

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK : CIVIL TERM PART 34

-----X
GREGORY SCOTT,

Plaintiff,

- against -

KOSOVA PROPERTIES INC., HAMDI NEZAJ,
SHPEND NEZAJ, LAZER PLUNAJ,
Defendant.

-----X
INDEX NO. 155225/16 60 Centre Street
New York, New York
January 29, 2025

BEFORE:

THE HON. DAKOTA RAMSEUR, J.S.C.

And a Jury

APPEARANCES:

FOR THE PLAINTIFF:

THE BASIL LAW GROUP, P.C.
125 West 31st Street #19-b
New York, New York 10001
BY: ROBERT J. BASIL, ESQ.
DAVID A. COHEN, ESQ.

FOR THE DEFENDANTS:

McELROY, DEUTSCH, MULVANEY & CARPENTER LLP
225 Liberty Street, 36th Floor
New York, New York 10281
BY: JOHN P. COOKSON, ESQ.
A. AUGUSTUS LaSALA, ESQ.

ALSO PRESENT: GREGORY SCOTT, Plaintiff

JACK L. MORELLI
Senior Court Reporter

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1 (Jury not present)

2 THE COURT: Let's go on the record, everyone.

3 You want to just state your appearances.

4 MR. BASIL: Good morning. Robert Basil, from
5 the Basil Law Group. I represent Gregory Scott, the
6 plaintiff.

7 MR. COHEN: Good morning. David Cohen, with the
8 Basil Law Group, also representing the plaintiff.

9 MR. COOKSON: John Cookson, McElroy, Deutsch,
10 Mulvaney & Carpenter, representing the defendants Kosova
11 Properties Inc., Hamdi Nezaj and Shpend Nezaj.

12 THE COURT: I'm sorry, who are you?

13 MR. SCOTT: I'm Gregory Scott.

14 THE COURT: Okay, thank you.

15 It's 10:30, we had a 9:00 appearance time. We
16 got a late start. We had to go over some preliminary
17 trial issues, which we did. And we're going to wait to
18 downtime to put it formally on the record, because our
19 jury is ready.

20 Now, I had you all look at a note from a juror.
21 I guess we're excusing that juror and using the alternate,
22 is that correct?

23 MR. BASIL: For the plaintiff, yes, we could
24 excuse that juror permanently and put in one of the
25 alternates.

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1 THE COURT: You want to specify which alternate
2 so there is no confusion.

3 MR. BASIL: There are two alternates, alternate
4 one and two.

5 THE COURT: So, we'll start with one? Okay,
6 great. Just a minute. Can we have that person?

7 Go ahead, sir. Mr. Cookson.

8 MR. COOKSON: I just wanted to clarify who the
9 juror is and what their excuse was.

10 THE COURT: I apologize. Did you not see the
11 correspondence?

12 MR. COOKSON: The officer handed me something,
13 but --

14 COURT OFFICER: It's juror four.

15 (Pause)

16 MR. COOKSON: Okay, that's fine.

17 THE COURT: Thank you. So, if I didn't mention
18 it, I'll just mention it again, that sometimes during the
19 trial I have to stand up. I do like the jurors to know
20 that this has nothing to do with this case and they should
21 not infer anything from it. It's just something that I
22 have to do. I hope it doesn't distract from you.

23 So, with that said, we're going to get started,
24 okay?

25 MR. BASIL: Excellent.

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1 THE COURT: Okay, let's get the jurors.

2 Counsel, I have this thing that I tell people on
3 the witness stand. I just tell them to listen to the
4 question asked and answer that question. And then if they
5 don't understand the question, to say that. And if they
6 don't know, to say that. And if they don't remember, to
7 say that, and/or to distinguish between those, because
8 they are not the same. And to keep their voice up. If
9 they can answer it yes or no, they should do. So, this is
10 something that I just tell witnesses on the stand.

11 MR. BASIL: Very good. And they will be
12 speaking into a microphone, so it's just like you just
13 did?

14 THE COURT: Yes, except that everybody else has
15 plastic.

16 THE COURT: If you find that you think that
17 might affect your case adversely, just let me know and I
18 can remove it, it's not a problem.

19 COURT OFFICER: All rise. Jury entering.

20 (Jury present)

21 THE COURT CLERK: Is the jury satisfactory to
22 the plaintiff?

23 MR. BASIL: The jury is satisfactory.

24 THE COURT CLERK: To the defendant?

25 MR. COOKSON: Yes.

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1 THE COURT CLERK: All right. Please raise your
2 right hands. In the matter of Gregory Scott versus Kosova
3 Properties, Hamdi Nezaj, Shpend Nezaj and Lazer Plunaj, do
4 you the jury solemnly swear or affirm that you will well
5 and truly try the questions submitted to you in this
6 matter, and render a true and just verdict according to
7 the law as given to you by the Court, and evidence
8 presented to you at trial? If so say I do.

9 (Jurors responded)

10 THE COURT CLERK: Thank you. Please be seated.

11 Your Honor, the jury is sworn and affirmed.

12 THE COURT: Thank you. Good morning. While
13 speaking to you if you cannot hear me, please let me know.
14 Whether you tell the Court Officer, bring it to my
15 attention.

16 Members of the jury, we are about to start the
17 trial of this case, about which you heard some details
18 during jury selection. Before the trial begins, however,
19 there are certain instructions that you should have in
20 order understand what you will hear and see and how you
21 should conduct yourselves during trials.

22 The parties who bring a lawsuit are called
23 plaintiffs. In this action the plaintiff is Dr. Gregory
24 Scott, who sues to recover a false arrest, malicious
25 prosecution and negligent hiring. The parties against

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1 whom the suit is brought are called the defendants. In
2 this action the defendants are Kosova Properties Inc.,
3 Hamdi Nezaj, Shpend Nezaj and Lazer Plunaj.

4 When I have completed these instructions, the
5 attorneys will make opening statements, in which each will
6 outline for you what he expects to prove. The purpose of
7 the opening statements is to tell you about each parties'
8 contentions, so you will have a better understanding of
9 the evidence as it is introduced.

10 What is said in opening statements is not
11 evidence. The evidence upon which you will base your
12 decisions will come from the testimony of witnesses here
13 in court or in sworn testimony given before trial, or in
14 the form of photographs, documents, or other exhibits
15 admitted into evidence.

16 In this case plaintiff, Gregory Scott, makes an
17 opening statement first, and is followed by the defendants
18 Kosova Properties Incorporated, and Hamdi Nezaj, Shpend
19 Nezaj and Lazer Plunaj.

20 After the opening statements, Dr. Scott will
21 introduce evidence in support of his claim. Normally, a
22 party must produce all his witnesses and complete his
23 entire case before the opposing party introduces any
24 evidence. Although exception are sometimes made.

25 After the opposing party has completed the

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1 introduction of all his evidence, the other party may, but
2 is not required to, present witnesses and exhibits. If it
3 does so, then the other party may, but is not required to,
4 offer additional evidence for the purpose of rebuttal.

5 A witness is examined by the party who calls
6 that witness to testify, and then may be questioned by the
7 opposing party in cross-examination. Addition questioning
8 may occur.

9 At times during the trial an attorney may object
10 to a question or to the introduction of an exhibit, or
11 make motions concerning legal questions that apply to this
12 case. Arguments in connection with such objections or
13 motions are sometimes made out of the presence of the
14 jury. Any ruling upon such objections or motions will be
15 based solely upon the law and therefore, you must not
16 conclude from any such rulings or from anything that I say
17 during the course of the trial, that I favor any party to
18 this lawsuit.

19 After such a ruling you may hear one of the
20 attorneys taking what we call a exception to it.
21 Exceptions have nothing to do with your role in this case.
22 And I mention the procedure to you so that you will not be
23 confused if you hear the word during the trial.

24 Upon completion of the introduction of evidence,
25 the attorneys will again speak to you in a closing

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1 statement or summation. In summing up, the lawyers will
2 point out what they believe the evidence has shown, what
3 inferences or conclusions they believe you should draw
4 from the evidence, and what could conclusions they believe
5 you should reach as your verdict.

6 What is said by attorneys in summation, like
7 what is said by them in their opening statements, or in
8 the making of objections or motions during the trial, is
9 not evidence. Summations are intended to present the
10 arguments of the parties based on the evidence. Under our
11 system, the defendant sums up first, followed by the
12 plaintiff.

13 After the summations I will instruct you on the
14 rules of law applicable to the case, and you will then
15 retire for your deliberations. Your function as jurors is
16 to decide what has or what has not been proved, and apply
17 the rules of law that I give you, to the facts as you find
18 them to be. The decision you reach will be your verdict.
19 Your decision will be based on the testimony that you hear
20 and the exhibits that will be received in evidence during
21 the trial. You are the sole and exclusive judges of the
22 facts, and nothing I say or do should be taken by you as
23 any indication of my opinion as to the facts.

24 As to the facts, neither I nor anyone else may
25 invade your province. I will preside impartially and not

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1 express any opinion concerning the facts. Any opinions of
2 mine on the facts would in any event be irrelevant,
3 because the facts are for you to decide. On the other
4 hand, and with equal emphasize, I instruct you that in
5 accordance with the oath you took as jurors, you are
6 required to accept the rules of law that I give, whether
7 you agree with them or not. You are not to ask anyone
8 else about the law. You should not consider or accept any
9 advice about the law from anyone else but me.

10 As the sole judges of the fact, you must decide
11 which of the witnesses you believe, what portion of their
12 testimony you accept, and what weight you will give to it.

13 At times during the trial I may sustain
14 objections to questions and you may hear no answer. Or
15 where an answer has been given, I may instruct that it be
16 stricken or removed from the record and that you disregard
17 it. You may not draw any inference or conclusion from any
18 unanswered question, or may you consider testimony that
19 has been stricken or removed from the record in reaching
20 your decisions. The law requires that your decisions be
21 made solely on the evidence before you. Any items I
22 exclude from your consideration, will be excluded because
23 they are not legally admissible.

24 The lawsuit is a civilized method of determining
25 disputes. It is basic to the administration of our system

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1 of justice that the decisions on both of law and the facts
2 be made fairly and honestly.

3 You as the jurors and I as the Court have a
4 heavy responsibility, to act impartial and to ensure a
5 just result is reached in deciding the disputes between
6 the plaintiff and the defendants in this case. As a fair
7 and impartial juror, you must guard against the
8 application of any stereotypes or attitudes about people
9 or groups that might lead you to render a decision based
10 on those stereotypes or attitudes. Keep in mind that bias
11 is not always obvious or conscious. In assessing the
12 testimony or other evidence in the case, you must not be
13 swayed by those stereotypes or attitudes.

14 The law does not, however, require you to accept
15 all of the evidence that I shall admit. In deciding what
16 evidence you will accept, you must make your own
17 evaluation of the testimony given by each of the witnesses
18 and decide how much weight you choose to give to that
19 testimony.

20 The testimony of a witness may not conform to
21 the facts as they occurred, because he or she is
22 intentionally lying. Because the witness did not
23 accurately see or hear what he or she is testifying about.
24 Because the witness' recollection is faulty. Or because
25 the witness has not expressed himself or herself clearly

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1 in testifying.

2 There is no magical formula by which you
3 evaluate testimony. You bring with you to this courtroom
4 all of the experiences and background of your lives. In
5 your every day affairs you decide for yourself the
6 reliability or unreliability of things that people tell
7 you. The same tests that you use in your every day
8 dealings are the tests which you apply in your
9 deliberations. The interest or lack of interest of any
10 witness in the outcome of the case. The bias or prejudice
11 of the witness, if there be any. The age, the appearance,
12 the manner in which the witness gives testimony on the
13 stand. The opportunity that the witness had to observe
14 the facts about which he or she testified. The
15 probability or improbability of the witness' testimony
16 when considered in the light of all of the other evidence
17 in the case, are all items to be considered by you in
18 deciding how much weight, if any, you will give to that
19 witness' testimony.

20 If it appears that there is a conflict in the
21 evidence, you will have to consider whether the apparent
22 conflict can be reconciled by fitting the different
23 versions together. If, however, that is not possible, you
24 will have to decide which of the conflicting versions you
25 will accept.

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1 The purpose of the rules I have outlined for you
2 is to make sure that a just result is reached when you
3 decide the case. For the same purpose, you should keep in
4 mind several rules governing your own conduct during
5 recess. Do not talk either among yourselves or with
6 anyone else about anything related to this case. You may
7 tell people you are a juror and give them information when
8 you will be required to be in court, but you must not talk
9 with anyone about any other matters related to the case.

10 You must not provide any information about this
11 case to anyone by any means whatsoever. This means you
12 must not discuss or give or get information about any
13 matter related to the case by telephone, text, message,
14 e-mail or any Internet services or social media including,
15 for example, blogs, chat rooms, Google, Facebook, Twitter,
16 Linkedin, Instagram, TikTok or any other platform, even if
17 I haven't mentioned it specifically.

18 You must not permit any person who is not a
19 juror to talk about this case in your presence. And if
20 anyone does so, despite you're telling that person not to,
21 report that to me as soon as you are able. However, you
22 must not discuss with your fellow jurors either that fact
23 or any other fact you feel necessary to bring to my
24 attention.

25 Although it is normal human tendency to talk to

OPENING - BY PLAINTIFF/MR. BASIL

1 people with whom one comes in contact, please do not
2 during the time you serve on the jury talk, whether in or
3 out of the courtroom, with any of the parties or their
4 attorneys or any witnesses. By this I mean, not only do
5 not talk about the case, but do not talk to them at all,
6 even to pass the time of day. In no other way can all
7 parties be assured of the absolute impartiality they are
8 entitled to expect from you as jurors.

9 Under the law only six jurors will deliberate on
10 this case. We have select additional jurors because at
11 some time during the trial a juror may be unable to
12 continue service due to some emergency. All of you are
13 required to pay the same careful attention during the
14 trial, so that each of you will be fully familiar with the
15 case. The fact that there are additional jurors does not
16 mean that any juror is free to excuse himself or herself
17 of the case. As a duly sworn juror, it is your obligation
18 to be available and attentive throughout the trial.

19 The description of trial process, the rules
20 governing your conduct, and legal principles I have
21 discussed with you will, I believe, make it easier for you
22 to understand the trial as it goes on, and to reach a just
23 result at its conclusion.

24 Counselor, are you ready?

25 MR. BASIL: I am ready for opening statement.

OPENING - BY PLAINTIFF/MR. BASIL

1 THE COURT: You may.

2 MR. BASIL: Good morning, jurors. May it please
3 the Court, and members of the jury. First of all, all of
4 us wish to thank you. Without this the system doesn't
5 work. And if the system doesn't work, then I don't know
6 how the country works. But you seven people have stepped
7 up and done your duty I think so far, and it's greatly
8 appreciated by all here.

9 As you may remember, my name is Robert Basil.
10 I've been practicing in this court for 30 something years.
11 I'm here with my partner, David Cohen, who has been
12 practicing the same amount of time. And we were law
13 school classmates. And we represent Dr. Gregory Scott
14 today.

15 As the judge indicated or most emphatic, what I
16 say during this opening statement is not evidence. If I
17 say something that says X happened on such and such a
18 date, please understand that that is kind of my being
19 tired of saying, we will prove, we will prove. You're not
20 to accept as a fact or even that I might believe the fact.
21 It's my promise to you that we will prove that fact. So
22 that at the end of the case you will be able to render a
23 verdict in favor of my client hopefully.

24 So, actually the acoustics are pretty good in
25 here, I was surprised. But to the extent that you don't

OPENING - BY PLAINTIFF/MR. BASIL

1 hear the witness or you don't hear an attorney, please
2 raise your hand. Because if you don't hear it, it didn't
3 happen. So don't be shy about saying, I didn't hear that.
4 And the judge will, I'm sure, do the right thing.

5 So, what I want to do now, is give you full
6 disclosure of crucial evidence that you will hear in the
7 case. And that at the end of the case, I will ask you to
8 consider in rendering your verdict. It's a pretty simple
9 process. We put on testimony and some documents, and your
10 evaluation of that will determine the outcome of this
11 case.

12 There are four defendants that we are suing and
13 they were already mentioned. What I'm going to do is
14 refer to them in shorthand. I don't mean any disrespect
15 to them, but it's they have some difficult names for
16 someone with my background. So, the Kosova Property I
17 will call Kosova. Hamdi Nezaj, the owner, I will just
18 refer to him and Hamdi. Lazer Plunaj, the super, I will
19 refer to him as Lazer. And Shpend Nazaj, the son of
20 Hamdi, I will refer to his nickname, which is Joey. So,
21 that's, again, no disrespect, it's just going to be easier
22 for all of us, I hope.

23 So, Dr. Scott is here and he's suing for
24 compensation. And in this case the compensation is in the
25 form of a substantial monetary award. He claims that each

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1 of the defendants that I mentioned, and those names,
2 violated New York law. As a result of these violations we
3 will show that Dr. Scott was arrested. He was jailed. He
4 was prosecuted, at the insistence of each of these
5 defendants. And his crime was intentionally breaking a
6 window at the leasehold.

7 Well, we will prove that he did not break the
8 window. And also, that no defendant ever had a reasonable
9 basis for making such a report to the police. Again, he
10 didn't break the window, and the defendants never had a
11 reasonable basis to make that complaint that they made to
12 the police.

13 Also, that the prosecution continued on for four
14 and a half months before finally the charges were dropped.
15 During that four and a half months, none of the defendants
16 went to the police, went to the district attorney and
17 said, hey, you know, we've got some contrary evidence
18 here, maybe we should drop this. It never happened. The
19 case expired by its own weight.

20 The theories of liability, the first one, is
21 Kosova's negligent hiring and supervision of the employees
22 involved in the arrest. And that would be Joey, Hamdis
23 and that would also be Lazer, the super. So, we contend
24 that Kosova is responsibility for errors, because Kosova
25 was negligent in the way that they hired and continued to

OPENING - BY PLAINTIFF/MR. BASIL

1 manage the situation. With also have false arrest, which
2 is pretty obvious from the name. It's an arrest based on
3 false facts. And we have malicious prosecution, which we
4 say it was not just false, but they are really, if you
5 will, out to get my client. It was in bad faith and it
6 was with -- the term is malice.

7 It's important to note that the first one, the
8 negligence, is an unreasonable carelessness. There is no
9 intent involved. The second two are intentional. That
10 the defendants knew that they were doing something wrong
11 and did it anyhow.

12 So, as the judge has instructed you, Mr. Cohen
13 and I have certain burdens in the case. We have to prove
14 that Dr. Scott is entitled to his monetary award. And
15 I'll give you a broad outline of some of the ways that we
16 will satisfy the burden.

17 First, I guess it's kind of easy, we will prove
18 that Kosova is a New York City landlord at 83 Park Terrace
19 West, and that Dr. Scott was a long-term tenant there. We
20 will prove that for several years before, what we claim
21 the false arrest, Hamdis' son Joey was authorized by his
22 father to operate and supervise either the super that is
23 there or on his own. The evidence will show that, and
24 there is that sentence I should have said in front of all
25 those other things, the evidence will show that Lazer was

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1 Kosova's resident on-site manager, previously known as a
2 super, during 1915 -- I'm not that old. 2015 and 2016
3 when the key events happened. So, Lazer was on site as
4 the super during that entire time.

5 We will also show you that that building had
6 long been a rent stabilized building in New York, and that
7 the rents, including raises on renewals, were strictly
8 controlled by New York law. And you may or may not be
9 familiar.

10 The evidence will also show that Dr. Scott, who
11 had been living there for 17 years, was a substantial
12 recipient of the benefits of that law, and was paying
13 submarket rent at the time of these incidents and the
14 false arrest. At the time of the arrest, Dr. Scott was 65
15 years old. He had managed not to have a criminal record
16 during that 65 years. And also, as you will learn as you
17 get to know Dr. Scott, the evidence will show that he's an
18 unlikely criminal vandal.

19 We don't have a burden to show that the charges
20 against Dr. Scott that he broke the window with a hammer
21 are absurd. But the absurdity of the charges will be
22 demonstrated by the evidence and will help you to decide
23 how you're going to treat the intentional acts of claims.

24 So, the defendants would have you believe that
25 during September of 2015 while Dr. Scott is writing books

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1 on ancient Greek philosophy work, full time at IBM, as a
2 consultant for IBM's Hybrid Cloud Project at the time,
3 that he suddenly decided to become a criminal. And then
4 he suddenly decided to become a window breaking vandal.
5 But that's not all. You will learn that according to the
6 defendants, we believe, that Dr. Scott did these criminal
7 deeds right in front of Lazer to get caught. Having no
8 chance to avoid the prosecution that happens. Risking the
9 loss of 17 years of accumulated benefit of those rent
10 controlled submarket rents. Giving up his personal
11 freedom and his reputation. And that is their case, as I
12 understand it, that he did all of those things. That's
13 going back to what I said, that we don't have to prove the
14 absurdity of the charges. But I think that you will have
15 good evidence to come to that conclusion.

16 Now, we will also bring before you evidence as
17 to why all that would have happened. Lazer and Joey, who
18 we will show, are the persons directly responsible for Dr.
19 Scott's false arrest, were neither competent nor properly
20 trained to address the situation that they found
21 themselves in, when they discovered the broken window and
22 decided to have Dr. Scott arrested. Yes, the window was
23 broken, there is no question about that.

24 So, the evidence will also show that the
25 deficiencies at Kosova leading to Scott's false arrest,

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1 leading to the false police reports, leading to the false
2 prosecution for four and a half months, after it was clear
3 that, or should have been clear, that the charges were
4 false, it had its genesis way back in the negligent hiring
5 and management of those on the scene employees by Kosova.

6 Now, you will be able to conclude that Kosova
7 first went off the rails, if you will, in the hiring of
8 both Lazer and Joey. Now, the hiring process, let's start
9 with Lazer. So, they needed a new super. So, Hamdi goes
10 to a strip bar and meets Lazer. Has a conversation with
11 Lazer and decides he's just fine. He then sends Lazer
12 over to his son Joey. Whatever happens between the two of
13 them, we don't know. But we do know that Joey hired
14 Lazer. And that's the process.

15 You won't see in this case any documents from
16 Kosova or from me about that hiring process. Did they
17 investigate his prior jobs? Did they investigate him?
18 Did they find out if he was competent? There is no
19 records not only of the hiring, not only of anything that
20 was given to Lazer to help him with his duties so he knew
21 what to do, there is no records of anything that Lazer did
22 for three years. So, this is part of what we say was
23 negligent hiring and negligent management of Lazer at this
24 point, which led to Lazer making mistakes or maybe even
25 making an intentional false arrest claim, thinking that he

OPENING - BY PLAINTIFF/MR. BASIL

1 was doing something good for his company. Lazer had no
2 reason, as far as the evidence will show, to make that
3 false claim. There is nothing to show that Lazer got any
4 advantage from making the claim that he knew was false.
5 And we're going to ask you to conclude that he did it on
6 behalf of his employer. And we'll get into why it was the
7 employer's interest to have that false arrest undertaken
8 and conviction.

9 So, at the time of the incident, and we say as a
10 result of that lack of training, you will find that
11 certain things weren't done by Lazer or by Joey. First of
12 all, Lazer never questioned Scott. He never asked Scott
13 if he broke the window. Lazer never questioned a
14 co-tenant Dr. Noyes, who you will hear testify today, who
15 had personal knowledge of whether the window had been
16 broken by Dr. Scott. He did not question Scott's wife who
17 lived with Dr. Scott. And who also could have educated
18 Lazer on the facts that might have been contrary to what
19 Lazer was doing, which was making a false arrest record.

20 Let me read to you from a document that will
21 come into evidence, which is the police report. So, this
22 is a report from the Criminal Court of the City of New
23 York, and it says in part, from Police Officer Fernando
24 Moscoso. "I am informed by Lazer Plunaj, of an address
25 known to the District Attorney's office, that he observed

OPENING - BY PLAINTIFF/MR. BASIL

1 the defendant hit a window at the above location with a
2 hammer, and that he observed the window break. I am also
3 informed by Lazer, that he is the custodian of the window
4 and that the defendant did not have permission or
5 authority to damage the window." And it's signed by the
6 officer.

7 So, this is the document that a month later is
8 put into the record as part of the permanent record of Dr.
9 Scott, and we contend it's totally false.

10 Joey, why was Joey put in charge of the
11 building? He was the son of the owner. There is nothing
12 to indicate that, to my knowledge and certainly nothing in
13 writing -- well, let me back up. You will see nothing in
14 writing about Joey's competence, qualifications or
15 anything else that would lead you to believe that he was
16 authorized to run the building because of some competence
17 or some training or that sort of thing.

18 So, those are the core facts for that first
19 claim by Dr. Scott, that the wrongful arrest had its
20 genesis back in all that negligence and failure to train.

21 Now, in 2015 there were certain events that will
22 give you some context about this very strange incident, I
23 believe you will find it very strange. The evidence will
24 demonstrate that Dr. Scott's many years of peaceful
25 coexistence with Kosova and the other employees since

OPENING - BY PLAINTIFF/MR. BASIL

1 moving in in 1998, everything was fine, more or less,
2 until 2015. In early 2015 you will see that the
3 relationship between Dr. Scott and Kosova starts to go
4 badly, very badly. Several incidents occurred between Dr.
5 Scott and Kosova, nonrelated to the window, just other
6 disagreements. And they will be presented for you and it
7 won't be, I believe, a serious dispute that they occurred.
8 There may be some details in dispute. But we will show
9 you that there was several incidents that caused bad
10 feelings and escalating up to the time of the false arrest
11 and broken window. There is no need to give you all the
12 details, I just want to let you know that it wasn't -- it
13 didn't come out of the blue.

14 But one of the incidents back in March of 2015,
15 remember that the false arrest occurs in September. So,
16 one of the incidents in March, there was a problem with
17 the buzzers. You know how you have to push the buzzer to
18 get in the door. Well, for ten days the buzzers are out,
19 and this caused Dr. Scott to become a bit irate. And he
20 decided that he would try to start a tenants' association
21 to address that and some other things that had been going
22 on. And we will prove that in response to informing Joey
23 that Dr. Scott was going to create a tenants' association,
24 that there was a death threat. That Joey told Dr. Scott,
25 I'm not to be messed with. And that Lucky, who is Joey's

OPENING - BY PLAINTIFF/MR. BASIL

1 brother, Lucky and two others will come over to the
2 apartment and you will be gone. So, this is the initial
3 reaction, if you will, to the news back in March 2015 that
4 Dr. Scott is just contemplating starting a tenants'
5 association.

6 Well, Dr. Scott will explain to you that four
7 months later, in July 2015, that despite the death threat,
8 Dr. Scott decides to go ahead and form the tenants'
9 association. Things got quickly, got even more heightened
10 once that occurred. And he will testify that there was
11 just another incident, not related directly to the window,
12 that Dr. Scott on the 27th of July sent a letter to Hamdi
13 complaining about Joey harassing him and reporting the key
14 problem -- a key problem with his apartment and in
15 general, just being a complainer.

16 So, a month later, August 26th, 2015, now we're
17 getting close, now we're getting close. Scott issues a
18 mission letter from the tenants' association. And that
19 mission letter has a lot of statements by Dr. Scott, and
20 you will hear them or some of them, about wrongdoing by
21 the landlord. About how to protect yourself from the
22 landlord. About being active with the tenants'
23 association so that you could protect yourself and stop
24 the landlord from being bad guys.

25 We know that -- well, we will show that the

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1 landlord got a copy or several copies of this letter
2 almost right around the time that it was issued. Dr.
3 Scott will testify that he had shoved it under people's
4 doors. And I believe that the defendants will say that
5 the tenants complained they didn't like it, and were
6 giving it back to the landlord. But the point being, that
7 the landlord saw it. And you will be able to conclude
8 from the contents, we hope, that the landlord wouldn't be
9 happy.

10 So we now move a couple of weeks later,
11 mid-September 2015. On September 12, 2015 four days
12 before the false arrest, there is problem in Dr. Scott's
13 apartment. He will testify that the light switch was
14 flashing, there was electric shooting out from the light
15 switch, so he was concerned. And he will tell you that he
16 contacted Lazer and Lazer said, no problem, I will take
17 care of it. Lazer didn't take care of it. As a result,
18 Dr. Scott didn't sit on his hands, and he made phone calls
19 to Hamdi and Joey, left e-mail messages. And he also on
20 two days later, on September 14, on September 15, two days
21 before the arrest, he actually got a hold of Hamdi on the
22 phone and they had a contentious phone call. Dr. Scott
23 will tell you about it. On the 14th also, Dr. Scott filed
24 a complaint with the Housing Department about some other
25 issues that were going on. So, things are really getting

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1 dicey between Dr. Scott and the landlord.

2 So, by December 16th, now the day of this
3 arrest, Scott is letting Kosova know that if they don't
4 fix the light switch, he's going to call the fire
5 department and bring them in and address it. So, the
6 table is set, if you will, for conflict and actions and
7 reactions by both Dr. Scott and by Kosova and by Joey and
8 by Lazer.

9 But now we come to the evidence concerning the
10 central event in this case, which is the broken window.
11 Now, we all agree that the window was broken, and it was
12 broken on, almost surely, September 16th 2015. Now, Dr.
13 Scott will testify that he first saw the broken window at
14 about noon on that day. And it's the same day that he's
15 threatening to call the fire department. Dr. Scott had
16 looked at the window because another tenant, Dr. Noyes,
17 who is also involved in the tenants' association, sent an
18 e-mail to Scott at 11:30 a.m. And that Dr. Noyes said
19 that in that e-mail, he saw the broken window at about
20 11:00 and it was already broken. So now you have Dr.
21 Scott testifying that he saw the window at noon, it was
22 already broken. And Dr. Noyes will testify that he saw it
23 window at 11:30 and it was already broken.

24 Now, to give you the lay of the land, so, Dr.
25 Scott will explain to you he's got a third floor

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1 apartment. The window is in the stairwell just above the
2 first floor, about seven steps up. The mailboxes are down
3 in the lobby. So, that's the scene that Dr. Scott will
4 set for you.

5 So, if you are to believe the defendants, it was
6 after Dr. Scott had checked his mail in the evening, he
7 went upstairs, got a hammer, came down and broke the
8 window, and went back up to his apartment. That's their
9 theory of the case as best we can understand it.

10 But let's get the timing of Dr. Scott coming
11 down to the lobby. Dr. Scott will testify that at about
12 between 6:00 and 6:30 in the evening, he exited his
13 apartment to check his mail. And he comes down and he
14 sees Lazer in the lobby by the mail slots. And Lazer
15 engages him in conversation. And Dr. Scott attempts to
16 talk about the light switch and the fire department.
17 Lazer wants to talk about the window. And Dr. Scott will
18 tell you about that conversation. And the most important
19 thing about that conversation is in -- well, first of all,
20 is the time, okay? But second, Lazer never says in that
21 conversation anything about Dr. Scott breaking the window.
22 He says the window is broken. And, in fact, he says that,
23 you know, he's going to call the police and have the
24 person arrested whoever broke that window. He never says
25 Dr. Scott.

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1 So, we will ask you to conclude that at that
2 time Lazer didn't believe that Dr. Scott had broken the
3 window, he would have told him. That the story was
4 concocted later after he had talked to Joey or Hamdi. And
5 we don't have direct evidence of that, but we will ask you
6 to draw that conclusion so that the scenario will make
7 sense to you.

8 So, Dr. Scott will say after this argument with
9 Joey in which he says that he's going to call the fire
10 department, and Joey doesn't say anything about Dr. Scott
11 breaking the window, Dr. Scott goes back to his apartment
12 puts on his T-shirt and shorts and starts to exercise.
13 And he will tell you that there was a knock on the door.
14 And that Dr. Scott said, oh, this is great, they are going
15 to fix my light switch. But the surprise is that it's the
16 police. And the police say, in words or substance, what
17 do you have to say for yourself? And Dr. Scott is saying,
18 I don't know what you mean. And back and forth. But the
19 bottom line is, that the police have him stepping outside,
20 turning around and he's handcuffed.

21 This is very important for your determination of
22 who's responsible and who's behind this. Dr. Scott will
23 testify that when he comes out of his apartment with the
24 police, that he sees both Lazer and Joey in the stairwell
25 observing. And this would counter any claim that you may

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1 hear, if you believe Dr. Scott, that Joey was not involved
2 in this arrest. Dr. Scott will say he was right there.
3 And not only was he right there, Dr. Scott will tell you
4 that both Joey and Lazer said to the police, that's the
5 guy.

6 Again, there is no writing about this. There is
7 nothing, there is no report from Lazer or Joey about the
8 incident like you might expect. You won't see that
9 because it doesn't exist. So Dr. Scott, I had mentioned a
10 key issue and I hadn't gone into it much. But there are
11 three people living in Dr. Scott's apartment, there are
12 only two keys. So, Dr. Scott's wife would be coming home
13 and wouldn't have a key to get into the apartment. So,
14 Dr. Scott begs the police, can you wait until my wife gets
15 here so I can give her the key, and then the police said
16 fine. But in the meantime he's handcuffed.

17 So, at that same time, Dr. Scott will tell you
18 that Joey is talking to the police woman, we don't know
19 what was said. But it's clearly Joey, according to Dr.
20 Scott's testimony, taking charge of the situation.

21 So, Dr. Scott now is in a situation where his
22 wife comes home not knowing nothing, and seeing her
23 husband handcuffed in the back of a police car. Her
24 ancient Greece philosopher.

25 So, we will ask you to take into account, when

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1 we ask you for monetary damages, the humiliation, the
2 stress, the embarrassment and the concern that Dr. Scott
3 was experiencing at that moment. But Dr. Scott observes
4 his wife talking to the police, I guess it was a police
5 woman that she was talking to. And he's convinced that
6 his wife is going to tell the police woman that it
7 couldn't have been Dr. Scott. And Dr. Scott is thinking
8 this is great, the handcuffs are going to come off. But
9 they don't. So off he goes, off he goes to the police
10 station in that car handcuffed.

11 So what happens at the police station? He's put
12 in a lockup, of course. And he's there with a strange
13 person, or a least a person he doesn't know, and he
14 doesn't know how long he's going to be there. He doesn't
15 know what's going to happen to him. And he doesn't know
16 about these charges, whether they will be upheld. He
17 doesn't know the impact that it will have on his career,
18 on his life, his everything. He's sitting there and
19 finally after three hours they call him to the desk and he
20 gets his release.

21 Now he gets to walk home at, I don't know, 10:00
22 at night. But very interesting, that when he was
23 arrested, the police cut the string on his gym trunks,
24 presumably so he couldn't hang himself, I don't know. So,
25 he had to keep holding his pants up and his T-shirt.

OPENING - BY PLAINTIFF/MR. BASIL

1 Again, another one might conclude a stressful experience
2 that was visited upon him by the defendants.

3 The ordeal wasn't done. He had to appear three
4 times before the district attorney over the course of the
5 next couple of months. Each time he had to pay a lawyer.
6 And it wasn't much, \$1500 total, which we will seek
7 reimbursement. But also with the DA pressuring him to
8 plead guilty. And every time that he had to consider that
9 and every time that he decided he would not plead guilty
10 and continue on with not guilty. But that process took
11 four and a half months to conclude and finally, the
12 charges were dropped by the DA. By the way, the charge
13 itself was called criminal mischief in the 4th degree.
14 So, this is what Dr. Scott would have hanging over his
15 head, and maybe it's still hanging over his head, because
16 the record is the record.

17 So, how will we prove that the charges were
18 false? As I referred to earlier, among our proof is the
19 testimony of Dr. James Noyes, a longtime tenant of the
20 building. And he will testify, he's here under subpoena
21 from my office, and he will testify that he had first
22 become aware that the window was broken at 11:30, roughly
23 seven hours before Lazer claims that Dr. Scott, after
24 their conversation, went upstairs and broke that window
25 with a hammer. So, one of those two stories is

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1 necessarily not correct. And you will not hear that Dr.
2 Noyes has any skin in the game, if you will.

3 Dr. Noyes is here under subpoena. He's here to
4 tell the truth. And he had no interest in whether Dr.
5 Scott was arrested or not arrested, or convicted or not
6 convicted. And we will ask you to take that into account
7 as you listen to Dr. Noyes' testimony.

8 But there is more. The next day, and this will
9 be more testimony from Dr. Noyes, the next day Dr. Noyes
10 happens to run into Joey out on the street and they have a
11 conversation. And Joey tells Dr. Noyes that Dr. Scott and
12 Lazer argued, and that Scott got mad and that Scott went
13 back to his apartment and got a hammer and broke the
14 window right in front of the Lazer. So, very next day
15 Joey is telling that story. Well, Dr. Noyes corrected him
16 and he said, no that's not possible. I saw the window
17 broken in the morning. And you will hear that from Dr.
18 Noyes and he also has confirming e-mails. So what does
19 Joey do? According to Dr. Noyes, he just goes silent.
20 What doesn't he do? He doesn't investigate. He doesn't,
21 as the person in charge of the building say, wait a
22 minute, we just had Dr. Scott arrested and now here is a
23 tenant telling me that according to his recollection it's
24 impossible that Dr. Scott broke the window. Joey does
25 nothing. And we ask you to take that into consideration

OPENING - BY PLAINTIFF/MR. BASIL

1 when we ask you to name the defendants responsible for Dr.
2 Scott's damages and predicaments.

3 So, I believe that the evidence will clearly
4 demonstrate to you that Kosova, Hamdi and Joey wanted Dr.
5 Scott out of that building. Dr. Scott was nothing but
6 trouble. He was paying submarket rent. And I will ask
7 you to conclude that this is the scheme that they came up
8 with. He paid his rent on time you will hear, so they
9 couldn't evict him for nonpayment of rent. And we will
10 ask you to conclude that this was their methodology to be
11 rid of Dr. Scott once and for all.

12 As far as the damages are concerned, we already
13 outlined some of them and I'm not going to go back over
14 it. But the damages were, you will hear from the judge at
15 the end of the case, the basis you may award damages on
16 each of the counts. We believe that the evidence that we
17 present to you will justify an award of damages on each of
18 those counts.

19 We will also ask you to consider something
20 called punitive damages. You may or may not know what
21 they are. But punitive damages have nothing to do with
22 the compensation for Dr. Scott. Punitive damages are
23 intended to punish wrongdoers. And if you believe that
24 the evidence warrants a punishment, that is separate and
25 above whatever you award for compensation for Dr. Scott.

OPENING - BY DEFENDANT/MR.COOKSON

1 All I can do is say listen to the evidence, use
2 your judgment and use your logic. And we're looking
3 forward to having you get in there and discuss this among
4 yourselves and come to the right conclusion. I thank you
5 so much for your attention.

6 THE COURT: Thank you.

7 We're going to continue. Anyone need a break?
8 It doesn't matter, tell me now.

9 Counsel.

10 MR. COOKSON: Thank you, Your Honor.

11 Your Honor, counsel, good morning. Counsel
12 paints quite the picture of the situation. This is a
13 building that was owned by my clients for many years.
14 It's actually the first building that they ever bought.
15 And the residents have lived there for a long time.
16 Generally speaking, they get along well, no major
17 problems.

18 The plaintiff was a slightly different
19 character. Counsel, as I told you, has painted a very
20 well crafted theory about this case. But the bottom line
21 is, there was no malicious prosecution or false arrest or
22 negligent hiring by my clients, which are Kosova. We'll
23 use his terminology, Hamdi and Joey. It was a well run
24 building. Lazer is not here, he's not represented by me.
25 And you will hear from the judge there are certain

OPENING - BY DEFENDANT/MR.COOKSON

1 ramifications to that.

2 But the evidence will show that neither Hamdi
3 nor Joey had anything to do with this arrest. Didn't know
4 about it until after it took place. Never tried to follow
5 through and have the plaintiff evicted. They were never
6 contacted by the DA's office. They never sought to
7 contact the DA's office and reallying had little or
8 nothing to do with the ultimate outcome, which was a
9 dismissal not on the merits, but on what they call speedy
10 trial grounds, because no one had followed through.

11 The arrest itself, yes, he was arrested and he
12 was brought to the precinct house. He was held there for
13 a short time and then he was released. And my clients
14 have no control over any of that or the subsequent
15 appearances in court. That's strictly up to the DA's
16 office. As I said, they never reached out to the DA's
17 office. And Kosova never pursued it, and neither Hamdi
18 nor Joey pursued.

19 There were a lot of things that went on that
20 you'll hear about from various witnesses that indicate,
21 that as much as the demon that we're being painted as,
22 it's just as likely that Mr. Scott is using this event as
23 a way to get something out of us. You heard about the
24 compensation and things like punitive damages. He was not
25 injured. He was not defamed. He sought no medical

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1 attention, psychological treatment. He didn't lose any
2 wages. It was an unfortunate incident. We weren't there.
3 We don't know what Lazer saw or didn't see. We don't know
4 what Lazer's motivations were. We did not put Lazer up to
5 doing this.

6 We're not going to hear from Lazer. All you're
7 going to hear is Dr. Scott, and he can say whatever he
8 wants. But there is no evidence that my clients arranged
9 for this to happen or tried to persuade Lazer to make a
10 false claim. They had nothing to do with it. And once it
11 was set in motion, it was set in motion. And they made no
12 attempt to prosecute him. So, my position is, Lazer made
13 this call. The police came. Nobody ran upstairs with the
14 police, including Lazer, to insist that this guy be
15 arrested and really make a big deal out of it. They just
16 reported it and the police came and they went upstairs on
17 their own and arrested him based on a report that Lazer
18 said he had seen this happen, and took him in. They could
19 have brought him all the way downtown and put him through
20 the whole system, but they didn't. They just gave him a
21 desk appearance ticket and sent him on his way. Yes, he
22 had to go to court a couple of times. But, again, we had
23 nothing to do with that. The system runs the way that the
24 system runs. And we were not the complaining witness. Th
25 Kosova was not the complaining witness. Hamdi was not the

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1 complaining witness. Joey was not the complaining
2 witness. It was Lazer who was the complaining witness,
3 and he didn't do anything about it either. He had just
4 reported it and that was that.

5 So, there is a lot of history that you'll hear
6 about in this building and between Dr. Scott, who appears
7 mild mannered, he's a philosophy professor or something.
8 And my guys are, of course, are vicious and horrible. But
9 that's not the way that it is.

10 I want you to keep an open mind about all of
11 this as you listen to the witnesses and determine whose
12 motivations are governing why we're here today. And if
13 you do that, I'm very confident that you will conclude
14 that there is no false arrest and malicious prosecution or
15 negligent hiring charges that really hold any water as
16 against my clients. Thank you.

17 THE COURT: If no one needs a break, we'll
18 continue. Counselor, call your first witness.

19 MR. COHEN: Plaintiffs call Dr. James Noyes.

20 THE COURT CLERK: Please remain standing. Raise
21 your right hand.

22 **D R . J A M E S N O Y E S ,**

23 **Called as a witness by the Plaintiff, was first duly**
24 **sworn or affirmed and testified as follows:**

25 THE WITNESS: I do.

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1 THE COURT CLERK: Thank you. Please state your
2 name and spell it for the record.

3 THE WITNESS: James Noyes, J A M E S N O Y E S.

4 THE COURT CLERK: Address.

5 THE WITNESS: 83 Park Terrace West, apartment
6 3E, New York, New York 10034.

7 THE COURT CLERK: Thank you. You may be seated.

8 The witness is sworn.

9 THE COURT: Thank you. Try to keep your voice
10 up and speak into the microphone. Listen to the question
11 asked and then if you can answer yes or no, do so. If you
12 do not understand the question, say so and I will ask that
13 the question to be rephrased. If you don't know the
14 answer, say so. If you don't remember, say so. But
15 distinguish between the two because they are not the same.
16 Thank you.

17 DIRECT EXAMINATION

18 BY MR. COHEN:

19 Q Good morning, sir.

20 A Good morning.

21 Q Are you here day because you were served with a
22 subpoena to appear at trial?

23 A Yes.

24 Q The address that you just gave, how long have you
25 lived at that address?

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1 A I moved in in August of 1997.

2 Q What is your educational background?

3 A So, I have a degree in music education from
4 University of Minnesota. Degree in music performance from Penn
5 State University. And a doctorate from the Manhattan School of
6 Music, Music Performance. And I also have an -- I'm a licensed
7 social worker. Received my degree from Fordham University.

8 Q Are you currently employed?

9 A I teach at William Paterson University out in New
10 Jersey, which I've been there since 1999. And I teach at the
11 Manhattan School of Music, Precollege Division. I've been
12 there since 2001.

13 Q When you first moved into the building in 1997, who
14 was the landlord at that time?

15 A Hamdi Nezaj.

16 Q Is he still currently the landlord?

17 A Yes.

18 Q Do you know an individual named Gregory Scott?

19 A Yes, he lives on my floor.

20 Q And how long have you known him?

21 A Since he moved in.

22 Q Can you describe your relationship with Dr. Scott
23 over the years?

24 A Dr. Scott and I are friendly. I wouldn't say that
25 we're -- I mean, we're not close friends. And we've been out

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1 to dinner a few times, and I've had some gatherings at my
2 apartment that he's attended. And cordial, collegial.

3 Q How long have you known Hamdi Nezaj?

4 A I met him when I moved in in '97.

5 Q And how would you describe your relationship with
6 Hamdi?

7 A Very good. It's always been a very good relationship
8 since I moved in. Things have soured a bit since this whole
9 thing has transpired and the Court case and everything.

10 Q What do you mean by when you say, "Things have soured
11 a bit"?

12 A Well, when I've called to him to talk to him about
13 things, usually the tone is friendly, but then it will sort of
14 devolve into ranting about Dr. Scott and --

15 MR. COOKSON: Objection, Your Honor. It's all
16 post-incident.

17 THE COURT: Overruled. Continue.

18 A He mentioned that -- well, he'll say, "Your friend
19 Dr. Scott."

20 MR. COOKSON: Objection. Hearsay.

21 THE COURT: Rephrase your question. I'm going
22 to sustain it. Rephrase your question.

23 MR. COHEN: Okay.

24 Q When you spoke with Hamdi, did he make any comments
25 to you regarding Dr. Scott?

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1 MR. COOKSON: Objection.

2 THE COURT: I'm sorry, regarding?

3 MR. COHEN: Dr. Scott.

4 THE COURT: Without saying what the comments
5 were, you can answer yes or no.

6 A Yes.

7 Q Prior to September 16th 2015, did he make comments to
8 you regarding Dr. Scott?

9 A No.

10 Q You testified earlier that your relationship with
11 Hamdi Nezaj soured, can you tell us when that relationship
12 soured?

13 A Well, it was definitely after this arrest.

14 MR. COOKSON: Objection, Your Honor, relevance.

15 THE COURT: Overruled.

16 For the record, please specify what "this" is.

17 THE WITNESS: So, my relationship with Hamdi has
18 always been good also with Joey. And I personally like
19 both Hamdi and Joey. And after Gregory Scott got arrested
20 and thrown in jail, and when I spoke to Joey and I said I
21 saw the window broken at eight -- I'm sorry, at 11:30 that
22 morning. And I told him that several times. It was after
23 that point that my relationship with Hamdi and Joey was
24 strained.

25 Q You just testified that you told the defendant

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1 Shpend, or does he have a nickname?

2 A Joey is how I've always known Hamdi's son.

3 Q You testified that you told Joey several times that
4 you saw that the window was broken at 9:30 [sic] in the morning
5 how many times did you tell him that?

6 A Well, so, the day after Gregory Scott's arrest I was
7 walking -- well, I ran into my next door neighbor Michael Bliss
8 who is in 3 D. And he said, yeah, did you hear about what
9 happened? And so we were, so we were talking about it. As I
10 was walking to the subway Michael walked along with me. And we
11 happened to run into Joey in front of the Twin Doughnut on
12 207th Street and Broadway. And Michael said to Joey, hey, what
13 happened --

14 MR. COOKSON: Objection.

15 THE COURT: Sustained.

16 A So, at that point Joey told us his version of events.
17 He said, yeah, you know --

18 MR. COOKSON: Objection.

19 MR. COHEN: Excuse me.

20 THE COURT: Thank you. Overruled.

21 You can continue.

22 A He said, yeah, Greg and Lazer --

23 THE COURT: I'm sorry, I have to interrupt. Who
24 is the "he" here?

25 THE WITNESS: Joey.

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1 THE COURT: Sustained.

2 A Said --

3 THE COURT: Sustained.

4 So, when I say "sustained," don't continue. And
5 he will ask you another question.

6 THE WITNESS: Thank you.

7 THE COURT: When you speak, try not to say what
8 someone told you, that's what this is about, these
9 objections. Very hard to do that.

10 MR. BASIL: Your Honor, may we be heard?

11 THE COURT: Absolutely. Stay there.

12 (Discussion held off the record in the robing
13 room)

14 THE COURT: You can continue.

15 Q Dr. Noyes, when you, as you put it, when you ran into
16 Joey outside the doughnut shop --

17 THE COURT: I need you to talk into the mic. I
18 know it's difficult. Can you try to push it near you or
19 speak louder. Thank you.

20 MR. COHEN: Yes.

21 Q When you ran into Joey near the doughnut shop, did he
22 tell you anything regarding the broken window?

23 A Yes.

24 Q And what did he tell you?

25 A He said Gregory Scott did it.

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1 Q Did he say, did he say anything more than that?

2 A He said Gregory Scott did it around 7:00 p.m. He
3 came downstairs and had a hammer and broke it in front of him
4 and Lazer at around 7:00 p.m.

5 Q Sir, if I understand your testimony, Joey told you
6 that he saw Dr. Scott break the window?

7 A Yes.

8 Q You said earlier, your testimony that you spoke to
9 Joey several times regarding the breaking of the window. So,
10 what you just described, is that the first time?

11 A That was the first time. And I told him I had seen
12 the window broken. So, there is alternate side parking on that
13 day and so I had to move my car around 11:30. So, on my way
14 down I saw the window. That was the first time on my way to
15 move my car.

16 And then I saw it again when I went out and moved my
17 car back to the other side. And then I went to work around
18 2:30, and that's when I saw it a third time. And I told him
19 that the day after in front of the doughnut shop. I said, I
20 saw the window these three times earlier in the day.

21 Q Just so that the jury is clear, when was the first
22 time, September 16th 2015, that you saw that the window was
23 broken?

24 A Well, it was around 11:20 or thereabouts when I went
25 to move my car. A.M.

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1 Q And the second time was what?

2 A Quarter to one.

3 Q And the third time?

4 A 2:30.

5 Q Now, could you explain to the jury where this window
6 is and in terms of the apartment building, the apartment
7 building? Is it -- does it face the outside? Is it an
8 interior window?

9 A So, when you come into the apartment building up a
10 couple of steps there is some mailboxes, and then there is a
11 staircase. And so it was, it's right by the mailboxes. And
12 it's the first window you see up the staircase. So you can see
13 it from the landing.

14 Q Do you know if there is any video cameras in the
15 building?

16 A There are now, but there weren't then.

17 Q Were there any video cameras in the building in
18 September of 2015?

19 A Not that I am aware.

20 Q You mentioned Joey, in 2015 do you know what his
21 position was in the building?

22 A Joey moved into the building -- I don't know exactly
23 when. But he moved into the first floor, 1 D, and he was there
24 with his wife and family. And I understood him to be the
25 manager of the building. You know, Hamdi was still the

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1 landlord, but Joey was in charge of this property in particular
2 and maybe some others.

3 Q Is Joey the son of the landlord?

4 A Correct.

5 Q What types of activities did Joey do in terms of
6 managing the building?

7 A I remember when he came around and introduced
8 everybody to the new superintendent, Lazer. He came around to
9 everybody's door and he introduced himself and said that this
10 is our new superintendent, Lazer. And, you know, any time that
11 there was issues with plumbing or heating or, you know, just
12 the usual stuff, we could go right to Joey instead of having to
13 go through Hamdi. So, he was an intermediary and, so everybody
14 knew him as an extension of the landlord.

15 Q How long was Lazer the supervisor of the building?

16 A I would say -- Lazer or Joey?

17 Q Lazer.

18 A So, Lazer came in in 2015. And I would say a couple
19 of years, maybe until 2017, I don't know; it was short.

20 Q How would you describe your relationship with Lazer?

21 A I had a good relationship with Lazer. I asked him if
22 his name was Lazarus. And that's actually his real name,
23 Lazarus. And he fixed my plumbing on a couple of occasions and
24 did a good job.

25 Q Are you familiar, sir, with the term tenants'

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1 association?

2 A Yeah.

3 Q And can you tell us what that term means to you?

4 A When tenants get together and organize in order to
5 discuss issues in the building or with the management. And a
6 way of getting to know each other and becoming more informed
7 about our rights as tenants. And also there is strength in
8 numbers, if any issues need to be addressed.

9 Q When you first moved into the building in 1997 was
10 there a tenants' association?

11 A No.

12 Q Did there, to your knowledge, did there come a time
13 when there was a tenants' association in the building?

14 A In 2015 Dr. Scott started a tenants' association. He
15 slid -- he typed up a notice and slid it under people's doors
16 and encouraged people to join.

17 Q Were there other tenants that were also involved in
18 starting a tenants' association in the building?

19 A There were, there were several that joined publicly
20 and some that joined privately.

21 Q What do you mean some joined privately?

22 A I was one of those people. I supported Greg in the
23 sort of the behind the scenes, but I just, I didn't -- like I
24 said, I have a better relationship with the landlords and I
25 was -- I wanted to support Dr. Scott, but I also didn't have --

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1 I didn't feel like I wanted to go that next step and be
2 publicly in on the tenants' association.

3 Q Why did you not publicly join the tenants'
4 association, what was the reason for that?

5 A Well, fear of retaliation.

6 MR. COOKSON: Objection.

7 THE COURT: Overruled.

8 Q When you say "retaliation," what do you mean?

9 A Well, you know, when you have, when you're not your
10 own landlord you're dependent on somebody else for your home.
11 And they provide an excellent home, I have to say. And so, I
12 just didn't want any -- I didn't want any friction there
13 between me and Hamdi and Joey.

14 Q Sir, you testified that you were afraid of
15 retaliation, from whom were you afraid of retaliation?

16 A Well, I mean, I guess either Joey or Hamdi. I didn't
17 know how they could make my life more difficult. But I didn't
18 want to risk it. I'm not saying that -- yeah, I'm not saying
19 that's what I was assuming that would happen. I just didn't
20 even want to risk that chance. You know, I didn't want to go
21 there.

22 Q Do you know if Joey was aware of the tenants'
23 association prior to September 16, 2015?

24 A Yes.

25 Q And what is the basis for that answer?

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1 A Well, I guess it's just, it was an assumption on my
2 part. That these fliers that were put under the doors, some of
3 the tenants would have forwarded those to the landlord. I
4 mean, as far as I know; I'm not sure. But Dr. Scott might have
5 even slid one under Joey's door, I'm not sure.

6 But it was a topic of conversation among the tenants.
7 And Joey lived in the building and so it seemed fairly likely
8 that he was aware of it. And he was expressing his -- he was
9 upset about it.

10 Q Did Joey express his upset about the tenants'
11 association to you?

12 A I don't really remember at this point.

13 Q But grant it, this was almost ten years ago?

14 A Yeah.

15 Q Did you ever speak to Joey about the tenants'
16 association prior to September 16, 2015?

17 A I don't think so.

18 Q Are you aware of any communications between Dr. Scott
19 and Joey prior to September 16, 2015 regarding the tenants'
20 association?

21 A Only what was mentioned by Dr. Scott's lawyer. But
22 that was -- I was only hearing that through Greg and I'm not
23 sure I'm supposed to say what Greg said.

24 THE COURT: I need to correct myself. Earlier,
25 and I understand why you said that, because I told you to

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1 try not to say what people say. And what you need to know
2 is, there are sometimes occasions where you could say what
3 people say, which is why when we had a sidebar you were
4 able to speak to that fact. So, it's not in every
5 instance. So, you should not be reluctant to say
6 something. It's their job to let me know when I need to
7 intervene. So, please speak freely.

8 A Greg did mention to me that he had an incident where
9 he said that he had a discussion with Joey. And Greg said, you
10 know, if things don't change around here in the building, I'm
11 going to start a tenants' association. And then that's when he
12 said, well, if you start a tenants' association, I'm going to
13 bring --

14 MR. COOKSON: Objection.

15 THE COURT: Overruled.

16 A I'm going to bring my brother and a couple of other
17 guys and you're going to be out of here. And so that was, I
18 mean, when Greg told me that, again, that was reason enough for
19 me to not go public and be on the tenants' association.

20 Q In 2015, to your knowledge, were there any issues
21 regarding entering the building or the buzzer, things of that
22 nature?

23 A The buzzer might be out occasionally. They did
24 finally replace the console. But it was certainly buggy, I
25 guess you could call it.

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1 Q Was there a period of time where there was a problem
2 entering the building?

3 A In terms of the buzzer?

4 Q I'm even open, it could be the buzzer or were there
5 other --

6 A So, in July of 2015 a new lock was put on the front
7 door of the building. And so all the old keys were retrieved
8 and new keys were handed out.

9 Q And did you receive the new keys?

10 A I received one new key and I asked for a second key,
11 because I wanted one for my fiance. And I had had two front
12 door keys prior to that, but I only received one.

13 Q And you said eventually you did get a second key?

14 A I asked Joey probably on, I would say, four or five
15 times about getting a second key. One time he said, well, we
16 need your fiance's identification. And that seemed a little
17 unreasonable, but we wanted a second key. So we made a
18 photocopy of her driver's license and I slid it under Joey's
19 door with a note, you know, here is Dalia's information. And
20 it would be great if we get another key.

21 And then I also asked Lazer at least once about
22 getting a key, because I was told to go and speak to Lazer
23 about it. And then Lazer said, I don't know anything about
24 this, you need to talk to Joey.

25 So, it was just -- so it was 13 months of asking for

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1 a second key and then finally I got one. But, but, Dr. Scott
2 had told me that it was within my rights to have two keys. So,
3 and like I said, I had had two front door keys prior to this.
4 And so having the second one was helpful.

5 Q You said that you had two keys previously?

6 A Yes.

7 Q Did you have any trouble getting the second key
8 previously?

9 A No.

10 Q So, just so that everything is clear as far as the
11 timeline here. Did you say it was in July of 2015 that you
12 asked for the second key?

13 A I was gone, so it would have been in August.

14 Q So, you asked for the second key in August?

15 (Witness nodding head)

16 Q You have to answer verbally.

17 A Yes.

18 Q And then as of September 16th 2015, did you receive
19 the key?

20 A I believe I received that key in, like I said, it was
21 around 13 months after I asked. So it would have been 2016 in
22 the fall.

23 Q You received a key in the fall of 2016?

24 A So, the broken window incident was in 2015,
25 September. So it would have been a year after that.

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1 Q Okay. Sir, after Dr. Scott was arrested were you
2 contacted why the New York Police Department regarding the
3 broken window?

4 A Not the police department, but the district attorney.

5 Q When were you contacted by the District Attorney's
6 office?

7 A I don't know, summer of 2017 or 2018. It was several
8 years after the fact.

9 Q Was the subject matter of the conversation, did it
10 involve the broken window?

11 A Yes.

12 Q And do you recall the name of the -- was it an
13 assistant DA?

14 A Assistant district attorney. I don't remember the
15 name. It was a woman.

16 Q Were you living in the apartment at the time she
17 contacted you?

18 A Yes.

19 Q And did you talk with her by phone?

20 A Yes.

21 Q And about how long was the conversation?

22 A Fifteen, 20 minutes.

23 Q You testified that the call concerned a broken
24 window, do you recall what you said to the assistant DA?

25 MR. COOKSON: Objection.

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1 THE COURT: Overruled.

2 A I told her what I said earlier today, which was that
3 I had seen the window on three separate occasions broken. One
4 around 11:25, the other one about 12:45 and then the last time
5 2:30.

6 MR. COHEN: Your Honor, one moment, please.

7 THE COURT: Yes.

8 (Counsel conferring)

9 MR. COHEN: Thank you, Dr. Noyes. That's all
10 the questions I have for you.

11 THE WITNESS: Thank you.

12 MR. BASIL: You can stay.

13 THE COURT: Thank you.

14 CROSS-EXAMINATION

15 BY MR. COOKSON:

16 Q I'd like a chance to ask you a couple of questions,
17 if that's okay.

18 A Sure.

19 Q Mr. Noyes, from what I've heard so far, am I correct
20 that you enjoyed a good relationship with the landlords of the
21 building from the time you moved there really up until now?

22 A Yes.

23 Q Okay. Were most of your dealings with Hamdi for
24 those years, the initial years?

25 A Yes.

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1 Q Now, you've testified that you saw this broken window
2 at 11:00, correct? I'm not pinning you down on the time. More
3 or less 11:00 and those other two times?

4 A Yes.

5 Q Did you contact Joey or Lazer to tell them about it?

6 A I did not.

7 Q And why did you choose to -- did you let Mr. Scott
8 know about it?

9 A I did.

10 Q Why would you choose Mr. Scott over management?

11 A The window, as I mentioned, was right up the stairs
12 from the mailboxes. And it was right next to Joey's apartment.
13 So, normally I go downstairs and I write on the little notepad,
14 broken window. But I thought this broken window is right next
15 to Joey's apartment and he'll see it.

16 And so, plus, I was busy. But I also -- Dr. Scott
17 had started the tenants' association and I just decided to send
18 a quick e-mail to him.

19 Q But you passed by that window again two more times
20 hours later?

21 A Right.

22 Q And Joey hadn't addressed it, Lazer hadn't addressed
23 it, it was still a broken window?

24 JUROR: I'm having trouble paying attention
25 because of the --

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1 THE COURT: Does it sound like it's in the
2 building? They will probably make the announcement as
3 they usual do.

4 I'm just going to ask you to speak up. And do
5 we need what you just said read back or do you want to
6 just ask another question?

7 MR. COOKSON: Read it back.

8 (Record read)

9 THE COURT: Is everybody up to date where we
10 were? Okay, great.

11 Q Are you aware of anyone making complaints to the
12 building, Lazer, Joey or anybody else, about this broken window
13 prior to the arrest?

14 A You mean anything documenting that the window was
15 broken or --

16 Q Anybody doing anything. This window and this
17 stairway is traversed by a lot of people during the course of
18 the day, isn't it?

19 A Yeah, mostly I would say people on the third and
20 second and first floors. People that live above take the
21 elevator.

22 Q And you said Lazer was, he did a good job and he
23 fixed, I don't remember, plumbing, is that correct?

24 A Yes.

25 Q And do you know whether he was a full or part-time

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1 employee?

2 A I don't know. He was the superintendent. I don't
3 know if that was full or part time. He lived in the basement
4 apartment.

5 Q You said when the plaintiff started his tenant
6 committee or whatever it was, it was the topic of conversation
7 among the tenants, correct?

8 A Yes.

9 Q And was a good part of that negative towards him
10 because he was doing that?

11 A I would say it was just, some people were interested,
12 some people didn't think that it was necessary. You know, it
13 was some pro, some con.

14 Q Would you say that the plaintiff was a bit of an
15 activist in the building?

16 A Only starting in 2015 with the tenants' association.
17 I don't know of him having been doing anything of this nature
18 prior to that.

19 THE COURT: Let me just say something. I just
20 want to remind you, answer the question asked. If you can
21 answer yes or no, just do so.

22 THE WITNESS: Okay.

23 THE COURT: Go ahead.

24 Q Now, you said that after he started the tenants'
25 association that Joey mentioned his brother and two other guys

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1 going to Scott's apartment and saying you'll be out of here, is
2 that correct?

3 A I heard that through Gregory Scott.

4 Q Did that happen? Was he ever physically removed or
5 attempted to be evicted or anything like that?

6 A No.

7 Q In connection with your --

8 THE COURT: I'm sorry, I'm sorry, I just want
9 the record clear, because that was kind of a compound
10 question. It was, was he evicted and was he physically
11 removed. I want the record clear. Is it yes or no to
12 both, what was that?

13 THE WITNESS: He was not evicted. The only
14 removal I know of was when the police came to take him.

15 MR. COOKSON: Move to strike the part that's not
16 responsive.

17 THE COURT: Overruled.

18 Q What was the name of the assistant DA who called you?

19 A I don't remember.

20 THE COURT: Asked and answered.

21 Q And was that the only time that you had a
22 conversation with someone from the DA's office?

23 A That was the first time. The DA called again, I
24 would say, about a year ago. Different person, I think.

25 Q And you're saying that all of this was related to an

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1 arrest that had happened years and years before?

2 MR. COHEN: Objection.

3 THE COURT: Overruled.

4 A Yes. This pertained to the day in September of 2015
5 where Dr. Scott was taken to jail.

6 MR. COOKSON: Okay. I have no further
7 questions.

8 THE COURT: Redirect?

9 MR. COHEN: Nothing further, Your Honor.

10 THE COURT: Great. Well, thank you.

11 THE WITNESS: Thank you very much.

12 THE COURT: Be careful when you step down.

13 (Witness excused)

14 THE COURT: While the witness is stepping down,
15 does anyone need to take a break?

16 THE COURT: Okay, great.

17 Please call your next witness.

18 MR. BASIL: Your Honor, the plaintiff calls
19 Shpend a/k/a Joey.

20 THE COURT CLERK: Raise your right hand.

21 **S H P E N D N E Z A J ,**

22 **Called as a witness by the Plaintiff, was first duly**
23 **sworn or affirmed and testified as follows:**

24 THE WITNESS: I do.

25 THE COURT CLERK: State your name and spell it

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1 for the record.

2 THE WITNESS: Shpend Nezaj, also known and Joey
3 Nezaj.

4 THE COURT CLERK: Spell it.

5 THE WITNESS: S H P E N D, first name and
6 N E Z A J. And Joey is J O E Y.

7 THE COURT CLERK: Thank you.

8 THE COURT: I would like to just tell you the
9 same thing I tell most witnesses. I want you to answer
10 the question asked. If you can answer in yes or no,
11 answer it yes or no. If you don't understand a question,
12 please say that and whoever is asking you the question, I
13 will have them rephrase. If you don't know the answer,
14 say you don't know. If you don't remember, say you don't
15 remember. But distinguish between the two because they
16 are not the same. Just like the other witness, the other
17 lawyer will have an opportunity to cross and ask you
18 questions as well.

19 THE WITNESS: Okay.

20 THE COURT: Thank you. Please begin.

21 DIRECT EXAMINATION

22 BY MR. BASIL:

23 Q Good afternoon, Shpend.

24 A Good afternoon.

25 Q Did Gregory Scott break a window at 83 Park Terrace

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1 in the evening of September 16, 2015?

2 A It was alleged that he did.

3 Q It was alleged. Well, I'm asking you your knowledge.
4 Do you have knowledge one way or another if Dr. Scott broke a
5 window at 83 Park Terrace West in the early evening of
6 September 16, 2015?

7 A It was alleged by Lazer.

8 Q Do you have any personal knowledge one way or the
9 other whether Lazer's statement or allegation was true?

10 A Aside from what he said, that's something you would
11 have to ask him.

12 Q Well, I'm asking you. Do you believe Lazer, as you
13 sit here today?

14 A I wouldn't -- there is no reason to not believe him.

15 Q Well, did you hear Dr. Noyes' testimony a few minutes
16 ago?

17 A That's his testimony.

18 Q I asked did you hear?

19 A I heard it.

20 Q Did you hear Dr. Noyes on September 16th when he met
21 you near the doughnut shop?

22 A I heard what he said there.

23 Q What did he say?

24 A What he said is not true.

25 Q What did he say that was not true?

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1 A He said we met by Twin Doughnut. We didn't meet by
2 Twin Doughnut. He alleged that he told me a few times that it
3 was broken, that's not true either.

4 Q Did you ever have a conversation with Dr. Noyes about
5 the broken window?

6 A The day after the incident I was walking on Broadway
7 closer to 215 Street and I saw him and another resident,
8 Michael Bliss, speaking together. And as I approach them I
9 said hello to both, and conversation started about the
10 incident.

11 Q And what did Noyes say in that conversation about the
12 incident?

13 A Michael Bliss had said that Jim Noyes said that the
14 window was broken, and Michael Bliss said I didn't see a broken
15 window. And I passed by there that day and he said Scott
16 didn't do it, I sent an e-mail. And I said, okay. I said
17 where is proof of the e-mail? Nobody gave me any proof. And
18 he said that he had to go and he went on his way.

19 Q Now, what was your position at the building on that
20 day, October 15th -- I'm sorry, September 15th 2015?

21 A A lot of positions.

22 Q Well, you had responsibilities?

23 A I chipped in to mom and pop business. When it's a
24 mom and pop business, you chip in and do whatever you can. And
25 one day I might be cleaning the floors. I might be throwing

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1 out the garbage. I might be repairing something. I might get
2 a 2:00 call in the middle of the night and the boiler is down
3 and I go fix that as well.

4 Q What was your position as far as being a supervisor
5 or not of Lazer?

6 A Supervisor of Lazer?

7 Q Yes.

8 A Lazer was more of a superintendent. Superintendent
9 is in small building, it could be a porter, it could be a
10 painter. He could repair your pipes if there is a leak
11 underneath the sink.

12 Q And who was his boss?

13 A He had a few.

14 Q And tell me?

15 A Ultimately, I oversaw some of his repairs for the
16 main part during my stay there.

17 Q So, going back to when Dr. Noyes informed you of his
18 view of the sequence of events in which he told you that he saw
19 the window broken earlier than a Lazer had reported, what did
20 you do?

21 A Say that again.

22 Q Sure. When you learned that Dr. Noyes had a
23 different story, if you will, about the broken window than you
24 had heard from Lazer, did you investigate?

25 A I did not investigate. No e-mails were brought to me

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1 by either Noyes or Mr. Scott at the time.

2 Q Well, you had just heard from Dr. Noyes that Lazer
3 had made a false report about Dr. Scott, right, on the 16th,
4 you heard that?

5 MR. COOKSON: Objection.

6 A Lazer made a report of something that he saw.

7 Q Dr. Noyes gave you information that indicated that if
8 Dr. Noyes' information were true, that Lazer made a false
9 report, is that correct?

10 A If it's untrue. I don't know what's true or untrue.
11 I'm not the law, I'm not the police officers that investigate
12 the crime, so I don't know what to tell you.

13 Q Well, would it matter to you, as Lazers' supervisor,
14 if Lazer made a false report to the police, would you care?

15 A Anybody would care about any report made that's
16 false, yes.

17 Q So, despite the fact that you had information from
18 Dr. Noyes that Joey's [sic] report might have been false, you
19 did nothing?

20 A In Joey's report might have been false?

21 Q Thank you. I'll rephrase the question.

22 So, having received the information from Dr. Noyes
23 that Lazers' information about Dr. Scott breaking the window in
24 the evening might be false, you didn't do anything?

25 A The police were called when a crime is reported, and

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1 you depend on the police to investigate. And at that time I
2 didn't know or didn't have information about anything. The
3 next day something was said. On that, like I said, no
4 information was given to me that this window was broken ahead
5 of time.

6 Now, as a manager of the building, the super, the
7 cleaner, whatever you want to call me, the many job titles that
8 I have there, it's a six story building, many people. It's one
9 elevator. It's not like a new building. You know, it rides
10 probably slow. It's not fast like the elevators are in the
11 court here. But out of 30 plus people, maybe 50 people, if you
12 count partners, whose not partners, nobody else had reported
13 this to us. So, I didn't see allegations to be untrue at the
14 time.

15 Q If you had learned that Lazer had made a false report
16 to the police, as his boss would you have disciplined him?

17 A I would have to see that brought before me to better
18 investigate it, given the opportunity to think a little bit and
19 then see what it entails, to try to do something about it if it
20 was necessary.

21 Q I don't think that you answered my question. Let me
22 try it again. If you concluded in your own mind that Lazer had
23 made a false report to the police about Dr. Scott, would you
24 have disciplined him?

25 A I would have to know the grounds and investigate a

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1 little bit in order to accurately do something. I'm not one to
2 discipline right off of the bat, I like to hear the story from,
3 for example, Lazer, Mr. Scott, if that's the situation, or any
4 other situation. Or I have to talk to the parties to better --

5 Q So, as you sit here you don't know if you would have
6 disciplined Lazer if you had concluded that he had made a false
7 police report, correct?

8 A I would have to see the outcome is what I'm trying to
9 say. I'm not the law, I didn't investigate anything because
10 nothing was brought before me to investigate.

11 Q Did you have any direction from Hamdi about how to
12 handle a situation --

13 A No.

14 Q Let me finish it. I didn't get to the end of it.

15 A I thought that was the end, I apologize.

16 Q Did you get any direction from Hamdi about how to
17 handle a situation in which the police were being called to the
18 apartment building?

19 A Not always. Cops get called for many reasons.
20 Sometimes you're not aware of the reason.

21 Q Did you have any conversation with Hamdi at any time
22 before September 2015 about how to handle a situation where the
23 police were called to the building?

24 A No.

25 Q To your knowledge how many times have the police been

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1 called to the building?

2 A I'm not sure.

3 Q Do you know of any other than the September 15th
4 incident with Dr. Scott?

5 A There has been situations when I've seen police cars
6 outside, whether they were there for the building or something
7 across the street, I'm not sure.

8 Q So you don't know if the police were actually called
9 for the purpose of coming to the building to make an arrest, is
10 that correct?

11 A I'm not, no.

12 Q By the way, was it your responsibility to hire or not
13 hire Lazer?

14 A In terms of hiring people, we would consult. But a
15 lot of times in the hiring process we will speak to somebody a
16 few times before hiring them.

17 Q So the "we," is that you and your father or anybody
18 else?

19 A Correct. It could be others as well.

20 Q Who would be the others that would be involved?

21 A Brother.

22 Q Brother and known as Lucky?

23 A Two other brothers.

24 Q Two other. I'll leave that be since I'm out of my
25 league there.

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1 So, with respect to hiring Lazer, how was Lazer first
2 connected to Kosova?

3 A Say again.

4 Q With respect to Lazer, do you know how Lazer was
5 first connected to somebody at Kosova?

6 A No.

7 Q Have you ever heard your father say that he had met
8 Lazer in a strip bar?

9 A No.

10 Q Do you know if that's true or false?

11 A That would be he didn't meet him at strip club or
12 strip bar, as you said.

13 Q Where did he meet him?

14 A I believe at his office or the building.

15 Q And were you present when he met him?

16 A I'm not sure, some time has passed. At some point I
17 did meet him.

18 Q So, when you first met Lazer had he been hired or was
19 he still under consideration?

20 A He was under consideration.

21 Q And so did you have the final word on whether he
22 would be hired or not?

23 A It's possible.

24 Q So, to make a decision about whether to hire Lazer or
25 not to hire him, what did you do?

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1 A To make the decision?

2 Q Yes.

3 A I investigate his background in relation to
4 maintenance in the building.

5 Q So, how did you investigate his background?

6 A He came, I believe he was a, if I'm not wrong, some
7 time has passed, I believe that he worked in some Park Avenue
8 building as a maintenance man.

9 Q And did you get records from his prior employer?

10 A No.

11 Q Did you talk to his prior employer?

12 A No.

13 Q You relied on Lazer's word about his experience then,
14 correct?

15 A That and photos that he showed me of how the building
16 looks and --

17 Q Photos of his prior building?

18 A Yeah, work that he's done.

19 Q So, there is nowhere that we can go to Kosova's
20 records and find out what Lazer told you or Hamdi about his
21 qualifications or background, correct?

22 A There is no paper trail, no.

23 Q And as far as when Lazer started working, what
24 records were kept of Lazer's activities?

25 A Not many. There was a, like Mr. Noyes referred to,

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1 there was a pad. Tenants would write down my washers are
2 leaking, faucet, washers are leaking, bathtub backed up. We
3 would cross it out and see that it was taken care of and that's
4 it.

5 Q And so this is a building with how many units 36, 37?
6 What's the number?

7 A It's 37 units.

8 Q Thirty-seven units?

9 A Yeah.

10 Q So, there is no record for each unit of the
11 activities of Lazer and what he might have done in each of the
12 units during his time there?

13 A We never had any problems with tenants to get work
14 orders signed. So there was no court cases or any nature of
15 that. It was just going friendly, come out, thank you very
16 much and have a nice day.

17 Q So, am I correct there are no written records of
18 those interactions?

19 A No, just perhaps with Mr. Scott, that's it.

20 A There was some work orders signed for his unit?

21 Q So, as of September 16th 2015, was Scott a tenant in
22 good standing?

23 A Good standing, that's a hard one.

24 Q Well, were there grounds to evict Mr. Scott?

25 A From a landlord standpoint, you don't really move to

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1 evict somebody out of nowhere.

2 Q Well, did he, to your knowledge, did he pay his rent
3 on time?

4 A I would have to see the records to really reflect on
5 that.

6 Q Do you know if he was paying submarket rent in 2015?

7 A I don't recall what the market was at the time to
8 know what his rent is.

9 Q Well, if he was paying approximate -- if he was
10 paying approximately \$14,000 a month for that two bedroom
11 apartment, that would be submarket, wouldn't it?

12 A In market? I don't think in the Inwood section of
13 Manhattan you would see \$14,000. Maybe a supermarket. You
14 said 14,000.

15 Q I'm sorry, my mistaken. If Dr. Scott was paying
16 \$14,000 [sic] per month for that two bedroom apartment in 2015,
17 that would be submarket, would it not?

18 A Like I said, I can't say. I would have to see what
19 the market states as a market value. I'm not sure.

20 Q Well, would it be less or less than the other tenant
21 on the third floor with a two bedroom apartment at that time?

22 A I think at the building we have somebody that pays
23 \$600 a month for a two bedroom, this very nice lady.

24 Q And that's a rent controlled?

25 A No, that's a rent stabilized unit.

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1 Q And is that of the market?

2 A Is that market?

3 Q Yes.

4 A Probably be below market.

5 Q I'm sure. So, you don't know one way or another
6 whether Dr. Scott in 2015 was paying market for his rent or
7 submarket?

8 A I'm not sure. If you understand rent stabilized
9 units, without getting into the length of it. Basically there
10 is guidelines that come out. And when you give a renewal
11 lease, you go according to those guidelines. That's the law
12 and you follow the law.

13 Q Now, before September 16, 2015 had Dr. Scott ever
14 damaged the building?

15 A To the building, no.

16 Q Did it seem odd to you that Dr. Scott, who had been
17 living there since 1998, would for the first time decide to
18 damage the building on September 16, 2015?

19 A I can't speak for people's actions, I could only
20 speak for my own.

21 Q And I'm asking you, did you find that odd?

22 A There is a lot of things I find odd in the news,
23 people do all kinds of things. I can't tell you.

24 Q I think that you'll remember that the judge said if
25 you can answer yes or no, you should do it.

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1 So, my question is, did you find it odd that Dr.
2 Scott would take a hammer out and break a window in front of
3 Lazer so Lazer could see it on, September 16, 2015?

4 A It's not a yes or no question. But in order to try
5 to please you, she didn't restrict me to yes or no question.
6 I'm telling you, people do odd things. I cannot tell you
7 what's in the mind of somebody else.

8 Q Well, but you testified in your deposition that you
9 believed Lazer, correct?

10 A This is what he told the cops. I don't see how he
11 would lie. I think that people, you know, don't lie when they
12 see something happen before their eyes. I would hope that they
13 wouldn't.

14 Q Well, you heard Dr. Noyes testifying under oath here
15 today. In your opinion did Dr. Noyes lie today?

16 A About some stuff, yes, he did.

17 Q What did he lie about?

18 A Where we met. What was spoken about. Those are lies
19 or perhaps he forgot, being it's so many years back. I don't
20 want to be rude and say to an adult that they are lying.
21 That's their facts and my facts are obviously different.

22 Q Did Dr. Noyes lie today under oath when he said that
23 he saw the window broken in the morning?

24 A So, I'm going by what's in front of me. And I
25 believe, I believe that the window was not broken at the time.

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1 Because I didn't get any complaints about it. I did find it
2 odd that he didn't report it to anybody in management. He
3 does, like he stated, when he writes down on the board
4 downstairs about complaints or when he calls for other stuff,
5 he doesn't go to Scott when he finds something broken.

6 And this is a -- the people in the building, more
7 than half of them, just to give a little bit of history, they
8 have been there for -- my father owns the building for almost
9 50 years. We treat it as a private house. And a lot of people
10 are old residents there that have been with him for a very long
11 time.

12 THE COURT: We're going take a break, stop for
13 lunch. I'm going to ask you to come back at 2:15.

14 I need you to remember you're under oath and you
15 can't talk to anyone about the case, including the lawyer.

16 THE WITNESS: Yes, I know. No problem.

17 THE COURT: Thank you.

18 (Jury exits)

19 THE COURT: We will come back at 2:15 and
20 resume. Enjoy your lunch.

21 THE COURT: The room is locked, so if you need
22 something, take it with you.

23 MR. BASIL: I need to be outside the room when
24 you lock it.

25 MR. COOKSON: Can I talk to him about where to

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1 meet?

2 THE COURT: Well, as an attorney I trust that
3 you will not talk to him about the case. Yes, take care.

4 (Luncheon recess taken)

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1 A F T E R N O O N S E S S I O N

2 (Witness Shpend Nezaj resumes witness stand)

3 COURT OFFICER: All rise. Jury entering.

4 THE COURT: So, we are going to continue with
5 the direct. Continue.

6 MR. BASIL: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. BASIL: (Continued)

9 Q I want to talk to you about the evening of
10 September 16, 2015. At what time did you arrive at 83 Park
11 Terrace on that evening?

12 A It was late, it was sometime when the sun was down,
13 just about down.

14 Q About when?

15 A When the sun was down, just about down.

16 Q Okay. Do you have any estimate by the hour?

17 A So much time has passed, I don't have an estimate.

18 Q That's fine. What was, I'm going to ask you then
19 about the state of affairs at the time you arrived. At the
20 time you arrived had the window been broken?

21 A No, I didn't see -- I didn't go by the window or
22 anything like that.

23 Q At the time you arrived were the police there?

24 A I saw a cop car outside, yes.

25 Q Were there any police inside the apartment building?

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1 A I'm not sure.

2 Q At any time when you were there on that evening did
3 you go look at the window?

4 A Later on in the evening I did see it, yeah.

5 Q And was it after Dr. Scott had been arrested that you
6 first looked at the window?

7 A Yes, it was.

8 Q And was there broken glass?

9 A There was a glass that was broken.

10 Q Was there broken glass on the floor?

11 A There -- I don't recall seeing, you know, I don't
12 recall the exact event and seeing the floor and everything like
13 that. I believe there was.

14 Q Well, do you know if anyone had cleaned up after the
15 broken window the first time that you looked at it on that
16 evening?

17 A Afterwards, yeah, there was glass to be cleaned up.

18 Q And who cleaned it up?

19 A The super.

20 Q And how do you know, did you observe him cleaning up
21 the glass?

22 A He said that he would clean it up.

23 Q And so your information comes from Lazer that he
24 cleaned up the glass after it was broken?

25 A Correct.

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1 Q Did you ever observe Dr. Scott in the police car?

2 A No.

3 Q Did you ever speak to any of the policemen or women
4 that evening?

5 A No.

6 Q Did you see Dr. Scott's wife that evening?

7 A No.

8 Q And --

9 A Wife or ex-wife? I'm confused.

10 Q Well, at the time it was wife, correct?

11 A We're talking now it would be ex-wife, right?

12 Q Did you see Dr. Scott with a wife or an ex-wife on
13 that evening?

14 A I didn't see -- I didn't see an ex-wife.

15 Q So, did you see Dr. Scott that evening after he had
16 been arrested?

17 A No.

18 Q Did you see Dr. Scott before he was arrested?

19 A No.

20 Q So, all of your information about Dr. Scott's broken
21 window and arrest that you had on that evening came from Lazer,
22 is that correct?

23 A It came from the incident that happened.

24 Q So, what does that mean, it came from the incident?

25 A From Lazer telling me what had happened, referring to

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1 the incident that happened between him and Mr. Scott.

2 Q Was there any other source of your information that
3 evening about the broken window or the arrest?

4 A Not one person came and said anything.

5 Q Did you talk to any of the tenants on that evening
6 about the incident?

7 A No.

8 Q Did you talk to any of the tenants the next evening
9 or day about the incident?

10 A No. Aside from when I saw Noyes down on Broadway and
11 215th Street.

12 Q Now --

13 A Noyes and Michael Bliss.

14 Q Who?

15 A Michael Bliss.

16 Q Michael Bliss, right.

17 Were there any disagreements between you or Lazer and
18 Dr. Scott beginning in February of 2015?

19 A Is there something in sticks out that you wanted to
20 ask me about specifically? We can go with that.

21 Q Yes, but I'm just asking from your recollection do
22 you remember any incidents?

23 A There was plenty, it's hard to --

24 Q What's that?

25 A It's hard to pick out any.

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1 Q What was the most impressive incident during that
2 period for you?

3 A There was many instances where he would get in
4 Lazer's face and verbally abuse him with curse words.

5 Q And were you an eyewitness to those?

6 A To one of them, yeah.

7 Q And what do you remember about it?

8 A I just remember him, you know, calling him names
9 referring to, well, I won't curse, but F'ing Albanian. You
10 immigrant. you're retarded. You don't know that you shouldn't
11 be making noise at this time of day. Things of that nature.
12 And told Lazer to, I told Lazer take a walk, remove yourself
13 from the situation.

14 Q Do you know the cause of it, that disagreement that
15 led to the comments that you just said?

16 A Do I know cause?

17 Q Yes.

18 A I can't speak for somebody else's reasoning.

19 Q Well, did Lazer tell you that Dr. Scott, just before
20 he made those statements, had gotten into a disagreement with
21 Lazer?

22 A There was many disagreements, like I told you.
23 That's one that stuck out because I was there see it.

24 Q What was the substance of the disagreement? I'm not
25 understanding.

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1 A I just came and began to hear those words and I told
2 him just move away.

3 Q Do you recall back in February, March of 2015 the
4 building buzzers being out for about ten days?

5 A It wasn't ten days, though.

6 Q What was it?

7 A Maybe it was three, four days. What had happened
8 was, the button, it was an old panel, intercom panel and often
9 sometimes it was very quite late at night, people would steal
10 the buttons from the intercom. So we could not find the
11 buttons any longer. Therefore, we elected to change the entire
12 panel to one that was completely sealed. You cannot take
13 buttons off of it.

14 Q And did Dr. Scott complain about that situation with
15 the buzzer and the buttons?

16 A He might have called the office and complained
17 probably; I don't remember exactly.

18 Q Well, it sounds like, you correct me, it was no big
19 deal about the complaints that Dr. Scott had about the buzzers?

20 A His complaints began to become tedious. Everything
21 was a complaint, taking something so small and trying to blow
22 it up into something else. So, we dealt with this issue of the
23 buzzers along with some of the stuff of this case and prior
24 cases with it before a Housing Court judge.

25 Q So, before February, March of 2015, how was your

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1 personal relationship with Dr. Scott?

2 A What can I say about that? it's, you know, being in
3 my position often you ignore a lot of things. So, I mean,
4 there was times that you hear something and you just go on with
5 the day. If it doesn't have anything, anything that I can take
6 care of, you know. So, we didn't have such a bad relationship,
7 but it was not a perfect one.

8 Q Did that relationship, was it affected by your
9 learning that Dr. Scott intended to try to start a tenants'
10 association?

11 A No. Going back maybe 20 years ago he had a situation
12 within his apartment where he said that my electricity is
13 completely dysfunctional, you need to rewire this apartment.
14 And I was probably about 20 years old at the time, maybe 19
15 years old. And he said, my air conditioner is 220 volts. My
16 TV has static. And my radio, I can't hear it. So, I was in
17 the apartment and he had an old radio with antennas sticking
18 up. Tuned that for him. The back of the TV, we fixed the
19 coaxial cable, even though it's not our job, probably something
20 for Cablevision. He didn't have lines in it no more. And the
21 air conditioning outlet, I reduced it from 220 volts to 120,
22 because all that it required was replacing a circuit breaker
23 and removing one leg of the electricity coming in.

24 Q So, fast forward from the time you were 19 or 20
25 years old to when you first learned that Dr. Scott was going to

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1 form a tenants' association, how did your relationship with Dr.
2 Scott change from that news?

3 A I wasn't shocked by the formation of the tenants'
4 association or anything of that nature. It didn't bother us
5 whatsoever. Usually tenants' associations are formed in
6 buildings that have chronic issues, such as no heat for a week.
7 No elevator running for a month. And we never had those
8 situations in the building. So it didn't bother us.

9 Q So, you didn't believe that Dr. Scott was justified
10 in starting a tenants' association, correct?

11 A I can't speak for him.

12 Q Well, were there serious problems in the building
13 that weren't being addressed?

14 A There weren't any problems in the building during
15 that time. There was zero violations on the building.

16 Q What do you mean by zero violations?

17 A Mr. Scott would call 311 and make a complaint
18 sometimes. And the City documents that. And you can use that
19 in Housing Court if your landlord didn't do what he's supposed
20 to do and repair it.

21 Q So it's your testimony that as of September 15 -- I'm
22 sorry, September 16, 2015, there were no unaddressed violations
23 for this building?

24 A There was no violations that needed to be addressed.
25 There was zero violations within the apartments in the

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1 building, meaning everything was taken care of.

2 Q Was there a disagreement with Dr. Scott about the
3 number of keys that he was entitled to in his apartment during
4 2015?

5 A There was an incident where when I was handing out
6 keys and I gave him a key at the time. Then I don't remember
7 exactly too well, because this was another case that we dealt
8 with in landlord-tenant court. But I remember that he did want
9 an additional key or something of that nature, and he said for
10 a roommate. And when we were in court he told the judge I need
11 it for a roommate. And the judge said, do you have a roommate?
12 And he said no. The case was dismissed at that time because
13 there was no roommate to give a key to at the time.

14 Q But there was a dispute between Dr. Scott and Kosova
15 about whether Dr. Scott was entitled to an additional key
16 during that time period, right?

17 A Well, look, keys are given out. Before he had
18 bootleg keys. So the lock system that we had on the building
19 was a medical lock. it's a restricted key. Not everybody can
20 make the key. Meaning you can't give that key to your
21 newspaper guy or the guy who delivers your groceries from the
22 store. We don't know who that person is and he's not a tenant
23 of the building.

24 He did have bootleg keys, I saw them. Meaning when
25 that patent is expired, people make a bootleg version of it and

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1 a locksmith can cut it on a regular machine.

2 So, we did have him asking for a third key, and that
3 was the problem at the time. So, because there was no physical
4 tenant to give it to, the judge didn't warrant him that key,
5 that third key.

6 Q But before you went before the judge he asked Kosova
7 for a key and it was declined, correct?

8 A He had two keys. He was one legal tenant on the
9 lease. There was no multiple people on the lease. So, we went
10 by what was on the lease, having a single person on the lease.
11 Got two keys.

12 Q My question was, did you have a dispute with Dr.
13 Scott before you went to the Housing Court about how many keys
14 he was entitled to have?

15 A We didn't have -- well, we had a dispute where he
16 asked, we just went through this, he asked for the keys, to be
17 given more than two keys. That was declined at the time.

18 Q Right.

19 A Because there was no roommate to give it to. So, you
20 usually want to say, oh, this person is coming in my building,
21 you know, I don't know, your girlfriend or boyfriend for a
22 month or three, they take the key with them and you have a
23 little security risk at that point, you know. So, that's the
24 logic behind the key.

25 Q Now, there was also the dispute was or not, about the

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1 light switch in Dr. Scott's apartment that he said was
2 sparking, do you know anything about that?

3 A Once upon a time there was a switch that needed to be
4 changed in his apartment. I'm not sure about all that, what
5 that sparking means. Because if something sparked, a circuit
6 breaker panel is usually the safety so the sparks don't occur,
7 and it shuts the electricity off to the source as a safety.

8 So, I think that his switch -- not I think, we sent a
9 repairman because the situation was bad and Lazer didn't feel
10 comfortable to go in his apartment alone. Therefore, we sent
11 an electrician there. Went a few times to his apartment,
12 didn't gain access if he wasn't there or whatever the story
13 might have been as far as access. Eventually the guy got
14 access, changed the switch and the light worked. It was
15 something that we addressed in Housing Court as well.

16 Q Is it true that Dr. Scott, when the switch wasn't
17 repaired for whatever reason, said that he was going to call
18 the fire department?

19 A I'm not sure, he could have called them. He could
20 have threatened to call them. I can't --

21 Q My question is, did he say that to you, that he was
22 going to call the fire department if the switch wasn't promptly
23 repaired?

24 A He could have said that, because he's called the fire
25 department and said the landlord put gasoline in my radiator.

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1 I'm not sure if that was before, I think before or something of
2 that nature. So, he's called the fire department before.

3 Q So, would you say that Dr. Scott was an annoying
4 complainer during 2015 or was he a good tenant?

5 A I don't get annoyed too easily, honestly.

6 Q I'm sorry what?

7 A In my position I do not get annoyed too easily, I
8 usually let things go. I'm calm and go about my day.

9 Q So, were you annoyed at Dr. Scott at any time six
10 months before the arrest?

11 A Six months before?

12 Q Yes, during that period of time?

13 A Annoy is a big word. I don't know what to say.
14 it's -- do you like when you get bothered. I guess not, you
15 know. But that's what people do to you sometimes. What can
16 you say.

17 Q Have you made any effort in the past six months to
18 find Lazer?

19 A No, I haven't spoken or seen Lazer in a long time.

20 Q Do you know where he is?

21 A No, I don't.

22 MR. BASIL: I don't have any more questions,
23 Your Honor.

24 THE COURT: Thank you.

25

S. NEZAJ - BY PLAINTIFF - CROSS/MR. COOKSON

1 CROSS-EXAMINATION

2 BY MR. COOKSON:

3 Q Hi, Joey. Who was Lazer employed by?

4 A By Mulliner.

5 Q Kosova?

6 A Correct.

7 Q Did you ever in your individual capacity employ him
8 to do something for you?

9 A No.

10 Q How was Lazer compensated by Kosova?

11 A It was part time. So, he received a free apartment.

12 Q So, did he have outside work beyond what he did in
13 the apartment building?

14 A Yeah, he had a nine to five.

15 Q Is that a conflict for you?

16 A No, because I was there to cover the building. Like
17 I said, I was living in the building and I worked from home
18 doing paperwork. The building didn't have problems, so it
19 allowed me to go in and out. And we have tenants that if
20 something goes wrong, they will immediately call you and either
21 the office or myself.

22 Q So, describe what Lazer's job responsibility were?

23 A So, Lazer mainly would clean the building in the
24 front in the mornings. He would go off to work. Come back.
25 On the days that garbage was scheduled to go out, he would put

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1 that out. If there was like a drain blocked, he would unclog
2 that drain. If there was pipes to repair under the sink, they
3 rot occasionally, he would repair that. The building didn't
4 have major issues to repair. And therefore, he would do small
5 repairs, plaster, paint the bathroom maybe.

6 Q So, the rest of the time he was just a tenant in the
7 building?

8 A Yeah, he lived in the building, he was a resident.
9 And he would often go out, the park was a block and a half
10 away, go out for walks. He would enjoy the community. I think
11 that Columbia allows you to use their field over there, and he
12 would often go for a run.

13 Q Did you have any complaints or concerns with Lazer or
14 the quality of his work between the time he started and Dr.
15 Scott got arrested?

16 A No.

17 Q Had he ever called the police on a tenant?

18 A No.

19 Q And had he ever accused tenants of crimes before?

20 A No.

21 Q When Scott would make complaints, you just talked
22 about it, but ultimately were his complaints addressed?

23 A Every complaint was addressed. There was a time
24 where, you know, some people had a hard time to do work in his
25 apartment.

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1 Q You mean access?

2 A For access, and then simple things, like one time we
3 wanted to change a cabinet in his apartment, the entire sink.
4 Just so we didn't have to go inside, and he wouldn't let them
5 change it. No, I want it repaired. you're going to fix it.

6 Q Did he have, up to the time of the arrest, did he
7 have a particular habit if he felt his work wasn't being
8 addressed quickly enough?

9 A He addressed -- a lot of issues at the time we
10 wouldn't get notified of. When we had a problem with access, I
11 was addressing it in Housing Court.

12 Q Would he follow Lazer around?

13 A Often he would follow Lazer to the other apartments.
14 There was an incident where he went to Michael Bliss'
15 apartment. Lazer was doing some work in there and from -- I
16 heard, I wasn't there, what the F did you close this water for?
17 What are you doing in there? Things of that nature. And when
18 he would sweep and mop the building, he would often get
19 followed.

20 Q Now, going to the window incident, how did you first
21 learn that there was a broken window?

22 A Lazer had called me, told me there was an argument
23 between the two. And he was getting his mail. He just come
24 home from his day job, went to get the mail. And they were
25 arguing. And he said, once he was going up away, I saw him

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1 strike the window, and that's when he saw the window broken.

2 And then I think that the argument had continued or something
3 like that.

4 Q So, when Lazer was in the lobby getting his mail, he
5 wasn't working at that time, he had just come home from work?

6 A He had just come home from work.

7 Q When you got that call, what did you do?

8 A He notified me and then I told him, all right, I
9 said, we'll see what happens.

10 Q So, you're still on the phone, you haven't gotten to
11 the building yet?

12 A No, still on the phone with him.

13 Q How long did it take to get to the building?

14 A Maybe about 25 minutes, 30 minutes. Maybe a little
15 less.

16 Q And when you got to the building, what did you see?

17 A I saw a cop car outside. I went to the basement, I
18 saw Lazer in the basement. And he told me further again, he
19 repeated his story.

20 Q And at that point do you know whether Dr. Scott had
21 been arrested?

22 A I wasn't aware of him being arrested right away.

23 Q At what point did you become aware that he was?

24 A When Lazer told me that the cops asked him what
25 happened. And he said then they went upstairs to talk to him.

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1 Q Did he go up with him?

2 A No.

3 Q And this is all after it was over he told you these
4 things or as they were happening?

5 A When I was in the building in the basement and I
6 guess as it was happening.

7 Q Did you ever come back up from the basement and see
8 either Dr. Scott in custody or police officers?

9 A No.

10 Q Is that because they had already left or not come
11 back downstairs yet?

12 A It's possible. I had some young kids at the time.
13 So first instincts of father to come home to, is come give your
14 kids a kiss and hug. So I probably went into my apartment
15 right after.

16 Q But there came a point in time when you emerged and
17 the police were gone?

18 A Yes.

19 Q Do you have any idea what time of day that was or
20 night?

21 A I don't remember any more.

22 Q Did you ever get contacted by the precinct to discuss
23 the case?

24 A No, no.

25 Q Did you ever go to the precinct to discuss the case?

S. NEZAJ - BY PLAINTIFF - CROSS/MR. COOKSON

1 A No.

2 Q Did you have any interaction at any time with either
3 of the officers who made the arrest?

4 A No.

5 Q Were you contacted by the DA's office?

6 A No.

7 Q And did you seek out the DA's office?

8 A No.

9 Q Do you know what happened to the arrest and the case?

10 A Not really.

11 Q Did you instruct Lazer to call the police that night?

12 A No.

13 Q Did you ever try to get Scott evicted?

14 A No.

15 Q And up until this incident, did he receive his yearly
16 or two yearly renewals?

17 A He did receive them on time up until recently.

18 Q I'm just trying to describe the atmosphere as it
19 existed up until and including the date of the arrest.

20 A We've given him his lease. He didn't sign the last
21 renewal.

22 Q Does he sublease?

23 A He does.

24 Q And how often?

25 A Very often.

S. NEZAJ - BY PLAINTIFF - CROSS/MR. COOKSON

1 Q And for how long has that been the case?

2 A He's been doing it for a few years now.

3 Q In your encounters with Dr. Scott, not just when he's
4 making complaints but just encounters with Dr. Scott, have you
5 ever been threatened by him?

6 A Yes, I was.

7 Q And please tell the jury about that.

8 A Many times like the local post office, we used to
9 have a P.O. Box there. And there was no parking in that area,
10 there is no parking whatsoever. it's very difficult to park.
11 So, sometimes we would park at a hydrant. And very often like
12 I would go in the post office and I know, I saw him, he would
13 pretend he didn't see me. I would be looking from the window
14 of the post office and he's up near my car. My car was
15 vandalized before, I can't prove who vandalized it, I only have
16 theories of that. But he's videoing my car. So I come up to
17 and tell him, what are you doing? And start recording me as
18 well and cursing and saying all kinds of things.

19 And then there was another incidence when I was
20 changing the mailboxes. I was meeting with the mailman and it
21 was time to put the post office lock on the mailboxes. They
22 came to do that. And he comes down out of nowhere and he's
23 looking. The mailman had told him, please excuse us, we're
24 doing something. You can't be here while we're doing this.
25 And he said, I could stay here. And filming and recording.

S. NEZAJ - BY PLAINTIFF - CROSS/MR. COOKSON

1 And on that very same day he told me, you don't know who the
2 fuck I am, excuse my language. you're going to see what I do
3 to you. There were many occasions like that.

4 And then I was also hit him and by suffered a
5 fractured nose because as a result of that. While not of that
6 particular incident, but --

7 Q Let's put that one aside.

8 MR. BASIL: Your Honor, I'm going to move to
9 strike this testimony as nonresponsive.

10 THE COURT: Overruled.

11 Q You mentioned recording. Did Dr. Scott record
12 conversations?

13 A All the time. All the time he would video record
14 people.

15 Q I beg you pardon?

16 A He would video record people, come up to their face
17 and record them.

18 Q Other tenants?

19 A Yes.

20 Q Lazer?

21 A Lazer in particular.

22 Q You?

23 A Me, all the time.

24 Q And did you receive complaints from the other tenants
25 about that?

S. NEZAJ - BY PLAINTIFF - CROSS/MR. COOKSON

1 A Yes, I did.

2 Q And what did you do about it?

3 A it's hard to do anything without the people. But a
4 lot of people, they lived there their lives. They just try to
5 stay out of his way and kind of -- they're afraid to do more
6 because he will come to their door at 11:00 at night.

7 Q Let me ask you this, I think that I heard you say
8 that your father has owned the building close to 50 years?

9 A Yes, it's going on 50 years this year.

10 Q He's been a hand-on owner all this time?

11 A Yes. When he first bought the building he fixed
12 everything himself.

13 Q And how would you characterize the neighborhood that
14 the building is in?

15 A Very quiet. it's like in the last corner of northern
16 Manhattan. Lot of parks. Columbia has their supports facility
17 there. There is a hospital. Broadway is big wide street.
18 There is a lot of, you know, buildings, houses around.

19 Q How would you characterize the tenants in the
20 building, if you can generalize. I realize everybody is
21 different.

22 A Yes. For the most important, every tenant, except
23 for one, is pretty much great. You know, we'll have some
24 conversations at times and my father is like, you know,
25 wonderful tenant. We have a tenant that decorates the lobby.

S. NEZAJ - BY PLAINTIFF - REDIRECT/MR. BASIL

1 I don't know, with her own time, putting up a Christmas tree
2 and putting up a little something for each person's holiday,
3 menorah and so forth. There is no garbage in the building,
4 nobody throws a paper. Building lobby hasn't been painted in
5 probably 40 plus years, and there is not even a mark on the
6 walls anywhere.

7 Q How long would you say that the average tenant lives
8 there?

9 A Mr. Noyes was here to testify on his time, I don't
10 know the exact time of his residency, but probably there is
11 quite a few people there for the 50 years. There is another
12 group of people there probably 40 years, 30 years. it's a
13 small fraction of people, maybe eight people, that are maybe
14 there five or six, seven years.

15 Q Okay. So, it's a clean, well run building full of
16 nice people for the most part?

17 A I would like to say some, everybody is really almost
18 like family there. They are really respectful to the building
19 and the building is like you're running a community
20 essentially.

21 MR. COOKSON: Thank you.

22 REDIRECT EXAMINATION

23 BY MR. BASIL:

24 Q When I asked you in your direct testimony about
25 incidents with Dr. Scott, you didn't mention any of the

S. NEZAJ - BY PLAINTIFF - REDIRECT/MR. BASIL

1 incidents that you just talked to Mr. Cookson about, right?

2 A Well, as you sit up here and because of the amount of
3 time that's gone by, sometimes your thoughts pick up on some
4 and some new incidents come to light and you remember things a
5 little bit.

6 Q So, would you like to change your testimony about
7 whether you found the incidents being reported by Dr. Scott as
8 being annoying?

9 A Well, I mean, like I said, annoying is not a word I
10 would use. Nobody was happy or liked it. Many times, just
11 like this case itself, was in the L and T division of court;
12 that's housing. And he asked for \$200,000, 300,000 then for
13 harassment for this case and many other things. And things
14 were dismissed. It, you know, you didn't like him, you didn't
15 like to deal with it. Everybody likes to have an easy job and
16 a peaceful time and take care of what you have to take care of
17 and go on with your day.

18 Q So, you testified about these tenants in the building
19 and they are well behaved, respectful, like family. So is it
20 true that Dr. Scott doesn't fit in there?

21 A I wouldn't say he doesn't fit in there. If things
22 can stop, he has a right to live wherever he wants to live, and
23 stop bothering people. Be peaceful, that's it. Everybody asks
24 for peace. We live in a country or state of laws and it's very
25 easy to have peace here.

S. NEZAJ - BY PLAINTIFF - REDIRECT/MR. BASIL

1 Q it's not easy to have peace between Kosova and
2 Dr. Scott, though, is it?

3 A Look, I think you see what goes on in the world,
4 peace is eventually made, I would hope one day. Mr. Noyes was
5 testifying here today. I don't have a dislike for Mr. Noyes.
6 I know there is a little discomfort, but there is no hard
7 feelings against anything. You would hope that people can live
8 together in peace. We're there to provide a service and that's
9 about it.

10 Q But you would prefer that Dr. Scott not be a tenant
11 in that building, correct?

12 A I think a lot of people would prefer that. I can't
13 speak for the people. If I had people to come here and
14 testify, there would be quite a few from the building, such as
15 other cases that we brought people to testify, and that would
16 take a lot of time.

17 Q And how about yourself, would you prefer that Dr.
18 Scott not be a tenant in that building?

19 A I don't see him. Like I said, I'm a really calm
20 person.

21 Q Well, you testified that he's stalking, if you will,
22 the super?

23 A Yeah, he's done that. He does it to the current one
24 as well.

25 Q That doesn't make him an attractive tenant?

S. NEZAJ - BY PLAINTIFF - REDIRECT/MR. BASIL

1 A You've got to speak to all those people that don't
2 feel that he's attractive. I can't speak on people's behalf.
3 You know, you're asking me stuff about Lazer, about that
4 resident or that or the whole of the building, I can't speak on
5 people, they have to speak.

6 Q Can you speak on behalf of yourself at all?

7 A I can't speak on the all.

8 Q I'm talking about yourself.

9 A I can't speak about you said all, did you?

10 Q I said at all.

11 A At all, my mistake.

12 Q Sure.

13 A I apologize.

14 Q Not a problem.

15 A No problem.

16 Q I'm just a lawyer. Can you speak about how you feel
17 about Dr. Scott being a tenant in that building or whether you
18 would prefer that he wasn't?

19 A I don't have much dealings with him any longer. It's
20 more of a problem that the people have with Mr. Scott than I
21 have with Mr. Scott.

22 Q So to protect those other people in the building, you
23 would prefer that Dr. Scott just go away, right?

24 A I don't know, the people might want to start a
25 tenants' association in this matter and dealing with it

S. NEZAJ - BY PLAINTIFF - RECROSS/MR. COOKSON

1 themselves. I can't tell you what people -- all I can do is
2 try to make peace and do what it is that I have to do. My
3 obligations, my part of upholding the law, as my father being
4 the property owner.

5 Q Now, you testified when Mr. Cookson was asking you
6 some questions, about your relationship with Lazer and about
7 when did Lazer move into building, do you remember?

8 A I don't remember.

9 Q Were you already living in the building at the time?

10 A I probably was, yes.

11 Q When did you move in, do you know?

12 A Maybe late 2013 or 2014 early.

13 Q So, the entire time that Lazer was in the building
14 you were also living there, right?

15 A Not for the entire time. When he had left, I stayed
16 there for a while.

17 Q Well, you were there when Lazer moved in, right?

18 A Yes, I was.

19 Q And you were there when Lazer moved out?

20 A Yes, I was.

21 Q So, you were there the whole time?

22 A I was there the whole time.

23 MR. BASIL: I don't have any more, Your Honor.

24 THE COURT: Okay.

25 MR. COOKSON: Just a couple.

S. NEZAJ - BY PLAINTIFF - RECROSS/MR. COOKSON

1 RECROSS-EXAMINATION

2 BY MR. COOKSON:

3 Q Did you ever use your annoyance with Dr. Scott to
4 create a pretext to get him arrested?

5 A No.

6 Q And then try to use that to get him out?

7 A No. Like I said, we never started any eviction
8 proceedings.

9 Q Did you tell Lazer to do anything like that?

10 A No.

11 MR. COOKSON: Thanks.

12 MR. BASIL: That's all, Your Honor.

13 THE COURT: Thank you. Be careful when you step
14 down.

15 (Witness excused)

16 THE COURT: We're done for the day. I'm going
17 to see you back tomorrow, should we say take 10:00
18 tomorrow, in light of what we discussed? Should we say
19 10:00 in light of everything?

20 MR. BASIL: 10:00 for the jury, sure.

21 THE COURT: We have some business to do
22 tomorrow, so we'll expect you at 10:00. You'll come
23 straight here tomorrow, you don't go to the big jury room.
24 So remember where you are and how you got there.

25 JUROR: 10:00?

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1 THE COURT: 10:00.

2 MR. BASIL: We'll be here at 9:00?

3 THE COURT: Should we say 10:30 for them?

4 10:00.

5 COURT OFFICER: All rise.

6 (Jury exits)

7 THE COURT: I need a minute and then we're going
8 to memorialize everything we discussed about the pretrial
9 motions. I don't know if you want your client to stay to
10 talk to him. So, give me two minutes. Great.

11 (Short recess taken)

12 THE COURT: So, in terms of the pretrial
13 motions, you had one so that should go first and then
14 we'll do the defendants.

15 MR. BASIL: Okay.

16 THE COURT: Thank you.

17 MR. COHEN: Your Honor, we filed a motion to
18 charge the jury with a failure to produce party charge.
19 And this charge is encompassed within the missing --

20 THE COURT: I apologize, when you're talking and
21 you're looking down, your voice goes down. And I know
22 this is often -- first, I want to let you know you don't
23 have to stand, you can sit if that's what you want to do.
24 But you don't have to, there is no jury here. So, again,
25 I also want to remind you to take off your jackets.

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1 MR. COHEN: I'm used to standing before the
2 Court.

3 THE COURT: No jury.

4 MR. COHEN: Thank you, Your Honor.

5 As I was saying, the failure to produce party
6 charge is a supplemental charge to the Pattern Jury
7 Instruction for a missing witness, but it doesn't have
8 nearly as many restrictions as a missing witness charge
9 has. And it's very, you know, very simple. If a party is
10 expected to attend trial and to testify --

11 THE COURT: I want to interrupt. Thank you so
12 much. Please hear me, to the extent that you have a
13 motion on the issue, and I read it, the relief you seek in
14 terms of a charge to have what, an adverse inference
15 against the party missing, correct?

16 MR. COHEN: Yes.

17 THE COURT: And did you have a proposed charge
18 in those papers?

19 MR. COHEN: Yes, Your Honor.

20 THE COURT: Can you read that charge please for
21 the record.

22 MR. COHEN: Yes, Your Honor.

23 THE COURT: Thank you.

24 MR. COHEN: It's under the title, General
25 Instruction, Evidence, it's failure to produce party.

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1 "Generally, a party is not required to call any particular
2 person as a witness. However, where a party does not
3 testify, an inference may be drawn against that party. In
4 this case, Lazer Plumaj, P L U M A J, a party defendant,
5 did not testify. Therefore, you may, although you are not
6 required to, conclude that the testimony of Lazer Plumaj
7 would not support a position of the defendants on the
8 questions of, one, whether Lazer Plumaj is telling the
9 truth when he told New York City police that he saw
10 Gregory Scott break the window with a hammer at the
11 apartment building on September 16, 2015; two, whether
12 Lazer Plumaj provided information to the other defendant
13 sufficient to give them probable cause to believe
14 Dr. Scott was guilty of criminal mischief in the 4th
15 Degree by breaking a window with a hammer in the
16 apartment; three, whether Lazer Plumaj was acting in the
17 scope of his employment by Kosova Properties Inc. when he
18 told the police that Gregory Scott broke the window and,
19 four, whether the information Lazer Plumaj provided to the
20 other defendants demonstrated that the prosecution against
21 Dr. Scott was motivated by malice or ill will and would
22 not contradict the evidence offered by Dr. Scott on those
23 questions.

24 "Additionally, you may, although you are not
25 required to, draw the strongest inference against Lazer

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1 Plumaj on those questions, to the extent you deem
2 appropriate."

3 THE COURT: Okay, thank you. So, I read your
4 papers and I'm inclined to agree, based on the reasons
5 therein and based on the law. There was, and I believe I
6 want to hear what the other side says.

7 MR. COOKSON: Your Honor, I point you to the
8 very first sentence read by Mr. Cohen. It says,
9 "Generally a party is not required to call any particular
10 person as a witness. However, where a party does not
11 testify, an inference may be drawn against that party."

12 So the party at -- if he wants this charge I
13 think that it should be narrowed to Plumaj, because we
14 called our witnesses.

15 THE COURT: So, what evidence are you proposing,
16 I'm missing something? He read, I had him read the charge
17 into the record. What are you saying?

18 MR. COOKSON: I'm saying there what follows --

19 THE COURT: What's the proposed edit? How would
20 you have it read to the jury?

21 MR. COOKSON: Well, I would read what I just
22 read. "In this case, Lazer Plumaj, a party defendant, did
23 not testify. Therefore, you may, although you are not
24 required to, conclude that the testimony of Lazer Plumaj
25 would not support his position in this case."

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1 THE COURT: So, just so the record is clear,
2 your edit, your change is? I want the record to reflect
3 what you specifically would do differently. It's not like
4 we have your written papers to contradict it. So I need
5 the record to make sure it's clear. And, counselor, I
6 need you to read along with him to make sure that you can
7 understand what he's saying and the distinction is,
8 because I'm not in front of that now.

9 (Pause)

10 THE COURT: Okay. So, the edit you want to make
11 is what exactly?

12 MR. COOKSON: No edit to the first two
13 sentences. Beginning with the third sentence, "In this
14 case Lazer Plumaj, a party defendant, did not testify,
15 therefore, you may, although you are not required, to
16 conclude that the testimony of Lazer Plumaj would not
17 support the position of Lazer Plumaj instead of the
18 defendants."

19 On the question of whether Lazer Plumaj is
20 telling the truth when he told New York City police that
21 he saw Gregory Scott break a window with a hammer at the
22 apartment building on September 16th is, whether Lazer --

23 THE COURT: I'm sorry, excuse me. Do you
24 understand any changes that he's stating?

25 MR. BASIL: I do, Your Honor.

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1 THE COURT: Okay. I'm sorry?

2 MR. COOKSON: I interrupted, I'm sorry.

3 MR. BASIL: So, my understanding is that he's
4 setting up inconsistent findings of fact that with respect
5 to Lazer, there is a certain finding of fact that the jury
6 makes, and then make a completely different finding of
7 fact for the other defendants. And therein lies not only
8 trouble but I think not the intent of the law.

9 MR. COOKSON: I think that they do not
10 necessarily create inconsistent outcomes. If the jury
11 believes, as they are likely to since his answer was
12 stricken --

13 THE COURT: See, there you go again. No.

14 MR. COOKSON: I didn't go anywhere yet.

15 THE COURT: We talked in the back about this
16 when you keep talking about the answer being stricken.
17 It's the jurors who are going to decide which facts are
18 relevant and the categories have to --

19 MR. COOKSON: I'm not going the same place I was
20 going.

21 THE COURT: Okay.

22 MR. COOKSON: What I was saying was, the jury
23 could believe that Lazer lied and wrongfully got the
24 doctor arrested, and belief that my clients had absolutely
25 nothing to do with it. That he was a rogue employee or he

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1 didn't lie, in which case it's not inconsistent for them
2 to believe he lied and committed the malicious
3 prosecution.

4 THE COURT: That's why the verdict sheet is
5 going to be really important. And that's exactly what I'm
6 telling you, why the time you take on that verdict sheet
7 is going to be important. Because that's why you have to
8 specify your defendant and go to the next person.

9 But in terms of the charge here, when you
10 instruct the jurors, you give them the instruction to
11 consider while they're deliberating all of these
12 perspectives. So, it has to be in the charge.

13 What you're saying goes more to the verdict
14 sheet in my opinion, than it does to the actual charge.

15 MR. COOKSON: But what it tells the jury is, you
16 can draw an adverse inference against all the defendants
17 by the fact that Plumaj did not testify.

18 MR. COHEN: I did disagree.

19 THE COURT: That's not how I view this. It
20 talks about the defendant Plumaj in relationship to the
21 other defendants, as an employee of the defendants. So,
22 the fact that you don't factually agree that, oh, maybe he
23 was under the influence of defendant Joey or defendant
24 landlord father, that's your argument. That's what you're
25 going to argue to the jury. That's why we have cross,

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1 that's why we have summations. That's an argument.

2 MR. COOKSON: Absolutely. All I'm saying is, I
3 think that the facts, while they allow a missing party
4 charge, I don't think that charge should be -- that
5 adverse inference should be drawn against my clients. I'm
6 not saying they can't consider it.

7 THE COURT: Tell me how -- tell me where that
8 wording puts it against your clients, where the wording
9 is.

10 MR. COOKSON: It says, "You can conclude that
11 the testimony of Lazer Plumaj would not support the
12 position of the defendants." All of them.

13 THE COURT: Because they can do that factually
14 based on the evidence, they can make that determination,
15 that's absolutely correct.

16 MR. COOKSON: They don't need a missing witness
17 charge to do that.

18 THE COURT: Missing party charge. So, again,
19 just remember, the reason why I want this clear, is
20 because the missing party charge doesn't have the exact
21 same elements of a missing witness charge. I think that a
22 missing witness charge is harder to establish.

23 MR. COOKSON: I agree.

24 THE COURT: But if you read the motion that
25 plaintiff submitted, I find that they don't have to

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1 establish that element that you're relying on right now.

2 MR. COOKSON: These two sentences, they came
3 right out of the Pattern Jury Instruction, right? And
4 then from then on you kind of did what you did.

5 And that's why I so heavily relied on it at
6 first, because the party is not required to call a person.
7 But when the party does not call itself, an inference may
8 be drawn against that party, not every party.

9 THE COURT: So, you want me to say that the
10 parties involved, is that what you're saying? The fact
11 that it happened, what factually happened, and that's your
12 concern?

13 MR. COOKSON: No, I'm interested whether you
14 tell him that he defaulted or his answer was stricken.
15 I'm not --

16 THE COURT: We haven't established that he's not
17 here. He's not here, he's not testifying. So, if by
18 emphasizing he didn't call himself because he defaulted,
19 you want to make a mystery. That's an issue of law for
20 the jury. Just factually, he didn't testify.

21 MR. COOKSON: Then you're saying that I suffer
22 because I didn't call him.

23 THE COURT: That's the part that needs to be
24 tweaked for you to assuage your concern, is to say not to
25 call, but we just emphasize he didn't testify and stop at

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1 that and don't let the jury wonder as to why they didn't
2 testify.

3 MR. COOKSON: I wasn't intending to get into why
4 he didn't testify. I just said, I'm kind of, I hate to
5 say I'm a broken window, but it's just that, as you go
6 through this, it's saying that you can draw an adverse
7 inference about every single thing that we're trying to
8 prove.

9 THE COURT: That's how the charge works. That's
10 exactly how it works.

11 MR. BASIL: And, Your Honor, if we did it Mr.
12 Cookson's way, you could have, because of the adverse
13 inference of finding that Lazer lied about it, and then in
14 the other part of the case, a finding that he didn't.

15 THE COURT: Exactly.

16 MR. BASIL: It has to apply to all defendants.

17 MR. COOKSON: No, it doesn't. Because he cannot
18 have lied about it without our knowledge or importuning.

19 MR. BASIL: It's a separate issue.

20 MR. COOKSON: That's why I think that this
21 charge should be separated.

22 MR. BASIL: Well, Your Honor, we stand on our
23 motion, I guess is the bottom line.

24 THE COURT: I'm not sure he makes his record
25 because I'm going to rule against you. So make sure that

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1 your record is clear for all the reasons stated, and I'll
2 try to work with you to accommodate your concerns. But if
3 you, you know, it's not because he defaulted, not because
4 his answer was stricken then he didn't testify.

5 MR. COOKSON: Right. So, you want me to read my
6 changes and what I think should come out and then stop?

7 THE COURT: I'm sorry, I thought that is what
8 you just said.

9 MR. COOKSON: I only got about halfway through
10 the charge.

11 THE COURT: Go ahead, continue.

12 MR. COOKSON: So, I think that I got through
13 number one, whether Lazer was telling the truth when he
14 told New York City police. Two, whether Lazer Plumaj
15 provided information to the other defendants sufficient to
16 give them probable cause to believe that Dr. Scott was
17 guilt. When?

18 THE COURT: That's your concern? Okay, put the
19 time in.

20 MR. COOKSON: I mean --

21 THE COURT: Put the time in. At any time on
22 that date. Any time preceding the allegations to the
23 police. I don't think that's a big --

24 MR. COOKSON: It would have to have been before
25 for my guys to, if they had nothing to do with it.

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1 THE COURT: That's an issue of fact. Let the
2 jury decide.

3 MR. COOKSON: They cited that as a fact.

4 THE COURT: Again, it's a charge. A charge of
5 the fact. It's something that the jury can consider.
6 Because the instruction complete as a whole, taken a whole
7 is, you can reject it as you see the facts. You can take
8 one, you can take it all, you could take none of it. It's
9 the weight they want to put to any of these scenarios.
10 It's that bigger instruction that pertains to this
11 individual charge.

12 MR. COOKSON: And number four, whether the
13 information Lazer Plumaj provided to the defendants,
14 again, demonstrated that the prosecution against Dr.
15 Scott was motivated by malice or ill will, and would not
16 contradict the evidence offered by Dr. Scott on those
17 questions. That has nothing to do with us.

18 THE COURT: Who is your "us"? Who is your "us"?
19 I think really -- I'll let you make your record. Go
20 ahead. How does it pertain to your "us"?

21 MR. COOKSON: It's lumping my clients into the
22 adverse inferences that they get to draw against Plumaj
23 for not testifying.

24 THE COURT: No, it doesn't. It goes by the way
25 that the evidence is presented in this case. They are

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1 free to reject that whole number four altogether. I'm not
2 making it for the conclusion of the fact for the jury.

3 MR. COOKSON: I just think that, and I've made
4 the record and I'm just making it one more time. When it
5 says, the inference may be drawn against that party, it's
6 talking about the party that didn't testify. That's not
7 my parties.

8 THE COURT: This is the charge that will be
9 read. So, to the extent that it says that, then it will
10 be that. That's what it is.

11 MR. COOKSON: I had no objection to the first
12 two sentences.

13 THE COURT: So, okay, the record is made. My
14 decision is that the charge is going to go in. And can
15 you give this to me in Word?

16 MR. COHEN: Yes, Your Honor.

17 THE COURT: Can you give this to me in a Word
18 format so I can read it and edit?

19 MR. COHEN: Sure.

20 THE COURT: Let's go to the defendants' pretrial
21 motions. Because this was a PDF?

22 MR. COHEN: Yes.

23 THE COURT: So, I do need that charge. You know
24 what I mean?

25 MR. COHEN: You want the charge in Word, yes,

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1 Your Honor.

2 MR. BASIL: That's the only charge you want in
3 Word?

4 THE COURT: Well, I have to continue going
5 through the other charges. And I don't say that because
6 what you submitted in terms of your proposed Pattern Jury
7 Instructions are wrong, some of the numbers are different.
8 I don't know if you used the latest version. I don't know
9 if I have old versions. Some of the numbers are not
10 matching.

11 There have been a lot of changes and updates to
12 the PJI. And instead of using the same number, they took
13 the subject matter and made a number that had a whole
14 another -- it was a little crazy in terms of trying to
15 sort it out. You know, like number 28 was conclusion or
16 is conclusion and is now 27 is it? It's going to be
17 reconciled, it takes a long little longer. As long as I
18 can find what you submitted. So, it's going to take me a
19 little longer. We didn't get the most recent books. So,
20 I'm doing it on the computer and, as I indicated, I'm not
21 so sophisticated tech-wise.

22 But this particular charge I don't have. You
23 did submit your charges in a way that I actually, when I
24 read the beginning one, I could include your submissions
25 and just take the one I have because you incorporated the

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1 plaintiff's name. So, they are well written, without a
2 doubt, and I appreciate that. It saved me some time.

3 MR. COHEN: In our motion what we did include,
4 and I've got -- this is from Westlaw, so, but the entire
5 Pattern Jury Instruction charge.

6 THE COURT: I saw that. I probably could just
7 type this part that you edited really.

8 I'm waiting for the defendants to start his
9 motions.

10 MR. BASIL: We're on the in limines?

11 THE COURT: On the defendants' motions, yes.

12 MR. COOKSON: The in limine number one, dealt
13 with e-mails which I believe either you ruled were not
14 coming in or Mr. Basil conceded he wasn't going to bring
15 in. They were from Noyes and Noyes has already testified.

16 MR. BASIL: They're not, it's over.

17 THE COURT: I'm not hearing you. What did you
18 say?

19 MR. COOKSON: I said in limine number one
20 concerned e-mails from is Mr. Noyes. And you said that
21 let him testify and you don't need these. And Mr. Basil
22 conceded this it's moot.

23 THE COURT: We only need to discuss the motions
24 that are relative.

25 MR. COOKSON: Okay.

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1 THE COURT: It wasn't an exhibit, he made
2 reference to it.

3 MR. BASIL: I can't, it's not in evidence right
4 now.

5 THE COURT: That's the only issue to me.

6 MR. BASIL: The question is, he's trying to
7 exclude this coming into evidence, and we object to that
8 because --

9 THE COURT: You want to use it with your client?
10 You have a letter where your client is going on and on
11 about the tenant association?

12 MR. BASIL: That is the letter which is the
13 first newsletter of the tenants' association. And it
14 establishes much --

15 THE COURT: But we don't need that because your
16 client is going to testify to the fact that he has a
17 tenants' association. Nobody is disputing the fact -- in
18 fact, the defendant confirmed the fact that he started a
19 tenants' association prior to the incident. So the letter
20 is not coming in because it was only going to be for the
21 purposes of impeachment. But that's the record on that.

22 So that's the only way you're going to get that
23 letter in, but I can't imagine how you're going have an
24 impeachment issue when the defendant already confirmed the
25 fact that the plaintiff wanted to create a tenants'

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1 association. How is this relevant and still an issue?

2 MR. BASIL: It's relevant, again, because of the
3 many accusations and difficulties that Dr. Scott is
4 sending around to the building.

5 THE COURT: Which he's going to testify.

6 MR. BASIL: He can testify to it. And I don't
7 want him to read it.

8 THE COURT: And he won't be able to read it.
9 Because why would he have to read a letter that somebody
10 can testify to --

11 MR. BASIL: We will make sure that he covers
12 that in his direct testimony.

13 THE COURT: I don't even think this is an issue
14 that we need to discuss. But to the extent that it came
15 up, that's the ruling. Okay, counselor?

16 MR. COOKSON: Okay. The next is number three,
17 and has to do with all the various forums where --

18 THE COURT: We said none of the forums regarding
19 anything after the incident. You are mean the Housing
20 Court forums?

21 MR. BASIL: Three is an e-mail.

22 THE COURT: Listen, so, to the extent that we
23 discussed the defendants' pretrial motions in the back and
24 we're going to memorialize them now, my recollection is
25 the defendants' pretrial motions with respect to Exhibit 3

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1 and Exhibit 11 and 12, Exhibit 2 and 10, these are e-mails
2 from whether it's James Noyes, they were only going to
3 come in for purposes of impeachment. We obviously didn't
4 use them because he testified and left. And I'm not sure
5 he's still available. That was the ruling on those,
6 correct?

7 MR. COOKSON: Yes.

8 MR. BASIL: Yes.

9 THE COURT: So then there was a potential issue
10 of a nonparty, this was Exhibit 7, I believe, nonparty
11 witness and e-mail. The only issue with that is, I doubt
12 you will ever get that e-mail in anyway, because you don't
13 have the party to testify. And I don't want to talk about
14 something that I don't think is going to be an issue.
15 That's just a waste of my time. Shall we continue to
16 elaborate on this?

17 MR. BASIL: We should not.

18 THE COURT: Counsel, because it is your issue.

19 MR. COOKSON: This is which one?

20 MR. BASIL: Seven.

21 THE COURT: Your Exhibit 7. We discussed the
22 pretrial motion in the back, it was the nonparty e-mail.
23 I don't think that plaintiff is going to get it in. So, I
24 don't think that we have to worry about that.

25 MR. BASIL: That's all agreed upon.

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1 THE COURT: That's not going to be an issue
2 because they're not going to try to get it in. So, we're
3 now going to move on to the next issue that we discussed
4 as a pretrial motion.

5 So, the next one was the letter that we already
6 discussed first. That was the letter regarding the
7 formation of the tenants' association. I think that's
8 quite clear for the record.

9 Mr. Bliss, oh, earlier in the day surprised --
10 that was that e-mail that Mr. Bliss wrote. Is that where
11 that comes from, "earlier in the day surprised"?

12 MR. COOKSON: No, it was when you said in the
13 back, was I looking to call a witness other than the
14 witnesses that we had, and I said possibly Mr. Bliss. But
15 that issue kind of got fleshed out today, so.

16 THE COURT: So, is this a nonissue now. Great.
17 Let's go to the next one. We've already established that
18 anything that in terms of Housing Court or litigation
19 after the incident is irrelevant.

20 MR. COOKSON: Yes.

21 THE COURT: Not going to come in. Okay. The
22 other issue was plaintiff's letter in Housing Court,
23 specifically that sentence. I find that sentence can be
24 used on impeachment purposes. That's going to be
25 important, because you're going to have the landlord

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1 tomorrow. You know what sentence we're talking about? I
2 want somebody to read that sentence into the record so
3 it's clear.

4 MR. COOKSON: Are you talking about reading a
5 sentence or put in the whole document?

6 THE COURT: You said the sentence earlier in the
7 back.

8 MR. BASIL: We only need one sentence.

9 THE COURT: Read for the record so it's clear
10 when it gets appealed.

11 MR. BASIL: "We have never encountered such
12 means of annoyance by a tenant, and did not know of any
13 other way to handle it except to call the authorities to
14 report it." That's the --

15 MR. COOKSON: The tenant being he referred to is
16 not the plaintiff.

17 THE COURT: I understand that. I understand
18 that. But that's why it can only come in and your client
19 somehow acts like, I would never call police on a tenant.
20 That's just for that safekeeping. And you'll prepare your
21 client tonight. So, I don't anticipate that's going to
22 happen.

23 So, the next issue, unless we have to talk about
24 this issue.

25 MR. COOKSON: I don't have my copy.

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1 THE COURT: You don't have your copy of what?

2 MR. COOKSON: I have it but --

3 THE COURT: I think that we have one more issue.

4 MR. COOKSON: When did this happen, days before?

5 MR. BASIL: When did what happen?

6 MR. COOKSON: The incident that he's referring
7 to.

8 MR. BASIL: This is his policy...

9 (Counsel conferring)

10 MR. COOKSON: That's what this is about, Ms.
11 Caitlyn? I object.

12 THE COURT: Objection to?

13 MR. COOKSON: I object to this document or
14 portions of it being admitted into evidence.

15 THE COURT: Noted.

16 MR. COOKSON: I'll be honest with you.

17 THE COURT: Don't lie.

18 MR. COOKSON: I've been honest the whole time.

19 THE COURT: Just so the record is clear, I was
20 joking. I told you I have to stand. My leg is killing
21 me, so I'm standing. I'm not standing because of you all.
22 This is no indication that you shall get -- it's my leg,
23 trust me.

24 Go ahead, make your objection and your record so
25 we can go to the last and final issue.

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1 MR. COOKSON: I would object to it if he
2 intended to use it offensively on his case in chief. But
3 what he's going to do with it, is stick it in Hamdi's face
4 and confront him with it, unless I'm wrong, and use it for
5 impeachment.

6 THE COURT: So, you mean plaintiff says, isn't
7 it a fact that you called police on your tenants in the
8 past? You mine a question like that?

9 MR. COOKSON: I suppose he would use it if he
10 said I've never called the police.

11 THE COURT: Right. That's how he gets
12 impeachment. But I do believe that one sentence is a
13 factual sentence offered by Mr. H, just because I don't
14 want to say the name wrong. And if he wants to open up
15 with it, I believe that he can. Because the whole subject
16 matter here is that he had his tenant arrested.

17 MR. COOKSON: I don't know that she was
18 arrested.

19 THE COURT: He was arrested.

20 MR. COOKSON: No, Dr. Scott was arrested.

21 THE COURT: Oh, I'm sorry. I'm talking about
22 the plaintiff. Who are you talking about?

23 MR. COOKSON: I'm talking about another tenant.

24 THE COURT: The sentence as far as I recall
25 makes reference to a situation, a scenario where I called

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1 the police one time. And I took it to be on the tenant.
2 So, you're right. The question could be on direct, on a
3 direct case, isn't it a fact that you called the police on
4 your tenants in the past.

5 MR. COOKSON: And if he says yes.

6 THE COURT: Well, you're stuck with the answer,
7 there is no issue. Now he has to move on. So that's what
8 kills the thought that, let's not act like you wouldn't do
9 it again in this case. There it is.

10 All I'm saying is, that's the context in which
11 he can use it. I think that we all agree, I don't think
12 there is disagreement here. Because you can't act like he
13 can't ask the question.

14 MR. COOKSON: I'm not.

15 THE COURT: Okay, good. So everybody is happy,
16 right? There is no issue here. He can ask on his direct
17 case because it's relevant. Because he has a statement
18 confirming that he has a basis, so it's not unfounded.
19 So, yeah, what is the issue now?

20 So, your objection, for the record, is that he
21 can't use it on his direct case. And my ruling is that he
22 can for all the reasons I articulated.

23 Is there anything else on this subject that we
24 need to discuss?

25 MR. BASIL: Not from the plaintiff.

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1 MR. COOKSON: I would love to say that he can't
2 impeach his own witness, but that doesn't work.

3 THE COURT: It's not impeachment. Just ask him
4 an open question that is relevant, and he just happens to
5 say yes.

6 MR. COOKSON: If he says yes then it's over.

7 THE COURT: Of course he's going to say yes.
8 But you're going to prep him tonight, and you don't want
9 him to show that letter.

10 Final last issue.

11 MR. COOKSON: What was the final?

12 THE COURT: Again, I'm only going by your --

13 MR. COOKSON: You guys are working off your
14 exhibit tabs and I'm working off my notes.

15 THE COURT: That's how you represented it to me
16 in the back, that's how I took my notes. That's what I
17 did, because you walked in this morning at 9:30 with a
18 bunch of pretrial motions. And I didn't have time to read
19 them. So I have to ask you to tell me what they are about
20 and I took my own notes based on that.

21 MR. COOKSON: Okay, motion in limine number five
22 had to do with --

23 MR. BASIL: Number five.

24 MR. COOKSON: Exhibit M.

25 THE COURT: Only issue I have remaining for my

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1 notes taken in the back, is the fact that plaintiff will
2 not use application for rent reduction. And that is not
3 in dispute because you will not use an application about
4 rent reduction. I don't find it relevant.

5 MR. COOKSON: Okay.

6 THE COURT: And I believe it happened after the
7 incident.

8 MR. COOKSON: You did address that this morning.

9 THE COURT: I did. But I also have that as the
10 last pretrial issue that we needed to discuss.

11 Is there anything outstanding, and I have to ask
12 you because, again, you're the one who knows all the
13 motions you wanted, when the jury was supposed to be here
14 this morning. So you tell me and let me know.

15 MR. COOKSON: I think we're done.

16 THE COURT: Seriously, make sure that you have
17 all your issues addressed. You want to have them
18 preserved for appeal. Okay?

19 All right, going once. Is there anything else
20 you need to discuss before you leave? Okay, great. There
21 is no rush. I don't have to kick you out until 4:30.
22 You've got a good 40 minutes.

23 I'm sorry I can't discuss the charges completely
24 now, for the reasons I stated earlier, a technical jam.
25 And also, I really need that verdict sheet though, really.

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1 MR. COOKSON: That's why I don't want to say --

2 THE COURT: I would start and discuss
3 plaintiff's verdict sheet with you, but I'm not confident
4 that you can do that. Did you review it? Because I have
5 some of my own observations. But I don't really like to
6 put my observations forward, to give anybody ideas.

7 MR. COOKSON: I think that the best thing for
8 the Court and me, is if I get my verdict sheet done as
9 quickly as possible and get it to the judge and you guys
10 tonight. And I can spend my whole train ride in tomorrow
11 morning and tonight, looking at your charge, again, which
12 has already been marked up, but --

13 THE COURT: Remember, I need it in Word format.
14 Pay attention to the instructions at the end.

15 I want to thank you for staying after so we can
16 memorialize the pretrial motions. I hope you get to your
17 destinations safe. I look forward to seeing you tomorrow
18 at 9:00 a.m. Thank you.

19 (Trial adjourned to January 30, 2025, at 9:00
20 a.m.)

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