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1 Q Are you hoping that he will become your patient?

2 MR. PODOLSKY: Objection.

3 THE COURT: Sustained.

4 Q You have all these amounts that you're calculating for
5 the future. Are you aware that Mr. Ghoneim has not paid a dime
6 in any of his medical treatment?

7 MR. PODOLSKY: Objection.

8 THE COURT: Sustained, unless you want to start
9 talking about the sources of payment for his treatment.

10 We've addressed this objection I think at least twice since
11 you came in to the case.

12 Q Assume that the plaintiff testified that he hasn't paid
13 a dime for his medical treatment.

14 MR. PODOLSKY: Objection.

15 THE COURT: Sustained. That's exactly the context
16 in which we had this conversation.

17 ~~Q Does insurance play a part in the projections that you~~
18 ~~have?~~

19 A No.

20 THE COURT: The jury will disregard any reference
21 to insurance or collateral sources of payment.

22 MR. PODOLSKY: At this time, your Honor, I think
23 she opened the door.

24 THE COURT: Well, I just -- we'll have a
25 conversation about that separately.

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1 MR. PODOLSKY: Okay, thank you.

2 Q Have you been given any indication that Mr. Ghoneim
3 will be responsible from any collateral source to pay for the
4 future medical that you are projecting?

5 MR. PODOLSKY: Objection.

6 THE COURT: Sustained. The jury is directed that
7 if -- whether or not some other source will pay -- now you
8 have opened the door -- whether or not some other source
9 may pay for these treatments, many of these sources may be
10 entitled to get reimbursed for those treatments, and,
11 therefore, it is the rules of this Court and the rules
12 throughout the State of New York that you may not discuss
13 what the other sources of payment are because the jury is
14 not expected to make determinations about who will or won't
15 be reimbursed at the end of the case, what bills are
16 outstanding and what outside sources of payment may have
17 ~~paid previously and be required to be paid back and that's~~
18 the last time actually that I'll admonish you about that.

19 Q The records that you got from plaintiff's attorney did
20 you review them before your meeting, during your meeting, after
21 your meeting or any other way you can tell us?

22 A All of the above. So before as well as after.

23 Q Did you review everything before coming here today?

24 A I have reviewed, yes.

25 Q Did you bring with you today all of the records that

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1 you reviewed?

2 A I brought my narrative report or my report as well as
3 my summary of the medical records, but I have not brought all of
4 the medical records with me.

5 Q When Mr. Ghoneim came to you did you have him fill out
6 any kind of paperwork?

7 A Just a copy of his license, no.

8 Q That's it?

9 A Yes.

10 Q Was his license current?

11 A I don't have a copy of that in front of me, but I'm not
12 sure.

13 Q So you didn't bring your whole file?

14 A Correct, just my narrative report and the summary of
15 the medical records.

16 Q Did you actually review the MRI film or the reports or
17 a combination or any other way you can describe it?

18 A The reports.

19 Q And did you bring those reports with you?

20 A Just a summary of it.

21 Q What do you mean?

22 A I summarized the report for my interpretation of it and
23 that's what I have. So I don't have the radiologist report, the
24 full report.

25 Q And in the summary of your report -- can I see it?

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1 A Sure. I mean, it's part of the report itself.

2 Q Oh, it's part of your narrative?

3 A Yes.

4 Q So what did you say? You brought your narrative and
5 what else?

6 A The narrative including the tables and the medical
7 summary, those things.

8 Q That's all you brought?

9 A Correct.

10 Q Just so I'm clear, the narrative and the tables?

11 A The narrative, the tables, what's included in those,
12 yes.

13 Q So none of the things that you are relying on in your
14 report you brought with you today?

15 MR. PODOLSKY: Objection.

16 THE COURT: Asked and answered. Sustained.

17 ~~MR. PODOLSKY: Asked and answered.~~

18 Q But you relied on the MRI reports in formulating your
19 opinion, right?

20 A Correct.

21 Q Do you have any independent recollection as you sit
22 here today about the MRI report of the cervical spine?

23 A Independent of what's in here, no.

24 Q Do you recall or do you have any independent
25 recollection as you sit here today on what the date of the

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1 accident was that was indicated in the MRI report?

2 A I don't know how to answer that question.

3 Q You said you reviewed an MRI report?

4 A Yes.

5 Q And on that report did it have a date of accident?

6 A Yes.

7 Q And do you remember what the date of the accident is?

8 A I will double check, but I believe it was --

9 Q I'm actually asking if you have an independent
10 recollection, because I know that you wrote your notes and --

11 MR. PODOLSKY: Objection. He is allowed to
12 review --

13 THE COURT: He is allowed to review his notes,
14 she's also allowed to ask him if he remembers without --

15 MR. PODOLSKY: Without looking.

16 THE WITNESS: Well, I mean, I kind of looked
17 already. It was November 30, 2016.

18 Q And I'm pretty sure that on direct examination you were
19 asked about knowledge of any prior MRIs; is that correct?

20 A Correct.

21 Q And you said -- actually, you were asked about any
22 other cervical MRIs, right?

23 A Correct.

24 Q And at that point did you answer that there may have
25 been reference to another MRI in Dr. Lerman's report?

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1 A Dr. Lerman's report mentioned an MRI, it didn't state
2 anything else besides that in there. I don't have a date or any
3 evidence of another MRI. I don't even know if that's accurate
4 or not, it's just in a report.

5 Q It's just in your report or --

6 THE COURT: In Lerman's report.

7 Q It's fair to say you're not -- sorry, I'm going to
8 withdraw that. It's fair to say that you haven't seen Mr.
9 Ghoneim since that date of your evaluation, right?

10 A Correct.

11 Q And you haven't provided any treatment to him?

12 A No.

13 Q When you interviewed him did you ask him about his
14 prior treatment?

15 A Yes.

16 Q And it's fair to say that you didn't have all the
17 records of all the treatment that he got, right?

18 A Yeah, I suppose that's true.

19 Q Did he tell you about treatment that he got that was
20 outside of the records that you were given?

21 MR. PODOLSKY: Objection to form.

22 THE COURT: Sustained.

23 MR. PODOLSKY: What time frame are we talking

24 about --

25 THE COURT: Other than his primary care physician

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1 you're saying?

2 MS. NOLAN: Yes.

3 THE COURT: Does that resolve your objection?

4 MR. PODOLSKY: Post accident or --

5 THE COURT: Post accident, other than his primary
6 care doctor did you have -- forgive my jumping in so we can
7 get back on track -- post accident records other than the
8 primary care physician do you believe that you had all the
9 records of his treatment from then forward, accident
10 related treatment I would assume.

11 THE WITNESS: I don't believe I have all of them
12 because they don't have physical therapy notes or therapy
13 notes or any of those nature. I just have the notes that I
14 mentioned from his orthopedic spine surgeon, his orthopedic
15 knee surgeon, the MRIs that I mentioned to you before,
16 operative reports and the progress notes from those
17 orthopedic surgeons as well.

18 Q And before writing up your report in coming to your
19 plan did you think that it was prudent to get all those records?

20 A Physical therapy notes, no; occupational therapy notes,
21 no, it wouldn't effect the outcome of this.

22 Q So the kind of physical therapy or the amount of
23 physical therapy he had contemporaneous with the accident plays
24 no part in what he may need in the future?

25 A It plays a part that he had it, that he's undergone

1 treatment with the physical therapist, but in terms of it
2 effecting what I'm going to continue to prescribe based on his
3 current condition and the symptoms that he has wouldn't effect
4 that.

5 Q So what if he had one failed physical therapy
6 treatment?

7 A I would still be prescribing physical therapy.

8 Q Even if you had a pretty good idea he was never going
9 to go?

10 A Even if he doesn't go doesn't mean that I shouldn't
11 prescribe it; that's his decision.

12 Q Well, you would agree that physical therapy has its
13 benefits, right?

14 A Of course.

15 MR. PODOLSKY: Objection.

16 THE COURT: No, overruled. You asked him his
17 opinion about these things.

18 MR. PODOLSKY: Withdrawn.

19 Q And is physical therapy the kind of conservative
20 treatment that you would recommend before a patient would
21 undergo a surgery?

22 A Yes.

23 Q Is that a medically accepted -- is that accepted in the
24 medical field that you should have conservative treatment before
25 you go for a surgery?

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1 A Not in every situation, but in large proportion
2 situations, yes.

3 Q In terms of a major trauma no time for physical therapy
4 you have to have surgery, correct?

5 MR. PODOLSKY: Objection; not the facts in the
6 case.

7 THE COURT: Correct, not the facts that he had
8 only one -- visit and not the fact that he had a
9 catastrophic trauma that required him to have immediate
10 surgery. Obviously that's it. It's the jury's
11 recollection of the record and the testimony that controls
12 and not the Court's, but with respect to responding to the
13 objection both of those statements are true.

14 MS. NOLAN: And my question was hypothetical on
15 the one PC visit, I wasn't saying that he said he only had
16 one PC visit.

17 ~~Q You were speaking in general terms, right, Doctor?~~

18 A Yes.

19 Q So you took a past surgical history?

20 A Yes.

21 Q And what did he tell you about that?

22 A Past surgical history he mentioned his neck surgery so
23 the cervical fusion, he mentioned a left knee arthroscopy as
24 well as a left elbow fracture --

25 MR. PODOLSKY: Objection. In terms of the past

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1 are we talking about post accident or pre accident?

2 THE WITNESS: So the two surgeries that are
3 mentioned the neck surgery and the knee surgery were post
4 accident --

5 MR. PODOLSKY: My objection is for anything pre
6 accident.

7 THE COURT: So let him finish answering the
8 question.

9 A So those are two post accident, the neck surgery and
10 the knee surgery, the elbow fracture and repair was prior to the
11 accident.

12 Q Did he ever tell you that he had shoulder surgery?

13 MR. PODOLSKY: Objection.

14 THE COURT: Sustained -- overruled, I'm sorry.

15 A No.

16 Q Do you remember seeing that in Dr. Lerman's records?

17 A ~~I'd have to look at it, but I don't remember seeing~~
18 that, no.

19 Q So you don't have it here with you?

20 A Correct.

21 Q What was his other past medical history?

22 A Past medical history I have is for high blood pressure.

23 MR. PODOLSKY: I have an objection, Judge. Dr.
24 Lerman's records are in evidence. The doctor can look at
25 them.

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1 THE COURT: That wasn't the question. The
2 question was whether he looked at them before coming to his
3 opinion is what I think I understood.

4 MS. NOLAN: I'll give him Dr. Lerman's records.

5 THE COURT: That wasn't the question. The
6 question, as I understand it, you asked him about whether
7 he reviewed those records prior to coming to his opinion,
8 so the objection is overruled and it has nothing to do with
9 Dr. Lerman's current records.

10 MS. NOLAN: Can I have Dr. Lerman's records which
11 are Exhibit 12?

12 MR. PODOLSKY: Officer, that CV is part of it.

13 THE COURT OFFICER: I know. But she's not going
14 to be able to play it.

15 MR. PODOLSKY: But it's got a date on it.

16 THE COURT OFFICER: Fine.

17 MS. NOLAN: Do you want me to put it back
18 together?

19 THE COURT OFFICER: Put it back together once
20 you're finished with it.

21 Q If you would take a look at those.

22 A Mm-hmm.

23 Q Thank you.

24 THE COURT: Just so you understand, the backs of
25 these pages are scrap paper.

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1 THE WITNESS: Oh, okay.

2 Q Do those records reflect what you reviewed?

3 A Yes.

4 Q Prior to coming to your determination?

5 A Yes.

6 Q I direct your attention to July 25, 2016, the first
7 time you saw Dr. Lerman. That would be the first one in order.

8 A Mm-hmm.

9 Q And if you go down on the second page, tests and
10 procedures performed in the past.

11 A Mm-hmm.

12 Q Do you see that?

13 A Yes.

14 Q And you see that there was an MRI of the cervical spine
15 dated August 28, 2015 --

16 MR. PODOLSKY: Objection.

17 THE COURT: That there was one or that there's a
18 note?

19 MS. NOLAN: He references a note of an MRI of the
20 cervical spine date August 28, 2015.

21 MR. PODOLSKY: Objection.

22 THE COURT: Sustained to the extent that the
23 witness who created those records has already indicated
24 that it's a typographical error and he doesn't believe
25 there's any such MRI, so I'd ask the witness to --

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1 Q You testified that there was reference to another

2 MRI --

3 MR. PODOLSKY: Asked and answered.

4 THE COURT: Sustained.

5 Q Okay, so you can put those down.

6 A Okay.

7 Q Thank you, Doctor.

8 A Mm-hmm.

9 Q Past medical history you said only high blood pressure,
10 right, Doctor?

11 A Yes.

12 Q That's the same thing as hypertension?

13 A Correct.

14 Q Because it's noted in your record as hypertension?

15 A That would be a medical diagnosis for what I was just
16 trying to be a little more understanding of what that is.

17 Q And you reviewed the records from Beth Israel, right?

18 A Yes.

19 Q And you don't have them here today, right?

20 A Correct.

21 MS. NOLAN: Can I have those, Officer? I'm sorry.

22 Q So I don't know that mine is in the same order of
23 yours, but what I'm looking for to show you is the Mount Sinai
24 Beth Israel heading, anesthesia/pain management record.

25 MR. PODOLSKY: Objection, not in his report.

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1 MS. NOLAN: He reviewed the records.

2 MR. PODOLSKY: Not in his report.

3 THE COURT: He -- does the report say that he
4 reviewed that record?

5 MR. PODOLSKY: No.

6 MS. NOLAN: He just answered that he did.

7 MR. PODOLSKY: He reviewed 11 items, Judge, none
8 of them are Beth Israel records.

9 A Other than the operative report.

10 MR. PODOLSKY: He reviewed the operative report.

11 THE COURT: The other way around.

12 Q So you only reviewed the operative report you didn't
13 review all the records that --

14 A Correct.

15 Q -- that were generated from Beth Israel?

16 A Correct.

17 Q And you never asked to see them?

18 A No.

19 Q What if I told you that plaintiff had been diagnosed
20 with --

21 MR. PODOLSKY: Objection.

22 Q -- gout?

23 MR. PODOLSKY: Objection.

24 THE COURT: Sustained.

25 MR. PODOLSKY: Objection.

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1 Q You don't know how much Mr. Ghoneim weighed at the time
2 of the accident, right?

3 A No.

4 Q Are you aware of any hospitalizations Mr. Ghoneim ever
5 had from the date of the accident up until he saw you other than
6 for the cervical fusion?

7 A No.

8 Q Would it be relevant to your evaluation to know that he
9 had been hospitalized for pneumonia?

10 A No.

11 THE COURT: As a life care planner?

12 Q Would it be relevant to your evaluation to know that he
13 had pleural effusion?

14 MR. PODOLSKY: Objection.

15 THE COURT: Sustained.

16 Q Is his medical history --

17 THE COURT: Post accident medical history?

18 MS. NOLAN: Any --

19 THE COURT: Well, there's two different questions.

20 Q Is his medical history in totality relevant to your
21 evaluation of what this man will need in the future?

22 MR. PODOLSKY: Objection. Outside the scope of
23 his expertise.

24 THE COURT: Well, I don't think that that's true.

25 MR. PODOLSKY: It's also beyond --

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1 THE COURT: Hold on. Time out. Time out. Let me
2 rule on one objection at a time, if you don't mind.

3 MR. PODOLSKY: Sorry.

4 THE COURT: His medical history and life
5 expectancy are not outside of this doctor's field of
6 expertise if he purports to make a life care plan that's
7 based on a certain life expectancy, so that's overruled.
8 Your objection with respect to -- or the objection I
9 thought you were making earlier which was with respect to
10 distinguishing his pre accident condition from his post
11 accident condition that's sustained, because I think it's
12 already been testified that his post accident medical
13 condition has changed as a result of what he and apparently
14 Dr. Shah believed to be his post accident accident-related
15 weight gain.

16 Q So the question then is was Mr. Ghoneim's medical
17 condition prior to the date of the accident relative --

18 THE COURT: Relevant.

19 Q -- relevant in your determination of what his future
20 medical costs are?

21 A It can be. So it depends on what we're discussing.

22 Q It depends on?

23 A It depends on what we're discussing. So medical
24 history prior to the accident can be relevant but it can also
25 not be relevant; depends on what we're discussing, I suppose.

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1 Q How about disease?

2 A Again, it depends on what kind of disease we're talking
3 about.

4 Q Hypertension?

5 A Hypertension can effect his -- his condition because if
6 he has high blood pressure it can effect his cardiac issues,
7 cardiac issues can relate to, you know, basically his ability to
8 function and so that can be relevant, however, if it's
9 controlled then it's not going to be relevant.

10 Q How about gout?

11 MR. PODOLSKY: Objection to counsel interrupting
12 the witness while --

13 THE COURT: She didn't interrupt the witness. She
14 didn't interrupt the witness. He finished the sentence, he
15 put a period, she asked him the next question.

16 Q How about gout?

17 THE COURT: Is that pre or post accident?

18 MS. NOLAN: Pre, all pre accident.

19 THE COURT: All pre, okay.

20 A Gout, no.

21 Q That wouldn't effect your -- how about obesity?

22 A It can, yes.

23 Q How?

24 A If you have significant -- if you're obese and you have
25 significant weight then you're putting extra stress on your

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1 joints which predisposes them to certain conditions like
2 arthritis or basically puts more stress on all of the joints in
3 your neck, your facet joints, your disks, those kinds of things,
4 which makes it a higher likelihood that you might injure them
5 when you have an injury in which case obesity could, you know,
6 effect his overall outcome going forward.

7 Q So when he came to see you how much did he weigh?

8 A I don't have that number.

9 Q When he came to see you did you determine that he was
10 obese?

11 A I wouldn't be able to do that without his weight.

12 Q Well, you saw him?

13 A Correct. But I don't have his weight.

14 Q You don't just -- you can't evaluate by look?

15 A No. It's based on BMI.

16 Q Okay. What if I told you -- what's the BMI for obesity
17 in a male age 67?

18 A I believe it's -- well, there's different versions of
19 obesity but essentially once you're above 30, 35 BMI you're
20 essentially obese.

21 Q So if his BMI was 41 that would make him obese?

22 A Correct.

23 THE COURT: At the time of the exam you're talking
24 about? Counsel, at the time of the exam?

25 MS. NOLAN: Yes, Judge.

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1 Q Did he tell what you kind of medication he was on?

2 A He did.

3 Q And I think you described Naproxen, like Ibuprofen?

4 A It's a similar family, it's an antiinflammatory.

5 Q Is that something you can get over the counter?

6 A Naproxen, the dose that he has is a prescription.

7 Q How about smoking, prior history of smoking?

8 THE COURT: Prior to the accident?

9 MS. NOLAN: Yes.

10 Q Would that effect your projection on the kind of care
11 that he would need in his future?

12 A Unlikely, no.

13 Q Really?

14 A It depends on if it's going to effect his life
15 expectancy, so if his life expectancy is going to change based
16 on that then that would change my motto. But if it's not
17 changing life expectancy then it wouldn't effect his
18 musculoskeletal condition, other than the fact that it can in
19 theory increase the amount of time that is going for post op
20 care, surgery, all of those things can be effected. So I guess
21 it depends on -- I guess it depend s on your question.

22 Q Does smoking decrease your life expectancy?

23 A It can.

24 Q Whether you're a present smoker or a past smoker?

25 A It changes, so if you're a present smoker it can; if

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1 you're a past smoker, it can rebound back, you can recover in
2 terms of the damage that you've done to your lungs.

3 Q In terms of years how many years of being a past
4 smoker --

5 THE COURT: You mean how many years in the past or
6 how many years of smoking?

7 MS. NOLAN: No, how many years of smoking.

8 A I wouldn't be able to answer that. I'd have to discuss
9 that with a pulmonologist.

10 Q So that's outside of your specialty?

11 A Outside of my scope.

12 Q Actually, your report -- withdrawn. I'm sorry. Let's
13 go to your report.

14 A Sure.

15 THE COURT: Can I take the other record back?

16 MS. NOLAN: I'm sorry, yes, Judge. Thank you.

17 Q You testified on direct that he told you the mechanism
18 of how his body moved in the accident?

19 A He didn't tell me the mechanism of how he moved, he
20 just told me how the accident happened.

21 Q So he didn't tell you that it moved forward, back or
22 anything came in contact with anything in the car?

23 A He's unsure. He told me that his left knee hit the
24 door.

25 Q Where is that in your report?

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1 A I think it's from the first page. He had left knee
2 pain from hitting the inside of the driver's side door.

3 Q And where does it say about how his neck moved?

4 A I don't have that. It just says immediate neck pain
5 with radiation in to his arms.

6 Q So when you testified earlier on direct that his neck
7 moved forward and back you don't know that, right?

8 MR. PODOLSKY: Objection. That was a
9 hypothetical.

10 THE COURT: Sustained.

11 MS. NOLAN: I don't think it was a hypothetical.

12 THE COURT: It was, he was asked based on the
13 reported direction of impact that -- I think that counsel
14 said he wanted him to assume a certain reported direction
15 of impact and to extrapolate from that the patient's neck
16 movement but again the jury's recollection of the record
17 controls.

18 Q When you're hit from behind which way does your body
19 move?

20 A Your torso moves forward.

21 Q Say that again.

22 A Your torso moves forward.

23 Q What about your neck?

24 A Extension, so you'd have initially moved back.

25 Q And then you move forward?

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1 A Then you move forward.

2 Q So it's back and forward not forward and back?

3 A It will be back and forward, yeah, back and forward.

4 Q Referring to the functional history portion of your
5 report.

6 A Mm-hmm.

7 Q Now, this is based upon what he told you when he met
8 with you, right?

9 A Correct.

10 Q And he told you that he needs help going from standing
11 to sitting and sitting to standing?

12 A Yes, he did.

13 Q What if I told you that he has been here, we're on day
14 number three and he's sitting in the courtroom and he gets up
15 and goes to the witness stand and then goes back to sitting in
16 the courtroom without any assistance?

17 A I'm not saying he is not unable to do it, he just has
18 difficulty doing it, it's painful, causes difficulty.

19 Q Well, actually you don't say difficulty you say that he
20 needs help doing it, right, in parentheses?

21 A Well, he mentioned to me that he needs sometimes help
22 going from the bathroom seats to a toilet from sitting to
23 standing and toilet seats can often times be low, so low chairs,
24 low toilet seats. If you have low toilet seats that can
25 sometimes be harder to stand up rather than like a bar stool or

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1 a higher chair, so depends on the chair. I agree I did not
2 specify specifically where all the time, but the point being is
3 that he sometimes needs help going from sitting to standing
4 position.

5 Q You don't know how often because you only saw him once,
6 right?

7 A Correct.

8 Q And he states that he has a home health aide?

9 A Yes.

10 Q Is his brother a certified home health aide?

11 A I'm presuming so. I don't know, but that's what he
12 told me.

13 Q What if I told you his brother was a driver?

14 MR. PODOLSKY: Objection.

15 THE COURT: Sustained. They are not mutually
16 exclusive. I'm not saying that the brother is a home
17 health aide, by the way, I'm just saying that one doesn't
18 eliminate the other.

19 Q And he told you that he sometimes uses a rolling walker
20 or a cane to help ambulate?

21 A Yes.

22 Q Would it be significant to know that he's never come in
23 to court with a rolling walker or a cane?

24 A Well, it depends on how long he is walking, so I'm not
25 sure if the distance in the courtroom requires one or not, but

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1 this was his subjective opinion that if he goes long distance he
2 sometimes uses one to help assist.

3 Q When he came to see you did he have one?

4 A No.

5 Q And he came from Brooklyn to Manhattan to see you?

6 A Correct.

7 THE COURT: Not on foot I assume, right?

8 Q At some point it had to be on foot, right?

9 A Sure.

10 Q Do you know how he got to your office?

11 A I'm not sure how he got there.

12 Q How long was he at your office?

13 A Maybe an hour and a half, two hours.

14 Q Was he sitting the whole time?

15 A No, a mixture.

16 Q Did he get on and off the examining table by himself?

17 Do you have an independent recollection of he got on and off the
18 examining table by himself?

19 A I believe he was able to, yeah. He did have a
20 stepstool though.

21 Q Were you finished?

22 A Yes.

23 Q Were you -- you testified also on direct that he can
24 only carry five pounds?

25 A That's what he said.

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1 Q And when you reviewed Dr. Lerman's records do you
2 remember Dr. Lerman telling him that he could carry ten pounds?

3 A I'd have to double check but from what I thought I
4 believe it was that you shouldn't carry more than ten pounds
5 post procedure post operatively. I think that was --

6 Q He's got two nieces and one nephew that he has that he
7 can't baby-sit for. How old are they?

8 A I don't have the date how old they are.

9 Q Now, he told you that he doesn't drive anymore?

10 A He told me that he does not drive professionally, yes,
11 he doesn't work as a taxi driver or a limousine driver.

12 Q What if I told you that there's testimony in documents
13 admitted in to evidence that he was working in 2017, 2018 and
14 2019 --

15 MR. PODOLSKY: Objection.

16 Q -- who that change your --

17 THE COURT: Hold on. That's in the record that he
18 worked up until February.

19 MR. PODOLSKY: But the amount is 75 percent
20 less --

21 THE COURT: That wasn't the question. The
22 question was whether he works in that capacity and he says
23 that it was reported to him that the witness -- that the
24 plaintiff doesn't.

25 MR. PODOLSKY: Fair enough.

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1 Q So knowing that he's actually worked and what he told
2 you wasn't the truth would that change your projections on the
3 future care that he would need?

4 A Yeah, it could, actually.

5 Q Because you're relying that everything he told you was
6 the truth, right?

7 A Correct.

8 Q So if some of what he told you was not the truth then
9 your projections are not necessarily accurate?

10 A It could be, it depends on what it is.

11 Q Especially in light of the fact that you're talking
12 about Access-A-Ride and not being able to take public
13 transportation. Knowing that he's a taxi driver during the time
14 that he saw you, the year before he saw you and during some
15 period of time after he saw you that would change your
16 projections, correct?

17 A Well, Access-A-Ride and training services are the same
18 cost so that wouldn't change. So public transportation that
19 would be the same cost so that wouldn't change at all.

20 Q Well, the need for it would change if he could drive?

21 A It depends on the distance that he can drive. So if he
22 is driving from point A to point B, for example, if it requires
23 15 minutes, 20-minute, sure, he would be able to do it. If it's
24 something that's going to require him getting to his medical
25 appointments that are 45 minutes away, or New York traffic, an

1 hour away, whatever it might be, then even if he could drive
2 short distances he would still need public transportation or an
3 Access-A-Ride so he doesn't have to be doing that -- I suppose
4 he could take frequent breaks, he could take, you know, a break
5 every 15 minutes to get to those appointments but it would be
6 far more difficult.

7 Q How many green cab drivers do you know only drive 15
8 minutes at a shot?

9 A Not that often -- not that many.

10 Q And he also told you that he stopped working when the
11 accident happened, right?

12 A Yes.

13 Q So you're under the impression based upon what he told
14 you that he hasn't worked since 2015, correct?

15 A Yes.

16 Q And when I tell you that that's not accurate that will
17 change your opinion, correct?

18 A Yes.

19 Q You also said that when people have injuries like this
20 and they stop going out so much they become sad and down. Did
21 you refer him to a psychiatrist?

22 A I asked if he had seen anyone or -- I mentioned that he
23 could see a psychologist but he felt that his mood was not to
24 the level or extreme level where he would want to see one.

25 THE COURT: We're going to recess because I've got

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1 a conference call at 1 o'clock. We're going to recess
 2 until 2:15. Please try to be back exactly 2:15 because we
 3 have another witness after Dr. Shah. Sir, you remain under
 4 oath.

5 THE COURT OFFICER: Ladies and gentlemen.
 6 (Whereupon, the jurors exited the courtroom.)

7 THE COURT: All right, folks, enjoy your lunch.
 8 See you at 2:15.

9 (Whereupon, a luncheon recess was taken.)

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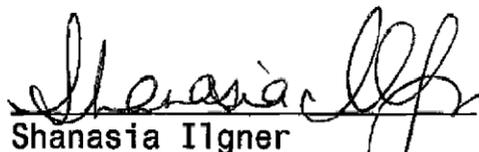
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 14 the stenographic minutes taken within.

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 17 Shanasia Ilgner
 18 Senior Court Reporter

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