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Q Yes. Okay.
What I am asking you is -- I just want to make sure I understand. You have reviewed no medical records in order to clinically correlate plaintiff's MRIs to a traumatic brain injury; isn't that correct, yes or no?
A That is correct.
Q Okay. And you don't know if Mr. Barra had any preexisting brain injury; is that correct, yes or no?
A Correct. I would have to be told that. I have not been told that.
Q Now, doctor, I want you to assume that the jury has heard evidence that an ambulance responded to Mr. Barra's alleged accident -- by the way, are you a neuroradiologist?
A No.
Q Would your specialty really be -- I know you are a diagnostic radiologist, but you do a lot of breast examinations, right?
A I do those as well.
Q I would like you to assume, doctor, that the jury has heard evidence that an ambulance responded, that plaintiff denied loss of consciousness. I would like you to further assume that plaintiff was tested by the ambulance crew twice for the Glasgow Coma Score and scored a perfect 15 each time. I would like you to further assume that he was taken to New York Presbyterian, that they reported that his head was nontender,

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that it was atraumatic, that he did not complain of headache --
MR. MORGAN: Objection, your Honor.
Q I would like you to further --
THE COURT: Overruled. Continue.
Q I would like to you further assume that when he walked out of the hospital they reported that he had a steady gait. I would like you to further assume that he was not diagnosed with a concussion at the hospital.
Would you agree, doctor, that what I just read you to does not clinically correlate with the MRI to show a traumatic brain injury, yes or no?
A No, I can't say that.
Q Why can't you say that, doctor?
A Because that is a question for the people who were examining him and saying whether -- if you cannot have headaches and they felt that there wasn't a concussive event to his brain, can you have that finding on the MRI or not? All I can do is relate to you that we have this finding consistent with an infarct or a significant abnormality of the brain. Whether it relates to the trauma or not, we need clinical information to see whether this patient has cognitive or brain defect that he didn't have previously. So I can't answer that question.
Q So I just want to make sure I understand. You read both MRIs of the brain?
A Yes.

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Q And without clinical correlation you cannot say that either one shows a traumatic brain injury, correct?
A Right. I need clinical correlation.
Q Okay.
Doctor, I would like you to assume that the CAT scan of the brain on the day of the incident on August 5, 2010 at New York Presbyterian does not show any swelling to the scalp. Would you agree that that also shows lack of injury to the head?
A You could have a severe injury without scalp edema, but if he didn't, he didn't. That's fine.
Q So you can't argue-- you haven't read the CAT scan, right?
A Right.
Q Doctor, I would like you to assume that he had a neuro CAT scan of the brain at the hospital on August 5, 2010, that the study was interpreted and a report was approved by Dr. Christopher Wladyka, do you know him?
A No.
Q I would like you to assume that the treating radiologist, Dr. Wladyka, his impression was no acute intracranial hemorrhage, infarction, or mass lesion.
Would you agree that is a totally normal CAT scan of the brain?
A CAT scan?

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Q Yes.
A From what you are reading to me, yes. That's a CAT scan you are reading, not an MRI?
Q Absolutely.
A Yes.
Q Now, doctor, the first MRI of the brain was approximately a week afterwards, right?
A Yes.
Q And if Mr. Barra had what is considered mild traumatic brain injury, mild TBI, you would expect to see punctate lesions on that MRI, wouldn't you; yes or no?
A Not necessarily.
Q Well, punctate lesions are dots are points in the MRI?
A You are seeing a punctate lesions right now.
Q But you would expect to see diffuse multiple punctate lesions, isn't that correct?
A It depends the severity of the injury. You can see many many or you can see one. One is abnormal, ten is abnormal.
Q Was the infarct you saw in the white matter of the brain?
A Yes.
Q When you have a concussion it affects the axons?
A That's the name that we call nerves in the brain.
Q They are the white matter?
A Yes.

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Q And if you had a mild traumatic brain injury, wouldn't you expect to see multiple signal changes in the white matter?
A There are no signals in CAT scans.
Q I am talking about the MRI.
A Sorry. So we see one signal abnormality.
Q But not multiple?
A No. That's good for this patient that there aren't multiple. There is only one.
Q Well, when you have a traumatic brain injury, aren't the axonal injuries considered to be diffuse, in other words scattered, correct?
A No. You could have a focal brain injury and not a scattered brain injury.
Q Mild traumatic brain injury is considered diffuse and scattered, correct?
A No, not only diffuse and scattered. It can be diffuse and scattered.
Q And you found this particular infarct in the insular of the brain; is that right?
A Yeah. Insular cortex -- sub-insular cortex, the white matter.
Q And not in the temporal lobe, correct?
A Right.
Q And not in the frontal lobe, correct?
A Yes, it is.

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Q It is considered the frontal temporal lobe?
A Yes. The insular cortex runs along the side of the brain all the way back. This is in the front which is the frontal and on the side which is temporal, so it is both.
Q Okay.
Doctor, you are familiar with a diffusion tensor imaging test?
A Yes.
Q Nobody ordered one in this case?
A That is correct.
Q Is a diffusion tensor imaging test a more sophisticated way to pick up a mild TBI?
A Well, there is controversy, but in general many people feel that it can.
Q Is it an accepted test?
A It is a test that is performed. It is not accepted by everybody, but it is accepted by some people, yes.
Q Do you perform such tests at your facility?
A I am capable of performing that test, yes.
Q Are you the person that would be interpreting it or somebody else?
A I would be interpreting it.
Q Did you recommend that that be done here?
A No. I am reading this five years after the scan, so the answer is no.

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Q Well, you were first retained in this case back in December, give or take?
A Yes.
Q You didn't ask to have that done back then?
A That I should ask that a diffusion test or imaging test be done five years after the MRI? No. He has doctors who would order that.
Q In your report that you wrote, you compared the two brain MRIs, right?
A Yes.
Q You indicated that the abnormality you saw was consistent with but not limited to a traumatic injury; is that right?
A Exactly, yes.
Q You compared the two brain MRIs and said that the brain had not changed between the two MRIs; is that correct?
A Correct.
Q Now, are you familiar with somebody named Monte Buchsbaum?
A I don't know him, no.
Q Assume Dr. Buchsbaum testified on April 11, 2016 in this courtroom. He was interpreting positron emission topography scans of the brain. I want you to further assume that Dr. Buchsbaum said that an MRI, if you take MRIs at different times after traumatic brain injury that the second MRI

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can show shrinkage of the brain because a portion has become inactive because of the traumatic brain injury. You didn't find such atrophy, correct?
A Correct.
Q Would you agree, doctor, this is not the first time you testified on behalf of a plaintiff with whom you did not participate in treatment?
A That is correct.
Q How many times per year are you retained to interpret radiologic studies in litigation where you were not the original radiologist?
A Roughly ten times or twelve times per year.
Q Just to do the interpretation?
A Yeah.
Q What percentage of that is for the plaintiff?
A A little more than half, a little more than half.
Q Would you agree that on the defense side, defense cases that you do you are predominantly representing doctors accused of malpractice?
A No.
Q No?
A Correct.
Q How many times a year do you testify in radiologic studies where you were not the original radiologist?
A Less than five times per year.

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Q Mr. Morgan asked you if he had ever retained you before. Has his firm ever retained you before?
A I believe so.
Q On how many occasions?
A Less than five, maybe twice. It's really a tiny number over the course of 20 years.
Q How many times have you testified on behalf of that firm?
A Again, I am a little bit guessing. Maybe twice? It is a very small number. Maybe once, maybe twice.
Q And you testified in this very courtroom just four months ago in front of this same judge?
A I believe so.
Q In which again you were not the original radiologist, right?
A Four months ago? Yeah, that's about right.
Q Doctor, you testified that I think that at C3-4 and C4-5 the discs were abutting the spinal cord; is that right?
A Yes.
Q That's not the same thing as impinging on the spinal cord, correct?
A It is touching the spinal cord.
Q In other words, it is not pushing on it as hard as an impingement, correct?
A Those are specific to my words. I mean, think we

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can -- you can look it up in a dictionary as opposed to being scientific, but I would agree with that.
Q When you look at the MRIs of the spine, you can't tell by looking at the MRI what is and is not causing pain, correct?
A You can tell the doctor what is involved, and the doctor will then say, Yeah, that is exactly what I was thinking may be involved. In other words, if a disc is pushing on an L5 nerve root, you would expect to see the pain or symptom at the L5 distribution.
Q But the patient might or might not have that pain or that physical ailment, correct?
A Absolutely.
Q And based upon the cervical spine, lumbar spine, those are all spinal MRIs?
A Correct.
Q You cannot tell to a reasonable degree of medical certainty when these alleged herniations occurred based upon the MRIs; is that right?
A Just looking at the MRIs you cannot.
Q Likewise with the shoulder, you need clinical correlation to determine when exactly that tear occurred, correct?
A You do. Except that's such a severe injury that it is unlikely a patient just walks around without complaining of symptoms with a complete rotator cuff tear. So in that

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particular case, the MRI can be used to say that the injury is relatively recent unless the patient has been complaining of severe disability of the shoulder prior to the accident.
Q Thank you, doctor. I have no further questions.
THE COURT: Let's take a quick break. Five minutes. Do not discuss this case among yourselves or with anyone else.
(Jury steps out of courtroom)
(Short recess taken)
THE COURT: Let's continue. We are now on redirect examination of the witness.
REDIRECT EXAMINATION
BY MR. MORGAN:
Q Doctor, I want to talk to you for a minute about a few of the hypotheticals that the defense attorney used where he wanted you to assume certain things about the hospital record. One of the things he asked you to assume is that the patient did not have a headache at the time of the -- in the hospital after the accident.
I want to point you to where it says "describe" in this record. It says: "Pain, patient hit head," and it says "unknown LOC." Do you see that, doctor?
A Yes.
Q He wanted you to assume he did not complain of pain to the shoulder. I want to show you where on what has been marked

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as Plaintiff's Exhibit 15 A where he states "neck, face, shoulder pain." Do you see that, doctor?
A Yes.
Q He wanted you to assume Mr. Barra did not suffer any type of head injury. I refer you to Exhibit 15D where it says "head injury," right?
A Yes.
Q He also asked you if he was going to leave the hospital with that shoulder injury would they need to put him in some sort of immobilizer. I want to show you the same exhibit, 15D. Do you see the instructions under shoulder pain where it says: "For how many days should the patient not remove their shoulder immobilizer." Do you see that, doctor?
A Yes.
Q Would those entries in the hospital report have helped you answer his hypothetical better, doctor?
A Yes.
Q He talked to you about arthritic changes in the right shoulder and then asked you if that was proof that the tear was not traumatic. Can you just explain the areas of the shoulder where he found arthritis as opposed to where the traumatic tear occurred? And if you need to refer to the blow-up of your MRI, feel free to do it. If not, just explain it to the jury, please.
A The two major areas they found arthritis was the AC

joint, the acromioclavicular joint, here, the clavicle, front here. And the second portion was the glenoid where they had the x-ray report that said there could have been a fracture there, and it was possibly arthritic in here. But the rotator cuff tear is the tendon that goes all the way over the humerus, over the big bone and attaches there.

So there was no impingement by the acromioclavicular joint on the rotator cuff that caused the tear. The tear was an extensive complete tear with the tendon being ripped off the humeral head. So it is totally unrelated.

Q I want you to assume that defendant's own orthopedist will opine in this case that the tear and the need for surgery was actually causally-related to the fall. Does that correlate with your findings?

A Absolutely. That MRI is just very obvious.

MR. MORGAN: Nothing further.

THE COURT: Recross?

MR. JOSEPH: No thank you, your Honor.

THE COURT: You may step down. Thank you.

Counsel, can I see you, please?

(Off-the-record discussion held)

THE COURT: No further witnesses today. We will break at this point and reconvene tomorrow at 9:30 when we continue with the trial.

Remember, do not discuss this case among

yourselves or with anyone else. Do not do any internet search about this case, the parties, the attorneys, the Court, or any witness.

Enjoy the rest of your day. I will see you tomorrow at 9:30.

(Jury steps out of courtroom)

THE COURT: Counsel, 9:30 tomorrow.

(Proceedings adjourned to April 15, 2016, 9:30 a.m.)