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6 Q. Now, Mr. Osorio, your native language is Spanish, so I'm  
7 going to pose my questions and the interpreter is going to take  
8 those questions and interpret them into Spanish. And I ask  
9 that you -- I ask that you then answer them in Spanish, and he  
10 will interpret that back to English. Is that okay?

11 A. That's correct.

12 THE COURT: No. The witness is to speak in Spanish.

13 THE INTERPRETER: He replied in Spanish, your Honor.

14 THE COURT: Sounded to me like it was English.

15 THE INTERPRETER: He said "eso es correcto" in  
16 Spanish.

17 THE COURT: Okay. Please go forward.

18 Q. Mr. Osorio, please tell the jury a little bit about your  
19 childhood, where you grew up, your family.

20 A. Well, I am 29 years of age. I am Colombian. I was born  
21 in a small city. The name of the city is Cartago.

22 Q. Mr. Osorio, could you tell the jury a little about your  
23 family life? How big was your family back in Colombia?

24 A. My mother's name was [REDACTED] She used to be a grade school  
25 teacher. She pass away when I was 13 years of age.

1           The name of my father is [REDACTED] Osorio. He's a grade  
2 school and high school teacher. He also carries out at  
3 municipal tasks in a location.

4 Q. Mr. Osorio, is your father here today?

5 A. My father is here present with me.

6 Q. Did you have any brothers or sisters, Mr. Osorio?

7 A. I have a brother. His name is James. He's 33 years of  
8 age. He graduated from the university as a biomechanical  
9 engineer. And he's also here present as well. He's planning  
10 to go back to Colombia, and he intends to do his studies  
11 towards a master's degree.

12 Q. What about you, Mr. Osorio, can you tell the jury what  
13 your educational background was?

14 A. Well, I finish grade school and high school. I studied  
15 five years in the university. In the year of 2000, I obtain a  
16 degree as computer technician; and in June of 2003, I graduated  
17 as an electronics technician.

18 Q. Mr. Osorio, during the course of your education, did you  
19 have occasion to work in this field while you were living in  
20 Colombia?

21 A. Yes. I work four years in Colombia. The name of the  
22 company is [REDACTED]

23 Q. What did you do at [REDACTED]

24 A. I was working in computers, things that had to do with  
25 repairs, maintenance and software. And I also did work in the

1 electronics side of the computer.

2 Q. And you came to the United States in 2003, is that  
3 correct?

4 A. That's correct.

5 Q. Had you ever been here prior to 2003?

6 A. Yes, sir.

7 Q. Approximately how many times?

8 A. Around four or five times.

9 Q. What was the purpose of those visits?

10 A. I would come over to visit my family.

11 Q. Then when you chose to come here in 2003, why was it that  
12 you came at that time?

13 A. Well, in October of 2003, I came over to visit my family  
14 and to visit my girlfriend who was living in the United States.

15 Q. Had you met her in your previous visits to the United  
16 States, sir?

17 A. Yes. I met my girlfriend the first time I came to visit  
18 this country.

19 Q. Then did you move to Boston because she was living here as  
20 of 2003?

21 A. Yes, sir.

22 Q. And then in 2004, after moving to Boston, were you able to  
23 obtain some type of employment here in the area?

24 A. I was not able to get employment in this area, in my  
25 field, computers.

1 Q. So what, if any, job did you obtain in 2004?

2 A. I got a job doing installation work, repairs, in wood  
3 floors.

4 Q. How was it you came to get that job?

5 A. About one month.

6 Q. How was that it he found the job?

7 A. Well, I became friends with a young fellow whose name is  
8 Jorge. He was working with a company known as P.T. Hardwood  
9 Floors. He was the one who introduced me to the boss of this  
10 company. That's the job that I got through him, up to the time  
11 that I had the accident.

12 Q. Did you start working at [REDACTED] Hardwood Flooring in  
13 approximately April of 2004?

14 A. Yes, sir.

15 Q. Prior to going to work for [REDACTED] Hardwood Flooring in April  
16 of 2004, did you have any experience in the installation of  
17 hardwood flooring?

18 A. I didn't have any experience in construction, installation  
19 of floors.

20 Q. Had you ever used any type of power tool in your life  
21 prior to going to work for [REDACTED] Hardwood Flooring?

22 A. No, never.

23 Q. Did you tell them that when you applied for the job?

24 A. They were aware that I didn't have any experience.

25 Q. What, if any, training did you receive when you started at

1 [REDACTED] Hardwood Flooring?

2 A. Well, at the beginning I would see what my coworkers were  
3 doing, and I would observe how they use tools. Then between my  
4 boss and my coworkers, they would explain to me how to use the  
5 machines.

6 Q. Did they start to teach you how to use each and every  
7 machine that was part of the business?

8 A. Yes, sir.

9 Q. Tell the jury, as to the power tools that you used, could  
10 you take them through what you learned to use first and what  
11 came next after that?

12 A. Well, the first month I was taught how to use the small  
13 sanding machine. Also during that month, they taught me how to  
14 place the wood parts in the floor. They also taught me how to  
15 use the nail gun. They also taught me how to use the  
16 lever-operated saw.

17 Q. What else?

18 A. Well, after a certain amount of time had gone by, they  
19 start teaching me how to use the table saw.

20 Q. Now, you've seen here yesterday and today, there's two  
21 table saws in the courtroom in front of you; is that correct,  
22 sir?

23 A. That's correct.

24 Q. One of them on the floor is a Ryobi BTS 15 table saw. Do  
25 you see that?

1 A. Yes, sir.

2 Q. That was the table saw that you were injured on on April  
3 19 of 2005; is that correct, sir?

4 A. Yes, sir. The one that's on the floor.

5 Q. Is that the table saw that you were trained to use in this  
6 first month or two that you worked at [REDACTED] Hardwood Flooring?

7 A. No, sir. They first taught me how to use a table saw with  
8 a -- the yellow one, yellow table saw, the DeWalt.

9 Q. And the yellow DeWalt table saw that you were trained on  
10 was of similar size and features of this Ryobi BTS 15?

11 A. It was similar. There was a difference, the difference in  
12 both the angle of the blade.

13 Q. The BTS 15's blade tilts one way and the DeWalt blades  
14 tilted to the opposite direction?

15 A. That's correct.

16 Q. Please tell the jurors how it was you were trained to use  
17 table saws back in the spring of 2004.

18 A. At first I would watch my coworkers and my boss using the  
19 table saw. Then my boss taught me how to place the wood, the  
20 machine, how to hold the wood to make the cuts.

21 MR. SULLIVAN: May I approach the witness, your Honor?

22 THE COURT: Yes.

23 Q. Mr. Osorio, I show you this exemplar piece of wood marked  
24 Exhibit 16. Is this a fair representation of a piece of  
25 hardwood flooring?

1 A. Yes, this is a good representation.

2 Q. Could you put that piece of hardwood on the bench in front  
3 of you and put your hands in the position, as best you can  
4 today, that your boss taught you to put them in when holding a  
5 piece of wood that was going to be cut in a table saw?

6 A. Yes. My boss explained to me that I had to use my left  
7 hand to guide the wood and that I had to use my right hand in  
8 order to push the piece of wood through the machine.

9 Q. Now, today, you put two fingers on the wood of your left  
10 hand to guide it. Is that how you were trained and how you  
11 performed it between the spring of 2004 and April 19 of 2005?

12 A. No. I would use all my fingers. My four fingers would be  
13 placed on top of the piece of wood. I would use my thumb to  
14 hook it on the side of the machine.

15 Q. Thank you, sir. If I could have this piece of wood back.

16 Mr. Osorio, could you please tell the jurors what  
17 other instruction you learned -- you were given as to using a  
18 table saw?

19 A. Well, what they said to me was that I had to be careful  
20 how I held the piece of wood, that this was a dangerous  
21 machine, that I had to be careful.

22 Q. What else did they tell you?

23 A. No, they didn't say anything to me additionally with  
24 regards to table saw.

25 Q. Okay. Yesterday you saw Mr. Appel hold up the features of

1 the table saw, one of which is Exhibit 17, blade guard?

2 A. Yes, sir.

3 Q. When you were trained back in the spring of 2004 to use  
4 the yellow DeWalt table saw, did it have a blade guard on it at  
5 the time?

6 A. It didn't have one.

7 Q. Did you ever see the DeWalt table saw that you -- strike  
8 that.

9 For how long did you use the DeWalt table saw, sir?

10 A. I was using that table saw from around one month, and then  
11 I used the other table saw, the Ryobi one.

12 Q. When did you use the Ryobi table saw for the first time,  
13 sir?

14 A. I used the Ryobi table saw on the day that I had the  
15 accident. That was the first time I was using that table saw.

16 Q. From -- when you started at ██████████ Hardwood Flooring until  
17 the day before, April 18th of 2005, of your accident, did you  
18 see the DeWalt table saw being used on a regular basis, and did  
19 you use it on a regular basis?

20 A. Yes, sir.

21 Q. Did you ever see a blade guard such as this on the DeWalt  
22 table saw in that eleven-month period?

23 A. No, sir. They never used it.

24 Q. Did you ever see the -- a blade guard available to be put  
25 on the DeWalt table saw during those first eleven months?



1 A. I never had a chance to see that protective cover. The  
2 blade was always used without a cover.

3 Q. Yesterday during Mr. Appel's opening, you heard him  
4 mention the fence. Do you see this?

5 MR. SULLIVAN: Approach the witness, your Honor?

6 THE COURT: Yes.

7 Q. Exhibit No. 26. Did you see a fence on the DeWalt table  
8 saw that you were trained on?

9 A. Yes, sir.

10 Q. Was that used at all times by you and your coworkers?

11 A. That fence would be used on occasion, not always.

12 Q. What were you trained when it was time to use that fence?

13 A. We would use that part, the fence, when we were about to  
14 make a very straight cut, strictly straight cuts.

15 Q. What other training, if any, did you receive in how to use  
16 table saws during this first month of your work at [REDACTED]  
17 Hardwood Flooring?

18 THE INTERPRETER: Please repeat the question.

19 Q. Mr. Osorio, what, if any, other training did you receive  
20 in using table saws during this first month at [REDACTED] Hardwood  
21 Flooring?

22 A. I learned to use other equipment. And with regards to the  
23 fence, that would be used to make very straight cuts. And I  
24 also make measurements and then determine what size the piece  
25 of wood would have to be cut.

1 Q. Well, as to the table saw, after the training you've  
2 described, were you then allowed to use it yourself from that  
3 day forward?

4 A. Yes, sir.

5 Q. And you believe this training happened approximately a  
6 month after you started? Would that put us into the month of  
7 May, do you believe?

8 A. Yes, sir.

9 Q. Could you please estimate for the jury, between May of  
10 2004 and the day of your accident, April 19 of 2005,  
11 approximately how many cuts you made on the DeWalt table saw?

12 A. Well, about 3,000 to 4,000 cuts.

13 Q. Could you explain to the jurors a little more about the  
14 business of [REDACTED] Hardwood Flooring? What type of work would  
15 they do?

16 A. Well, that company, we did installation work. We did  
17 repair work and also we did sanding.

18 Q. Could you explain what the difference is between  
19 installation and repair work?

20 A. Well, when we were doing installation work, new pieces of  
21 wood would be used throughout, from beginning to end. Repair  
22 work would be done on already existing floors; and damaged,  
23 missing pieces of wood would be replaced or repaired.

24 Q. What type of wood would you use to replace or repair  
25 damaged pieces of existing floors?

1 A. Well, for repair work, we would use old pieces of wood.  
2 We would use those old pieces of wood so the corner would match  
3 and be even.

4 Q. And were these old pieces of wood -- would they often be  
5 treated with some type of finish for the flooring?

6 A. Yes, sir, they would be varnished pieces of wood.

7 Q. On the day of your accident, April 19 of 2005, what type  
8 of work were you performing that day?

9 A. I was doing repair work on a floor.

10 Q. Now, when you were originally taught how to use a table  
11 saw and to make cuts of this wood flooring, how was it that you  
12 were taught to -- what, if anything, were you taught to do to  
13 the wood itself about the cut you were going to make?

14 A. I would take out pieces of wood which were damaged or were  
15 ugly, and I would note the measurement. That way I would know  
16 how big the piece of wood that I would use to replace it with  
17 would be to fit in the opening.

18 Q. Would you do anything to mark the wood prior to making a  
19 cut that you were going to replace?

20 A. Yes. I would make a measurement, and then I would draw a  
21 line using a pencil. I would draw that line so that I would  
22 know where to make the cut.

23 Q. I want to move forward to April 19, 2005, the day of your  
24 accident. On that day, were you using a table saw?

25 A. Yes, sir.

1 Q. What table saw were you using on April 19, 2005?

2 A. The table saw that's located here on the floor.

3 Q. And that's the Ryobi BTS 15 table saw?

4 A. That's the saw that was there on the day of my accident.

5 Q. Prior to April 19 of 2005, had you ever used that saw  
6 before?

7 A. I hadn't used that table saw.

8 Q. Had you seen it before?

9 A. I had seen it before. It was kept in the garage where the  
10 other tools were kept.

11 Q. How was it that you came to use the Ryobi table saw on  
12 April 19, 2005, instead of the DeWalt you had been using prior  
13 to that day?

14 A. On that day, all the workers were using the DeWalt table  
15 saw. They were using it at another site. And this was the one  
16 that was available for the job that I was working on.

17 Q. Did you choose it?

18 A. I didn't choose it. It was my boss who gave it to me to  
19 use during that day.

20 Q. Could you explain to the jurors how it was, on a  
21 day-in-and-day-out basis, how you would get your tools on any  
22 given job site?

23 A. The boss kept his tools at a garage, and he would know,  
24 according to the type of job that we were going to do, which  
25 tools were going to be used, and he would get that ready to be

1 transported to the job site.

2 Q. On April 19, 2005, is that how the Ryobi table saw got to  
3 the job site you were working at?

4 A. Yes, sir.

5 Q. And that was a single-family home in Lexington,  
6 Massachusetts, the job site?

7 A. That's correct.

8 Q. Were you working with anyone else on April 19 of 2005?

9 A. Yes, sir. I had a Vietnamese coworker on that day.

10 Q. Do you remember his name?

11 A. I don't remember his name.

12 Q. Well, working with a coworker, was that typical of the way  
13 you were trained to do your job from April of 2004 to April of  
14 2005?

15 A. Yes. That's the way we used to work.

16 Q. Did you work in two-man crews?

17 A. Two persons, but if it was a bigger job, more -- a greater  
18 number of us could be working.

19 Q. Did you tell the jurors that it was your understanding  
20 that on this day, April 19 of 2005, your company had another  
21 job going on where the DeWalt table saw was being used?

22 A. We went to another house at first. That's the place where  
23 other coworkers of mine stayed, and that's the place where the  
24 other table saw, the DeWalt one, was left. And then I was  
25 taken over to the other job site.

1 Q. Approximately what time in the morning was that?

2 A. It was around 7 to 7:30 in the morning. That is -- that  
3 was the time during which we left my other coworkers at the  
4 other site with the DeWalt table saw. And then around 9 in the  
5 morning, I was already at the other job site.

6 Q. Did you and your coworker, the Vietnamese man -- if I  
7 mentioned the name [REDACTED] would you recognize that name?

8 A. Yes, sir.

9 Q. How do you recognize that name?

10 A. From the job, I remember that name because it was  
11 difficult for me to remember it. It's a Vietnamese name.

12 Q. Mr. [REDACTED] was your coworker that day, was he?

13 A. Yes. He was working there at the same place with me.

14 Q. How was it that you and Mr. [REDACTED] divided up the work for  
15 that day? What did you do and what did he do?

16 A. Well, my friend, he was working on the second floor of the  
17 house. He was installing a new floor over there. I was on the  
18 first floor and I was doing repair work.

19 Q. On the second floor, how large was the room that was going  
20 to have a new floor installed?

21 A. It was a small room, not too big. I think it was small  
22 room of about a hundred square feet.

23 Q. The job you were going to do, where was that located?

24 A. It was in the house's first floor. I guess I could say  
25 that it was the living room.

1 Q. The Ryobi table saw, where was that set up that day?

2 A. On the floor.

3 Q. Where?

4 A. In the living room, first floor.

5 Q. Where you were working?

6 A. Yes, sir. The table saw was there in the same place where  
7 I was working.

8 Q. During the course of the morning, going into the  
9 afternoon, did you have occasion to use that Ryobi table saw?

10 A. Yes, sir. I had used it.

11 Q. Can you approximate how many times you used it prior to  
12 your accident?

13 A. About six or seven cuts, more or less.

14 Q. Were you doing those for yourself or for Mr. [REDACTED] or for the  
15 both of you?

16 A. I was cutting those pieces of wood for my job there at  
17 that time.

18 Q. Approximately what time of day was it that you had your  
19 accident?

20 A. Between 2 and 3 p.m.

21 Q. Do you remember what the cut was that you were going to  
22 make at the time of your accident?

23 A. Yes, sir. I was going to make a cut in the piece of wood  
24 lengthwise. I wanted to make that piece of wood smaller so  
25 that it would fit on the available space in the floor.

1 Q. Now, the piece of wood, what type of wood was it that you  
2 were making the cut in?

3 A. It was an old piece of wood. It had been previously used.  
4 It had been varnished. It was about two feet in length.

5 MR. SULLIVAN: May I approach the witness, your Honor?

6 THE COURT: Yes.

7 Q. Sir, I show you what's been marked as Exhibit 16 again.  
8 Is this piece of flooring approximately the length of the piece  
9 you were using that day?

10 A. Yes, sir.

11 Q. Although you're saying that it was an older piece you were  
12 using, was it of similar dimensions?

13 A. There were several different sizes, some smaller, some  
14 large.

15 Q. Well, the piece that you were cutting that day, did it  
16 have -- are you familiar with the term "tongue and groove"?

17 A. Yes, sir, just like this piece of wood.

18 Q. Could you point to this wood and show the jurors what it  
19 was that you were -- approximately how much were you trying to  
20 take off that day?

21 A. I wanted to make a cut in the piece of wood. It would be  
22 lengthwise. I would start here, but by the time I finished  
23 making the cut, it would be narrower than at the beginning. I  
24 made the mark, and then I was making the cut in an angle.

25 Q. This was a piece you were going to try to fit into the



1 existing flooring of the living room?

2 A. Yes, sir.

3 Q. You say that you made a mark on the piece?

4 A. Yes. I made a line with a pencil the length of that piece  
5 of wood so that I could make a cut.

6 Q. Could you please take this pencil and make the mark in the  
7 similar positions as to where you think it was back on April  
8 19, 2005?

9 A. After I had made the measurements at the available place  
10 in the floor, what the new piece would fit in, I make a mark  
11 with a pencil and a line with which I would make the cut.

12 Q. How was it that you would make the line from the top to  
13 the bottom?

14 A. We would use another piece of wood to do that.

15 Q. Could you demonstrate that to the jurors with this piece  
16 of wood?

17 A. Yes, sir. After I noted the place where the piece of wood  
18 was to be fit, then I would make a line with a pencil using  
19 this other piece of wood, and I would make it from one end to  
20 the other, something like that. (Indicating).

21 Q. Mr. Osorio, back on April 19 of 2005, the table saw, where  
22 was it placed? By that I mean, you told us it was in the  
23 living room. But where in the living room was it?

24 A. It was on the floor. That's where it was located.

25 Q. In the prior ten or eleven months you had been using table

1       saws prior to April 19 of 2005, each day that you'd use a table  
2       saw, where would the saw be located on those other jobs?

3       A.     On the floor.  I always would see the table saw located on  
4       the floor.

5                 MR. SULLIVAN:  Your Honor, I'd ask that Mr. Osorio  
6       step down from the witness stand and come over to the table saw  
7       to demonstrate how he was holding the piece on that day.

8                 THE COURT:  He may do that.

9       Q.     Sir, please step down.

10                MR. SULLIVAN:  May I proceed, your Honor?

11                THE COURT:  Yes.

12       Q.     Mr. Osorio, could you please take the position you were in  
13       back on April 19, 2005, sometime between 2 and 3:00 in the  
14       afternoon?

15       A.     (Witness complies.)

16       Q.     Now, are you holding the wood in the position you would  
17       have held it back on April 19 of 2005?

18       A.     I had it like this, but I had four fingers on top of the  
19       piece of wood, and my thumb was placed -- I was holding the  
20       thumb here in this other part.  (Indicating).

21       Q.     You see the blade on this table saw.  Is that the  
22       approximate height it was at on April 19 of 2005?

23       A.     Yes, sir.

24       Q.     Could you show the jurors what you did?  Actually, strike  
25       that question.

1           Sir, you told us you had your left hand on the piece  
2 holding it down?

3       A.    That's correct.

4       Q.    What were you doing with the right hand?

5       A.    I would use my left hand to guide the piece of wood.  With  
6 my right hand, I would push the wood so that I could make the  
7 cut.

8       Q.    Now, obviously, this table saw is not going to be  
9 energized and the blade is not going to spin.  But as best you  
10 could, could you show the jurors what you tried to do that day  
11 and tell them what happened?

12      A.    Well, I was planning to make the lengthwise cut like I  
13 drew a line here with a pencil, like this.  At that time I  
14 turned the machine on.  I started making the cut.  At that  
15 moment I felt that the piece of wood had become stuck and that  
16 there was also a vibration in the piece of wood.

17      Q.    So what did you do?

18      A.    At that time I pulled the piece of wood back.  I turned  
19 off the machine.  I was able to see that there was sawdust on  
20 top of the table saw.  There were also some small pieces of  
21 wood there.  That sawdust, those small pieces of wood, they  
22 were there because I had been making cuts previously.  So I  
23 thought that the sawdust and all of that was the thing that was  
24 making it difficult for me to do the cut.

25      Q.    So what did you do?  Wait one second.  What did you do

1 with regard to the sawdust?

2 A. I cleaned the sawdust. I cleaned the small pieces of  
3 wood. I prepared the surface.

4 Q. Now, Mr. Osorio, did you say that you believe that sawdust  
5 and the wood came from the prior cuts that you had made that  
6 morning?

7 A. Yes, sir.

8 Q. Had you experienced any of these difficulties that you  
9 were having now during those prior six or seven cuts that you  
10 made that morning?

11 A. No, sir.

12 Q. Tell the jurors what you did next.

13 A. After I cleaned the table, I again turned it on. I went  
14 back to making the cut that I had started previously.

15 Q. How far had you got in that cut previously?

16 A. That was when I had started making the cut, and I guess  
17 that it must be about the same depth as the tooth from the saw.

18 Q. What happened next?

19 A. Again, I felt the piece of wood becoming stuck, and I  
20 again felt the vibration.

21 Q. What did you do?

22 A. What I did was that I exerted more pressure with my left  
23 hand and my right hand in order to keep doing the cut.

24 Q. And what happened?

25 A. At that time -- this is something that occurred very

1 quickly. I felt the piece of wood kicking up.

2 Q. What happened to your hand?

3 A. My hand slid and it landed on top of the saw.

4 Q. Now, sir, when that saw was delivered to this job site on  
5 April 19 of 2005, did it have this blade guard on it, Mr.

6 Osorio?

7 A. It didn't have it on.

8 Q. Could you stand up and go to the other exemplar saw Mr.  
9 Appel put in the courtroom, the one to your left. And I'd ask  
10 you if you could reverse your hands because you can no longer  
11 put your left hand in the position that it was in. You cannot  
12 get all four fingers on the board, is that correct?

13 A. (Witness complies.)

14 Q. Could you put the wood all the way to the blade?

15 A. (Witness complies.)

16 Q. Again, could you show what happened when your hand  
17 slipped?

18 A. Well, I felt the piece of wood becoming stuck. I felt the  
19 vibration. The piece of wood kicked up, and my hand slid on  
20 top of the blade of the saw.

21 Q. Sir, could you please take the witness stand again.

22 Mr. Osorio, could you please tell the jurors what you  
23 saw next?

24 A. Well, at that time, when I felt that my hand had landed on  
25 top of the blade, I felt a horrible amount of pain. [REDACTED] --