

1 Dr. Schuster - Plaintiff - Cross
 2 Q. That is it?
 3 A. And ten minutes this morning.
 4 Q. Ten minutes this morning. And whatever time you
 5 spend here in the courthouse today at 350 an hour?
 6 A. About, yes.
 7 Q. Okay.
 8 A. If you want to -- you could add my travel time back
 9 and forth in the office.
 10 Q. Where is your office?
 11 A. 40th and Madison.
 12 Q. Okay. And approximately how many times a year do
 13 you testify?
 14 A. Twenty.
 15 Q. Okay.
 16 A. Every two or three weeks.
 17 Q. And what is the average amount of time you spend
 18 testifying on each case?
 19 A. I --
 20 Q. Half day each time?
 21 A. Generally two hours, two to three hours I would
 22 think about.
 23 Q. And when you told us that it was twenty-five to
 24 thirty hours, did that include your review of the various
 25 medical records?
 26 A. It does.

1 Dr. Schuster - Plaintiff - Cross
 2 records in our computer from 2000 up. So I don't -- I tried
 3 to get all that type of stuff but we only have the billing
 4 records.
 5 Q. And who was the attorney from my firm who allegedly
 6 retained you?
 7 A. Schecter, I believe.
 8 Q. Schecter.
 9 A. From fifteen years ago, sixteen years ago.
 10 Q. Schecter. And in which office? Which of my three
 11 offices?
 12 A. I can't -- I could only tell you we got the name of
 13 the attorney, the name of the law firm, the name of the
 14 case. We have the bill that was sent to you guys. You
 15 retained us on it, and I can't tell you anything more than
 16 that. I am sorry.
 17 Q. Did you testify on behalf of my firm?
 18 A. I don't know.
 19 Q. Okay.
 20 A. From fifteen years ago. I just don't know.
 21 Q. Have you ever helped someone who was a quadriplegic
 22 get a job? Yes or no.
 23 A. Yes.
 24 Q. Have you ever helped people with missing limbs,
 25 missing a leg, arm, missing a hand, obtain jobs? Yes or no.
 26 A. Yes.

1 Dr. Schuster - Plaintiff - Cross
 2 Q. Who sent you those records?
 3 A. Mr. Morgan.
 4 Q. So was -- it was Mr. Morgan who referred Mr. Barra
 5 to you; is that correct?
 6 A. Yes, correct.
 7 Q. And would you agree that ninety percent of your
 8 testimony on cases is on behalf of plaintiff's lawyers, yes
 9 or no?
 10 A. That is true. I get retained more than that,
 11 plaintiff -- testify more for plaintiff.
 12 Q. And you said that I retained you once?
 13 A. Your law firm did.
 14 Q. Williams?
 15 A. F. Williams.
 16 Q. F. Williams?
 17 A. Yes.
 18 Q. Who was the defendant?
 19 A. I don't know. We did a check through the billing
 20 records and your law firm came up with that name to it.
 21 That is all I could tell you.
 22 Q. You don't know who we represented? When was it?
 23 A. 1999.
 24 Q. 1999. What courthouse?
 25 A. I -- I don't know. I could -- that is all I could
 26 tell you. Unfortunately we only -- we don't have the

1 Dr. Schuster - Plaintiff - Cross
 2 Q. Have you helped individuals who were blind or deaf
 3 get jobs? Yes or no.
 4 A. Yes.
 5 Q. Have you ever gotten jobs for individuals who
 6 either -- who have average or below average test scores on
 7 your --
 8 A. Well, yes. Of course. All these things would be
 9 yes. And also there is -- a lot of these people are no, but
 10 some of them are yes.
 11 Q. Desire and willingness to find a job is very
 12 important; is that correct? Yes or no.
 13 A. Yes, it's important.
 14 Q. Would you agree from August 5th, 2010, until today
 15 Mr. Barra has not gone for actual vocational rehabilitation
 16 where someone tried to get him a job? Yes or no.
 17 A. I believe that is correct.
 18 Q. And are you aware that Mr. Barra was going to be
 19 laid off a day or two after the alleged accident? Yes or
 20 no.
 21 MR. MORGAN: Objection, your Honor.
 22 THE COURT: Overruled.
 23 A. I am not aware of that.
 24 Q. You are familiar with the term secondary gain,
 25 aren't you? Yes or no.
 26 A. I am.

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1 Dr. Schuster - Plaintiff - Cross
 2 Q. And secondary gain is when someone engages in
 3 conscious or unconscious behavior to alter -- because they
 4 have an external motive to gain something from somebody?
 5 A. Conscious or unconscious, you are right.
 6 Q. And one form of secondary gain is malingering; is
 7 that right?
 8 A. Well, certainly. Malingering would imply that you
 9 are purposely faking to get some type of reward.
 10 Q. Right.
 11 A. Some payoff.
 12 Q. Okay. Now, where was your life care plan? Over
 13 here, right?
 14 (Brief pause.)
 15 Q. Now, if Mr. Barra had an arthroscopic shoulder
 16 surgery, are you telling us that he -- for a rotator cuff,
 17 are you telling us that he needs to follow-up -- it's your
 18 understanding that he needs to follow-up up to three times
 19 with the orthopedist for that shoulder?
 20 A. Go to the page where Dr. Cushner is saying he will
 21 have to have another shoulder surgery down in the future.
 22 Of course he will be monitored. You could ask this to Dr.
 23 Cushner but of course if another shoulder surgery is being
 24 anticipated, of course he will be monitored by the
 25 orthopedist to determine when that will be necessary. You
 26 could ask that to --

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1 Dr. Schuster - Plaintiff - Cross
 2 Q. I will. When was the last time he saw Dr. Cushner?
 3 A. The last report I have from Dr. Cushner is October
 4 2015.
 5 - Proceedings continue next page -
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1 Dr. Schuster - by Plaintiff - Cross
 2 CROSS-EXAMINATION (CONTINUING)
 3 BY MR. JOSEPH:
 4 Q And what did he do for him then?
 5 A I think he just evaluated him at that point. And he
 6 put in that, you know --
 7 Q I asked what he did for him.
 8 A Just an evaluation at that point.
 9 Q Doctor, you indicate here that on Page 3, I think it
 10 is the third page, that he needs left shoulder cortisone
 11 injections for the rest of his life one to two times a year.
 12 A Dr. Cushner.
 13 Q Right. But is it your understanding that he injured
 14 his left shoulder in this case or his right shoulder?
 15 A I think he injured his right shoulder, but Dr. Cushner
 16 is reporting -- which is not atypical -- that because of the
 17 injury to his right shoulder, he started to overcompensate with
 18 his left shoulder, and this led to an overcompensation injury.
 19 He is developing problems in the left shoulder which he is
 20 trying to control with the injections. That's what Dr. Cushner
 21 writes. That's a question for Dr. Cushner, frankly.
 22 Q Let me ask you this.
 23 When you did this evaluation were you aware that
 24 Mr. Barra had a prior work-related injury having nothing to do
 25 with this case to his left shoulder; yes or no?
 26 A I don't believe that was reported to me.

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1 Dr. Schuster - by Plaintiff - Cross
 2 Q Well, let me ask you. Did you ask him?
 3 A Of course I asked him.
 4 Q So if he -- if you don't indicate that he had a prior
 5 injury to the left shoulder, does that mean that you asked him
 6 and he said there was no injury to the left shoulder?
 7 A No. I would have asked him any pre-injury? Any
 8 difficulties related? I wouldn't say did you particularly have
 9 an injury to your left shoulder, right shoulder, left pinkie,
 10 right toe. I would have said, were you in good health at the
 11 time of the injury? Any pre-injury medical problems? Are you
 12 taking any medications on a regular basis? Any history of
 13 seizures, convulsions, severe head injury, unexplained loss of
 14 consciousness? Any unusual problems with seeing, hearing,
 15 touch, taste, smell, movement or balance, history of drug or
 16 alcohol problems, or involvement with the criminal Justice
 17 System. That's what I would have asked him.
 18 Q So you wouldn't have asked him about the particular
 19 body parts that you were doing an evaluation on?
 20 A Not unless there was something in the medical records
 21 which I didn't see that he had some problems with that. I
 22 didn't see anything in the medical records that he had a
 23 pre-injury history of a left shoulder problem.
 24 Q And you didn't ask?
 25 A I asked if he had any general problems. He said no.
 26 I didn't see anything in the medical records. No, I didn't

1 Dr. Schuster - by Plaintiff - Cross
 2 specifically ask him about his left shoulder.
 3 Q And the last he saw I neurologist was when?
 4 A I don't know the last time he saw a neurologist. It
 5 was not in the last two years.
 6 Q It was not?
 7 A It was not.
 8 Q What treatment do you think that this neurologist is
 9 going to give him on a periodic basis?
 10 A I don't think necessarily he is going to do any
 11 treatment. He is going to evaluate him. Then if treatment is
 12 necessary he will start seeing him, but he is just there to
 13 evaluate him to hopefully make sure he doesn't need any
 14 treatment.
 15 Q Okay. So on the next page it says "as needed"?
 16 A Right.
 17 Q The neurospinal surgeon, when was the last time he saw
 18 him?
 19 A Dr. Radner, we spoke about him. Same thing, "as
 20 needed."
 21 Q And the last time he saw the physical therapist?
 22 A That was going to be years ago. He hasn't been able
 23 to do that.
 24 Q All right. The last time he saw a psychiatrist for
 25 treatment?
 26 A Probably a few years ago as well. He is getting the

1 Dr. Schuster - by Plaintiff - Cross
 2 therapist and physical trainer, you can put in the physical
 3 therapist for the rest of his life. That's more expensive.
 4 Q When was the last time he got a lumbar epidural
 5 steroid injection?
 6 A He may have been getting -- hold on. That may be
 7 recently that he was getting those. (Perusing) I don't know the
 8 exact date, but he said he was getting the cervical lumbar -- he
 9 was receiving the cervical and lumbar epidural injections
 10 approximately twice a year at the time I saw him.
 11 Q That was in December -- when did you last see him?
 12 A December 2015.
 13 Q You don't have any record of that?
 14 A I have a record from 2013 about an epidural injection
 15 in the lumbar area.
 16 Q By whom?
 17 A Dr. Blanco.
 18 Q And that's the last one?
 19 A The last record that I have, though he told me
 20 specifically he was still getting these.
 21 Q Doctor, what is the difference between these epidural
 22 injections you describe and the pain management specialist
 23 treatments he is getting?
 24 A The pain management treatment could include an
 25 epidural injection or not.
 26 Q So you might be double counting here?

1 Dr. Schuster - by Plaintiff - Cross
 2 antidepressant medication through the pain management doctor.
 3 Q Who was the psychiatrist he was seeing for treatment?
 4 A He was seeing Dr. Zager, I think.
 5 Q Would it surprise you if Dr. Zager never treated him?
 6 A I don't know what to tell you. Certainly he
 7 recommended psych treatment.
 8 Q Did he ever treat him?
 9 A If you tell me he was just evaluated, I am not sure.
 10 Q I am asking you for any psychiatrist whoever treated
 11 Mr. Barra from the time he was born until today, are you aware
 12 of any?
 13 A Dr. Zager I think is the only psychiatrist whose name
 14 that came up. He has been taking the psychiatric medications
 15 but that's the only psychiatrist I think that came up that I
 16 could recall.
 17 Q You don't know that he actually treated with him?
 18 A My impression from the report was that he was treating
 19 with him, but you may be right. What could I say? Certainly he
 20 was evaluated and recommending strongly that he needed ongoing
 21 psychiatric treatment. That's all I could tell you.
 22 Q It is your understanding that he needs a personal
 23 trainer and a massage therapist and a physical therapist?
 24 A Yeah, for different reasons.
 25 Q Okay.
 26 A As I said, if you want to get rid of the massage

1 Dr. Schuster - by Plaintiff - Cross
 2 A No. That's where you have your visit, you
 3 consultation, prescribing of medications, prescribing physical
 4 therapy. If he has to do a procedure, that's the procedure on
 5 top there.
 6 Q If he has to do the procedure.
 7 A Yes. Twice a year.
 8 Q He hasn't had it in at least three years?
 9 A No. He had it when I saw him in 2015. He said he was
 10 having these done regularly twice a year. That's what he told
 11 me.
 12 Q You have no record of that is what you are saying?
 13 A Right.
 14 Q You are not sure if it is indicated he is going to
 15 need the right shoulder, correct?
 16 A Dr. Cushner said it was going to happen.
 17 Q By the way, doctor, which if any of his doctors did
 18 you actually speak with when you made your evaluation?
 19 A I didn't speak to them. I just read the records.
 20 Q So you just read the records and interviewed
 21 Mr. Barra, and these how you did it?
 22 A And my own expertise and experience in the field.
 23 That's right.
 24 Q But you are not a medical doctor?
 25 A I am not a medical doctor.
 26 Q Okay.

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1 Dr. Schuster - by Plaintiff - Cross
 2 Did you read any pharmacy records to see that he
 3 is taking this hydrocodone?
 4 A No. It is in the medical records.
 5 Q When was the last time he was taking it?
 6 A He told me he is taking them right now.
 7 Q What records do you have that show -- what pharmacy
 8 records do you have to show he has been taking them?
 9 A I don't believe I have pharmacy records, though I
 10 certainly have the last doctor report. That put him on
 11 multiple -- put him on all of those medications, plus others.
 12 Q But you don't have any pharmacy records to see if he
 13 has been filling these prescriptions, correct?
 14 A Correct, I don't have the pharmacy records. He told
 15 me he was. They are in the doctor's reports. I am taking his
 16 word for it.
 17 Q Cymbalta is for depression?
 18 A It is.
 19 Q Are you aware that he reported to at least one
 20 physician prior to this incident that he was depressed?
 21 A That he reported he was depressed? I don't understand
 22 the question.
 23 Q Are you aware that he reported to at least one of his
 24 personal physicians prior to this accident that he was
 25 depressed, yes or no?
 26 A Prior to the accident?

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1 Dr. Schuster - by Plaintiff - Cross
 2 Q Yes, sir.
 3 A I didn't see any record that he reported that he was
 4 depressed prior to this accident.
 5 Q Well, what records did you review?
 6 A Okay. Ready? You want me to read the whole list?
 7 Q Did you review any records from any internists?
 8 A Gee wiz, I don't know. I am not sure.
 9 Q You are not sure?
 10 A I am not sure -- no, I can't tell you yeah or nay. I
 11 am not sure if some of the doctors -- we don't have the
 12 specialty listed here on these some of these doctors.
 13 Q Did you view any medical records from prior to the
 14 accident, yes or no?
 15 A No.
 16 Q By the way, you indicated at one point that he
 17 suffered from tinnitus, correct?
 18 A He does.
 19 Q Are you aware that he suffers from hypertension?
 20 A I am.
 21 Q And can tinnitus be a result of hypertension, ringing
 22 in the ears?
 23 A Not that I have typically heard of. That's all I
 24 could tell you. Whether it is or not some obscure reason,
 25 possibly, but that's not typically the reason you get tinnitus.
 26 That's the best way I can answer your question.

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1 Dr. Schuster - by Plaintiff - Cross
 2 Q You are aware he suffers from hypertension, right?
 3 A Yes.
 4 Q And you are aware he suffers from diabetes?
 5 A I am.
 6 Q You are aware he suffers from other medical issues as
 7 well?
 8 A Yes.
 9 Q So would it be fair to say that these lab tests that
 10 you are describing he would have to have for his other medical
 11 conditions anyway if he was following them properly?
 12 A Not necessarily. It depends on the medications he was
 13 taking for them.
 14 Q Well, you said here "comprehensive metabolic panel,"
 15 right?
 16 A Yes.
 17 Q Isn't that when you look at blood sugars and things
 18 like that?
 19 A It is.
 20 Q So he would have to do that anyway, right? He has to
 21 do that anyway, right? If he has Type 2 diabetes, he should be
 22 doing this anyway with his internist?
 23 A I have to say, you may be right on that. He should be
 24 having those type of tests.
 25 Q All these three tests, correct?
 26 A Probably, if he has -- certainly if he has active

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1 Dr. Schuster - by Plaintiff - Cross
 2 diabetes and things like that, it could very well be his doctor
 3 would order a complete testing.
 4 MR. MORGAN: May we approach for a second?
 5 THE COURT: Sure.
 6 (Off-the-record discussion held)
 7 Q You wrote that he had a cane and a cane tip, and now
 8 you are waving your hand and saying you made a mistake?
 9 A No. He was using them, but I was told really this is
 10 not any more of an issue, so it is out.
 11 Q It wasn't an issue when you saw him back in September,
 12 was it?
 13 A He told me back in December he was still using the
 14 cane as needed.
 15 Q Did you see him with the cane back in September?
 16 A No.
 17 Q Would it surprise you that he has been to court every
 18 day the Court has been in session without a cane?
 19 A No. That's why the cane is out.
 20 Q Where is this TENS unit?
 21 A At home.
 22 Q It is not on his person?
 23 A No.
 24 Q How often does he wear the TENS unit?
 25 A He told me he wore it regularly. I can tell you
 26 exactly what he said. He used the TENS unit regularly. So yes,