

Plaintiff - Direct - Dr. Shah

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1 would be a semiannual to annual basis and that would be  
2 roughly 200 to \$350 annually. Imaging that he will require  
3 for the rest of his life including MRIs, CT scans, EMGs,  
4 x-rays, ultrasounds will be roughly, will be \$469 to \$625  
5 annually. Laboratory testing, so blood work testing for  
6 the rest of his life annually would be roughly \$125. And  
7 then --

8 THE COURT: Forever or per year?

9 THE WITNESS: Annually, per year. And then in  
10 regards to if he ultimately requires pain medications  
11 including opioid medications to treat his pain then based  
12 on -- he will require frequent monitoring including urine  
13 drug testing, however, we normally use this as a potential  
14 cost but that potential cost could be between 50 and \$100  
15 per test.

16 THE COURT: How often would you expect that?

17 THE WITNESS: The test would likely be every six  
18 months. Going to table three. In regards to table three  
19 we are looking at specialized therapeutic evaluation, so  
20 physical therapists, I'd anticipate him requiring  
21 resurgence in his physical therapy since he hasn't been in  
22 physical therapy in roughly over a year now. So it would  
23 be two to three times per week for a six-week period, and  
24 that would be total cost for the year would be \$2,375 to  
25 \$3,125.

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1 THE COURT: Sorry. What was the first number?

2 THE WITNESS: 2,375.

3 THE COURT: Thanks.

4 THE WITNESS: Mm-hmm. And then after that it  
5 would be weekly sessions for an additional six months and  
6 that total cost per year is 3,250. And then upon  
7 completion of that six-month period I would anticipate that  
8 he will need monthly sessions with physical therapy just to  
9 monitor, maintenance and improve his progress, and that  
10 would be -- cost per year would be 1,500. In regards to  
11 occupational therapy, occupational therapist is somebody  
12 that will help with his activities of daily living, so  
13 bathing, dressing, grooming, as well as looking to see if  
14 he needs any assistive devices or any changes in his home  
15 and I would think that he would also need a repeat  
16 resurgence of that which would be two to three times per  
17 week for six weeks and that's at \$125 per session.

18 Q What's the cost per year?

19 A The cost per year is 1,500 to 2,250.

20 THE COURT: Every year or just this year?

21 THE WITNESS: Just for that year. And then after  
22 that we would anticipate that he will need roughly 12  
23 sessions throughout the rest of his lifetime and that would  
24 be at a cost of \$125 per session. And then in terms of  
25 complimentary medicine, so that would include things like

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1 acupuncture, massage therapy, biofeedback, that type of  
2 treatment, he will require three months of therapeutic  
3 trials with it, 24 sessions and that would be at roughly  
4 \$1,800 for the year. And then after that would be 12  
5 sessions roughly for the rest of his lie and that would be  
6 900. It would require benefit from a membership at a  
7 fitness center so that he can continue his home exercise  
8 program as well as -- and doing a -- an exercise program at  
9 a fitness center and that would be like at something like  
10 the YMCA and their cost for membership is \$64, so for the  
11 rest of his life that would be roughly \$768.

12 And then in terms of his aquatic therapy program I  
13 would anticipate at least two times per week for the first  
14 six weeks and that would be 1,200 to 1,500 total costs for  
15 that year and then after that it would be additional  
16 monthly sessions one time per month at 50 to \$60 a session  
17 which equates to about \$600 to \$720 for his lifetime.

18 I included that he join a paint support group,  
19 which would be at no charge, a nutritional weight loss  
20 program as well, which would be in his first year would be  
21 \$350 and then continuing onwards from his second -- in his  
22 second year would be roughly \$400 and then in terms of  
23 counseling, dieting, medication, exercises, all of those  
24 things would be a projected cost after 1,885 to \$2,588.  
25 And then maintenance will be 100 to \$200 for the rest of

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1 his life.

2 And then in regards to table four this includes  
3 potential surgical interventions going forward, additional  
4 surgery, as we had mentioned before, Dr. Lerman believes  
5 that this is an anticipated surgical surgery which will  
6 happen within the next five years and that would be at a  
7 cost of roughly \$100,000, post rehab costs after the  
8 surgery would be between 3,500 and \$5,000, so those are  
9 anticipated costs. Additional potential costs which have  
10 not been calculated or added in to this but that can also  
11 include issues of falls, gait changes and mobility, changes  
12 in his knee, knee pain requiring other interventions like  
13 surgery as well.

14 THE COURT: But you didn't include that number in  
15 your totals?

16 THE WITNESS: Correct, no.

17 THE COURT: Got it.

18 THE WITNESS: Currently he is taking, and this  
19 goes on to table five, medications and assistive devices,  
20 medications include Naproxen, which he is on right now  
21 which is an antiinflammatory medication and that cost for  
22 life will be \$2,880, and then the potential cost which I  
23 have not included in his projected dollar figure would be  
24 trials with other medications, other types of pain  
25 medications, other topical ointments, creams, things of

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1 that nature. I have included a device, a tens unit which  
2 is to help alleviate his pain.

3 THE COURT: Did you give us the scooter price?

4 THE WITNESS: Not yet. In terms of -- in terms of  
5 an electric or a motorized bed with inner spring and memory  
6 foam that cost would be 2,778 to \$3,124, and they have  
7 roughly a ten-year life span. So we'd anticipate him  
8 having to buy that twice in his life span. A sit to stand  
9 desk, that would be \$520 to \$970, an ergonomic seating with  
10 lumbar support, that would be 1,150 to \$2,550, and  
11 antifatigue floor mat that would be \$140, and then basic  
12 home exercise equipment would be \$688 to \$960, the  
13 motorized scooter will be at a cost of \$1,198 to \$3,398,  
14 this also has a ten-year life span, maintenance and repair  
15 for the scooter over the lifetime will be roughly 1,200 to  
16 \$1,600, assistive devices for his hygiene, so completing  
17 toileting, showering, bathing, things of that nature will  
18 be roughly \$650 to \$850.

19 THE COURT: That includes the shower chair?

20 THE WITNESS: That includes the shower chair,  
21 yeah. Well, no, this includes -- no, bathing, aids, those  
22 kinds of things, like brushes and what not, not the chair.

23 THE COURT: 600 how much?

24 THE WITNESS: 650 to 800.

25 THE COURT: Okay. Doctor, I've got to ask you to

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1 speak up a little.

2 THE WITNESS: Sorry, I apologize. Also, a water  
3 temperature and pressure valve system to prevent any  
4 scalding changes if you're sitting down and can't move out  
5 of the shower that's an additional \$250 to \$300 to the  
6 actual shower itself, then looking at table six,  
7 housekeeper costs, so housekeeper costs are two times per  
8 week for four hours -- for four hours per session from 67  
9 to 68, his age 67 to 68 will be \$2,496. His housekeeper  
10 from 68 to 75 will also be two times per week for four  
11 hours per session and that duration is \$9,984 and then his  
12 housekeeper duties will decrease from 75 to life and that  
13 would be \$4,992.

14 THE COURT: Per year or period?

15 THE WITNESS: Period. From 75 to life. And then  
16 personal care attendant from now until 68 would be one to  
17 two sessions at four hours per week, that is 1,300 to  
18 2,600, and then from 68 to 75 that will also be one to two  
19 sessions for four hours each will cost 5,200 to 10,400 and  
20 then a personal care attendant from 75 to life will  
21 increase and that will be two to three sessions for four  
22 hours per session and that is one 10,400 to 15,600. A  
23 private case manager would be from now until 68 cost \$400  
24 from; 68 to 75, which will be two times per year, will be  
25 \$200; 75 to life will be 400.

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1                   And then a private nurse, a visiting nurse  
2                   initially will be from now until 68 will be 235, from 68 to  
3                   75 it will be two times per year which will be \$235, from  
4                   75 to life it will be quarterly, which will be 470. And  
5                   then adult day programs, community-based programs for  
6                   social interaction, mental stimulation, all of those kinds  
7                   of things will cost roughly from now until 75 will be 9,360  
8                   as well, and then from 75 to life is 4,680. Transportation  
9                   costs are --

10                   THE COURT: Hold on one second. Why doesn't  
11                   everybody stand up, shake your arms out, shake your legs  
12                   out. Thanks. You could be seated. Go ahead.

13                   THE WITNESS: Sure. And then starting at table  
14                   seven, this is for transportation costs. Generally  
15                   speaking, we've included Access-A-Ride as his main use of  
16                   transportation as well as using the public transportation  
17                   which is 275 per ride, so it's the same cost. From now  
18                   until 68 is \$176 to \$209 --

19                   THE COURT: That's over and above what he would  
20                   have spent if he didn't have the injury?

21                   THE WITNESS: Correct, just the  
22                   medically-necessary appointments, and community-based  
23                   appointments. From 68 to 69 would be \$440, from 69 to 70,  
24                   388 to \$531. From -- I've got them per year, 70 to 71 is  
25                   360 to \$503; from 71 to 75 it is \$358 to \$495; from 75 to

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1 80 it is \$209 to \$352; from 80 to life is \$209; and then  
2 once he ages periodically he might require instead of  
3 public transportation or an Access-A-Ride he might require  
4 a taxi service or a car service, so from now throughout the  
5 rest of his life this might be a cost of \$120 to \$180.

6 Table eight is in regards to housing changes.

7 So as I mentioned before, he lives on a second  
8 floor walk up. It's roughly 15 stairs for him to enter.  
9 As he ages this will become a difficult task for him to do  
10 in order for him to require to be able to move to a  
11 ground-floor apartment or an elevator building or even  
12 substantially changing the home that he lives in to be able  
13 to have the access to go up those 15 stairs, and that cost  
14 would be 5,000 to \$10,000. And so the projected lifetime  
15 costs for all of those things is roughly 601,000 --

16 THE COURT: That's for all the categories  
17 together?

18 THE WITNESS: All the categories together.

19 A \$601,717 to \$717,616.

20 Q What is the cost per year, Doctor?

21 A Per year --

22 THE COURT: Can I ask, what life expectancy are  
23 you using to calculate --

24 THE WITNESS: 84.25. 14 -- 13.5 years, so I guess  
25 this total cost divided by 13.5 would be the annual.

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1 Q If he lives more years would the cost go up?

2 A Yes.

3 Q If he lives less years the cost would go down?

4 A Correct.

5 Q So on the low end your conclusion is that it would cost  
6 \$601,717?

7 A Correct.

8 Q And on the high end your conclusion is that it would be  
9 \$717,616?

10 A Correct.

11 Q And that's over 13 and a half years?

12 A Mm-hmm.

13 Q And are these present day values?

14 A These are present day values, yes.

15 Q So could the numbers change if the cost of the services  
16 changed?

17 A Correct, yes. So if the cost of services changed, he  
18 changes location, doesn't live here anymore like in New York or  
19 if -- in regards to inflation or other types of costs they would  
20 change.

21 Q Are you aware of what the costs are to date for Mr.  
22 Ghoneim's medical expenses?

23 A Not aware.

24 Q But you're aware of what things were done for him,  
25 correct?

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1 A Correct.

2 Q Can you give an approximate cost?

3 MS. NOLAN: Objection.

4 THE COURT: Sustained.

5 MR. PODOLSKY: Withdrawn.

6 Q Do you know how much a fusion surgery costs today?

7 MS. NOLAN: Objection.

8 THE COURT: What it costs today?

9 MR. PODOLSKY: Yes.

10 THE COURT: Meaning if he needed to have it done

11 tomorrow instead of five years from now?

12 MR. PODOLSKY: Correct.

13 MS. NOLAN: He's already testified to it.

14 Objection.

15 THE COURT: He testified to what it would cost in

16 five years.

17 MS. NOLAN: Okay.

18 A Currently it would be somewhere in between 75 and  
19 100,000 based on hospital stay, anesthesia, the hardware that's  
20 placed as well as the surgery, the facility, the operating room,  
21 as well as the post op care would be about 75 to 100,000.

22 Q Do you know if that number would have been the same or  
23 different in 2015?

24 A It would have been roughly the same.

25 Q The same?

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1 A Mm-hmm.

2 Q Are you familiar with what WAD is, whiplash,  
3 acceleration, deceleration injuries?

4 MS. NOLAN: Objection. Again, it's cumulative.

5 THE COURT: The question is, is it in the report.

6 MS. NOLAN: I don't think so but -- Counsel, will  
7 you direct me so I don't waste time.

8 MR. PODOLSKY: Sure. I'll withdraw that question.

9 THE COURT: That's fine. Thanks.

10 MR. PODOLSKY: I'll ask a different one.

11 Q Dr. Shah, do you know how Mr. Ghoneim sustained his  
12 injury?

13 A Yes.

14 Q Can you tell the jury what your knowledge is?

15 A So based on what he -- what he told me he said it was a  
16 motor vehicle accident, was struck from behind. So essentially  
17 he had a left knee pain; left knee injury was sustained after  
18 hitting the inside of the driver's side door, he also sustained  
19 neck and low back pain or injuries to his neck and low back from  
20 essentially whiplash from his neck, so going forward and going  
21 backwards. He's unsure if he struck the steering wheel or not  
22 and then in terms of his low back, the same concept is that he  
23 accelerated forward, the seat belt held him back and then he  
24 fell backwards, forward, acceleration and deceleration and  
25 torsion injury.

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1 Q When the seat belt held his chest and shoulders did  
2 anything hold his head from moving?

3 A No.

4 Q So what happened is when the chest is held in place and  
5 the head moves?

6 A You have a forward movement, so you have a forward  
7 acceleration as well as then a whipping back of your neck going  
8 backwards and so that's also like a deceleration movement so you  
9 have both a forward flexion and extension movement and then  
10 going back to your normal so you're going forward, backwards and  
11 then back forward again.

12 Q Can that cause an injury like a herniated disk in the  
13 C-5/C-6 area like Mr. Ghoneim has?

14 A Yes, it can.

15 Q Is that a standard mechanism for causing this type of  
16 injury, to your knowledge?

17 A It is one possibility, yes.

18 Q Do you know how old Mr. Ghoneim is?

19 A When I evaluated him he was 67.

20 Q That was about a year ago?

21 A Correct.

22 Q And you looked at the MRI too, correct?

23 A Correct.

24 Q And you're familiar with his medical history, correct?

25 A Correct.

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1 Q Do you have an opinion to a reasonable degree of  
2 medical certainty whether or not Mr. Ghoneim would have been  
3 more susceptible to receiving this type of injury based on his  
4 age, physical composition, medical history, et cetera?

5 A Based on his age, his medical history, he is at a  
6 higher likelihood of sustaining that type of injury. As we age,  
7 we are more susceptible to any kind of injury. At an older age,  
8 even lower mechanisms of action or lower types of injury -- I  
9 don't know how to phrase this -- lower, less impactful (sic)  
10 things can cause severe injuries. So you're prone to injury as  
11 you get older or more prone to injury as you get older.

12 Q Are you familiar with epidemiological studies for low  
13 impact whiplash injuries?

14 MS. NOLAN: Objection.

15 THE COURT: Sustained.

16 MR. PODOLSKY: Withdrawn.

17 Q What is epidemiology, Doctor?

18 A It's looking at basically your age, your condition,  
19 your medical history and then kind of assessing the statistical  
20 basis of that on other people in the same age group determining  
21 what things can happen from them.

22 Q Is that something you use in your evaluation of  
23 patients?

24 A Yes.

25 Q And what conclusion did you reach based on that

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1 analysis?

2 MS. NOLAN: Objection. Asked and answered.

3 THE COURT: Is it outside of the scope of his  
4 report? Can you point out to me where it is?

5 MR. PODOLSKY: It is related to the accident.

6 THE COURT: Lots of things are related to the  
7 accident and not within the scope of this report. Are you  
8 about done?

9 MR. PODOLSKY: Yes, I'm pretty much done at this  
10 point. I'll withdraw that question and I'll ask a  
11 different one.

12 THE COURT: Okay.

13 Q Do you know if Mr. Ghoneim's vehicle was stop or moving  
14 when the incident happened, when the crash happened?

15 A I was told that it was stopped.

16 Q Do you know if his body was at rest or tight when the  
17 incident happened?

18 MS. NOLAN: Objection. Outside the scope of his  
19 report.

20 THE COURT: Sustained.

21 MR. PODOLSKY: It's not, it's in here, the first  
22 page.

23 THE COURT: By the way, next time spend on the  
24 copies and give the Court a copy of your report. Objection  
25 sustained. It doesn't say whether or not he was relaxed.

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1 He's already testified to that.

2 Q I'm going to ask you to assume the following facts as  
3 true, Mr. Ghoneim testified in front of this jury that before  
4 the crash happened he was stopped at a red light, his right arm  
5 was on the steering wheel, his body was at a relaxed position  
6 and then when the contact happened his head went forward and  
7 back, he felt a crack in his neck and then after that he felt  
8 sensation and tingling running down to his fingers, okay. Under  
9 that scenario is someone -- would Mr. Ghoneim have been caused  
10 this injury?

11 MS. NOLAN: Objection.

12 THE COURT: Sustained. It's outside the scope of  
13 this report. Unless you really got something that's core  
14 to the life care planning questions let's call it, let's  
15 take five, let Ms. Nolan do her cross. Ladies and  
16 gentlemen, take five. I remind you, sir, that you remain  
17 under oath. Enjoy the break. Five minutes.

18 THE COURT OFFICER: Ladies and gentlemen.

19 (Whereupon, the jurors exited the courtroom.)

20 (Whereupon, a brief recess was taken.)

21 THE COURT: Mr. Podolsky, counsel joins us. We  
22 have a new court reporter. If you would state your name on  
23 the record, sir.

24 THE CLERK: Personal attorney for the defendant.

25 MR. ROSENBERG: So I've lost track --

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1 THE COURT: State your name on the record.

2 MR. ROSENBERG: Robert Rosenberg. I represent Mr.  
3 Polinsky, the named defendant in this case personally. And  
4 this is -- I lost track of how many times I've been on the  
5 record already, however, as an update I ran in to the  
6 insurance carrier Plymouth Rock that insures my client, I  
7 ran in to their attorney who has been monitoring this case  
8 as well, Mr. Gould, and I've been advised that there is  
9 absolutely no change whatsoever in any negotiations with  
10 the plaintiff's attorney. As we all know, my client only  
11 has a \$500,000 policy of insurance.

12 I know that the direct testimony has been taken  
13 from a life care planner that is already well above my  
14 client's insurance policy limits, the numbers that have  
15 been bandied about. So even if this jury were to give the  
16 plaintiff nothing for pain and suffering for both past and  
17 ~~future just, if they just compensate him for numbers that~~  
18 have been discussed by the life care planner that will  
19 exceed my client's insurance policy. Once again, the  
20 defendant Plymouth Rock has failed again to negotiate this  
21 case. In fact, since the date of the liability verdict  
22 they have not increased their offer one penny. They've  
23 offered \$200,000 to the plaintiff on a \$500,000 policy with  
24 cervical fusion and post liability verdict, which was 100  
25 percent against Mr. Polinsky they've offered a high/low

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1 that is less than 200 that being 100,000, 500,000 expecting  
2 the plaintiff's attorney to agree to that, why would they  
3 ever think he would ever agree to a high/low that is less  
4 than what they are already offering him is beyond me. So  
5 this is another example, a continuation of bad faith  
6 causing my client the pain and aggravation of having to be  
7 here for weeks on end and have to worry about this.

8 An insurance company, once again, has orally told  
9 Mr. Polinsky not to worry about being indemnified if it  
10 exceeds his policy, but refusing to put that in writing and  
11 refusing to go on the record if they didn't want to put it  
12 in writing to agree to it on the record that they will  
13 indemnify him if there is a verdict in excess of his  
14 \$500,000 policy which appears extremely likely to happen in  
15 this case. That adding to all the other points that I had  
16 made up until now on the record this is really in my  
17 ~~opinion I've never seen an insurance company in 33 years of~~  
18 practicing negotiate or not negotiate on a cervical fusion  
19 with a man that has a \$500,000 insurance policy and with  
20 assets that this will cause financial ruin to Mr. Polinsky  
21 if there is a verdict in excess of 500 which will happen in  
22 this case.

23 I don't know what trial that Mr. Gould is  
24 attending or the -- the insurance carrier who has a claim  
25 rep here who has been here almost the entire trial I don't

## Proceedings

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1 know what trial they are watching. I'm watching the trial  
2 and I'm saying to myself oh, my God, this jury is going to  
3 award the plaintiff I don't know how much money but I know  
4 it's going to be a lot more than 500,000.

5 THE COURT: There's nothing for you guys to say in  
6 response, but just because this is pointless if the  
7 plaintiff won't take the policy I know you've already spent  
8 your money -- spent the money for your experts and I know  
9 you had said that you were not guaranteed to take the  
10 policy after you did that, but I'm asking you point blank  
11 outside the presence of the jury, this is directed to  
12 plaintiff's counsel now, if the \$500,000 policy is tendered  
13 today will you accept it?

14 MR. PODOLSKY: If it's tendered today before the  
15 jury starts deliberation --

16 THE COURT: They're not going to start  
17 deliberation today.

18 MR. PODOLSKY: Right, I'm just making a record, if  
19 it's today and before we sum up and before we take defense  
20 experts then I would accept the policy.

21 MR. McMAHON: And I just wanted to note on the  
22 record my earlier statement on behalf of my firm Cartiglia,  
23 Connolly and Russo representing Mr. Polinsky that we fully  
24 are in accord with Mr. Rosenberg's comments here about the  
25 position of the carrier and everything. The only question

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1 I have, as the Court knows, the carrier is represented here  
2 by a coverage counsel, insurance counsel and in matter of  
3 fair play I think he should be present when this matter is  
4 put on the record so we have an opportunity to respond in  
5 any way he wishes --

6 THE COURT: Well, there's nothing for him to  
7 respond to. The carrier has to respond. He's told us that  
8 he is here to monitor the trial if -- I mean, I'll ask you,  
9 Mr. Rosenberg, but I think you've already answered this,  
10 you said you've spoken to Mr. Gould today, correct?

11 MR. ROSENBERG: I have, in person.

12 THE COURT: Based on what you said I assume that  
13 means that you've repeated your request for the carrier to  
14 settle within the policy limits.

15 MR. ROSENBERG: 100 percent.

16 THE COURT: So there's no foul play here. Mr.  
17 Rosenberg is here, he is entitled to make a statement on  
18 the record, he represents your client just like you do. He  
19 is entitled to speak on the record certainly outside of the  
20 presence of the jury. It's fine that you're here but we do  
21 need to move on to finish this witness and I thank you for  
22 your time.

23 MR. ROSENBERG: I invite Mr. Gould -- I would love  
24 to hear a response to this.

25 THE COURT: As to why the carrier is not settling

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1 the case.

2 MR. ROSENBERG: Exactly.

3 THE COURT: If he asks particularly outside of the  
4 time that we need for this witness I'm happy to give it to  
5 him.

6 THE COURT OFFICER: Jury entering. Ladies and  
7 gentlemen.

8 (Whereupon, the jurors entered the courtroom.)

9 THE COURT: You can all be seated. Doctor, I  
10 remind you that you remain under oath.

11 CROSS-EXAMINATION

12 BY MS. NOLAN:

13 Q Good afternoon, Dr. Shah.

14 A Good afternoon.

15 THE COURT: I'm just going to ask both of you to  
16 keep your voices up.

17 ~~Q You have quite an impressive CV.~~

18 A Thank you.

19 Q You have quite an impressive CV. That's the same thing  
20 as a resume, right?

21 A Similar.

22 Q What's the difference?

23 A A resume might have essentially everything that you  
24 have included in to it a full on -- everything from starting  
25 your educational -- from high school maybe but a CV might have

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1 some extra, smaller things related to it, it's more abridged.

2 Q And your CV is four pages, right?

3 A Sure.

4 Q Well, you have it in front of you? You wrote it?

5 A Yes. Yes, four pages.

6 Q And it talks about your educational background, quite  
7 impressive, you're a doctor, you're a lawyer. Is your Juris  
8 Doctor and your master's in science in patent law the same?

9 A No, the master's in patents was in addition to the  
10 Juris Doctor.

11 Q So after you got your Juris Doctor which is what?

12 A So we had, it was kind of a combined program with it,  
13 so in addition to taking my Juris Doctor my regular law classes  
14 I was also taking particular classes in patent law that allowed  
15 me to do both simultaneously.

16 Q And then your CV goes on to talk about and outline  
17 leadership roles that you've had, distinctions and honors,  
18 correct?

19 A Correct.

20 Q Your current research activities, correct?

21 A Correct.

22 Q Your abstracts and poster presentation s, correct?

23 A Correct.

24 Q Academic lectures?

25 A Yes.

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1 Q Which are quite a few, correct?

2 A Correct.

3 Q And continuing education that you have and then  
4 professional society memberships, right?

5 A Correct.

6 THE COURT: Are you trying to hire him or do you  
7 have a question for him?

8 MS. NOLAN: I'm getting there.

9 Q In all these four pages how many references are there  
10 to life care planning?

11 A One.

12 Q So life care planning is not really your specialty,  
13 correct?

14 MR. PODOLSKY: Objection.

15 THE COURT: Sustained.

16 Q In all of your -- the first part of your CV, your  
17 ~~medical/legal work, education and training there's nothing in~~  
18 there about being a life care planner, right?

19 A Correct, in the education and training portion.

20 Q And then in the medical/legal licensure and  
21 certification that's where it says you're a certified life care  
22 planner, right?

23 A Correct.

24 Q You already told us what you had to do to become a  
25 certified life care planner, correct?

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1 A Correct.

2 Q I actually don't remember and he will object or you  
3 will correct me if I'm wrong but was it an online course or a  
4 place where you went?

5 A Both.

6 Q How much online, how much in person?

7 MR. PODOLSKY: Objection. This is really --

8 THE COURT: This was appropriate for voir dire.  
9 It's not cross exam material, I agree. Meaning you were  
10 given an opportunity to voir dire, you did voir dire, the  
11 Court ruled on its expertise, it's time to move on.

12 Q Once you became certified in life care planning did you  
13 have any further education or training in it?

14 MR. PODOLSKY: Same objection.

15 THE COURT: Sustained.

16 Q There's no professional society or membership for a  
17 life care planner?

18 MR. PODOLSKY: Same objection.

19 THE COURT: Sustained. And he's already testified  
20 that he is a member of the society or the association, I  
21 guess.

22 Q What do you consider as your area of expertise?

23 THE COURT: In what field?

24 MS. NOLAN: In medicine.

25 A In medicine, my specialty would be physical medicine

sai

1 rehabilitation as well as a subspecialty in interventional spine  
2 and sports medicine.

3 Q Physical medicine and rehabilitation?

4 A Correct.

5 Q How long have you been practicing in that field?

6 A From medical school I suppose it was, graduated 2013 so  
7 six years.

8 Q And you've been at NYU for approximately a year?

9 A Correct.

10 Q Is that your first job following your fellowship?

11 A Correct.

12 Q How many patients do you have at NYU?

13 A Per day, it's hard to --

14 Q I would say per day, if that's the easiest way.

15 A Per day it's an average of roughly 20 patients per day.

16 Q Was Mr. Ghoneim your first patient?

17 A No.

18 Q So he was your first interview?

19 A Sure, yes.

20 Q What would you call him?

21 A First certified -- first life care planning client, I  
22 suppose.

23 Q So he is a client not a patient, right?

24 A Not a treating physician for him, no.

25 Q And that was in October -- what was it -- October 23,

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1 2018?

2 A Yes.

3 Q And the same day that you saw him did you create your  
4 report?

5 A Yes.

6 Q He was referred to you by his lawyer?

7 MR. PODOLSKY: Objection.

8 THE COURT: For a life care planner, overruled.

9 MR. PODOLSKY: The question was first medical  
10 doctor then life care planner.

11 THE COURT: He said he is not a treating  
12 physician.

13 MR. PODOLSKY: Fair enough.

14 THE COURT: As to the life care planning was he  
15 referred to you by his attorney?

16 THE WITNESS: Yes.

17 ~~Q Do you know his lawyer personally?~~

18 A Professionally?

19 Q Personally.

20 A No.

21 Q But you know him professionally?

22 A Well, yes.

23 THE COURT: Now he does.

24 Q Only because of this case or did you have other cases  
25 with him?

1           A     I had known of him, I suppose. I don't know how to  
2 answer this question.

3           THE COURT: Again, if you have voir dire  
4 questions, voir dire already happened. If you have  
5 questions about this life care plan let's do those.

6           MS. NOLAN: Yes, this life care plan or his  
7 relationship with the plaintiff's office --

8           THE COURT: You've asked that already.

9           MS. NOLAN: I didn't actually get an answer.

10          THE COURT: He said he doesn't know how to answer  
11 your question. He doesn't understand your question.

12          MS. NOLAN: Okay, so I'll rephrase my question.

13          Q     Do you have other clients that are also represented by  
14 Cherny and Podolsky?

15          MR. PODOLSKY: Objection.

16          THE COURT: No, that's overruled.

17          A     Yes.

18          Q     How many?

19          A     Three, four.

20          Q     You're not sure?

21          A     I'd have to double check, but three or four, yeah.

22          Q     How many life care plan reports have you prepared for  
23 Cherny and Podolsky?

24          A     About three or four.

25          Q     How much do you get paid for each life care plan report

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1 that you prepare?

2 A 3,850.

3 Q 3,000 --

4 A -- 850.

5 Q And how much do you get paid to come to testify in  
6 court?

7 A To testify in court for my time is 5,000.

8 Q Have you already been paid for your time in court?

9 A Yes.

10 Q Are you paid before or after you issue your life care  
11 report?

12 MR. PODOLSKY: Objection. As to what?

13 THE COURT: Paid for the report or paid for  
14 everything?

15 MS. NOLAN: For the report.

16 A For the report, it's before.

17 Q So you require the money upfront?

18 A Correct, the retainer.

19 Q And who pays for it?

20 A The firm.

21 Q The law firm?

22 A The law firm.

23 Q Are you aware of when the plaintiff went to a doctor  
24 immediately after the accident?

25 A Was I aware -- sorry. Can you repeat the question?

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1 Q Are you aware if the plaintiff went to a doctor  
2 immediately after the accident?

3 A Well, he told me that he did not immediately go to the  
4 emergency room but the following day he saw a physician, so if  
5 that's what's immediate then --

6 Q Who did he see?

7 A His primary care physician.

8 Q Who's that?

9 A I'm unsure.

10 Q You don't know?

11 A I don't know.

12 Q Did you ask for those records?

13 A I asked the patient who he saw, he said he wasn't sure  
14 who it was.

15 Q He's sure that he went to the doctor the next day but  
16 he's not sure who he was?

17 A The name, correct.

18 Q So in order to prepare your report you were given  
19 documents to review?

20 A Correct.

21 Q Which included some medical records?

22 A Yes.

23 Q Who gave you the documents?

24 A The documents I received from the law firm.

25 Q And did you ever reach out and have a conversation with

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1 any of the treating doctors?

2 A Conversation, no.

3 Q Do you know Dr. Lerman?

4 A No.

5 Q Now, when you reviewed the records and you spoke to Mr.  
6 Ghoneim in preparation for this report that you prepared did you  
7 ask him if he had ever treated with the physical medicine and  
8 rehabilitation doctor before?

9 MR. PODOLSKY: Before as to when?

10 MS. NOLAN: Before the accident. I'm sorry, after  
11 the accident.

12 A If he had seen a physical medicine rehab doctor?

13 Q Right.

14 A I did not ask if he had seen a specific physical  
15 medicine rehab doctor, no.

16 Q So are you independently aware if he ever went to a  
17 physical medicine and rehabilitation doctor from the date of the  
18 accident up until the time that he came to see you?

19 A Unaware if he had seen one, no.

20 Q And in your life care plan you have a lot of  
21 projections to start treating with a physical medicine and  
22 rehabilitation doctor; is that correct?

23 A Correct.

24 Q And that's your specialty, correct?

25 A Partially, yes.