay.

13 Q. Yes?

14 A. Yes.

15 Q. In and around Edison where you live?

16 A. Yes.

17 Q. And you also went to massage parlors for sexual  
18 gratification in Manhattan?

19 A. Okay, yes.

20 Q. And most often you would go with a woman named CC,  
21 right? Do you recall CC?

22 A. I recall that name as one of their names, yes.

23 Q. And this all began in 2015, correct?

24 A. I wouldn't say that, no.

25 Q. Do you recall being asked at your deposition how

1 Q. Did you get caught by your wife?

2 A. Yes.

3 Q. She caught with you the debit cards, right?

4 A. Yes.

5 Q. And when she caught you with the debit cards, you  
6 blamed Dan Greer and filed this suit, right? It's about the  
7 same time?

8 A. Okay.

9 Q. Well, yes?

10 A. I don't understand the question.

11 MR. PONVERT: Objection.

12 THE COURT: Let's start the question again.

13 Q. You got caught by your wife, correct?

14 A. Correct.

15 Q. Through the debit cards in 2015, correct?

16 A. Correct.

17 Q. And after you got caught by your wife, you blamed  
18 Dan Greer for going to the massage parlors and you filed this  
19 lawsuit after you got caught, right?

20 A. The lawsuit was filed after I got caught, yes.

21 Q. And you also stopped by the police department to  
22 file a complaint, correct?

23 A. I did speak to the police, yes.

24 Q. And nothing's come of that complaint, right?

25 A. Not yet.

1 Q. It's two years ago, right?

2 A. When I spoke to the police?

3 Q. Yes.

4 A. About, yes.

5 Q. And nothing's come of that?

6 A. Not yet.

7 Q. Now, Dr. Ford was hired by your attorney Antonio  
8 Ponvert, right?

9 A. Yes, he was.

10 Q. And you knew you were going to him to be diagnosed  
11 with post-traumatic stress disorder, right?

12 A. No.

13 Q. You knew -- you were sent there by Attorney Ponvert  
14 to Dr. Ford, were you not?

15 A. I was asked to go by Attorney Ponvert to speak with  
16 Dr. Ford, yes.

17 Q. Which is the expert he hired, correct?

18 A. Yes.

19 Q. And you knew that he would testify in this case if  
20 it went to trial, right?

21 A. I assumed he would, yes.

22 Q. And you answered all of his questions, right?

23 A. I answered many of his questions. I don't know if  
24 I answered all his questions.

25 Q. You didn't tell Dr. Ford that you had sex with

1 Daniel Greer after you graduated high school in summer of  
2 '06?

3 A. If he did not ask me, then I did not tell him.

4 Q. You didn't tell Dr. Ford that you disclosed this to  
5 your wife in 2005 when -- in 2006 when you two were in Israel  
6 when you just met?

7 A. If he didn't ask me when I told her, then I  
8 probably would not have said anything to him about it, no.

9 Q. In fact, you didn't tell Dr. Ford you disclosed it  
10 to your wife until recently, right?

11 A. I'm sorry?

12 Q. You didn't tell Dr. Ford you disclosed the  
13 relationship with Greer to your wife until recently?

14 A. The only time I ever spoke to Dr. Ford is when I  
15 went up there.

16 Q. And you told him you didn't disclose a relationship  
17 with Greer to your wife until very recently, is that what you  
18 told Dr. Greer?

19 A. Dr. who?

20 Q. I'm sorry, Dr. Ford. Is that what you told  
21 Dr. Ford?

22 A. I don't recall.

23 Q. And if Dr. Ford said you didn't disclose your  
24 relationship with Greer to your wife until very recently, he  
25 would be wrong?

1 A. But they're public with a lot of people there.

2 Q. You didn't tell Dr. Ford that you had revealed your  
3 relationship with Daniel Greer in couples counseling,  
4 right?

5 A. If he didn't ask me, I didn't tell him, no.

6 Q. So he didn't ask you a whole bunch of stuff,  
7 right?

8 MR. PONVERT: Objection.

9 THE COURT: Overruled.

10 A. Potentially.

11 Q. Potentially he didn't ask you a bunch of stuff?

12 A. Right.

13 Q. And the whole time you were with Dr. Ford, you said  
14 you were also trying to run your business. You actually  
15 received several phone calls and you took time out of the  
16 meeting with Dr. Ford to do that?

17 A. I did.

18 Q. Did you say that you would not have sex with Rabbi  
19 Greer on a Sabbath or he wouldn't have sex would you on the  
20 Sabbath?

21 A. I said that at that time in Paoli he wouldn't have  
22 wanted to have sex on the Sabbath itself.

23 Q. And you also said you went down for the Sabbath,  
24 right?

25 A. What do you mean?

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C E R T I F I C A T E

I, Martha C. Marshall, RMR, CRR, hereby certify that the foregoing pages are a complete and accurate transcription of my original stenotype notes taken in the matter of Mirlis v Greer, et al, which was held before the Honorable Michael P. Shea, U.S.D.J, at 450 Main Street, Hartford, Connecticut, on May 15, 2017.

/s/Martha C. Marshall  
Martha C. Marshall, RMR, CRR  
Official Court Reporter.