



Syracuse University

College of Law

Syracuse National Trial Competition

MAX MARIANI

v.

DREW BRENNAN

FACT PATTERN

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CASE SUMMARY: On March 30, 2026, a confrontation occurred in the main hallway at Midstate Law School between Plaintiff Max Mariani, and Defendant Blake Brennan, involving Sam Schappell, all third-year students. Schappell is Plaintiff's spouse and the Defendant's trial team partner. Earlier that morning, Plaintiff saw a late-night text message implying that the Defendant and Schappell had a fling the night before, after winning a trial competition. Plaintiff immediately drove to the law school, and found Schappell and Defendant having what appeared to Plaintiff to be a romantic interaction. Plaintiff, believing Schappell was involved with the Defendant, quickly approached and confronted the couple. Physical contact occurred between the spouses, and the Defendant immediately stepped forward toward the Plaintiff. There is conflicting testimony as to whether the Plaintiff acted in a threatening manner and pushed Schappell, and/or whether the Defendant struck or forcefully pushed the Plaintiff to protect Schappell. There is no dispute that while the confrontation was occurring, the Plaintiff fell backward into a doorway, struck the door frame, fell to the floor, and lost consciousness for two days. The Plaintiff suffered a severe traumatic brain injury, an acute subdural hematoma requiring surgical intervention, and was hospitalized for four weeks, at which time the Plaintiff was confined to a neuro-rehabilitation center.

PLAINTIFF'S CASE: Plaintiff Mariani alleges that Defendant Brennan intentionally or negligently caused Plaintiff to fall and sustain serious injuries. Plaintiff asserts that Defendant stepped toward Plaintiff and pushed Plaintiff with such force that it caused Plaintiff to lose balance and fall backward into a door frame and onto the floor. Plaintiff alleges two causes of action. Plaintiff contends that Defendant's conduct constituted civil battery because Defendant intentionally made harmful or offensive contact. Plaintiff contends that Defendant was negligent because Defendant acted unreasonably under the circumstances. Plaintiff further alleges that Defendant's actions directly caused Plaintiff's fall,, traumatic brain injury, loss of consciousness, hospitalization, and continuing symptoms. Plaintiff denies acting aggressively toward Defendant and denies provoking any physical response. In support of Plaintiff's case, Plaintiff's Counsel will call two witnesses. The first witness is Plaintiff Mariani, who will testify about the confrontation, the fall, and the resulting injuries. The second witness is Drew Delaney, who will testify that Defendant grabbed hold of Schappell's arm, and Defendant reacted immediately to protect Schappell from Plaintiff.

DEFENDANT'S CASE: Defendant Brennan denies liability and asserts that s/he did not act intentionally or wrongfully. Defendant contends that s/he acted reflexively and defensively in response to Plaintiff's sudden contact with Schappell. Defendant asserts that any movement s/he made was instinctive and protective, not aggressive, and that s/he did not intend to strike, push, or harm Plaintiff. Defendant further disputes causation, asserting that Plaintiff's fall was due to Plaintiff's own unexpected movement, loss of balance, or slipping on a slick hallway floor. Defendant denies that s/he caused Plaintiff's injuries and asserts that Defendant did not anticipate or intend the consequences of the encounter. In support of Defendant's case, Defense Counsel will call two witnesses. The first witness is Defendant Brennan, who will testify about her/his perception of Plaintiff's behavior and the reasons for Defendant's subsequent actions. The second witness is Schappell, who will testify that the Defendant appeared startled or defensive rather than aggressive, and that Defendant's movement was reactive to Plaintiff's conduct. Schappell will also testify that s/he did not see Defendant hit or push Plaintiff.

STIPULATIONS: Prior to the confrontation, Plaintiff and Schappell were having marital problems, which later resulted in the couple filing for a legal separation approximately three months after the incident describe above. The parties did not report the incident to the police and no criminal charges were lodged against either party. This is a bifurcated trial, and the jury will decide liability only. If the jury finds Defendant liable, a separate proceeding will be held to determine damages.

APPLICABLE LAW: Battery requires proof that Defendant intentionally caused harmful or offensive contact with Plaintiff. Negligence requires proof that Defendant failed to act as a reasonably prudent person would under similar circumstances, and that this failure caused Plaintiff's injuries. Defendant asserts justification, specifically defense of another, which requires proof that Defendant reasonably believed that force was necessary to protect a third person from imminent harm, the force used was not excessive, and Defendant did not provoke or escalate the encounter. Self-defense requires proof that Defendant reasonably believed that the force was necessary to protect her/himself from imminent harm, and the force used was not excessive. Defendant asserts both defenses in the alternative, but may argue either or both.

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAX MARIANI, PLAINTIFF v. BLAKE BRENNAN, DEFENDANT	STIPULATIONS HON. ROBERTO FRANCISCO NO. CR-052121-6
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STIPULATIONS REGARDING EVIDENTIARY
AND PROCEDURAL MATTERS

The Court hereby ORDERS, and the parties STIPULATE, to the following evidentiary and procedural matters:

1. All pretrial motions to dismiss have been litigated and denied.
2. This Court determined that this action was timely and properly commenced; the United States District Court for the Northern District of New York has personal and subject matter jurisdiction over the Defendant; and venue is proper in this Circuit Court
3. The Defendant is precluded from raising any defenses other than what the Defendant alleged in the Answer, and the defenses raised in the Answer are proper defenses in this action.
4. The parties have exchanged witness lists. The Plaintiff's witness list included the names of two witnesses, Max Mariani and Drew Delaney. The Plaintiff is required to call both as witnesses at trial. The Defendant's witness list included Blake Brennan and Sam Schappell. The Defendant is required to call both as witnesses at trial. The parties may not call a witness on their opponent's witness list. The witnesses may not be recalled by either side. The Plaintiff must call Max Mariani as their first witness, and Drew Delaney as their second witness. The Defendant must call Blake Brennan as their first witness and Sam Schappell as their second witness. Because the parties are limited to two witnesses per side, for purposes of the trial, no argument may be made or entertained that a party did not call a different witness to testify, as doing so will undermine the spirit of competition. For example, a defense team may not argue that the Prosecution did not meet the burden because they did not call any other witnesses to testify.

5. Any individuals who are mentioned in the facts, but not listed on the witness list are deemed unavailable to testify at trial pursuant to Rule 804 of the Federal Rules of Evidence. Specifically, Silver Staab, who is living in Portugal, is an unavailable witness
6. All witnesses, who are on the witness list, may be played by any gender, however, it is stipulated that all witnesses are approximately the same height and weight, 5' 8" and 150-160 lbs.
7. Before trial, the parties had their respective client or witnesses review their prior testimony, statements, reports, and/or other documents, and the witnesses signed a certification, under penalty of perjury, that they have reviewed said document(s), and determined that the answers/information contained therein is truthful, accurate and complete, and that they have no other information relevant to the matters discussed
8. All exhibits in the file are authentic pursuant to Federal Rules of Evidence Rule 901 and are originals, pursuant to Federal Rules of Evidence Rules 1001 through 1003, unless otherwise noted on the exhibit or established by the evidence.
9. All materials in the case file will be treated as originals and authentic, unless otherwise noted in the file; all documents that appear to have been sent to or received by a witness are to be considered as having been sent or received by that witness; and all witnesses must authenticate exhibits and materials with which they are familiar.
10. Handwriting and/or signatures on depositions, statements, reports, exhibits, certifications and/or other documents, are authentic (unless otherwise noted or contested in the case file, which it is not), and no witness or party may testify that the handwriting and/or signatures on depositions, statements, reports, exhibits, certifications and/or other documents, are not authentic (unless otherwise noted or contested in the case file, which it is not).
11. All prior testimony, statements, and reports are signed and dated, and no argument may be made or entertained to the contrary unless specifically stated in the fact pattern.
12. The parties have gathered and exchanged in discovery all statements (defined as prior testimony, statements, reports, and/or other documents, and no argument may be made or entertained to the contrary unless specifically stated in the fact pattern.
13. All items in this fact pattern, and referred to in prior testimony, statements, reports, and/or other documents provided, were provided to the plaintiff and the defendant through discovery, and no objections related to the disclosure of this evidence will be made or entertained.

14. All discovery requirements have been timely met and are sufficient, pursuant to the Federal Rules of Civil Procedure (and the Federal Rules of Criminal Procedure if applicable). No argument may be made or entertained to the contrary.
15. The parties stipulate that all notice requirements under the Federal Rules of Evidence have been constructively met. For example, notice requirements under 404(b) are deemed by the Court to be met. However, this stipulation does not affect the admissibility of or objection to any other evidentiary issues pursuant to the Federal Rules of Evidence.
16. The case summary is solely meant to provide a synopsis of the case. It isn't an exhibit or a statement attributable to any witness. It may not be offered at trial and is not admissible.
17. The defendant cannot withdraw an affirmative defenses, but may choose not to argue a defense and/or may determine to what extent to argue said defense if at all.
18. Prior to trial, the Court instructed Counsel as to the following housekeeping issues:
 - A. All exhibits are pre-marked by numbers and shall retain their original numbers regardless of the order they are introduced at trial.
 - B. All witnesses have been sworn before testifying at trial. Counsel should ask for a sidebar to constructively go outside the presence of the jury.
 - C. When laying the foundation to introduce exhibits, Counsel should ask permission to approach and hand the witness the exhibit.
 - D. When using prior testimony, transcripts, depositions, statements, affidavits, affirmations, reports, and other documents and/or exhibits, for purposes of refreshing recollection or impeachment, Counsel is not required to have it marked for identification.
 - E. Counsel may not request, nor will the Court grant, any additions, or modifications to the jury instructions.
19. This is a bifurcated trial, and shall be tried on liability only. Should the Plaintiff prevail on liability, the question of damages shall be reserved for the same jury following additional evidence and additional jury instructions.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAX MARIANI, PLAINTIFF v. BLAKE BRENNAN, DEFENDANT	STIPULATIONS HON. ROBERTO FRANCISCO NO. CR-052121-6
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STIPULATIONS REGARDING EVIDENTIARY
AND SUBSTANTIVE MATTERS

The Court hereby ORDERS, and the parties STIPULATE, to the following evidentiary and substantive matters:

1. It is stipulated that Silver Staab is living in Portugal and neither party has been able to contact her or subpoena her to testify at trial
2. It is stipulated that all witnesses on the witness list may be played by any gender, however, it is stipulated that all witnesses are approximately te same height and weight, 5' 8" and 150 lbs.
3. It is stipulated that none of the testifying witnesses have received their bar exam results yet.
4. It is stipulated that there was no videos of the March 3, 2026 incident.
5. It is stipulated that there are no witnesses to the March 30, 2026 incident other than the four testifying witnesses.
6. It is stipulated that no one reported the March 30, 2026 incident to law school administration or personnel, campus security or the police, and no criminal charges were lodged against either party.
7. It is stipulated that prior to the events on March 30, 2026, Max Mariani and Sam Schappell were having marital problems, which later resulted in the couple filing for a legal separation. The legal separation papers were signed by Max Mariani and Sam Schappell on June 30, 2026.
8. It is stipulated that on March 30, 2026, at approximately 7:45 AM, Max Mariani was transported and admitted to Berger Hospital, where s/he receive treatment at Berger Hospital for the following injures: a traumatic brain injury from an acute subdural hematoma or hemorrhage, which required surgical intervention. Max Mariani also received treatment for a large bruise on her/his right

shoulder. Max Mariani was in a coma for two days. Max Mariani was released from the hospital on April 30, 2026. Max Mariani received in-patient treatment at a neuro-rehabilitation center from April 30, 2026 to May 30, 2026.

- 9 It is stipulated that none of the testifying witnesses have received their bar exam results yet.
10. It his is a bifurcated trial, and the jury will decide liability only. If the jury finds Defendant liable, a separate proceeding will be held to determine damages.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAX MARIANI, PLAINTIFF v. BLAKE BRENNAN, DEFENDANT	EXHIBIT LIST HON. ROBERTO FRANCISCO NO. CR-052121-6
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EXHIBIT 1	DIAGRAM OF HUNT HALL AT MIDSTATE LAW SCHOOL
EXHIBIT 2	2024-2025 LIST OF NATIONAL TRIAL TEAM STUDENTS
EXHIBIT 3	2024-2025 TRIAL TEAM SCHEDULE
EXHIBIT 4	TEXT MESSAGES DATED OCTOBER 3, 2025
EXHIBIT 5	TEXT MESSAGE SENT ON MARCH 29-30, 2026
EXHIBIT 6	PHOTOGRAPH TAKEN ON MARCH 30, 2026

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAX MARIANI, PLAINTIFF v. BLAKE BRENNAN, DEFENDANT	COMPLAINT HON. ROBERTO FRANCISCO NO. CR-052121-2026
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COMPLAINT

1 Plaintiff, MAX MARIANI, in support of his/her complaint against Defendant, BLAKE BRENNAN,, states
2 the following:

3

4 1. Pursuant to 28 U.S.C. 1332, which confers jurisdiction over cases such as this, this Court has
5 original and subject matter jurisdiction in this action.

6 2. Pursuant to 28 U.S.C. 1391, venue in this action is proper in this District, on the grounds that
7 some and/or all of the actions which give rise to the claims herein, occurred in the District.

8 3. This action was timely brought within the Statute of Limitations period.

9 4. Plaintiff, Max Mariani, resides at 3320 Market Street, Philadelphia, Pennsylvania, and at all times
10 relevant hereto, was a third year law student at Midstate Law School in Syracuse, New York. At
11 all times relevant hereto, Plaintiff was married to Sam Schappell (hereinafter "Schappell"), who
12 was also a third-year law student.

13 5. Defendant, Blake Brennan, resides at 214 North State Street, Syracuse, New York, and at all
14 times relevant hereto, was a third year law student at Midstate Law School in Syracuse, New
15 York.

16 6. This action arises out of a violent and unjustified physical confrontation initiated by Defendant on
17 March 30, 2026, inside Hunt Hall at Midstate Law School, during which Plaintiff was struck,
18 knocked backward, and seriously injured.

19 7. On the morning of March 30, 2026, Plaintiff observed a late night text message implying that
20 Defendant and Plaintiff's spouse, Schappell, had engaged in a romantic encounter the night
21 before.

22 8. Plaintiff immediately drove to Midstate Law School and found Defendant and Schappell standing
23 closely together in what appeared to be a be a romantic encounter.

24 9. Plaintiff approached Scappell to discuss the text message.

1 10. Immediately thereafter, Defendant Brennan stepped forward toward Plaintiff and made physical
2 contact with Plaintiff, with such force that it caused Plaintiff to fall backward into a doorway, strike
3 the door frame, collapse to the floor, and lose consciousness. The Plaintiff suffered a severe
4 traumatic brain injury, an acute subdural hematoma requiring surgical intervention, and was
5 hospitalized for four weeks, at which time the Plaintiff was confined to a neuro-rehabilitation
6 center.

7 11. Defendant's conduct was intentional, harmful, offensive, and without legal justification.

8 12. Defendant's conduct constituted battery in that Defendant intentionally caused harmful or
9 offensive contact with Plaintiff.

10 13. In the alternative, Defendant was negligent in that Defendant failed to act as a reasonably prudent
11 person would under similar circumstances, and such negligence caused Plaintiff's injuries.

12 14. Defendant's actions were the direct and proximate cause of Plaintiff's fall, head impact, traumatic
13 brain injury, loss of consciousness, hospitalization, and continuing symptoms.
14

15 WHEREFORE, Plaintiff demands judgment against Defendant for a sum to be later determined by the
16 Court and/or Jury, together with costs, disbursements, and such other and further relief as is deemed just
17 and proper.

18 Dated: June 1, 2026

J. L. Lester

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAX MARIANI, PLAINTIFF v. BLAKE BRENNAN, DEFENDANT	ANSWER NO. CR-052121-2026 HON. ROBERTO FRANCISCO
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ANSWER

1 Defendant, BLAKE BRENNAN, and for the Answer to the Complaint, sets for the following:

2

- 3 1. Defendant ADMITS the allegations set for in Paragraphs 1, 2, 3 and 5 of the Complaint.
- 4 2. Defendant DENIES KNOWLEDGE or information sufficient to form a belief as to the truth of the
- 5 allegations set forth in Paragraphs 4 of the Complaint.
- 6 3. Defendant DENIES the allegations set for in Paragraphs 6 through 14 of the Complaint.
- 7 4. Defendant DENIES each and every other allegation not hereinbefore admitted, controverted or
- 8 denied.

9

AFFIRMATIVE DEFENSES

- 10 5. Plaintiff assumed the risk of injuries alleged.
- 11 6. Upon information and belief, the injuries and/or damages alleged to have been sustained by
- 12 Plaintiff were caused in whole or in part by the culpable conduct of Plaintiff, including Plaintiff's
- 13 rapid approach, confrontational behavior, and physical contact with Schappell.
- 14 6. Defendant acted in lawful defense of another. Plaintiff made sudden physical contact with
- 15 Schappell, and Defendant reasonably believed that immediate protective action was necessary
- 16 to prevent imminent harm to Schappell. Any movement made by Defendant was reasonable and
- 17 not excessive under the circumstances.
- 18 7. Defendant acted in lawful self defense. Plaintiff approached rapidly and appeared confrontational,
- 19 causing Defendant to reasonably believe that Plaintiff posed an imminent threat. Defendant's
- 20 responsive movement was instinctive, defensive, and proportionate.
- 21 8. Plaintiff's fall and resulting injuries were the result of an accident due to a loss of balance and/or
- 22 due to Plaintiff's own momentum. Defendant did not cause Plaintiff's fall.

23

1 WHEREFORE, Defendant respectfully requests that the Complaint be dismissed in its entirety with
2 prejudice, and that Defendant be awarded costs, disbursements and such other further relief as may be
3 deemed just and proper.

4 Dated: July 1, 2026

5
6 B. C. Hughes

7 B. C. Hughes, Esq.
8 Blumberg & Montoya, LLP
9 Attorneys for Defendant
10 100 N. Louie Street
11 Syracuse, New York
12 (315) 222-1111

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAX MARIANI, PLAINTIFF v. BLAKE BRENNAN, DEFENDANT	DEPOSITION OF MAX MARIANI HON. ROBERTO FRANCISCO NO. CR-052121-6
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- 1 This is the deposition testimony of MAX MARIANI, taken before a Notary Public on Monday, August 3,
2 2026. MAX MARIANI, having been called as a witness, and duly sworn by the notary public present,
3 testified as follows:
- 4 Q: Good morning. Would you please state your name for the record?
- 5 A: Max Mariani.
- 6 Q: Where do you live?
- 7 A: I was born and raised in Syracuse, New York. My family still lives here. My sister is a senior in
8 high school, and my parents are both lawyers. They went to Midstate Law School and were on
9 Law Review, so they love to tell their lawyer friends that they taught my sister and I Bluebook
10 before long division.
- 11 Q: How old are you?
- 12 A: I'm twenty four years old.
- 13 Q: Are you married?
- 14 A: Yes. I'm married to Sam Schappell.
- 15 Q: How did you two meet?
- 16 A: We met in undergrad in 2019, when we were freshmen at Manhattan College. We were both in
17 a Model UN class and started dating that first semester. We stayed together all four years and
18 got married in July of 2023, two months after we graduated.
- 19 Q: What did you do after you got married?
- 20 A: We attended Midstate Law School in Syracuse.
- 21 Q: Why Midstate Law School?
- 22 A: When I first told my parents I was interested in law school, all they talked about was their alma
23 mater. Not only did they graduate from Midstate, they're on their Board of Trustees and big
24 financial supporters of the school.

1 Q: Were you and your spouse involved in any law school activities or organizations?

2 A: Yes. I was on Law Review and Sam was on Law Review and Trial Team.

3 Q: How did you first learn of those organizations?

4 A: The school promoted them on their website. Then, in April of 2024, Sam and I attended an

5 informational meeting for first year students who were interested in Law Review or Trial Team.

6 Q: Who was presiding over the meeting?

7 A: Two third-year students. Brandon Bryant and Jonathan Newsome. Brandon was the Editor in

8 Chief of Law Review, and Jonathan was the Executive Director of the Advocacy Honor Society.

9 Q: How many students attended the meeting?

10 A: About 60 or more first year students, including Sam, Brennan, Silver Staab, and Drew Delaney.

11 Q: What stands out about that meeting?

12 A: The 3Ls told us about their respective organizations, the commitment and time requirements, and

13 toward the end of the meeting they asked us whether we were interested in Law Review, Trial

14 Team, or both. I immediately said Law Review. Sam said s/he was Trial Team first and Law

15 Review second. Blake and her/his crew applauded. Brandon quieted them down and said it was

16 an honor to be chosen for either or both organizations, and Jonathan agreed. But I'm not sure

17 either of them felt that way. They seemed very pro their own organizations.

18 Q: Why do you say that?

19 A: At the end of the night, after most of the students cleared out, Brandon and Jonathan began

20 joking around about Law Review and Trial Team. Things like, Law Review is just obsessive

21 footnoting. Trial Team is just over the top acting. Law Review is a book club about citations. Trial

22 Team is a drama club with objections. When I laughed at that one, Blake said, "Look at that.

23 Mariani is laughing instead of studying." Then Silver added, "Typical nepo baby comment."

24 Q: Did you and your spouse end up joining either or both of those organizations?

25 A: Yes. We both graded onto Law Review and Sam made it onto the National Trial Team.

26 Q: Tell us about your involvement with Law Review.

27 A: That fall, I came up with an exciting topic and called it "The Evolving Role of Footnotes in State

28 Agency Advisory Opinions." For the next six months, I worked on my Law Review note. It was a

29 lot of early mornings and late nights in the library researching and writing. In February of 2025,

30 I submitted the note for review by the Evaluation Committee. Only three out of thirty notes get

31 approved for publication, and in April, I was informed that my note was one of them. After that,

32 there's a whole Bluebook grind and sub editing process that I had to go through before my note

33 could be published in the spring 2026 Law Review Journal. On top of that, I had to continue to

34 meet my Law Review membership requirements and keep my grades up. I was also a Research

35 Assistant for Professor Hope.

36 Q: It sounds like you were spending a lot of time and effort on these outside activities.

1 A: Yes, but it was important to me and great résumé building.

2 Q: Let's move on and discuss your spouse. Earlier you said s/he was on Law Review. Did your
3 spouse get published?

4 A: No. Sam didn't want to get published so s/he could concentrate on her/his grades and Trial Team.

5 Q: What team or teams was your spouse on?

6 A: The first one was the NCTT team. They went to the National Criminal Trial Tournament. I don't
7 remember the names of the other competitions Sam participated in, but there was a different
8 competition each semester, and Sam always had the same partners on the team: Blake, Silver,
9 and Drew. Sam's coach throughout was Coach Donella.

10 Q: What do you remember happening when your spouse was first put on the NCTT team?

11 A: Sam was excited but nervous because the other members of the team had experience on
12 undergrad mock trial teams. Sam worried about being the weak link, but Blake apparently
13 reassured Sam that s/he would help Sam get up to speed. After that, Sam's whole life revolved
14 around Trial Team. Sam was obsessed.

15 Q: What do you mean by obsessed?

16 A: Coach Donella had them practicing Friday, Saturday, Sunday, and Blake worked with Sam
17 exclusively on Monday, Tuesday, and Wednesday nights, sometimes past midnight. Thursday
18 had been our one night together until they added in a "beer and bonding session" on Thursdays
19 at Maxwell's Pub. I never saw Sam at school, and when s/he was home, Sam barely talked to me
20 unless it was about Blake. A motion Blake drafted, an objection Blake nailed, or a prank the team
21 pulled on someone that week. It felt like the team had become Sam's entire world. Sam grew
22 distant, and I felt myself slipping out of Sam's orbit. I wasn't angry jealous, but worried jealous of
23 how much time Sam spent with them instead of me, and it scared me because I felt that our
24 marriage was being pushed to the side. That I was losing my connection to my own spouse.

25 Q: When did you first start feeling that way?

26 A: From first semester of our second year in school, I started feeling that way. Over the next two
27 years, Sam's obsession with Trial Team didn't ease up; it intensified. By our final year of law
28 school, we were arguing constantly. I told Sam that her/his misplaced priorities were tearing us
29 apart, and Sam called me unsupportive, insecure, and difficult. Sam said I was the reason "our
30 marriage felt stagnant and boring." After some of our more heated arguments, Sam would call
31 or text Blake. When that happened, I felt shut out, shut down, and sidelined by Blake.

32 Q: Earlier you told us about all the time you were spending on Law Review. Don't you think that
33 contributed to some of the issues you were having in your marriage?

34 A: Absolutely not. I was under pressure to get good grades and get published, but I never put our
35 marriage on the back burner. I made a conscious effort to be around on Thursday nights so I

1 could be with Sam but that fell to the wayside because Sam would be out with the team. I
2 supported Sam in everything s/he did, but Sam's Trial Team obsession caused us to drift apart.

3 Q: Aside from the strain in your marriage, was anything else happening at the law school that made
4 things more difficult for you?

5 A: Sam's Trial Team partners were a constant nuisance, and Sam never was never bothered by it.

6 Q: What do you mean by that?

7 A: They constantly called me "Professor Law Review" or "The Nepo Baby." Not out loud, but under
8 their breath, and people would look over at me and laugh.

9 Q: Blake never called you that, true?

10 A: No, but Silver did and Blake was right there laughing along. I felt like I was part of a running joke.

11 Q: Do you know why Silver called you a nepo baby?

12 A: My best guess is that she saw the name of my parents on the wall where they list major donors.

13 Q: Why did it bother you to be called a nepo-baby?

14 A: I got into law school because of my grades and LSAT scores. My parents didn't call in any favors,
15 so I didn't appreciate being the punch line in their ongoing comedy routine.

16 Q: Did this type of behavior from them continue into your second year?

17 A: Yes. The Brennan and Staab Comedy Show was renewed for another year, and I was still a
18 running joke in their repertoire.

19 Q: Can you give us any examples?

20 A: In the fall of 2024, I was taking a criminal law class. Sam wasn't in the class, but Blake, Silver,
21 and Drew were. Whenever I spoke in class, they'd make stupid, embarrassing comments about
22 me, and everyone would laugh.

23 Q: You said "they" made comments. Who exactly are you referring to?

24 A: Mostly Silver. Blake just laughed when Silver took cheap shots at me. So when I say "they," I
25 mean Silver was the one talking, but Blake was part of the dynamic.

26 Q: Other than what you told us, what sorts of comments or cheap shots?

27 A: I can't remember every comment, but I can give you another example. In the fall of 2025, Sam
28 and her/his whole team were in evidence class with me, and Professor Lewin asked me about
29 Rule 403. I memorized it the night before and recited it word for word. Silver laughed and said,
30 "That was extremely Law Review. Painfully accurate. Aggressively boring. Absolutely forgettable.
31 Mariani, that's about as interesting as a Law Review note no one will read." Blake burst out
32 laughing. Sam did too until s/he noticed that I wasn't laughing and that got Sam to stop.

33 Q: How did you respond?

34 A: I didn't want Silver or Blake to think I couldn't take a joke, so I didn't say anything. But that doesn't
35 mean I wasn't pissed off. I was, and I was even more pissed when I saw a text Silver sent to the
36 team's group chat about me.

1 Q: I've handed you what's marked for identification as Exhibit 4. Is this the text Silver sent to the
2 team group chat on Friday, October 3, 2025?

3 A: Yes. This is the nonsense I had to deal with. Silver wrote, "Law Review people are so sensitive.
4 They can't even handle a little sarcasm. They hide in their evolutionary footnotes. If someone
5 can't deal with sarcasm, how will they make it in real life."

6 Q: What can you tell us about the next few texts?

7 A: Sam told Silver to stop, and then Blake sent a smiley face and wrote, "Most people know how to
8 take a joke, but some people, if you know who I mean, can't deal with it, so stop pissing off my
9 Trial Team partner's partner."

10 Q: You weren't part of this group chat, correct?

11 A: Correct. But Drew Delaney showed it to me. You see, Drew was a friend of mine. The only person
12 on Trial Team that I was friends with. One day, Drew was complaining about Blake and Silver,
13 how they were always joking around and double teaming Drew. I told Drew that they did the same
14 thing to me, but I just shrugged it off and so should s/he. Drew said I wouldn't say that if I saw the
15 texts in their team group chat. That's when Drew showed me the messages. I asked Drew to
16 screenshot them because I intended to talk to Sam, and if Sam denied it, I'd have evidence.

17 Q: Why did you think your spouse would deny it?

18 A: Sam was always defending those two, and when asked Sam if Blake and Silver were mentioning
19 me in their group chat, Sam denied it until I showed her/him the screenshot. That's when Sam
20 apologized for not having my back.

21 Q: Did your spouse say that the texts were about her and not you?

22 A: No. Silver was definitely talking about me and my note.

23 Q: Other than comments like that, do you recall anything else that bothered you when it came to your
24 spouse and her/his Trial Team partners?

25 A: Yes. During our final year of law school, Sam and Blake were always having private
26 conversations. If I walked up, they'd say, "We're talking Trial Team stuff. A little privacy," or "This
27 is Trial Team confidential," and then they'd walk into a courtroom or the AHS office. They were
28 dismissive but I didn't want to make a scene, so I just walked away and tried not to over think it.

29 Q: Let's move on to March 27-29, 2026. What was happening at that point?

30 A: Sam's team competed in a competition in Washington, D.C. The finals were on March 29 and
31 they won. Sam didn't get home until somewhere around 1:00 AM the next day. Sam walked in
32 very excited, buzzing, saying winning made everything feel great again. I said I hoped things
33 would get back to normal. Sam didn't take it well and went into the bedroom to talk on the phone.

34 Q: What happened the next day?

35 A: Sam left early for school but left her/his phone on the counter. A group text from Silver popped
36 up. I wasn't looking for anything. It just appeared.

1 Q: I'm showing you what's marked for identification as Exhibit 5. Do you recognize this?

2 A: Yes. This is a screenshot of the text I saw on Sam's cell phone. It shows Silver's comment about

3 Sam and Blake having a moment after the competition. Silver said, "Didn't think you two would

4 have a moment like that after the win. Guess the celebration started early. What happens on Trial

5 Team stays on Trial Team."

6 Q: What did you think Silver meant?

7 A: I thought Silver was implying something intimate happened between Sam and Blake. It hit me

8 hard. I wasn't furious or angry. I was blindsided, emotional and scared that I lost Sam.

9 Q: Did you later learn what Silver was actually referring to?

10 A: Much later. Silver told me that the team went out after the competition for dinner, and Blake and

11 Sam were standing alone, talking for a few minutes. Silver said that's what she meant by them

12 having a moment.

13 Q: Did Silver tell you what they were talking about?

14 A: Silver wasn't part of the conversation but said it was nothing more than Blake congratulating Sam

15 and giving her/him a pep talk outside the restaurant. Sam got emotional, and Blake reassured

16 her/him. I suppose it was innocent, but I didn't know it was innocent at the time.

17 Q: After you saw the message, what did you do?

18 A: I wanted answers. I needed to talk to Sam privately, face to face, so I drove to school. I was trying

19 to stay calm on the ride there. After parking the car, I walked in the ground floor level entrance.

20 I think that was about 7:30 AM, but I wasn't looking at my watch. My focus was elsewhere.

21 Q: I'd like you to describe the layout of the ground floor of the law school. I'm showing you what's

22 marked for identification as Exhibit 1. Do you recognize it?

23 A: Yes. Exhibit 1 is a diagram of the ground floor of Midstate Law School. It shows the main

24 entrance, four courtrooms, and the T-shaped hallway, as well as a café, student lounge, and AHS

25 office. It also shows two benches outside the Lawler Courtroom, one on each side of the door.

26 Q: Who did you see when you first arrived?

27 A: I saw Sam sitting with Blake on one of the benches outside the Lawler Courtroom. I thought they

28 looked a bit too cozy. Too close for comfort, and that was concerning. It made me nervous. I

29 didn't want to lose Sam.

30 Q: Where were you in relation to the door when you first saw them?

31 A: I think maybe I was 20 feet away from the door and 100 feet away from where they were sitting.

32 Q: Where exactly were they sitting?

33 A: There are two benches in front of the Lawler Courtroom, one on each side of the courtroom door.

34 They were sitting on the bench on the right hand side, which would be the east side of the door.

35 Q: Did they stay seated?

36 A: No. A few seconds after I walked in, the two of them stood up.

1 Q: What were you thinking when you saw them sitting together?

2 A: I wasn't thinking. I was upset when I saw them together, but I didn't want to start anything. I just
3 wanted direct answers from Sam.

4 Q: What did you do after you first saw them?

5 A: I slowly walked down the hall. Not in an aggressive or confrontational way. I just walked straight
6 toward them so Sam could hear me clearly.

7 Q: You thought your spouse could hear you from so far away?

8 A: Yes. I was only about 50 feet away at that point. I was sure Sam could hear me. Sound travels
9 in the hall, especially when no one was around, and I was speaking just loud enough to be heard.

10 Q: Was anyone else around when this was going on?

11 A: I saw Drew for a split second, but I can't tell you exactly where Drew was. Other than Drew, no
12 one else was around.

13 Q: What did you say?

14 A: I told Sam why I was there. That I wanted to speak to Sam alone. When I said that, I wasn't trying
15 to intimidate anyone. I tried to keep my voice steady, but I could tell I was nervous.

16 Q: What happened after you said that?

17 A: It looked like Blake was trying to usher Sam away into the Lawler Courtroom. That upset me. I
18 wouldn't say that I was angry, at least not yet, but I blurted out, "Hold on. I need to speak to you
19 about the text Silver sent you. That's right, I know you two had something going on last night after
20 the competition, and that something needs to stop now." When I said that, I wasn't shouting. I
21 would never shout at Sam.

22 Q: How far away were you when you said that?

23 A: I would say 20 feet, but I'm not certain. I know I wasn't close enough to threaten anyone.

24 Q: Did you use that same loud tone of voice when you were only 20 feet away?

25 A: I certainly didn't lower my voice. My tone was firm, not aggressive. I wanted them to know that
26 I was on to them and intended to get answers.

27 Q: Did your spouse respond?

28 A: No. Blake said, "You don't know what you're talking about, but I think I need to stay. I can't let you
29 speak to Sam like that." Blake's tone sounded tense, like s/he was gearing up for an argument.
30 Blake seemed much more escalated than I was.

31 Q: How far were you away from them when Blake said that?

32 A: Maybe 10 feet. I still wasn't in anyone's personal space.

33 Q: What happened next?

34 A: I walked right up to them and when I was about five feet away, Blake suddenly stepped forward,
35 moving faster than I expected, and s/he pushed me, I mean s/he hit me. I fell backward onto the

1 concrete floor. I'm not exactly sure where I landed, because I passed out but it had to be
2 somewhere between the door and the bench.

3 Q: Before that happened, did you verbally or physically threaten Blake?

4 A: No. I didn't say anything threatening, and I didn't yell at anyone. I didn't make any threatening
5 gestures. My hands were still at my sides. I wasn't reaching toward Blake. I wasn't in Blake's
6 personal space. All I was trying to do is de-escalate.

7 Q: Did you push or hit the Defendant before s/he pushed you?

8 A: No. I didn't touch Blake. Not even accidentally.

9 Q: Did you verbally or physically threaten your spouse in any way?

10 A: No.

11 Q: Are you saying that you didn't push or touch your spouse?

12 A: Everything happened so fast that it's hard to remember the details, but I think I touched Sam's
13 arm. Just so we could move somewhere more private. But I don't remember touching Sam
14 forcefully.

15 Q: Do you have memory loss as a result of your head injury?

16 A: When I first woke up from the coma, I was confused, disoriented, and hazy on a lot of details, but
17 it's all come back to me. My memory of the key moments is clear now. I did not hit Blake. I did
18 not push Blake. I did not threaten Blake. I did not forcefully touch or push or grab Sam.

19 Q: We need to be clear on this point, so I'm going to ask you again, do you recall pushing or
20 grabbing hold of your spouse's arm?

21 A: I'd have to say yes. But I didn't intend to grab her/him tightly.

22 Q: I'd like to show you a photo that may jog your memory. I've handed you what's marked for
23 identification as Exhibit 6. Do you recognize it?

24 A: Yes. Exhibit 6 is the photo of the bruise that Sam showed the day after I woke up in the hospital.
25 Sam said it was a photo of her/his arm, and that I caused the bruising when I grabbed Sam during
26 the scuffle with Blake. I told Sam that I was still in a fog about what happened that day, but if I
27 hurt her/him, I was sorry. I didn't mean to cause a bruise.

28 Q: You said you were in a coma. When did you regain consciousness?

29 A: I woke up in the hospital two days after Blake hit me.

30 Q: What injuries did you suffer?

31 A: I suffered a severe traumatic brain injury, or an acute subdural hematoma or hemorrhage, and
32 because of the bleeding, they had to operate to release the pressure. I also had a large bruise
33 on my shoulder. I wasn't released from the hospital for four weeks, and then I had to go to a
34 neuro-rehabilitation center for another four weeks.

35 Q: At some point, were you able to finish up your studies in law school?

1 A: Not until after I was released from the rehabilitation center. My parents worked with the law
2 school, and I was able to do some on-line work and take my final exams, which I passed. I was
3 also able to complete my bar course and take the bar exam. I passed and just started my job at
4 the Appellate Division Fourth Department. The one thing that I wasn't able to do is go to the
5 graduation ceremony with my class. My parents were disappointed and so was I. It was
6 something I worked toward for years, and missing it stays with me.

7 Q: That's all the questions I have for you. Thank you.
8

9 CERTIFICATION: I, MAX MARIANI, certify under penalty of perjury that I have carefully reviewed
10 the above transcript of my testimony to determine whether the answers contained are true,
11 accurate, and correct, and whether I had any additional information relevant to the matters
12 therein. I hereby certify, under penalty of perjury, that the transcript and testimony are true,
13 accurate, and correct, and I have no information relevant to the matters discussed other than
14 what is discussed in this transcript and testimony. Everything was covered and nothing was left
15 out.
16

17 Max Mariani

18 Signature: Max Mariani

August 3, 2026

Date: August 3, 2026

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAX MARIANI, PLAINTIFF v. BLAKE BRENNAN, DEFENDANT	DEPOSITION OF DREW DELANEY HON. ROBERTO FRANCISCO NO. CR-052121-6
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1 This is the deposition testimony of DREW DELANEY, taken before a Notary Public on Monday,
2 August 10, 2026. DREW DELANEY, having been called as a witness, and duly sworn by the
3 notary public present, testified as follows:

4 Q: Good afternoon. Please tell us your name.

5 A: I'm Drew Delaney, but you can call me Drew.

6 Q: Where did you grow up?

7 A: Clinton, New York. It's a small town near Utica, where my parents owned a bakery. I'm
8 an only child, so I grew up helping out there and taste testing everything they made.

9 Q: Where did you go to college?

10 A: I always wanted to be in the entertainment industry, specifically as a sports or
11 entertainment lawyer, so I went to Blues College in Chicago and majored
12 in Entertainment Industry Studies. While I was there, I joined the Mock Trial team and
13 immediately got the bug to be a litigator. I realized that writing contracts wasn't enough;
14 I wanted to be the one fighting in court in the high-stakes cases we read about. Copyright
15 infringement. Publicity rights violations. That's ultimately why I decided on Midstate Law
16 School. I knew they offered highly specialized courses in entertainment law and had a
17 trial advocacy program.

18 Q: Are you working in the entertainment industry now?

19 A: I am working at an entertainment law firm based out of Los Angeles, Erickson, John &
20 Henry, LLP. I started last month.

21 Q: Why are you here today?

22 A: Your office sent me a plane ticket to come here and testify about what happened on
23 March 30, 2026, at Midstate Law School.

1 Q: Before we discuss that, I'd like to ask you how you know the parties in this case. Do you
2 know both of the parties in this action, Max Mariani and Blake Brennan?

3 A: Yes. I met Max in a torts class, second semester of our 1L year. I also met Max's spouse,
4 Sam Schappell. Over the next few years, Max and I became friends. We still are friends.
5 Max was vacationing in Santa Monica last month and we went out to dinner.

6 Q: How did you meet Blake?

7 A: Blake and I met during law school orientation. The last day, the school had this trial team
8 demonstration that you could attend. A lot of ex-undergrad mock trial kids were there.
9 Blake was one of them. Silver Staab was there too. That's how I met them both and the
10 three of us have been best friends ever since. The Three Musketeers.

11 Q: I take it that the three of you saw each other regularly.

12 A: Yes. We had classes together. We went to the Midstate University games together. We
13 were on the Trial Team together. I'm sure you know what that means. Practices multiple
14 times a week. Preparing the case for trial. Traveling to competitions.

15 Q: I'm showing you what's marked for identification as Exhibit 2. Do you recognize this?

16 A: Yes. That's the Trial Team roster for our 2L year. It lists everyone on the National Trial
17 Team including me, Blake, Silver and Sam. We were partners all four semesters.

18 Q: I'm showing you what's marked for identification as Exhibit 3. Do you recognize this?

19 A: Yes. That's our practice schedule for the fall competition in our 2L year. The schedule for
20 all the other competitions was the same. Coach practices on the weekends, and the four
21 of us met at least one or two nights a week. Sometimes Coach Donella met with us more
22 often when competition was coming up.

23 Q: Did you attend practices regularly. Yes, we all did. From day one, we were told that there
24 would be a lot of practices and would need to be there unless we were in class, getting
25 married, or in the hospital. No other excuses accepted.

26 Q: When were you told that?

27 A: At an informational meeting for 1Ls.

28 Q: Who else attended?

29 A: I was there with Blake and Silver. Max and Sam were there too, along with about 70 other
30 1Ls.

31 Q: Do you remember any type of unusual interactions between Max and Blake?

32 A: Not between Max and Blake. I remember Silver and Max were joking around. I can't
33 remember what was said exactly. It was just typical Trial Team versus Law Review

1 ribbing. But it was funny. Blake was laughing along with me and everyone else. After the
2 meeting, Max asked me why I was friends with jerks like Blake and Silver. I told Max that
3 they joke around with everyone including me.

4 Q: Did you hear anyone call Max a nepo-baby?

5 A: I heard Silver say it once under her breath, but everyone in the school saw the Mariani
6 name plastered on the wall of financial donors. You couldn't miss it. It was in big gold
7 letters. Frankly, I think the Mariani's are pretty cool.

8 Q: Do you know them?

9 A: Not well, but yes. I received a scholarship that was funded by the Mariani family. \$20,000
10 a year for three years. Tuition at Midstate is over \$60,000 a year, so I only had to take out
11 a loan for the other \$40,000. Once I connected the Mariani scholarship to Max, I asked
12 him to thank his family. In fact, I got to thank them myself when they came up to see Max
13 on parent's weekend our 1L year. I made sure Max introduced me to them, so I could tell
14 them how much I appreciated that their donation and how it made it possible for me to
15 attend Midstate. When we were 2Ls and 3Ls, the Mariani's took Max and I out to dinner.
16 They made me feel like family.

17 Q: Did you ever receive any other help from Max or Max's family during law school?

18 A: Yes. During my 2L year, I was trying to get a summer internship in New York City. Max
19 mentioned it to her/his mother, and she reached out to a colleague and helped me get
20 an interview at an entertainment law firm. I didn't end up getting the job, but I appreciated
21 the help. It wasn't a big thing, but it stuck with me.

22 Q: After that meeting, and over the next two years, did you observe any tension between
23 Max and Blake?

24 A: Not really. Like I said, Silver would joke around with Max sometimes, and Blake would
25 laugh, but I wouldn't call that tension.

26 Q: Did you ever see tension between Max and Sam Schappell?

27 A: Yes. Especially during our 3L year. Sam seemed withdrawn around Max. I didn't pry, but
28 it was noticeable.

29 Q: Did Sam Schappell ever talk to you about her/his marriage.

30 A: A little. Not in detail. Sam said things were hard because Max was busy with Law Review
31 and the research work Max was doing for Professor Hope. Sam said s/he felt
32 overwhelmed, every once in a while, but other than that, Sam didn't complain much.

33 Q: Did you ever see Max act aggressively toward anyone before March 30, 2026?

1 A: No.

2 Q: Did you ever see Blake act aggressively toward anyone before then?

3

4 A: No. Neither of them are like that. They're both very mellow.

5 Q: I'm showing you what's marked for identification as Exhibit 4. Do you recognize this?

6 A: Yes. That's from our team group chat. That was sent sometime after one of Lewin's

7 evidence classes. Sorry, I mean, Professor Lewin.

8 Q: What was this all about?

9 A: Nothing at all. Silver teased Max about being Law Review-ish.

10 Q: Did you show that text to Max?

11 A: Yes. I can't even remember why I did. But I definitely shouldn't have. I didn't realize it

12 would upset Max as much as it did. I felt bad.

13 Q: Did Sam say anything to you about that text?

14 A: Yes. Sam was mad at me for showing Max the text. Sam said Max was upset with Sam

15 because s/he didn't show Max the text. I didn't get it because I don't show anyone the

16 texts from our group chats, so why should Sam be expected to show Max.

17 Q: I'm showing you Exhibit 5. Do you recognize this?

18 A: Yes. That's the text Silver sent to our team group chat on March 30, 2026. She was

19 teasing Sam and Blake about having a moment after the D.C. competition

20 Q: Do you know what "moment" Silver was talking about?

21 A: Yes. We had gone out to dinner after winning the competition. We were sitting at a table,

22 just about ready to leave, and Blake took Sam aside to give her a pep talk. They were

23 only about 10 feet away from our table, standing near the door. I don't remember

24 everything that Blake said, but it was typical Blake. Blake has a way with words and was

25 telling Sam that it was great being partners, and that Sam was a great advocate, a great

26 friend, and a great person. Silver heard the whole thing too, and joked that Blake never

27 said anything nice like that about us. Very true.

28 Q: What time was that?

29 A: Let me do the math. It had to be right around 7:00 PM because we left D. C. right after

30 that and got back into town just after midnight. It's about a five hour drive so I think my

31 time line makes sense. But don't make me swear to it.

32 Q: Actually, all of your testimony is under oath. But what I think you're telling us is that's what

33 you believe the time line was.

1 A: Yes.

2 Q: Now, I want you to look at Exhibit 5 where it says that the text was sent at 2:00 AM on
3 March 30. What can you tell us about that?

4 A: After I dropped off Sam, and dropped off Blake, I drove Silver home and stopped in for
5 a drink. After three or four tequila shots, Silver sent the text. Silver was joking. Totally
6 joking. No one thought it would cause a problem.

7 Q: Do you know when Blake first saw the text?

8 A: Yes. I saw Blake in the student center around 7:00 AM, meaning the morning of March
9 30, 2026. I mentioned the text from Silver. Blake said he didn't see it, and checked her/his
10 cell. You wouldn't believe the look on Blake's face. S/he was not laughing if you know
11 what I mean. Just a short time after that, Sam walked by and motioned Blake to come out
12 in the hall. I figured Sam saw it and was mad. At least that was my take away from what
13 I saw. Blake walked out and I certainly didn't follow. I didn't want to be a part of that
14 conversation.

15 Q: Did you see where Blake and Sam headed?

16 A: Down the hall towards the Lawler Courtroom. That was the room we had most of our
17 practices in, so I thought that they would go in there to have a little privacy.

18 Q: What happened next?

19 A: A few minutes later, I walked out of the student lounge to head to the café for my morning
20 coffee. That's when I saw Max headed down the hall, and headed toward the Lawler
21 Courtroom. Max didn't look aggressive to me.

22 Q: Did you see Max walk in the door?

23 A: No. When I first saw Max, s/he near the entrance to the café.

24 Q: What happened next?

25 A: Max passed me by, never saying a word, and walked straight up to Sam and Blake. I
26 don't think Max even saw me.

27 Q: Describe how Max looked as s/he walked down the hall.

28 A: Max looked serious and intense. Max always looked serious and intense.

29 Q: When Max walked by you, where were Blake and Sam located?

30 A: Blake and Sam were standing behind a bench, near the Lawler Courtroom door, facing
31 toward the main entrance. Blake was standing on the left, closest to the elevators, and
32 Sam was standing on the right.

33 Q: Did you see or hear the door to the Courtroom open or close?

1 A: No. I didn't see that, but I think I would have heard it open. It's always a struggle to open
2 that door up.

3 Q: Did Max say anything to you?

4 A: No. Max walked right by me and walked straight up to Sam and Blake. I don't think Max
5 even saw me. It looked like Max was just too focused on Blake and Sam.

6 Q: Describe how Max looked as s/he walked down the hall.

7 A: Max looked Serious. Intense. Max always looked serious and intense.

8 Q: Where were you standing while all this was going on?

9 A: At first I was standing in the doorway of the student lounge, but after Max passed by me,
10 I walked down the hall for about ten feet, heading toward the Lawler Courtroom, and then
11 I stopped.

12 Q: I'm showing you what's marked as Exhibit 1. Do you recognize this?

13 A: Yes. That's a diagram of where this all happened.

14 Q: Where were you standing when you first saw Max.

15 A: In the doorway leading from the student lounge out into the hall.

16 Q: Where were Blake and Sam located?

17 A: Like I said, are they were either sitting on bench 2 or right behind it.

18 Q: How long is the distance between the entrance and the Lawler Courtroom?

19 A: About 160 feet give or take a few feet.

20 Q: How long did it take Max to walk that distance?

21 A: Only about 30 seconds. Max was walking fast. Faster than normal.

22 Q: Did you hear Max say anything while walking?

23 A: Yes. When Max was about halfway down the hall, Max started talking. Max had to speak
24 up because s/he was pretty far away from Sam, and the acoustics in the hall aren't the
25 best.

26 Q: Did you hear anything else?

27 A: When Max was about 10-20 feet away from them, Max said, "We need to talk," and
28 reached toward Sam. Then Max said something like, "You're not walking away from me
29 this time."

30 Q: Walking away? Did you see anyone try to walk away?

31 A: No.

32 Q: When Max approached Sam, were you able to see anyone's face?

1 A: From where I was standing, I could see Sam's face. I could only see the back of her/his
2 head. As for Blake, s/he was looking down so I wasn't able to see much.

3 Q: What happened when Max reached Sam and Blake.

4 A: It looked like Max touched or lightly took hold of Sam's arm. It didn't look forceful. I think
5 Max wanted to get Sam to go somewhere private. It didn't seem like Max grabbed Sam
6 too hard, but Max must have because Sam pulled back.

7 Q: What did Blake do?

8 A: Blake reacted immediately. Blake stepped between them, and it looked like Blake pushed
9 or somehow made contact with Max, but it happened so fast.

10 Q: Did Blake strike Max?

11 A: Again, it looked like a push, not a hit, but I did see Blake's arm move and that's when Max
12 fell backward. I could tell it wasn't intentional. It looked more like a defensive action.

13 Q: Describe the fall.

14 A: It happened instantly. Max lost balance, hit the doorway frame, and fell to the floor. Max
15 hit the floor so hard that I heard the impact.

16 Q: What did you see next?

17 A: I looked at Sam and s/he looked shaken. More shocked than frightened. Blake looked
18 shocked too. Blake was genuinely concerned.

19 Q: Did you see any injuries on Max?

20 A: Yes. Max wasn't moving at first.

21 Q: Did you see any injuries on Sam?

22 A: Not then, but later at the hospital.

23 Q: You went to the hospital?

24 A: Yes. After this all happened, I called 911, and they took Max to the hospital down the
25 street. Sam and I walked down to the ER and while we were waiting, I saw a bruise on
26 Sam's right arm.

27 Q: I'm showing you what's marked for identification as Exhibit 6. Do you recognize this?

28 A: Yes. That's the bruise on Sam's arm. When I saw that, I snapped a photo. Don't ask me
29 why because I don't know. I just did.

30 Q: Did Sam say anything to you about the bruise?

31 A: All Sam said was that s/he didn't want Max grabbing her/him again.

32 Q: After all this happened, did Blake ever talk to you about what happened from her/his
33 perspective?

1 A: All Blake has ever said to me is that s/he didn't want anyone to get hurt. Not Sam. Not
2 Max. Not Blake her/him self.
3 Q: When did Blake say that?
4 A: When we were in the ER that day.
5 Q: Did you think Blake acted aggressively?
6 A: No. I wouldn't say aggressive. I'd say protective.
7 Q: Did you think Max acted aggressively.
8 A: No. I sounded like Max wanted to speak to Sam privately. That's all.
9 Q: Did you think Sam looked scared.
10 A: Yes. Sam stiffened and pulled back. Sam looked overwhelmed, but not scared.
11 Q: Did you think Blake was justified in stepping in?
12 A: Knowing Blake as well as I do, I think Blake was just trying to protect Sam.
13 Q: Did you think Max meant to hurt Sam?
14 A: Knowing Max as I do, I don't think Max intended to hurt Sam. I think Max just wanted to
15 speak to Sam, but Max grabbing Sam's arm looked forceful.
16 Q: Did you think the fall was intentional?
17 A: No. It looked accidental.
18 Q: Do you think the texts you saw today contributed to the tension?
19 A: Yes. The texts definitely upset Max.
20 Q: Did you ever see Blake act violently toward anyone?
21 A: No.
22 Q: Did you ever see Max act violently toward anyone?
23 A: No.
24 Q: Thank you. That's all I have for questions.

25

26 CERTIFICATION: I, DREW DELANEY, certify under penalty of perjury that I have
27 carefully reviewed the above transcript of my testimony to determine whether the answers
28 contained are true, accurate, and correct, and whether I had any additional information
29 relevant to the matters therein. I hereby certify, under penalty of perjury, that the transcript
30 and testimony are true, accurate, and correct, and I have no information relevant to the
31 matters discussed other than what is discussed in this transcript and testimony.
32 Everything was covered and nothing was left out.
33

34 Drew Delaney

35 Signature: Drew Delaney

August 10, 2026

Date: August 10, 2026

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAX MARIANI, PLAINTIFF v. BLAKE BRENNAN, DEFENDANT	DEPOSITION OF BLAKE BRENNAN HON. ROBERTO FRANCISCO NO. CR-052121-6
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1 This is the deposition testimony of BLAKE BRENNAN, taken before a Notary Public on Monday,
2 August 17, 2026. BLAKE BRENNAN, having been called as a witness, and duly sworn by the
3 notary public present, testified as follows:

4 Q: Good morning. Let's start off with you telling us your name?

5 A: Blake Brennan.

6 Q: Where are you from originally?

7 A: I grew up in Rochester, New York, with my twin sister and, of course, my parents. My
8 mom is an orthopedic surgeon and my dad is a podiatrist, which was great because I was
9 a football player and having them as my sports injury hotline was helpful.

10 Q: How old are you?

11 A: I'm 24.

12 Q: Describe your educational background starting with college.

13 A: I went to Geneseo for college, and majored in legal studies with a minor in sports
14 management. I was also an arguing advocate on the Geneseo Mock Trial Team for four
15 years.

16 Q: After Geneseo?

17 A: I attended Midstate Law School in Syracuse, New York. That would have been in the fall
18 2023.

19 Q: Why did you decide to go to Midstate Law?

20 A: In college, I competed against Midstate's undergrad mock trial team and they were good.
21 One of their coaches spoke to me after the round, and said she also coached one of the
22 Trial Teams at Midstate Law. Coach Nardoza gave me her card and suggested that I
23 apply to Midstate Law. I ended up applying, got a great scholarship, and here I am.

1 Q: Tell us about any law school activities or organizations you joined?

2 A: In my first year, I joined the Midstate Law flag football team, but I injured my knee during
3 one of the games and couldn't play during my 3L year.

4 Q: Anything else?

5 A: In my 2L year, I was a member of the Midstate Law National Trial Team. I've been on the
6 team every semester since then.

7 Q: How do students like you get involved?

8 A: In the spring of 2025, there was an info session for 1Ls. who were thinking about Trial
9 Team and Law Review. There were about 50-60 1Ls there. I was there with a couple of
10 my best friends, Drew Delaney and Silver Staab. The three of us did Undergrad Mock
11 Trial and we were really interested in making the trial Team.

12 Q: Do you remember any other 1Ls who were there?

13 A: Max Mariani was there. I knew them from my 1L torts class. Max was married to Sam
14 Schappell and she was there too. I didn't know Sam very well, but I liked her as soon as
15 I heard how much she was into Trial Team.

16 Q: Tell us about the informational session.

17 A: Why did you think that about Sam?

18 A: The session was being run by two 3Ls. At some point, the two guys asked us which group
19 we were interested in. I remember that Mariani said Law Review, and Sam said s/he was
20 Trial Team first and Law Review last. I don't think Mariani liked it because then he started
21 throwing some shade at Trial Team, and Silver through some shade back at Max. Silver
22 and Max kept everyone laughing.

23 Q: Do you remember anyone calling Max a nepo-baby at that meeting.

24 A: No, but I had heard some people call Mariani that. It was kind of hard not to notice that
25 her/his parents were major donors. They had their name plastered on the wall right when
26 you walk into the law school. Now I don't have a problem with that. The more money
27 people donate, the bigger scholarships the school can give to us.

28 Q: What happened after that meeting in relation to Trial Team?

29 A: Tryouts were held a couple of weeks later. I'm sure you have an idea of what tryouts are
30 because you went to law school but tryouts at Midstate were intense. About a week
31 before tryouts, the coaches gave us a 100-page fact pattern to work on. We had to
32 breakdown the case file and be prepared to do an opening, and directs and cross exams
33 of multiple witnesses. They didn't even tell you what side of the case you'd be on so we

1 had to prepare both sides. The one thing we didn't have to prepare for was a closing, but
2 I worked on closings too just in case they threw that at me, and they did. I suppose I did
3 all right because they put me on the team.

4 Q: Did your two friends make it onto the Trial Team?

5 A: Yes, and after Boot Camp, the coaches put the three of us on the same team along with
6 Sam. We were going to compete at the National Criminal Trial Tournament or NCTT in
7 Connecticut.

8 Q: I'm showing you what's been marked for identification as Exhibit 2. Do you recognize this.

9 A: Yes. That's a list of all the students on the Trial Team for the 2024-2025 academic year.

10 Q: I'm showing you what's been marked for identification as Exhibit 3. Do you recognize this.

11 A: Yes. That's our practice schedule.

12 Q: How often did you have practice?

13 A: Usually three times a week, sometimes more if a competition was coming up.

14 Q: Did you and your teammates attend practices regularly?

15 A: Yes.

16 Q: Other than the practice times on the list, did you meet with your teammates to work on
17 your competition materials?

18 A: Yes. Coach Donella had me working with Sam every so often and when I couldn't, Silver
19 or Drew stepped up and helped out. We were a team and that's what you do.

20 Q: How would you describe your relationship with Sam?

21 A: We're close. Trial Team is intense. Lots of long nights, high pressure, common goals.
22 You bond with your teammates. You depend on them. You support them. You trust them
23 completely. I trusted Sam and s/he trusted me. Everyone on the team had that bond,
24 which is probably why we worked well together at competition.

25 Q: Did you do well at competition?

26 A: Not that first semester. It was a building semester for us, but after that we didn't do too
27 bad. Quaterfinals at the TNT competition in the spring. Semifinals at the Niagara
28 competition the next fall. Then the big win at the D.C. competition in the Spring of 2026.

29 Q: Let's back up a bit. Earlier you said that you met Max in your 1L torts class. How well did
30 you get to know her/him that year?

31 A: Not well. We weren't friends. We just had that torts class together, but I knew Max was
32 very focused on grades and Law Review.

33 Q: During your 2L year, did you witness any interactions between Max and Sam?

1 A: A few. Mostly in hallways. Sometimes in the cafeteria. Max always seemed tense. Distant.
2 Not really focused on Sam, but I didn't pry.

3 Q: Back then, did Sam ever talk to you about her/his spouse or their marriage?

4 A: Not at first and not in detail. Sam wasn't the type to complain much. S/he just tries to get
5 through things and I don't think s/he felt comfortable telling me things at first. It wasn't
6 until second semester of our 2L year that Sam first mentioned that things were hard
7 because Max wasn't around much. Sam said Max was a research assistant for Professor
8 Hope, who kept Max really busy. On top of that, Max was working on her/his Law Review
9 note. Sam said Max was "uber-focused" on getting published.

10 Q: Did you have any other classes with Max?

11 A: As 2Ls, we were in a criminal law class together and we also had an evidence class
12 together.

13 Q: Are you aware of any issues that came up in those classes involving Max and your
14 friend, Silver?

15 A: I'm not sure what you mean by issues, but I figure you must be talking about the way
16 Silver and Max teased each other in those classes. I don't remember the specifics, but
17 it seemed like both of them liked to needle each other a bit, and neither of them ever
18 acted like it was a problem.

19 Q: Are you aware that Max saw some remarks made about her/him and your team's group
20 chat?

21 A: Yes.

22 Q: I'm handing you what's been marked for identification as Exhibit 4. Do you recognize this?

23 A: That's a screenshot of some texts that went back and forth between our teammates, but
24 I can't really say what's the meaning behind it. It doesn't strike me as anything
25 concerning. That being said, I know that Sam took some heat for this when her/his
26 spouse was shown this text by Drew. I have no idea why Drew would want to do
27 something like that knowing that Sam's relationship with her spouse was not the best.

28 Q: Didn't you say that Sam only confided in you about personal issues?

29 A: I don't know if I said that exactly but as far as I know, I was the only one on the team that
30 she confided in. But anyone could see they were having problems, especially during our
31 3L year.

32 Q: What do you mean by that?

1 A: They were never together. They never crossed paths. They operated in two different
2 worlds. Anyone could see that, and I felt bad for Sam. It's like she had no connection with
3 her/his spouse anymore. Maybe that's why s/he spent so much time on Trial Team stuff
4 or with her/his flag football crew.

5 Q: You just mentioned flag football, and that reminds me to ask you if you were on Sam's
6 flag football team?

7 A: No. We were in the same league, but on different teams. Her team was called "The Blue
8 Bookers" and my team was called "The Objectionables." Like I said before, I only played
9 on that team for a short time, until I hurt my ankle, but I did go to a couple of Sam's
10 games.

11 Q: Do you recall going to a game on March 25, 2026?

12 A: Yes. It was right before we were going to the D.C. competition and I thought I'd go to
13 support my teammate.

14 Q: Did you see her suffer any injuries during that game?

15 A: Not that I recall, but they were playing "The Tortfeasors" and that team was known for
16 being rough and playing dirty.

17 Q: Prior to March 30, 2026, did you ever see Sam suffer any injuries or bruises at a flag
18 football game?

19 A: No, but sometime in January or February 2026, I noticed a bruise on Sam's arm. I figured
20 it was from flag football and asked Sam if it was a war wound from her/his last game.
21 Sam said s/he wasn't sure what happened, but that she bruised easily.

22 Q: I'd like to discuss the events surrounding what happened around March 30, 2026. Were
23 you present in the hallway outside Lawler Courtroom that morning?

24 A: Yes.

25 Q: I'm showing you what's been marked for identification as Exhibit 1. Do you recognize
26 this?

27 A: Yes. How could I not recognize this? It's a diagram of Hunt Hall at Midstate Law School.
28 I probably spent more time in those courtroom rooms than anywhere else in the law
29 school.

30 Q: Using Exhibit 1, tell us what you were doing around 7:15-7:30 AM.

31 A: I was in the student center with Drew, who told me to look at a text that Silver sent in the
32 teams group chat.

1 Q: I'm showing you what's marked for identification as Exhibit 5. Is this the text you're
2 referring to?

3 A: Yes. That's the text Silver put in the group chat, teasing me about the pep talk I gave Sam
4 the night before.

5 Q: That's not exactly what Silver said in that text, true?

6 A: No, but that's what happened. I told the same thing to Drew when s/he asked me
7 if something more happened between me and Sam. I told Drew that it was just a pep talk.
8 That's all. A pep talk. That nothing happened between me and Sam. That Sam was
9 married so nothing like that would ever happen.

10 Q: Let's go back to the morning of March 30. What happened while you were speaking to
11 Drew Delaney?

12 A: Sam walked by. I was surprised to see Sam because s/he didn't have classes on Monday
13 and seldom came in that early. In any case, Sam motioned to me to come outside into
14 the hall. We walked over to the Lawler Courtroom and were sitting on bench 2 near the
15 Lawler Courtroom.

16 Q: What happened next?

17 A: At some point, Sam and I saw Max walking through the main entrance door. Sam
18 immediately stood up and walked toward the door to the courtroom, and I followed suit,
19 but Sam stopped for some reason, and we ended up standing between the courtroom door and
20 the bench.

21 Q: When you saw Sam do that, what were you thinking?

22 A: It gave me the impression that Sam didn't want to see Max or was, at the very least, nervous
23 about it.

24 Q: Was anyone else present at this point in time?

25 A: No. Drew stayed in the cafeteria and I don't remember seeing anyone else in the hall until Max
26 showed up.

27 Q: Where was Max when you first noticed her/him?

28 A: Max came through the main entrance and started walking down the hallway toward us. From
29 where Sam and I were standing behind the bench, I'd estimate the distance at around 150 feet.
30 Max covered that distance fast. Maybe 30 seconds or less. Max looked anxious.

31 Q: Describe how Max looked as s/he approached?

32 A: Intense. Focused. S/he was walking fast, really fast. Max's shoulders were tight, head forward,
33 eyes locked in on Sam. Max wasn't strolling. It was a straight, fast walk the entire length of the
34 hallway.

1 Q: How did Sam react when Max started walking toward you?

2 A: Sam stiffened up. S/he looked startled. I could feel Sam tense and s/he moved closer to me.

3 Q: How far away was Max when you first realized something was off?

4 A: Maybe 100 feet away. Max was still closing the distance quickly, and the pace didn't slow.

5 Q: Was Max saying anything at that point?

6 A: Yes. When Max got about halfway down the hall, maybe 60 feet away, Max started talking loudly.

7 It wasn't over-the-top loud, not screaming, but it sounded confrontational. Max said something

8 like, "We're not doing this anymore. I'm ending this right now," and then something about needing

9 answers.

10 Q: How close was Max when s/he said that?

11 A: Around 20 feet. Max's voice carried easily down the hallway.

12 Q: What happened as Max got closer?

13 A: Max said something like "We need to talk," and quickly reached toward Sam, while saying,

14 "You're not walking away from me this time." It was definitely more confrontational than anything

15 I'd heard Max say before.

16 Q: Did Max touch Sam?

17 A: Yes. Max grabbed Sam's arm. It was sudden, and Sam pulled back.

18 Q: How close was Max to you when s/he grabbed Sam?

19 A: Only a few feet. Max had closed the entire hallway distance by then. Again, about 30 seconds or

20 less from the entrance to where we were standing.

21 Q: What did you do?

22 A: I reacted immediately. It was instinctive. I stepped between them to keep Max from getting closer

23 to Sam. I was trying to protect Sam, not escalate.

24 Q: Did Max say anything when you stepped in?

25 A: Yes. Max said, "Brennan, stay out of this." Max sounded frustrated.

26 Q: Did you think Max was going to hurt her/his spouse?

27 A: I thought it was possible. Max grabbed Sam's arm and Sam pulled back. That was enough for me

28 to step in.

29 Q: After you stepped between the two, did you strike Max?

30 A: No. I put my arm out. Max fell backward. It happened very fast. I didn't hit or strike Max.

31 Q: Did you push or shove Max?

32 A: No. All I did was put my arm out as a barrier.

33 Q: Did you intend to hurt Max?

34 A: No. I didn't want Max to fall or get hurt. I reacted because Sam looked scared. I was trying to stop

35 something from escalating. I was trying to protect Sam.

36 Q: What happened after you stepped in?

1 A: Max lost balance and fell backward into the doorway. Max hit the door frame and then the floor.
2 It happened instantly. Maybe a second or two after I stepped forward.

3 Q: What happened to Sam?

4 A: Somehow Sam ended up on the bench, and s/he immediately got up and moved toward Max, who
5 was on the floor. Sam looked stunned.

6 Q: Did you see any injuries on either Max or Sam?

7 A: I didn't see any injuries on Sam at that time, but Max was lying on the floor and s/he wasn't
8 moving.

9 Q: What happened next?

10 A: Drew came up from behind us and said s/he was calling 911. They arrived a short time later and
11 transported Max to the hospital, which is just a few blocks from the law school. Sam, Drew, and
12 I walked to the ER and sat down in the waiting room. We were all worried about Max, and I was
13 worried about Sam. It looked like s/he got hurt when all this happened.

14 Q: Why did you think that?

15 A: I saw a bruise on Sam's arm.

16 Q: I'm showing you what's marked for identification as Exhibit 3. Do you recognize this photograph?

17 A: Yes. That's a photo of the bruise I saw on Sam's arm. Drew took the photo when we were at the
18 hospital.

19 Q: Did you cause that bruise?

20 A: No. Max did, and this photo tells you loud and clear how aggressively Max grabbed Sam's arm.
21 That's how it looked to me.

22 Q: Prior to March 30, 2026, did you ever see Max act violently toward anyone?

23 A: No.

24 Q: Prior to then, did you ever see Max act aggressively toward Sam?

25 A: No.

26 Q: Did Sam ever tell you s/he was afraid of Max?

27 A: Not directly. But Sam was overwhelmed and withdrawn. I could tell s/he didn't want to talk to Max
28 that day.

29 Q: Did you apologize to Max Max afterward?

30 A: I wanted to and went to the hospital after Max woke up, but Drew was there and said Max didn't
31 want to see me.

32 Q: But you did want to apologize?

33 A: Yes. I wanted to apologize because I didn't mean for Max to get hurt. Not because I thought I did
34 anything wrong. Stepping in was the right move. I still believe that.

35 Q: So you are saying you were justified in your actions?

1 A: Yes. Like I said, Sam looked scared. I reacted to stop things from escalating. I was protecting
2 Sam. I would do it again if someone grabbed Sam like that.

3 Q: Have you ever spoken to Sam about what happened that day?

4 A: Only once. That was when we were in the ER waiting room. Sam said s/he didn't want Max
5 grabbing her/him again, and thanked me for stepping in, and that she was glad to have a friend
6 like me.

7 Q: Let's talk about your relationship with Sam. Didn't you want it to be more than a friendship?

8 A: No. Sam is my teammate and friend. I care about Sam, but not romantically.

9 Q: Did you ever tell Drew that if Sam wasn't married, you'd ask her out?

10 A: I don't remember saying it exactly like that, but I won't say it's impossible. Sam's a great person.
11 But that has nothing to do with what happened on March 30.

12 Q: Did any feelings you had for Sam influence your actions on March 30?

13 A: Absolutely not. I reacted because Sam looked scared when Max came at us and grabbed Sam's
14 arm.

15 Q: So you deny that your feelings for Sam influenced your actions?

16 A: Yes. My reaction was about Sam's safety, not feelings.

17 Q: Have you ever talked to Sam about what happened that day?

18 A: Once. It was when we went to the hospital Yes. I spoke to Sam. S/he was shaken and said s/he
19 didn't want Max grabbing her again.

20 Q: Did Sam thank you for stepping in?

21 A: Yes.

22 Q: As far as you know, did anyone report this incident to campus security or the police?

23 A: Not that I know of.

24 Q: Are you working right now?

25 A: Yes. I'm a law clerk at a litigation firm in Philadelphia. When I pass the bar exam, I hope to be
26 hired as an associate. I just took the bar and I'm waiting for the results. There were about 25
27 multiple-choice questions on evidence, and an essay question on hearsay exceptions, so I'm
28 pretty sure I passed.

29 Q: Passing the bar exam is only half the battle because you must also be officially cleared by the
30 Committee on Character and Fitness, true?

31 A: Yes. But that shouldn't be a problem. Other than having to report on the thousands of parking
32 tickets I have, the only other thing I have to explain away is when I was charged with criminal
33 mischief and misdemeanor assault when I was a sophomore in high school.

34 Q: A thousand tickets and two criminal charges? Tell us about those.

35 A: Obviously it's not a thousand parking tickets. Probably about a dozen from parking in a no parking
36 zone in front of the law school. Winters are harsh here in Syracuse.

1 Q: What about the criminal mischief and assault charges?
2 A: That had to do with taking a joyride across a golf course with my friends, and I nicked this older
3 guy with the golf cart. He got knocked on the ground and called the police even though he wasn't
4 bleeding or anything. In any case, I ended up with an ACD.
5 Q: Nevertheless, you agree that the tickets and charge have to be reported to the Committee on
6 Character and Fitness?
7 A: Yes.
8 Q: As well as this law suit?
9 A: Yes. My attorney told me that I have to report all that, and that I'll have to explain what happened
10 or, in her words, "explain that I was justified." But that won't be a problem because I did the right
11 thing.
12 Q: I have to stop you there. Please refrain from tell us anything more about your conversations with
13 your attorney.
14 A: Alright. I get it. Attorney-client privilege. That was on the bar exam too.
15 Q: Nothing further. Thank you.

16

17 CERTIFICATION: I, BLAKE BRENNAN, certify under penalty of perjury that I have
18 carefully reviewed the above transcript of my testimony to determine whether the answers
19 contained are true, accurate, and correct, and whether I had any additional information
20 relevant to the matters therein. I hereby certify, under penalty of perjury, that the transcript
21 and testimony are true, accurate, and correct, and I have no information relevant to the
22 matters discussed other than what is discussed in this transcript and testimony.
23 Everything was covered and nothing was left out.
24

25 Blake Brennan

26 Signature: Blake Brennan

August 17, 2026

Date: August 17, 2026

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAX MARIANI, PLAINTIFF v. BLAKE BRENNAN, DEFENDANT	DEPOSITION OF SAM SCHAPPELL HON. ROBERTO FRANCISCO NO. CR-052121-6
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- 1 This is the deposition testimony of SAM SCHAPPELL, taken before a Notary Public on Monday, August
2 24, 2026. SAM SCHAPPELL, having been called as a witness, and duly sworn by the notary public
3 present, testified as follows:
- 4 Q: Good afternoon. Please tell us your name.
- 5 A: Sam Schappell.
- 6 Q: Where did you grow up?
- 7 A: I grew up on Beacon Hill in Boston. My family still lives there. I have two siblings, Laura and
8 Travis. They're still in high school. As for my parents, their names are Lily and Ben. They're both
9 psychiatrists.
- 10 Q: What was it like growing up with two psychiatrists as parents?
- 11 A: Every dinner felt like a therapy session, with my parents analyzing us before we finished our
12 vegetables.
- 13 Q: Where did you go to school?
- 14 A: I attended St. Thomas High School and Manhattan College. That's where I met my Max.
- 15 Q: You're referring to the Plaintiff, Max Mariani, correct?
- 16 A: Yes.
- 17 Q: How did you meet the Plaintiff?
- 18 A: In a Model UN class and became close very quickly. We prepared position papers together, spent
19 whole weekends discussing strategy, and traveled to competitions in all these great places. When
20 you do that with someone, you build a real bond. That's how Max became my best friend. The
21 person I trusted most and confided in. It set the foundation for our relationship.
- 22 Q: What happened next in your relationship?
- 23 A: We started dating within months of meeting each other, and four years later we got married. The
24 ceremony was in July of 2023, about two months after we graduated. I was 21 and Max was the

1 same age. We were probably a little too young to get married. My parents told me that. But we
2 thought we could handle anything, even being newly married in law school.

3 Q: When it came time to choose a law school, what was your top pick?

4 A: Wilton Law School in my hometown, but Max wanted to go to Midstate Law School because
5 her/his parents were these big wigs there. I didn't want to start our marriage going in different
6 directions, so eventually, I relented and went to Midstate Law.

7 Q: What was the first year of marriage like?

8 A: It was fine until we started law school, and then it got very difficult very quickly. Max was hard to
9 live with. Very rigid. Very OCD about everything. The apartment had to be perfectly organized,
10 routines strictly followed, and every minute scheduled around studying. Max was consumed by
11 school. Max buried her/himself in books with a goal of being number one in the class and making
12 Law Review. Grades and Law Review were the only things Max focused on, and I didn't even
13 come in as a close third. I felt like I was in the marriage alone, and that was lonely and
14 depressing.

15 Q: When did class rankings come out?

16 A: June 2024, and Max and I were ranked in the top 5% of our class. Because we were in the top
17 5% of the class, we received an automatic invitation to join Law Review and we both joined.

18 Q: May I assume that took some pressure off what was going on in your marriage? What I mean is,
19 did your relationship improve after receiving the Law Review invitation?

20 A: No to both your questions. If anything, it was worse. That fall and spring, Max worked non-stop
21 in the library, researching and writing her/his Law Review note. Max had this publish or perish
22 mentality. Nothing else mattered. Not family, not friends, and certainly not me.

23 Q: When was the note submitted to be reviewed by the Evaluation Committee?

24 A: In February or March of 2025, Max's note was approved for publication. I expected it to be
25 approved because it was about the evolving role of footnotes, which seems to be a favorite topic
26 with Law Review.

27 Q: Did your marital problems continue after that, and if so, how did that affect you academically?

28 A: The problems continued, but I've always been a strong test taker, so I kept up my grades and
29 class standing. That was a positive, and so was Trial Team. That became my outlet. It gave me
30 something to look forward to. Something that made me feel connected again. Like I had a
31 community. It was the first time in a long time that I started feeling more like myself.

32 Q: How did you first get involved with Trial Team?

33 A: There was an informational meeting for 1Ls about Law Review and Trial Team. A lot of 1Ls were
34 there, including Blake Brennan, Silver Staab, and Drew Delaney. I didn't really know them back
35 then, but we had a 1L torts class together so I knew who they were. Two third-year students were
36 standing at the front of the room. Brandon Bryant was talking about Law Review requirements,

1 and Jonathan Newsome was talking about how great it is to be on Trial Team. He said that we'd
2 be part of something intense and challenging. Something high-energy and fast-paced. Something
3 completely unforgettable. That we'd bond with our teammates and build friendships that would
4 last long after law school. That sounded like just what I needed to get me out of the fog I was in.

5 Q: Do you remember any Law Review versus Trial Team comments being made?

6 A: Toward the end of the meeting, a few people were joking around but I can't tell you exactly who
7 said what. I wasn't paying much attention to all that.

8 Q: Did you hear any negative comments directed at your spouse? Specifically, did you hear Blake
9 or Silver make any negative comments about your spouse?

10 A: If Max told you s/he was bothered about that, Max is recreating history. I remember that after the
11 meeting, Max told me that "joking around with Blake and Silver was the best part of the meeting."

12 Q: What happened next in regard to the Trial Team?

13 A: I tried out and made the team, and shortly before school started, I attended Trial Team Boot
14 Camp. It's a seminar course for new Trial Team students. It ran from August 12–20, 2023.
15 Professor Leibo and Professor Hakes ran the Boot Camp. There were some 3Ls there helping
16 out and about eight or more 2Ls, including Blake, Silver and Drew.

17 Q: I'm showing you what's marked for identification as Exhibit 2. What is this?

18 A: A list of the 2L and 3L students that attended Boot Camp.

19 Q: After you were selected for the team, what happened?

20 A: The team was put on the National Criminal Trial Tournament. We called it NCTT or the
21 Connecticut team. Blake and I would argue for the Prosecution and Silver and Drew would argue
22 for the defense.

23 Q: How did you feel when you made the NCTT team?

24 A: Excited. It's a very prestigious competition held in Connecticut. One of the best in the country. But
25 I was also nervous. Blake, Silver, and Drew were also on the team and they had undergrad mock
26 trial experience. I didn't want to bring the team down so I had to get up to speed as fast as
27 possible. I let the coach know, and she asked Blake to spend extra time working with me. I was
28 happy for the help. Blake was great at explaining things clearly and gave me confidence.

29 Q: What was your practice schedule?

30 A: Between the practices with the coach, and practices with Blake, it was about five days a week.

31 Q: I've handed you what's marked for identification as Exhibit 3. What is this?

32 A: This is the team practice schedule.

33 Q: What was it like to be on a team with that crew?

34 A: It was a lot of work but I loved spending time practicing, strategizing, and building our case. I also
35 loved the fact that we were building such strong trusting relationships. We became very close.

1 Not in a romantic way. I never had romantic feelings for Blake. We were close in the way
2 teammates do when you build something together and rely on each other under pressure.

3 Q: Did you ever have romantic feelings toward Blake?

4 A: Absolutely not. Not when we were on the team together and not now. Blake was a teammate and
5 a friend. Someone I relied on. Someone I trusted. Someone I could confide in, not only about Trial
6 Team pressure, but about my personal life.

7 Q: Did you confide in your other teammates about your personal life?

8 A: I mean, the whole team could see that Max and I were having problems, but I didn't really confide
9 in anyone other than Blake because s/he knew what I was going through. You see, Blake was
10 dating one of our classmates first year and they broke up the following summer. Blake said it was
11 a bad breakup, and difficult to deal with the aftermath. Sometimes when people struggle with the
12 same kinds of things, it makes it easier to talk. I felt like Blake understood me and the problems
13 I was having in my marriage better than Max did.

14 Q: Earlier, you mentioned the NCTT. Was NCTT the only competition team that you were on?

15 A: No. I was on the team until I graduated. In fact, the four of us were teamed up for every
16 competition, and we got better every semester. We were ranked fifth or sixth at NCTT. In the
17 spring of 2025, we made it to the quarterfinals at the TNT competition. In the fall of 2025, we
18 made it to the semifinals at the Niagara competition. Then, in the spring of 2026, we won a
19 national invitational competition in Washington, D.C.

20 Q: Other than Law Review and Trial Team, were you involved in any other extracurricular activities?

21 A: The Midstate Law flag football team. We played outside in the fall, and in the Berger Athletic
22 Center in the winter months.

23 Q: It sounds like you weren't the only one who was busy while in law school, would you agree?

24 A: I wasn't as busy as Max, and I always tried to make time for her/him. But seemed like the only
25 time we saw each other was in class, and the only class we had together was Professor Lewin's
26 Evidence class. My teammates were also in the class.

27 Q: Did you and your teammates have a text group for that class?

28 A: Not specifically for that class, but we did have a chat group.

29 Q: Did your teammates make any disparaging remarks about your spouse in that class or by text?

30 A: Is that another one of Max's stories? The answer is no. There was some joking around in class
31 about Law Review, not Max in particular, and Max threw shade their way and really enjoyed it.

32 Q: What about the group chat? Were any disparaging remarks made about your spouse?

33 A: No, and I saw a screenshot of those texts. But the comments weren't about Max. They were
34 about Law Review people in general. I was on Law Review so the comments were directed at me.
35 Just some friendly ribbing about how sensitive I am.

1 Q: Let me make sure we're talking about the same texts. I'm showing you what's been marked as
2 Exhibit 4. Is this the screenshot of texts you were referencing earlier?

3 A: Yes. These are texts from the team's group chat. All it says is that "Law Review people are so
4 sensitive. They can't even handle a little sarcasm. They hide in their remarkable and evolutionary
5 footnotes. If someone can't deal with sarcasm, how will they make it in real life?" Those
6 comments were directed solely at me.

7 Q: Do you know if your spouse ever saw this?

8 A: I never showed Max the texts. I didn't want to take a chance that Max might misinterpret anything
9 they said. But the next day, Drew showed Max the texts for no good reason, which resulted in
10 Max getting mad at me "for not letting him in on the crap they were saying about her/him." I didn't
11 necessarily see it that way. Maybe I should have but I was trying to balance my marriage, my
12 team, my friendships, and it felt like everything was pulling in different directions.

13 Q: Do you have screenshots of any other texts from the group chat?

14 A: No. My texts auto delete after seven days.

15 Q: What was the status of your marriage during this time?

16 A: Deteriorating. We argued a lot. Max wasn't paying attention to me and claimed I wasn't paying
17 attention to her/him. Max said s/he felt distant from me, and I definitely felt distant from Max.

18 Q: What is the status of your marriage today?

19 A: Three years in and the marriage wasn't working anymore so we legally separated in July of this
20 year, after Max brought the law suit. It's been an amicable separation. We still care about each
21 other. Of course, that doesn't mean there's any chance we're getting back together. It's over.

22 Q: I'd like to direct your attention to March 27–29, 2026. Tell us what was going on at that time in
23 relation to Trial Team.

24 A: The team went to the D.C. competition. The final was on March 29, and as I mentioned before,
25 we won. It was incredible. After that, we went out for a quick to dinner, before we jumped in the
26 car to head home. I got home around 12:30 AM. I told Max how excited and happy I was, and Max
27 said the only thing s/he was happy about was the fact that Trial Team was finally over. That things
28 would finally settle down. That I would finally be normal again. That our marriage could finally go
29 back to how it used to be. Max never even congratulated me.

30 Q: How did you respond?

31 A: I didn't say anything at first. I was too shocked that Max thought that was going to happen. It
32 made me feel misunderstood, pressured, and told Max that her/his take on this was way off base.
33 That we were on different pages. That I didn't feel the same way. Max looked really upset, maybe
34 a little angry, and I didn't want to deal with Max having an attitude with me, so I told Max the
35 conversation had to wait. Then I went into the bathroom to get away from Max before we got into
36 a big argument. I needed time to think.

1 Q: Did you call or text anyone after that?

2 A: No. All I remember is going to sleep on the couch, and waking up around 7:00 AM. I wanted to
3 get out of there quick, so I got dressed, and ran off to school. As it turns out, Blake and Drew
4 were in the student center. I motioned to Blake to come talk to me, and we sat down to talk.

5 Q: I'm showing you what's marked for identification as Exhibit 1. Do you recognize it?

6 A: I didn't draw the diagram but it looks like a layout of Hunt Hall at the law school. This is how it
7 looked back in March of 2026, and looks the same way now. You can see the main hallway, the
8 café, student center, four courtrooms, and a couple of benches.

9 Q: When you were speaking with Blake, where were you located?

10 A: We were both sitting on a bench outside of the Lawler Courtroom. It's marked as bench 2.

11 Q: What were you and Blake talking about?

12 A: We were talking about the win, how surreal it felt, and about that I had a conversation with Max
13 when I got home. That I told Max that I didn't feel the same way about her/him that s/he felt about
14 me. That Max got mad at me and started saying the most insane things, so I locked myself in the
15 bathroom to get away from Max. That's about all I was able to tell Blake because I saw Max walk
16 through the main entrance door and head down the hallway, straight toward us.

17 Q: Describe how slow or fast your spouse was walking as s/he approached you.

18 A: Not slow. Not at a normal leisurely pace. Faster than that and definitely too fast for comfort.

19 Q: How long is the hallway between the main entrance and the door to the Lawler Courtroom?

20 A: I'm not a good judge of distances, but I'd say around 180 feet.

21 Q: How long did it take your spouse to walk that distance?

22 A: I can't tell you exactly how long it took, but it wasn't any longer than 40-45 seconds.

23 Q: What did you do after you saw your spouse walking toward you?

24 A: My first thought was that I didn't want to talk to Max right then, so I immediately stood up and
25 walked toward Lawler. Blake opened the door, but before walking in, I changed my mind. Max and
26 I had to have a conversation sometime, and I wanted to work out when and where that would be.

27 Q: Where exactly were you standing after you decided not to retreat to the courtroom?

28 A: Blake and I were standing between the bench and the doorway to the Lawler Courtroom,
29 looking out toward the main entrance. Blake was standing on the right, and I was standing
30 to her/his left.

31 Q: Was your spouse saying anything when you first saw her/him?

32 A: Not at first, but when Max got about halfway down the hall, s/he did. Max's voice was really loud.
33 Not yelling, but really loud. Max said something about Silver sending a text about me having a
34 fling with Blake when we were in D.C. Max said, "Your fling is over. I'm not putting up with this

1 anymore. It's stopping now. I'll make sure of it." Max sounded frustrated, and then Max kind of
2 ordered Blake to take off.

3 Q: What did you do when you heard that?

4 A: To me, Max sounded tense, like s/he was gearing up for an argument, and I stood there kind of
5 frozen and didn't say a word. On the other hand, Blake responded to the accusation and said
6 exactly what I was thinking. Blake told Max, "Nothing happened. You don't know what the hell
7 you're talking about, and you shouldn't speak to Sam like that." Then Blake said something about
8 needing to stay with me or something like that.

9 Q: Do you recall if Blake said s/he needed to protect you?

10 A: I don't recall. I just know that the words Blake used made me feel safe and protected.

11 Q: How far was your spouse when Blake said that?

12 A: Maybe 50 feet. It was close enough to make me nervous about what the conversation was going
13 to be like, especially when I saw the look on Max's face. S/he looked intense. Not threatening,
14 but really intense. I didn't think Max would hurt me, but I definitely thought something was off
15 between Max's tone, the way s/he was walking, and the intense focus on us. It felt like something
16 was about to happen, not physical, but something and it wasn't good.

17 Q: When your spouse reached where you were standing, did s/he make physical contact with you?

18 A: Yes. Max grabbed my arm, and kind of pushed me. It wasn't a gentle push but it wasn't violent
19 either. It was sudden.

20 Q: How did that contact make you feel?

21 A: Surprised. Shocked. Alarmed enough that it made me take a step back.

22 Q: Do you know if Blake saw what was happening to you?

23 A: Blake was right there. Blake couldn't have missed it.

24 Q: What did Blake do when s/he saw that contact?

25 A: Blake stepped forward toward Max. It looked instinctive, not planned.

26 Q: Did Blake hesitate, even for a second, before stepping forward?

27 A: No. Blake reacted immediately after Max touched me.

28 Q: From your perspective, did Blake appear to be angry?

29 A: No. Blake looked concerned. Protective.

30 Q: Did it appear that Blake was being aggressive?

31 A: No. Blake was just reacting to what was happening to me. Blake wasn't trying to hurt Max.

32 Q: What happened next?

33 A: A split second later, Max fell backward into the doorway leading to the Lawler Courtroom.

34 Q: Did you see how your spouse fell?

35 A: Yes. Max went back fast, hit the door frame, and fell to the floor.

36 Q: Do you know why your spouse fell?

1 A: No. I don't know if Blake's step caused it or if Max slipped. The floor was slick that day.

2 Q: Do you know if Blake pushed or hit your spouse?

3 A: I didn't see Blake's hands when all this was going on, but if Blake had hit or pushed Max, I'm sure

4 I would have noticed that, and I didn't see anything like that. So, to answer your question, no I did

5 not see Blake hit or push Max. I would have noticed if Blake had, and I can't imagine anyone

6 thinking Blake would do anything like that.

7 Q: Are you just saying that because you're trying to protect Blake today?

8 A: No. I'm just telling you what I did and didn't see.

9 Q: When all this was happening, was there anyone else in the area?

10 A: Drew, but I don't really remember what s/he was doing. I was focused on what Max was doing

11 and saying.

12 Q: After your spouse fell, what did you do?

13 A: I moved toward Max. I was scared that Max was hurt, and s/he was. Max was unconscious. I was

14 scared for Max. So we called 911, Drew did, and got Max to the hospital. Blake, Silver, and I

15 drove there. For the next two days, I spent every waking hour there, and finally Max regained

16 consciousness.

17 Q: When you were at the hospital with your spouse, did you receive any medical treatment for any

18 type of bruising?

19 A: No. There was a bruise on my arm. I don't think Max meant to hurt me like that. But it was just

20 a bruise. I didn't even notice it until Blake pointed it out to me that first day at the hospital.

21 Q: I'm showing you what's marked for identification as Exhibit 6. What is this?

22 A: It's a photo of the bruise I had on my arm on March 30, 2026. I'm not sure where this photo came

23 from. I didn't take it. Maybe Blake or Silver did.

24 Q: Do you know if you were bruised when all the commotion was going on between you, your

25 spouse, and Blake earlier that day?

26 A: It could have been, but it could have been from flag football. I bruise easily. Law students are

27 competitive. Even though it's supposed to be flag football, it was more like tackle football. There

28 was a lot of physical contact, and we had a game on Wednesday, March 25, 2026. That was a

29 couple of days before the competition.

30 Q: Do you remember getting bruised in a game in February of 2026?

31 A: No. I don't remember that happening, but it's not entirely out of the realm of possibilities.

32 Q: Did Blake ever ask you about any bruising on your wrist or arms in January or February of 2026

33 or at any time before March 30, 2026?

34 A: Not that I recall.

35 Q: I know it's getting late but I'd like to ask you a few more questions about your spouse's hospital

36 stay. Tell us about that.

1 A: Max was admitted through the ER on March 30. A few weeks later, Max was released to a
2 Rehabilitation Center. Max got out of the Rehabilitation Center sometime in May of 2026. Then,
3 in June, Max filed this lawsuit, and I moved out a couple days later. I would have moved out
4 sooner but I didn't want Max to return to an empty home, but shortly after that I realized that I
5 couldn't stay with Max any longer. Our marriage had been deterioration for a long time, and
6 because of the trust issues. I couldn't be with someone who trusted me so little that s/he thought
7 I had a fling and cheated on them.

8 Q: Do you know why your spouse thought you had a fling?

9 A: Maybe all the time Blake and I spent together got Max's mind spinning in that direction. I don't
10 know, but there was no fling. Blake and I were never romantic. We were and are friends and
11 that's it.

12 Q: I'm showing you what's marked for identification as Exhibit 5. What is this?

13 A: It looks like a text that Silver sent to the team group text on around 3:00 PM on March 30, 2026.

14 Q: When did you first see this text?

15 A: On March 30, when we were in the ER. I can't believe Silver sent that. Such a pot stirrer.

16 Q: Do you have any idea what moment Ms. Staab is referring to?"

17 A: The only thing I can think of is when the team went out for a celebratory dinner after we won the
18 D.C. competition. Blake pulled me aside to tell me that s/he was proud of me and honored to be
19 her/his partner over the past two years. That's the moment Silver is talking about, and nothing
20 else happened. Other than that, I was with the whole team until they dropped me off at home.

21 Q: Give me a minute. I have to look at my notes. [PAUSE]

22 A: Alright.

23 Q: I forgot to ask you if you graduated from Midstate Law.

24 A: Yes. I graduated on May 8, 2026, and took the bar. I'm presently working in the Public Defender's
25 Office here in Syracuse. Hopefully, I'll pass the bar and the PD's Office will get me admitted to
26 practice early so I can be a real lawyer and handle real cases.

27 Q: That's all I have. Thank you.

28
29 CERTIFICATION: I, SAM SCHAPPELL, certify under penalty of perjury that I have carefully
30 reviewed the above transcript of my testimony to determine whether the answers contained are
31 true, accurate, and correct, and whether I had any additional information relevant to the matters
32 therein. I hereby certify, under penalty of perjury, that the transcript and testimony are true,
33 accurate, and correct, and I have no information relevant to the matters discussed other than
34 what is discussed in this transcript and testimony. Everything was covered and nothing was left
35 out.
36

37 Sam Schappell
38 Signature: Sam Schappell

August 24, 2026
Date: August 24, 2026

JURY INSTRUCTIONS

INTRODUCTORY INSTRUCTION: Members of the jury, I shall now instruct you on the law that you must follow in reaching your verdict. It is your duty as jurors to decide the issues, and only those issues, that I submit for determination by your verdict. In reaching your verdict, you should consider and weigh the evidence, decide the disputed issues of fact, and apply the law on which I shall instruct you to the facts as you find them, from the evidence.

CREDIBILITY OF WITNESSES: Members of the jury, you are the sole judges of the credibility of the witnesses and the weight to be given to their testimony. In deciding whether a witness is worthy of belief, you may consider:

- The witness's ability to observe, recall, and describe the events
- The witness's manner while testifying
- The reasonableness of the witness's testimony when considered in light of all the evidence
- Whether the witness has any interest in the outcome of the case
- Whether the witness has any bias or prejudice
- Whether the witness's testimony has been contradicted or supported by other evidence
- Whether the witness made any prior inconsistent statements
- The witness's opportunity to perceive the events described
- The witness's apparent honesty, candor, and fairness

You may believe all, part, or none of a witness's testimony. You may also consider any inconsistencies or omissions in a witness's testimony and determine whether they relate to important matters or only to minor details. No single factor controls your decision. You must use your common sense and experience in evaluating the credibility of each witness.

BURDEN OF PROOF IN A CIVIL CASE: This is a civil case. The burden of proof is on the Plaintiff. The Plaintiff must prove each element of the claims by a preponderance of the evidence. The Defendant does not have to disprove the Plaintiff's claims. However, when the Defendant asserts an affirmative defense, the Defendant has the burden of proving that defense by a preponderance of the evidence. You must consider all the evidence presented, including direct and circumstantial evidence, and determine whether the party with the burden of proof has met that burden.

PREPONDERANCE OF THE EVIDENCE: Preponderance of the evidence means the evidence makes a fact more likely true than not true. It does not require certainty. It does not require proof beyond a reasonable doubt. It simply requires that the scales tip, even slightly, in favor of the party with the burden

of proof. If the evidence is evenly balanced, or if you are not persuaded that the fact is more likely true than not true, then the party with the burden of proof has not met that burden.

EVIDENCE: Members of the jury, you must decide this case based solely on the evidence presented. Evidence includes the testimony of witnesses, the exhibits received in evidence, and any facts the parties have agreed to. There are two types of evidence: direct evidence and circumstantial evidence. Direct evidence is evidence that, if believed, proves a fact directly. For example, a witness's testimony that the witness personally saw an event occur is direct evidence of that event. Circumstantial evidence is evidence that tends to prove a fact by proving another fact from which the first may reasonably be inferred. It is evidence of circumstances that, according to common experience, permit a reasonable conclusion about the fact in dispute. The law makes no distinction between direct and circumstantial evidence. You may consider both, and you may give each such weight as you believe it deserves. A fact may be proven by either type of evidence or by a combination of both.

CIVIL BATTERY: Members of the jury, the Plaintiff brings a claim for civil battery. To establish civil battery, the Plaintiff must prove each of the following elements by a preponderance of the evidence:

1. The Defendant intentionally made physical contact with the Plaintiff.
2. The contact was harmful or offensive.
3. The Plaintiff did not consent to the contact.
4. The Defendant's conduct was a substantial factor in causing the Plaintiff's injuries.

INTENT: Civil battery is an intentional tort. To find that the Defendant acted intentionally, you must find that the Defendant intended to make physical contact with the Plaintiff. It is not necessary that the Defendant intended to cause injury, harm, or offense. It is sufficient if the Defendant intended the contact itself. A person acts intentionally when the person's conscious objective is to make the contact, or when the person is aware that the contact is substantially certain to result from the person's actions. Intent may be proven by direct evidence or circumstantial evidence. You may consider the Defendant's actions, the surrounding circumstances, and any reasonable inferences drawn from the evidence.

HARMFUL OR OFFENSIVE: To establish civil battery, the Plaintiff must prove that the physical contact made by the Defendant was harmful or offensive. Contact is harmful if it causes physical injury, pain, or any impairment of the body. Contact is offensive if it is done in a manner that a reasonable person would consider unacceptable, insulting, or violating. Offensive contact is contact that intrudes upon a person's sense of personal dignity. It includes contact that is not permitted in ordinary social interactions or that a reasonable person would find objectionable under the circumstances. You may consider the manner of the contact, the circumstances surrounding it, the relationship between the parties, the setting in which

it occurred, and the nature and extent of any resulting injury. The Plaintiff does not need to prove both harmful and offensive contact. Either one is sufficient.

CONSENT: The Plaintiff must prove that the physical contact was made without consent. Consent is permission, whether express or implied. Consent may be shown by words, actions, or circumstances indicating that the Plaintiff permitted the contact. If you find that the Plaintiff consented to the contact, then you must find for the Defendant on the battery claim. If you find that the Plaintiff did not consent, and the other elements of battery are proven, then the lack of consent element is satisfied unless an affirmative defense applies.

CAUSATION FOR INTENTIONAL TORTS: The Plaintiff must prove that the Defendant's intentional contact was a substantial factor in causing the Plaintiff's injuries. Conduct is a substantial factor if it has an actual effect in producing the injury. There may be more than one cause of an injury. If you find that the Plaintiff's injuries were caused solely by the Plaintiff's own actions, by an independent event, or by conditions unrelated to the Defendant's conduct, then you must find for the Defendant.

NEGLIGENCE: The Plaintiff also brings a claim for negligence. To establish negligence, the Plaintiff must prove each of the following elements by a preponderance of the evidence:

1. The Defendant owed the Plaintiff a duty to act as a reasonably prudent person would under similar circumstances.
2. The Defendant breached that duty.
3. The Defendant's breach was a substantial factor in causing the Plaintiff's injuries.

A reasonably prudent person is someone who uses ordinary care under the circumstances. A substantial factor is conduct that has an actual effect in producing the injury. If you find that the Defendant acted unreasonably and that such conduct was a substantial factor in causing the Plaintiff's injuries, you must find the Defendant liable for negligence unless an affirmative defense applies.

AFFIRMATIVE DEFENSES: The Defendant asserts several affirmative defenses. The Defendant bears the burden of proving each defense by a preponderance of the evidence.

AFFIRMATIVE DEFENSE: SELF DEFENSE: A person may use physical force upon another when the person reasonably believes such force is necessary to defend against what the person reasonably believes to be the use or imminent use of unlawful physical force. To establish self defense, the Defendant must prove:

1. The Defendant actually believed that force was necessary to protect against imminent harm.
2. A reasonably prudent person in the same circumstances would have shared that belief.

3. The force used was not excessive.
4. The Defendant did not provoke or escalate the encounter.

If you find that the Defendant has proven self defense, then you must find for the Defendant on the battery claim. Self defense may also negate negligence if the Defendant acted reasonably under the circumstances.

AFFIRMATIVE DEFENSE: DEFENSE OF OTHERS: A person may use physical force upon another when the person reasonably believes such force is necessary to defend a third person from what the person reasonably believes to be the use or imminent use of unlawful physical force. To establish defense of another, the Defendant must prove:

1. The Defendant actually believed that force was necessary to protect the third person from imminent harm.
2. A reasonably prudent person in the same circumstances would have shared that belief.
3. The force used was not excessive.
4. The Defendant did not provoke or escalate the encounter.

If you find that the Defendant has proven defense of another, then you must find for the Defendant on the battery claim. Defense of another may also negate negligence if the Defendant acted reasonably under the circumstances.

AFFIRMATIVE DEFENSE: JUSTIFICATION: Justification is a complete defense to intentional torts when the Defendant's conduct was legally permitted under the circumstances. To establish justification, the Defendant must prove:

1. The Defendant's conduct was undertaken for a lawful purpose, such as preventing harm to self or another.
2. The Defendant's belief in the need for force was reasonable.
3. The Defendant used no more force than necessary.
4. The Defendant did not provoke the confrontation.

If you find that the Defendant has proven justification, you must find for the Defendant on the battery claim. Justification may also negate negligence if the Defendant acted as a reasonably prudent person would under the circumstances.

APPORTIONMENT OF FAULT: If you find the Defendant liable for negligence, you must apportion fault between the parties. The total must equal 100%. This apportionment will be applied in the damages phase of trial.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAX MARIANI, PLAINTIFF v. BLAKE BRENNAN, DEFENDANT	JURY VERDICT HON. ROBERTO FRANCISCO NO. CR-052121-6
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1. CIVIL BATTERY:

1 A. Did the Plaintiff prove, by a preponderance of the evidence, that the Defendant intentionally made physical contact with the Plaintiff?

Yes _____ No _____

If "No," skip to Question 2 (Negligence).

If "Yes," continue.

1 B. Did the Plaintiff prove, by a preponderance of the evidence, that the contact was harmful or offensive?

Yes _____ No _____

If "No," skip to Question 2 (Negligence)

If "Yes," continue.

1 C. Did the Plaintiff prove, by a preponderance of the evidence, that the Plaintiff did not consent to the contact?

Yes _____ No _____

If "No," skip to Question 2 (Negligence)

If "Yes," continue.

1 D. Did the Plaintiff prove, by a preponderance of the evidence, that the Defendant's conduct was a substantial factor in causing the Plaintiff's injuries?

Yes _____ No _____

If "No," skip to Question 2 (Negligence)

If "Yes," proceed to Question 1(e).

1 E. AFFIRMATIVE DEFENSES TO BATTERY

The Defendant bears the burden of proof on each defense.

1 E(i) Self Defense: Did the Defendant prove, by a preponderance of the evidence, that the Defendant acted in self defense?

Yes _____ No _____

1 E(ii) Defense of Another: Did the Defendant prove, by a preponderance of the evidence, that the Defendant acted in defense of another?

Yes _____ No _____

1 E(iii) Justification: Did the Defendant prove, by a preponderance of the evidence, that the Defendant's conduct was justified?

Yes _____ No _____

If the jury answers "Yes" to any of Questions 1E(i), 1E(ii), or 1E(iii), the verdict on civil battery is for the Defendant.

If the jury answers "No" to all of Questions 1(e)(i), 1(e)(ii), and 1(e)(iii), the verdict on civil battery is for the Plaintiff.

Regardless of your answers in Question 1, you must now answer Question 2 (Negligence).

2. NEGLIGENCE

2 A. Did the Plaintiff prove, by a preponderance of the evidence, that the Defendant failed to act as a reasonably prudent person under the circumstances?

Yes _____ No _____

If "No," go to Question 4 (Signature)

If "Yes," continue.

2 B. Did the Plaintiff prove, by a preponderance of the evidence, that the Defendant's conduct was a substantial factor in causing the Plaintiff's injuries?

Yes _____ No _____

If "No," go to Question 4 (Signature)

If "Yes," continue.

2 C. Did the Defendant prove, by a preponderance of the evidence, self defense, defense of another, or justification as a defense to negligence?

Yes _____ No _____

If "Yes," the verdict on negligence is for the Defendant. Proceed to question 4 (Signature)

If "No," the verdict on negligence is for the Plaintiff. Proceed to question 3 (Apportionment)

3. APPORTIONMENT OF FAULT

Answer this Question only if you have found Defendant liable for negligence in Question 2.

State the percentage of fault attributable to each party.

The total must equal 100%.

Plaintiff's percentage of fault: _____ %

Defendant's percentage of fault: _____ %

4. JURY SIGNATURE

Jury Foreperson's Signature

Date: _____

REPORT YOUR VERDICT TO THE COURT
