

**ARBITRATION PENDING BEFORE
JOSE MANUEL BAÑALES, ARBITRATOR**

**RUSSELL HOUSE
VS.
LITHIA MOTORS, INC.**

**No. 2015-CCV-60202-1
COUNTY COURT AT LAW NO. 1
NUECES COUNTY, TEXAS**

AWARD

On December 5, 2005, RUSSELL HOUSE, Plaintiff [herein referred to as House], signed the "Comprehensive Agreement Employment At-Will and Arbitration" with LITHIA MOTORS INC., Defendant [herein referred to as Lithia], in which he voluntarily agreed to binding arbitration on any claim and/or cause of action arising out of or that relates in any way to his employment. As a result of an incident on November 20, 2013 on Lithia's property, House sued Lithia Motors in the cause styled above. Pursuant to the Arbitration Agreement, the Court ordered that the cause be submitted to Arbitration. The parties agreed to and retained the undersigned as the Arbitrator in this cause.

I. Summary of the Claim and the Defense

A. Plaintiff's Claim

House contends that on November 20, 2013, during the course of his employment and while at Lithia's premises, House sustained a traumatic brain injury as a result of an electrical explosion shock when he accessed the industrial electric control panel to adjust the lighting timer. House contends he continues to suffer daily pain, uncontrollable movement, vision defects and major neurocognitive disorders. House sued for damages.

B. Defendant's Defense

Lithia claims that House had had access to the electrical box at least 200 times over a 20-year period when he was employed by Creveling Motors and after Lithia Motors bought the dealership, and that he was aware and knew of the dangers of manipulating an electrical control box. Lithia further contends that House intentionally caused the explosion following his demotion after Lithia bought the dealership and that House faked his injuries and is malingering.

II. Findings of Fact

The parties agreed that all exhibits offered into evidence would be admitted; and that all depositions read or shown by video during the Arbitration and those depositions presented to me, even if not read or shown during the Arbitration, would be admitted as evidence. Accordingly, I

have read or viewed the depositions and exhibits, whether they were shown at the Arbitration or presented to me immediately after the Arbitration.¹

As in a bench trial, the Arbitrator is the trier of the facts and of the credibility of the witnesses and has the discretion to believe or not to believe a witness, in whole or in part. Accordingly, I find the following facts:

A. The Parties

1. Russell House, Plaintiff

a. Russell House, Plaintiff, was born in Colorado. His father was in the military. After graduating from high school in New York, House joined the Army. He was stationed for a while in Europe, where he met his first wife, who was from Corpus Christi. They had one son. Upon his return to the United States, he was stationed in Fort Hood, Texas. He left the service as a Sergeant. He was honorably discharged. He moved to Corpus Christi with his wife and son. He and his wife divorced about five months after moving here. He remained in Corpus Christi. House later met his second and present wife, Christina. They have two sons.

b. In 1990, House became employed as a car salesman at Creveling Motors. In 2005, Lithia Motors bought Creveling Motors. In due time, House became the General Sales Manager.

c. On the day of the incident, House was an employee of Lithia and was in the course and scope of his employment.

d. After the incident and after House had been released back to Lithia, House worked as a Car Sales Manager. House was terminated from employment in 2013.

e. House later became employed at Sames Ford Motor Company as the Used Car Inventory Manager at a lesser pay. House resigned from Sames Ford because he was unable to perform his duties due to his injuries.

f. From Sames, House then worked at Allen Samuels Motors. The pay at Allen Samuels was less than at Sames. Because he wasn't fulfilling his duties at Allen Samuels, he was fired after about six months.

g. Since August, 2016, House has not worked.

2. Lithia Motors, Inc., Defendant

¹ Immediately upon conclusion of the Arbitration, in addition to several notebooks containing the depositions, exhibits, expert reports, and pleadings previously provided to me, I was given from both sides twelve notebooks, from three to five inches wide, containing depositions, expert reports, medical records, two sets of exhibits admitted by agreement for the Arbitration, the Reporters' Records of the testimony taken at the Arbitration, regulations pertinent to the case, and caselaw. Within three weeks afterwards, each party submitted their written argument and responsive argument per an agreed schedule of submission.

a. In 2005, Lithia Motors, Inc. bought Creveling Motors. Wayne Lytle was the General Manager of the dealership for about nine years until a few days after the incident. He left Lithia in 2014.

b. Michael Ishak was the General Manager of a Lithia Motors dealership in Pocatello, Idaho when he agreed to accept Lithia's offer to take over the Corpus Christi dealership. He came in as the General Manager of the dealership on December 1, 2013. He left in 2014 to take a similar position for Lithia in Helena, Montana. He was succeeded by Ruben Ortega "JR" Velasco.

c. Lithia is a non-subscriber to worker's compensation insurance.

B. The Event

1. The event occurred on November 20, 2013.

2. Lytle testified that, on the day before the shocking incident, House approached him to ask about a rumor that Lytle was no longer going to be the General Manager. Lytle replied that Lithia wanted to make a change in management, that Lithia was bringing in a new General Manager, and that he was going to be in a different position overseeing fixed operations. Lytle added that House was going to be demoted to a sales manager role because the new General Manager was bringing in a new management team. According to Lytle, House was not happy that he was going to be demoted.

3. While on his drive to Corpus Christi to take over the dealership, Ishak received a call from Lytle. Lytle told him that word had leaked out that Ishak was coming down to replace him as General Manager, that he was also bringing in a General Sales Manager to replace House, and that there were a lot of questions and uncertainty within the staff. Ishak told Lytle to address the matter with staff. Lytle also mentioned that he had spoken to House about it and that House had concerns and was distraught. Ishak told Lytle to visit with House and that he himself would talk to House on his first day at work on December 1. The conversation was the day before House had the shocking incident.

4. House testified that Lytle did not tell him that Lytle was going to be replaced as the General Manager or that he [House] would be replaced as the General Sales Manager.

5. The electrical box at the dealership on that date was typical of electrical boxes at other commercial establishments in Corpus Christi.

6. Lytle testified that his service technician had reported to him that the clock timer in the electrical control box was not working properly and needed to be replaced. Lytle authorized its replacement.

7. Lithia hired Muniz Electrical Masters to install a new clock timer for the electrical control box. Muniz Electric installed the new timer on November 12, 2013.

8. Benito Muniz is the sole owner of Muniz Electric Masters. He established his business

after he became a Master Electrician. About a year or two before the event, House reached out to him and hired him to do electrical work at the dealership, which Muniz accepted. After that, his company did work at the dealership about two or three times a month. However, he himself rarely went to Lithia; he would usually send his technicians.

9. Muniz Electric was called to go to Lithia to replace the timer. Muniz was told that the timer was broken and was not working. He did not know how long the timer had not been in a working condition. Two Muniz Electric employees, David Dorris and Little Homer², replaced the timer.

10. Lytle acknowledged that Lithia had never provided any training to any of its employees about accessing the electrical control box. After the new timer was installed, Lytle again stated that no training was provided to House or others about accessing the electrical control box.

11. On his way in to work that day, House saw that the outdoor dealership lights were on. He decided to turn them off by accessing the electrical control box area.

12. Although House had accessed the electrical control box over 200 times during his employment, this was the first time that House had accessed the control box after the new clock timer had been installed.

13. The electrical control box area of the dealership is on an alley or back-street facing a drive-thru to the Hacienda Vieja Restaurant. The restaurant has a stationary security camera that is aimed at the drivers of the cars as they go through the drive-thru to pick up and pay for their orders. In the background, the camera captured the area of Lithia's electrical control box. The camera recorded the incident shortly before, during and after the electrical explosion.

14. The original video tape of the incident is grainy, more black-and-white than color, and somewhat difficult to follow. However, Lithia's video technician applied enhancing techniques that added some clarity and color to the video without tampering with the integrity of the video. The original video offered by House begins with House already at the electrical control box area; the enhanced video offered by Lithia begins with House walking from left to right towards the box. The enhanced video included an arbitrary timer that approximated the length of time when House accessed the electrical box area, when the electrical explosion occurred, and the response by persons at the restaurant drive-thru area and later by employees of Lithia and by City emergency personnel.

15. The explosion was caused when House came in contact with live wires in the electrical box area that were outside the internal box where the timer and light switch were located. All experts agreed that the explosion was caused by metal-to-metal contact.

16. The video recording shows House facing the electrical control box. His back is to the camera. The camera is behind him but to his left, almost at a 45-degree angle, showing most of

² Neither the deposition, the Muniz Electric invoice [PX-10], nor the Muniz Electric inspection report [PX-91] otherwise provide Little Homer's true and given name.

his left side and almost none of his right side.

17. The video shows that, immediately before the explosion, House was holding the control box cover either in his left hand or under his left arm while he was manipulating the control box with his right hand. When the explosion occurs, there is a blast or flash of a brief outage of bright light or fire in the shape of an arc emanating from the control box. As he steps back, whether by the force of the electrical shock or whether he did so intentionally, he drops the control box cover, and then drops rapidly onto the ground facedown.

18. Within seconds, the video shows men apparently coming from the drive-thru area of the restaurant to check on House. Roberto Villafuerte was among the men who responded to the explosion. Villafuerte did not know House. Villafuerte was the only person who testified that he saw House before, during and after the electrical explosion.

19. Villafuerte was in his car in line at the drive-thru of the restaurant fiddling with his cell phone when he first saw House out of the corner of his eye walking from around the corner of the Lithia building. He started paying attention to House and kept looking at House the whole time. He saw House open a box and just reach in, like he was going to grab something. He did not see anything in House's hands when House opened the box. He heard a loud blast and saw sparks. He saw House shake a little bit, and he saw House go down to the ground, face planted to the ground, dead center on the grass. As he saw House go down, he did not see House try to catch himself or break his fall. Villafuerte and others left their car to check on House.

20. Because someone else got to House first, Villafuerte walked around the corner to the Lithia dealership, saw two men in what he thought was the parts department and told them that one of their guys had just gotten electrocuted. One of them first responded that the man was probably not from the dealership, but when Villafuerte persisted, they then walked to the box area and saw that the man on the ground was House. They became concerned and worried. By then, more bystanders had come to check on House. Villafuerte again saw that House was still on the ground, unconscious and unresponsive. To Villafuerte, House was out cold.

21. Michael Calaway, a Lithia service mechanic, came over from the dealership after Villafuerte told him and another Lithia employee that one of their guys had just gotten electrocuted. After recognizing House, Calaway checked him and found him unconscious and unresponsive.

22. When Lytle was informed that House had been shocked at the control box, he went to the scene and found that the ambulance was already there. He saw that House was unconscious.

23. EMT personnel arrived and quickly attended to House. Tests were administered at the scene. EMT Eric Gomez found House unresponsive. Gomez did not believe House was faking his injuries. EMT Michael Anthony Hernandez saw a burn to House's right ankle. Hernandez found no evidence that House was faking his injuries. When House came to, he was combative with the EMT men; they subdued him. House was taken to a hospital.

24. House was examined and treated at the hospital. There were no lasting visible burns on

House's body. He was released later that day.

25. House testified that he had general knowledge of the dangers of dealing with electricity and, especially, with exposed live wires. His Dad had told him as a kid not to mess with wiring in an electrical box because it was dangerous and could injure him or kill him.

26. Lytle testified that Lithia provided no training to its employees about accessing the electrical control box. House and Richard Yarger, another Lithia employee who had accessed the box, testified that they received no training with regard to the electrical control box.

27. Yarger had had access to the electrical control box on several occasions and had also done so to turn off the lights. He received no training regarding accessing the box.

28. Prior to the incident, the electrical control box was never locked. Any person off the street could have had access to the box and could have manipulated the box.

29. There were no warning signs near, on or in the electrical control box warning any person of the dangers of accessing the box, dangers such as great injury or death.

30. Lytle had knowledge that House had accessed the electrical control box about 200 times. Lytle had never instructed House not to access the box.

31. Lithia had knowledge that Yarger had accessed the electrical control box about 5 to 6 times a month. Lytle never instructed Yarger not to access the box. Yarger testified that he had no reason to believe that access to the box was a dangerous condition.

32. Yarger testified that he saw the Hacienda video. He stated that the amount of time that House was at the box before the explosion was about the same amount of time that it took him [Yarger] when he accessed the box to adjust the timer or the lights.

33. Lithia presented testimony that House intentionally caused the electrical explosion in retaliation for his being demoted by the in-coming management, that House faked his injuries, and that he has been malingering since then to win a big award.

34. When asked whether House was faking everything and was faking being unconscious and unresponsive, Villafuerte answered "No." When asked, based on what he saw, whether he believed that there was any evidence that House caused the electrical explosion on purpose, Villafuerte again answered "No."

35. No evidence was presented even remotely suggesting that Muniz Electrical Masters, Inc. was responsible for the electric shock and the injuries sustained by House.

36. After House returned to work, he asked Sherry Downey, a bookkeeper at Lithia, to see the video of the event. She told him that she could not because she had already mailed it to the corporate offices in Medford, Oregon.

37. Later, on a Saturday, House went to Ms. Downey's office. Amanda Kirkman, a member of Ms. Downey's staff, was working that weekend. House apparently had the code to get into Ms. Downey's office. Ms. Kirkman³ texted Ms. Downey and told her that House had gone into her office and had accessed her computer, and that, as she walked by House, she saw the message, "deleting video," on the monitor. Ms. Downey then alerted the general manager. Ms. Downey did not know what House was allegedly deleting.

C. The Experts

1. Benito Muniz

a. After the accident occurred and House was hurt, Muniz Electric was asked to inspect the box. Muniz did not personally go to Lithia. David Dorris and Little Homer again were sent to check the timer that they had installed a week or so before. They checked the timer and the voltage to the timer. They could not figure out what caused the explosion.

b. After their inspection, Muniz talked to Dorris and Little Homer. They reported to him that the timer was properly grounded and that, after looking in the box, they did not see where there was any contact point or any burn marks.

c. As a Master Electrician, Muniz also testified as an expert. Muniz saw the surveillance video before and during his deposition. He testified that there were enough volts going through the box to kill a man. He saw a flash that arced that would have burned House. He agreed that House was completely rendered unconscious. He also saw several persons who tried to render aid to House.

d. Muniz explained that the electrical control board had 42 contact points that were exposed to potential users. He described the electrical control board as a hot circuit that created a potentially dangerous condition to persons who accessed the box. If a person were to touch one of the 42 points with his bare hands and contact any other metal at the same time, he could get shocked. After viewing the video, Muniz opined that House made contact with one of the live wires at the top of the board. He believed that the breakers numbered two and four tripped, causing the arc flash. He agreed that, to an inexperienced person who accessed the box, the exposed 42 wires was a dangerous condition. He also agreed that the box was unlocked and that any person off the street had access to it. Muniz conceded that he would not have allowed unqualified persons who worked for him to gain access to the electrical control box at Lithia because he did not want any harm caused to them or others. Finally, he agreed that there was a failure to protect inexperienced persons from accessing the electrical control box that had exposed live wires.

e. At his deposition, Muniz was unaware that the electrical control box in place on November 2013 was no longer in use. It had been reconfigured, changed and upgraded.

³ Amanda Kirkman was not deposed and did not testify. There was no objection to Ms. Downey's testimony of Ms. Kirkman's hearsay statements.

2. James Claude Dickens, Ph.D.

a. James Claude Dickens, Ph.D., is an electrical engineer and a co-director of the Center for Pulse Power and Power Electronics at Texas Tech University. He is a professor at Texas Tech actively teaching both undergraduate and graduate students in electrical engineering. He deals with issues relating to workplace safety with electrical hazards and is an expert on the Occupational Safety and Health Administration [OSHA], the National Fire Protection Association [NFPA] and the National Electric Code [NEC (as found in NFPA 70)] regulations.

b. Dr. Dickens testified that OSHA and NFPA 70 applied to Lithia and that Lithia was bound by those agencies' regulations pertaining to general safety, electrical safety and signage requirements. Based on his review of the records, exhibits, and depositions provided to him, it was his opinion that, on the day that House was injured, the electrical control box was an unreasonably dangerous condition for an unqualified person to have access; that House was not a qualified person to have access to the electrical control box; that Lithia had a duty to provide its employees, including House, a reasonably safe work place; that Lithia willfully knew that House was accessing the box; that Lithia did not provide any training to its employees, including House, in accessing the box; and that Lithia did not place any signage with warnings that accessing the box may be dangerous and may cause serious bodily injury or death. Dr. Dickens concluded that the accident was preventable.

c. Dr. Dickens expressed his view that the electrical explosion was caused by metal to metal contact. But, he was not overly concerned about which points of contact caused the arc flash and the resulting shock to House. In his opinion, allowing House to have access to the box is the number one cause of the accident. As he put it, "whether he makes contact here, here, or makes contact down here, [pointing to an enlarged photo of the electrical control box] gets shocked and then moves up, it really doesn't matter. ... where Lithia's responsibility comes in has nothing to do with whether he made an arc here or made any arc."

d. Based on his review of House's deposition, the video and other evidence, Dr. Dickens expressed his opinion that House accessed the box to set the timer. To do so required him to set the time, and then to manually turn knobs, move them to the new location, and to tighten them down. Doing so would take some time to do that.

e. Dr. Dickens stated he had not seen any evidence that House intentionally caused the electrical explosion. Nor did he know of any evidence that House shoved a foot-long metal object, such as a metal wire, into the box to maliciously create a lawsuit.

3. Gregory Warren Miller

a. Lithia called Gregory Warren Miller, P.E., a forensic electrical engineer. Mr. Miller holds a B.S. degree in Electrical Engineering from Tri-State College, now Trine University, in Angola, Indiana. He is based out of Cedar Park, Texas. He has been qualified as an electrical engineering expert in several electric shock and electrocution cases. He was retained to conduct an independent investigation of the electrical facts of this case. He began his investigation on

June 15, 2017.

b. Mr. Miller agreed with Dr. Dickens that the event was caused by metal-to-metal contact. Based on his education and experience, Mr. Miller explained the flow of electricity among the breakers and terminals in the panel box that resulted in the electrical explosion and arc flash. He inspected the replaced panel board on June 16, 2017, three and one-half years after the event. Based on his inspection of the panel board and photographs taken minutes after the event by Corpus Christi Police Department [CCPD] officers,⁴ he arrived at the opinion that two short circuits were created while House was in the electrical control box. The first short circuit involved two terminals that were about four inches apart. The second short circuit involved two terminals that were slightly less than 12 inches apart. In his opinion, the second short circuit caused the arc flash seen on the video. He also believed that the arc flash could not have been caused if House just happened to brush by one of the terminals with his ring or watch (if he were wearing either or both), because the terminals have to be bridged or connected at the same time, whether the separation was either 4 or 12 inches. He added that the recessed terminals of the contactors are designed to prevent casual contact and serve as a safety feature to prevent short circuits. He felt that a longer tool was required to bridge the terminals.

c. Mr. Miller believed that a metal tool long enough to touch both terminals about 12 inches apart, narrow enough to circumvent the plastic guards and the recessed terminals, and flexible enough to bend into a shape to touch both of the recessed terminals was required to create the arc flash. But, this could not be done accidentally, he believed. He concluded that on the morning of November 20, 2013, House used a metal tool to touch two different terminals to create a short circuit that created an arc flash and the electrical explosion.

d. At his deposition, Mr. Miller was shown the CCPD photos and the Hacienda Vieja video. After his deposition, Mr. Miller was provided copies of the photos and of the video, which gave him the opportunity to more closely look them over. After viewing the enhanced video, he then came to think that the metal tool was most likely an insulated wire. From the video, he saw something elongated falling to the ground to the left of House; it was some kind of object that was on fire. This was consistent with his opinion that a metal tool caused the arc flash.

e. After viewing the CCPD photos again, Mr. Miller testified that one of the photos shows a very narrow, slender serpentine object that is about the right size, the right dimension and in the right location as it fell to the ground of his suspected wire. But, when asked by the defense whether this object was consistent with a metal wire that had been on fire or a flame, he could not tell whether the object in the photo was metal. Pressed again by the defense whether the object on the ground minutes after the accident could very well be consistent with the metal tool that he had earlier opined caused the accident, Mr. Miller limited his response only that it was consistent with the dimensions of that tool. However, further in cross-examination, Mr. Miller could not say that, based on the video alone, House had used a tool while in the box.

f. When asked whether the dealership lights were on or off when House accessed the

⁴ The photographs were not taken by CCPD police officers, but by crime scene investigators [CSI] officers, who are civilian employees of the Corpus Christi Police Department.

electrical tool box, Mr. Miller responded that if the timer motor and everything in the timer were working, the lights would have been off at 6:30 a.m. on November 20, 2013. If the light switch was off, then House would have manually switched the light switch to "on." By switching the lights on, House made all of the terminals in the electric box live. Mr. Miller concluded that the event could not have occurred as a result of accidental contact or some casual contact; rather, it required somebody placing a metal tool on the terminals 12 inches apart and touching both terminals at the same time.

g. Mr. Miller's opinion that the arc flash resulted when a metal tool, such as an insulated serpentine wire, made contact with two terminals at the same time is generally consistent with Dr. Givens' metal-to-metal contact opinion that led to the electrical explosion. But, no metal or insulated wire was ever found. Although CCPD CSI officers took photographs of the scene shortly after the event, they did not find or collect a wire that House may have used to cause the explosion. Mr. Miller was dismissive of the crime scene investigators, stating that "CCPD didn't go out there looking for things on the ground unless maybe it was going to be a screwdriver or a wrench of something. ... this escaped their attention, I'm sure. It meant nothing to them."

4. Phillip Johnston

a. Philip Johnston, a Master Electrician from Sandia, Texas, also testified for the defense. He is the owner of First Choice Electric in Corpus Christi. Twelve days after the incident, First Choice was asked to look over the electrical box panel at Lithia. His employees went to the scene; Mr. Johnston did not. They did not find anything wrong with the functionality of the box, nor any tampering with it. In his report to Lithia, Mr. Johnston stated that the override switch in the electrical box had not malfunctioned.

b. Several months after the incident, Mr. Johnston was retained as a defense expert in the case. He testified that, during his career, he had been shocked "around half a dozen good ones." But, he has "never been an expert witness before." This was the first time he had been called to testify as an expert witness. Based on his view of the evidence and the video showing the electrical explosion, he expressed the opinions that House manually switched on the lights on the morning of the incident; that House knew how the electrical box functioned; that House had knowledge of the live electrical parts of the box; that House had "a specifically designed tool"; that House "inserted a tool, a wire of some type into the box"; that "it was an intentional act" on House's part; that House "was in the box too long, and that, after seeing the video, there appeared to be a wire approximately one foot long falling from the box." At his deposition, he opined that "House set the cover to the box on a ledge and then put both hands in the box," which, after seeing the video, he changed his opinion and conceded that the box cover was under his arm. But, even so, House was able to manipulate both hands in the box. And because he himself had been shocked several times and had seen other people shocked, he was of the opinion that House was not shocked and that he was faking his injuries.

c. Mr. Johnston testified that the CCPD photos show "at least part of the burnt tool" that he believed House had used.⁵ He elaborated that he saw "what would be the remains of the wire,

⁵ DX - __, CCPD report, pages 18-19, shows photos of what Johnston claims to be the wire at issue.

it's in the right area, it's the right size, it's the right shape, and what's left of it could be what's expected to be seen." Mr. Johnston also stated that House was "proficient in turning the switch on and off." He added that, from the video, he could see the wire fall, and from the photos, where it ended up. He said that the wire shown in the photos is "not part of the existing wiring of the box."

d. Despite his opinions about the event, Mr. Johnston admitted under cross-examination that, after seeing the video, he did not see House pull anything out of his pocket; that, as House was walking towards the box, House did not have anything in his hands; and that he did not actually see the foot-long tool that he believed House had used. He also agreed that the video does not show or substantiate that a wire had fallen on the sidewalk after the explosion and that the wire that he believed House used did not appear in the video.

e. Although he conceded that he is not a medical professional, based on his having been shocked several times and in having seen people shocked, Mr. Johnston knows how people react when they are shocked and whether they have sustained injuries due to electrical shock. He stuck to his opinions that House did not receive an electrical shock; that House was faking being unconscious and that House did not sustain any type of injury from the electrical event. His opinions were based on the video that he saw.

f. After receiving copies of the video and the CCPD photos, and reviewing and studying them, Mr. Johnston testified that he found the wires shown in the CCPD report pages 18-19. But, he did not disclose his discovery to House's lawyers until after the Arbitration had begun.

5. Dr. Charles Ticknor

a. Dr. Charles Ticknor testified for Lithia primarily on House's injuries. But, he also expressed opinions on how the event occurred to support his contention that House was malingering.

b. Dr. Ticknor resides in San Antonio. He specializes in psychiatry, neuropsychiatry, traumatic brain injury, mood disorders, addictions, and other things as well. After graduating from SMU with majors in biomedical engineering and biology, he attended graduate school at Southwestern Medical School, and then went to medical school in San Antonio. After graduation, he did a rotating internship of neurology, emergency rooms, and intensive care units in psychiatry for one year, followed by a three-year residency in psychiatry. As a chief resident, he remained on the faculty and ran the emergency room for University Hospital. He later worked at the Audie Murphy VA Hospital and the Brook Army Medical Center Burn Unit. At the latter facility, he worked on patients who had either flammable liquid burns or electrocution injuries that cause burns. He is now a solo practitioner who shares office space with four other board certified psychiatrists. He is also an Adjunct Professor of Psychiatry at the University of Texas Health Science Center in San Antonio; he has remained on the Clinical Faculty at the University of Texas Health Science Center in San Antonio since 1982.

c. In preparation for his testimony, Dr. Ticknor reviewed medical records, depositions, expert reports, the responders' reports, and the Reporters' Records of witnesses who had

previously been deposed or who had testified, and viewed the surveillance video of the event. He was initially contacted on this case on May 12, 2017. Dr. Ticknor submitted his expert report dated November 28, 2017 to counsel, after which he was deposed.

d. Dr. Ticknor testified that he had “witnessed scores of people falling and the consequences of people who have had significant falls and head injuries.” Based on these observations and his education, training and experience, after viewing the video, he sees “a large burst of light, there is obviously an electrical spark or shock of some kind, and Mr. House steps back, which is a conscious effort by the way, that’s the fight or flight response, one steps back from danger, and then he with what appears to be coordinated muscle control falls to his right knee as he’s turning to the right and with his outstretched hand he falls on a grassy area rather than fall directly back onto what would be a post and close to concrete.” House did not appear to strike his head when he fell. He adds that the emergency room EMT did not note any grass stains, or bruising, or redness or laceration, or any evidence that House sustained a head trauma from the fall itself. He explained that one who falls on the back of his head may end up with a laceration, or redness at the root of his hairs, or the classic goose bump or a swelling area on the back of his head; for a person who falls forward, he usually has significant bruising, and, although there may not be a laceration or bleeding, the inflammation that happens is a redness that does not go away in minutes. Despite reports by EMS officers that House had been rendered unconscious, Dr. Ticknor could not establish that House’s unconsciousness was scientifically present. In his report, Dr. Ticknor wrote, “It does not appear to this examiner [that the event caught on video] to cause a genuine electrocution incident.” He affirmed that opinion at the Arbitration. Consistent with that statement, he testified that it was his opinion that House did not sustain a traumatic brain injury.

e. Dr. Ticknor bolstered his opinion that House had intentionally caused the electrical explosion and had faked his injuries when he again examined the video frame by frame. The frame by frame exercise sealed it for him.

f. Under cross-examination, Dr. Ticknor admitted that, “in terms of the electrical experience and what happens at that moment,” that is, how the electrical event occurred, he is not an expert, although he persisted that he is an expert on the cognitive consequences of electrical injuries. He deferred to Gregory Miller, the forensic electrical engineer, and Philip Johnston, the master electrician, to support his belief that House deliberately caused the electrical shock and explosion. Dr. Ticknor relied on their expert reports and their observations and forensic evaluation of the electrical box, since he is not an electrical engineer. Although he never said in his deposition, report or testimony that he saw House put something in the box to try to hurt himself, he “based that on the opinions of the master electrician and the other physical engineer who have written reports documenting that they believe this was a deliberate case of tampering.” But, without those two experts’ opinions, he conceded that he would not have the opinion that House had tampered with the electrical box.

g. Dr. Ticknor was asked about the allegations that House, after he returned to work in December, had erased video tapes that were in a separate building from the one that he worked at the dealership. He had read and/or heard the deposition testimony of Sherry Downey. He related that Ms. Downey testified in her deposition that Amanda Kirkman saw House appear to

be in the process of deleting videotapes at the time of the event. This struck Dr. Ticknor highly unusual and suspicious. In reviewing that testimony, he did not believe that House had asked permission to go into a restricted area so that he could potentially engage in deleting the videos. Under cross examination, Dr. Ticknor assumed that the surveillance cameras at Lithia caught the explosion event and that House had deleted it, but he did not know that for a fact. He did not know what was on the videos that House is supposed to have deleted. He thought it was odd that the videos were deleted. Because of this conduct, Dr. Ticknor believed that House was not being above board and that there was some deception going on, which caused him to question House's motivation. Dr. Ticknor eventually understood that there were no cameras at Lithia which would have caught any portion of the incident where the box was located, and that House had asked to see the video of the event. Nonetheless, Dr. Ticknor adhered to his opinion that House did not sustain a traumatic brain injury.

D. Findings of Fact

Based on all of the evidence presented to me, I find and conclude by a preponderance of the evidence the following:

1. The electrical explosion at the electrical control box on November 20, 2013 at the Lithia premises was the result of an accident. Benito Muniz testified that House's touching any one of the 42 exposed points with his bare hands and contacting any other metal at the same time was enough to cause the arced flash and to shock him. Although it may not be definitively clear how House was shocked, the surveillance video clearly shows that an electrical explosion occurred while House was accessing the electrical control box, resulting in the arced flash that took him hard to the ground and that caused him serious injuries. House's inability to recall how the explosion occurred, due to the injuries that he sustained, does not negate the fact that the explosion did occur, regardless of any negligence on his part.

2. The surveillance video and the testimony of the only eyewitness who testified, Roberto Villafuerte, also show that House did not have anything in his hands as he walked towards and as he accessed the electrical control box area. After viewing the video, both defense experts, Gregory Miller and Philip Johnston, could not affirmatively state that they saw House using some metal wire in the box area to cause the explosion, despite their opinions and beliefs that House had used some tool to cause the electrical explosion. Although House had accessed the box about 200 times before, this was the first time that he had done so after the new clock timer had been installed. As with the original timer, House nor other Lithia employees received any training or warnings about accessing the electrical box area with the new timer, and no warning signs were posted in and around the box area that would have given notice that entry to the electrical control box area was dangerous. Clearly, House made metal-to-metal contact while he was at the box, which caused the electrical explosion that shocked him to the ground. Because Lithia is a non-subscriber to the State's workers' compensation program, Lithia cannot rely on any negligence on House's part in causing the explosion that resulted in his injuries.

3. House sustained an electrical shock, powerful enough to cause him to go down hard to the ground, according to the eyewitness Villafuerte. House was knocked unconscious, according to all the responders there at the scene, including the Taqueria customers, the ENT crewmen, and

Lithia's own General Manager and other Lithia employees. These after-explosion witnesses were unanimous in their assessment that House was unconscious and knocked out. Not a single witness at the scene who was deposed or testified said that House was faking it or that he was malingering.

4. Lithia can avoid liability only if it can prove that House was engaged in some criminal activity that caused the electrical explosion or if House was aware of the dangers of accessing the electrical control box.

5. Lithia failed to prove by credible competent evidence that House committed a criminal act that caused the electrical explosion. Lithia and its experts charged that House was so upset that he was about to be demoted by the new management team that he decided to sabotage Lithia by blowing up its premises through the electrical control box that controlled only the dealership's yard lights. Lithia presented no evidence that House intentionally, knowingly, recklessly or with criminal negligence⁶ committed a crime after he accessed the electrical control box area and while he was in it before the explosion occurred. Moreover, the expert opinions by Miller and Johnston that House used a foot-long wire to cause the explosion amounted to nothing more than mere speculation, surmise, guess-work or a creative imagination. Aside from Dr. Ticknor's reliance on the opinions of Miller and Johnston, Dr. Ticknor's own opinion that House intentionally caused the explosion is without any independent basis of fact.

6. Lithia's experts' reliance on the photographs [DX - __, CCPD report, pages 18-19] by the CSI officers, purportedly showing what they claimed to be the wire that House used to cause the electrical explosion is, at best, wishful thinking. I saw the enlarged photos up close both at the Arbitration and during recesses and later numerous times during my review of the record after the Arbitration. I saw what could be a wire, or a shadow of something, or a piece of string, or a plastic stringy object, or discarded trash or something or other. Moreover, Miller could not even tell that the object on the photo was metal or that it was the tool that House used. Whatever the image was that Miller and Johnston saw in the photographs was not proven to me by a preponderance of the evidence to be a wire or a tool that caused or could have caused the electrical explosion.

7. Although there may have been other pieces of wire at the scene, the defense failed to connect any wire to the electrical explosion. No burnt wire that may have fallen from the box after the explosion was ever found. In addition, Steven Callaway saw burned screws and the panel on the ground in the area of the box, but no wire. He did not testify that he saw any wires on the ground when he got to the scene.

8. Finally, Miller's dismissive remark that the CSI officers did not go out to the scene looking for things on the ground that might be connected to the explosion because "it meant nothing to them" misunderstands the role of the CSI officer, shows an utter ignorance about the education and training of CSI officers, and betrays a lack knowledge of how they perform their

⁶ These are the four *mens rea* stated in the Penal Code, any one of which must be alleged and proven to support an allegation of a criminal act or conduct. See Sec. 6.03, Penal Code. Although the quantum of proof in a criminal case is "beyond a reasonable doubt," in a civil case, of course, that measure is "by preponderance of the evidence," a much lesser burden.

duties. The remark is wholly irresponsible. None of the CSI responders in this case were called to testify. Nonetheless, during my many years as a judicial officer, I heard many CSI officers testify about their qualifications. In short, to be a CSI officer, the person must have at a minimum an Associates Degree in Criminal Justice from an accredited college or university. Indeed, all of the CSI officers employed by the CCPD (except one who was grandfathered in because of his many years of service) are required to have a Bachelors of Science degree in Criminal Justice with an emphasis on criminal investigations. Upon assignment to a crime scene and typically after a briefing from the lead police officer, a team of CSI officers will carry out a thorough search of the premises to look for any evidence that *may* be connected to the event under investigation. They search for the truth. In this case, if any CSI officer had seen any burnt wire or wire-like object that *might* have been connected to the explosion, the officer would have seized it and preserved it for further investigation. I am confident that if a burnt wire used to cause the explosion had landed anywhere in the area, the CSI officers would have found it. The fact remains that no such wire was found. Hence, no such wire exists or ever existed.

9. I find that Lithia failed to prove by any burden of proof that House was engaged in criminal activity when he accessed the electrical control box.

10. Through its then General Manager, Wayne Lytle, Lithia admitted that it had failed to place signage near, on or in the electrical control box area to provide notice and warnings to House and its other employees of the dangers of accessing the electrical control box. Lithia was aware that the control box itself was not locked or otherwise secure to prevent anyone from accessing the box. Lithia knew that anyone off the street could have accessed the box.

11. Lytle also conceded that Lithia did not provide any training to House or any of its employees about accessing or manipulating the electrical control box. Nor did Lithia warn House or any of its employees about the dangers of accessing the box. Lytle also admitted that he never told House or any other employee not to access the box.

12. Lithia failed to prove by a preponderance of the evidence that House was aware of the dangers of accessing the electrical control box. Lithia relies on House's testimony that he had general knowledge of the dangers of dealing with electricity, including his own testimony that his Dad had told him when he was a kid not to mess with wiring in an electrical box because it was dangerous and could injure him or kill him. But, this is common, every-day knowledge that every person has or should have about electricity. The preponderance of the evidence showed that House had accessed the control box 200 times. His fellow employee, Richard Yarger, had also accessed the control box numerous times. Until the day of the accident, there had been no explosion at the box when either House or Yarger and likely others had accessed the box to turn on or off the car lot lights. That House had accessed the box 200 times does not show by a preponderance of the evidence that he had full awareness of the dangerous conditions of accessing the electrical control box; it shows only that he knew how to turn on and turn off the dealership yard lights.

13. Lithia clearly had a duty to maintain its premises in a reasonably safe condition for House and its other employees. Because Lithia did not provide any training for House and its other employees about accessing the electrical control box, Lithia failed to warn House and its other

employees of concealed dangers of which Lithia knew or should have been aware of but which were not known to House or its other employees. The preponderance of the evidence showed that the dangerous conditions of accessing the electrical box were not open and obvious or otherwise known to House or the other Lithia employees. This is patently obvious from the fact that House had accessed the control box 200 times without incident until that fateful day when he accessed the box for the first time after the clock timer was replaced with a new one.

E. Injuries and Medical Issues

1. House sustained a traumatic brain injury as a direct result of the electrical shock and subsequent fall on November 20, 2013.
2. As found above, House was knocked unconscious almost immediately after he sustained the electrical shock. According to Villafuerte, House hit the ground hard.
3. The bystander witnesses from the restaurant, the EMT officers and Lithia's own employees, including its own General Manager, testified that House was unconscious and unresponsive at the scene of the event.
4. House was taken to a local hospital for observation and possible treatment immediately after the event. He was released that same day.
5. House returned to the hospital the next day, complaining of head and chest pain, weakness, fatigue and lightheadedness. He was treated and released the same day.
6. House saw Dr. Robert Vela on November 25, 2013. His complaints were consistent with one who had sustained an electrical shock. Dr. Vela's diagnosis was that House's complaints of back pain, headaches, difficulty in focusing and in sleeping, difficulty with back movement and lower extremities, a lot of nagging complaints, were all the result of the electrical shock. House saw Dr. Vela again on December 20, 2013 after test results had been received. The results were consistent with House's having received the electrical shock. Dr. Vela referred House to a neurologist.
7. House saw Dr. Hector Samaniego on April 16, 2014. His findings were generally consistent with Dr. Vela's. He referred House to physical therapy.
8. Dr. Richard Lawrence [Larry] Pollard, Ph.D., saw House on September 3, 2015 on referral to diagnose his mental, cognitive and emotional condition. Dr. Pollock is a Clinical Psychologist licensed in Texas with the following certifications: Health Service Provider by the National Registry of Health Service Providers in Psychology; Career Counseling Center by the Texas Department of Licensing and Regulations; Senior Disability Analyst and Diplomate by the American Board of Disability Analysts; Professional Qualification in Psychology from the Association of State and Provincial Boards; and Clinical Instructor for Clinical Brain Injury Specialist from the American Academy for the Certification of Brain Injury Specialists. Dr. Pollard found that House suffered from physical injuries, pain, cognitive dysfunction, and emotional distress as a result of the electrical shock; that he had frequent headaches and painful

cramping in his right arm and hand daily; that he has cognitive dysfunction in the areas of complex attention and processing speed, executive functioning, verbal and visual memory, and visual motor functioning; that he is depressed and discouraged and worries about being able to support his family and being able to be with his sons. Dr. Pollard concluded that House would benefit from a psychiatric evaluation to determine his need for medication and from psychotherapy to help him cope more effectively with his depression and anxiety.

9. House was subsequently seen by Dr. Allan David Axelrad, M.D., Psychiatrist, Board Certified in General Psychiatry and Forensic Psychiatry in Texas, and also certified as a pain medicine specialist by the American Board of Physical Medicine, the American Board of Psychiatry and Neurology and the American Board of Anesthesiology. Dr. Axelrad found that House had suffered two injuries to his brain: one was the result of an electrocution injury and the other from falling supinely on his abdomen and sustained a closed head injury. He concluded that those injuries meet the criteria for a major neurocognitive disorder, and that House had a major depressive disorder and a post-traumatic stress disorder with panic attacks, and a chronic pain syndrome associated with significant psychosocial dysfunction.

10. House also saw Dr. Ralph B. Lilly, M.D., a Neurologist, specializing in Behavioral Neurology and Neurology of Acquired Brain Injury. He is licensed in the State of Texas and other states. He is Board Certified by the American Board of Psychiatry and Neurology and the National Board of Physicians and Surgeons. He is a Clinical Associate Professor in Neurology at the University of Texas Medical School. He is a member of the American Academy of Neurology, American Neuropsychiatric Association, North American Brain Injury Society, Houston Neurologic Society, Texas Medical Association, and Texas Neurologic Society. Dr. Lilly diagnosed House with post electric shock injury, cervical electrical trauma, closed head injury, traumatic brain injury, major neurocognitive disorder, post-traumatic headache vascular type, major affective disorder, post-traumatic dystonia now classified as post-traumatic action myoclonus, orthostatic hypotension and blunt trauma flat cervical thoracic and lumbar spine injury.

11. House also saw Viola G. Lopez, a Rehabilitation Consultant, on October 26, 2016 with a phone follow-up on March 27, 2017. Ms. Lopez is a Licensed Professional Counselor Supervisor licensed in Texas with the following certifications: Rehabilitation Counselor, Life Care Planner, and Disability Management Specialist. She is also certified as a Rehabilitation Counselor by the U.S. Department of Labor and has appeared as a Vocational Expert before the Social Security Administration. After reviewing all of the medical records and reports provided to her, Ms. Lopez concluded that House is experiencing a total loss in wage earning capacity and labor market access, has not reached maximum medical improvement, has not been assigned a final residual functional capacity, and his return to competitive employment is not within reasonable vocational probability.

12. Dr. John A. Swiger, Ph.D., examined and evaluated House on his damages. Dr. Swiger graduated from University of Richmond with a Bachelor of Science in Business Administration, and obtained his doctorate from the University of North Carolina at Chapel Hill in 1976 in Finance and Management. He was an Assistant Professor of Finance at the University of Texas at San Antonio; Senior Lecturer of Finance at the University of Texas at Austin; and Associate

Professor, Professor and Emeritus Professor Finance at Our Lady of the Lake University in San Antonio. Dr. Swiger related House's basic life history and his work history before and after the event. He discussed House's lost future and lost earning capacity, lost benefits, lost household services and medical expenses, and calculated his future earnings.

13. Philip Johnston testified that he had been shocked by electricity so many times and that he had seen other people shocked by electricity that he could tell whether a person was really injured by an electrical shock. Based on his own experience with electrical contact and witnessing others suffer the same, he was of the opinion that House did not sustain any injury by the electrical shock. He conceded that he was not a medical doctor, however, and he deferred to the medical doctors who expressed the opinion that House had sustained injuries as a result of the electrical shock. But, it was still his opinion that House was not hurt. Although Johnston may have been qualified as an expert of electrician, he certainly was not qualified as an expert on the medical and psychiatric issues presented in this case. I find and conclude that Johnston's opinion that House did not sustain an injury from the electrical shock must be wholly disregarded.

14. Dr. Ticknor's education, experience and qualifications were mentioned earlier. At the outset of his report, his deposition, and his testimony at the Arbitration, Dr. Ticknor opined that House was malingering, had faked his injuries, and had not sustained a traumatic brain injury. Under cross-examination, Dr. Ticknor stated that he believed that House had sustained a shock from the electrical event and that he had sustained an electrical injury, but, at most, only a moderate injury of short term duration.

15. Interestingly, Dr. Ticknor never saw, interviewed, examined or even talk to House prior to the Arbitration. He admitted that he has never diagnosed a patient of his with malingering without an interview. He pointed out, however, that he was not House's treating doctor. The defense provided no evidence or record of a request that House be examined by Dr. Ticknor.

16. Dr. Ticknor disagreed with the findings of the other medical physicians and psychologists who personally examined House, particularly with regard to whether House had sustained a traumatic brain injury. He does rely on the examination by Dr. Maya Schiess, a neurologist associated with the University of Texas Houston Medical School, who saw House in March 2017. He reported that Dr. Schiess found no evidence that House sustained a neurological abnormality associated with an electrical shock. Dr. Schiess did not testify by deposition or at the Arbitration.

17. Dr. Ticknor stuck to his opinion that House was malingering, that there was deception on House's part, and that he has been deceiving every physician, his family and his friends since the event. House even faked seizure-like activity. Dr. Ticknor believed that, after the event, House began "a series of events that provide a basis for a conclusion that he is misrepresenting his symptoms, exaggerating what symptoms there may have been, and he is malingering." He described House as "a very smart guy. And by the way, smart people don't fake their symptoms with experts on a physical exam, because they typically know they'll be detected as faking."

III. Conclusions of Law

On June 15, 2018, the Supreme Court of Texas decided *Debra C. Gunn, et al. v. Andre McCoy, et al.*, No. 16-0125, holding, in part, that where expert opinion “evidence conflicts, it is normally the province of the jury to determine which evidence to credit.” *Slip opinion, at 19.* *Gunn* is a medical malpractice case that “involved a battle of the experts [citations omitted]. In such cases, jurors are the sole judges of the credibility of the witnesses and the weight to give their testimony [citations omitted]. It is the province of the jury to resolve conflicts in the evidence,” *Slip opinion, at 24.*

The Court also said that “if the record contains no evidence supporting an expert’s material factual assumptions, or if such assumptions are contrary to conclusively proven facts, opinion testimony founded on those assumptions is not competent evidence.” *Slip opinion, at 19.* Accordingly, because much of the opinion evidence offered by Gregory Warren Miller, Philip Johnston and Dr. Christopher Ticknor, has no evidentiary support or are contrary to conclusively proven facts, I must reject their opinions that House intentionally caused the electrical explosion, that House used a wire or a tool to cause the explosion, that House was fully aware of the dangerous conditions of the electrical control box, that House did not sustain an injury, that House did not sustain a traumatic brain injury, that House faked his injuries, and that House was and is malingering. Because their material factual assumptions on these and other issues have no support in the evidence or are contrary to conclusively proven facts, their opinion testimony on those assumptions is not competent evidence and must be wholly disregarded.

This case involves a battle of the experts as to causation and damages. As the trier of fact in this Arbitration, I find by a preponderance of the evidence that Plaintiff has met his burden of proof as to causation and damages as follows:

1. Lithia is a non-subscriber to the workers’ compensation insurance plan, and cannot assert or avail itself of any common law defenses.
2. Lithia owed a non-delegable duty to House, its employee, to provide a reasonably safe workplace.
3. As an employer, Lithia was subject to OSHA regulations, the safety guidelines set forth in the NEC, and industry standards for electrical safety.
4. House was not a “qualified person” as defined by OSHA and the NEC.
5. Lithia failed to provide signage to warn House of the dangers of accessing the electrical control box.
6. Lithia failed to provide any training to House concerning the dangers of accessing the electrical control box.
7. Lithia failed to maintain its premises in a reasonably safe condition for House and its

other employees.

8. Lithia failed to provide adequate warning of concealed dangers of which it was or should have been aware but which were not known to House or its other employees.

9. The dangerous condition of the electrical control box was not open and obvious or otherwise known to House or other Lithia employees.

10. Lithia failed to prove that House intentionally, knowingly, recklessly or with criminal negligence caused the electrical explosion that resulted in his sustaining serious injuries.

11. Lithia failed to prove that House was fully aware of the dangers of accessing the electrical control box.

12. Lithia failed to restrict House's access to the electrical control panel that contained live wires.

13. The evidence showed that the incident that resulted in House's injuries was preventable.

14. Lithia failed to present any evidence to support a liability finding against Muniz Electrical Masters.

15. House sustained a traumatic brain injury as a direct result of the electrical shock and the fall on November 20, 2013.

16. House was in the course and scope of his employment with Lithia Corpus Christi on November 20, 2013 at the time of the electrical shock and the fall.

17. Accessing the electrical control box was part of House's duties at Lithia.

18. Accessing the electrical control box panel was necessary for House to adjust the dealership lighting timer.

19. The evidence does not support any finding of negligence on the part of Russell House.

20. As a direct result of his injuries on November 20, 2013, House has suffered vocational impairment.

21. The medical treatment received by Russell House, and all costs incurred therewith, as a result of the November 20, 2013 incident, were reasonable and necessary.

22. Lithia did not present any evidence from an economics expert to controvert the opinions of Dr. John A. Swiger.

22. Lithia did not present any evidence from a vocational expert to controvert the opinions of Viola G. Lopez.

23. The sums of money, if paid now in cash, would fairly and reasonably compensate Russell House for his injuries which resulted from the occurrence in question as follows:

- a. Physical pain and mental anguish that Russell House sustained in the past: \$1,000,000.00;
- b. Physical pain and mental anguish, that in reasonable probability, Russell House will sustain in the future: \$5,000,000.00;
- c. Physical impairment that Russell House sustained in the past: \$1,000,000.00;
- d. Physical impairment that, in reasonable probability, Russell House will sustain in the future: \$3,000,000.00;
- e. Loss of earning capacity that Russell House sustained in the past: \$266,520.00;
- f. Loss of earning capacity that, in reasonable probability, Russell House will sustain in the future: \$4,636,079.00.00;
- g. Medical expenses that Russell House sustained in the past: \$60,000.00;
- h. Medical expenses that, in reasonable probability, Russell House will sustain in the future for future medical care as detailed in the Life Care Plan prepared by Viola G. Lopez, in the amount of \$1,109,683.00;


The present value of the total economic losses of Russell House, less income taxes of \$757,674.00, is \$5,314,609.00.

21. Under the express terms of the Lithia Comprehensive Agreement Employment At-Will and Arbitration, Lithia shall bear all the Arbitrator's fees and costs unique to the Arbitration.

22. Plaintiff may submit a Bill of Costs for which he will recover fees and costs unique to the Arbitration and as provided by law.

Accordingly, Russell House is entitled to an Award upon the findings of fact and conclusions of law as stated herein.

Signed on June 29, 2018.



JOSE MANUEL BAÑALES
ARBITRATOR