

# **Exhibit 8**

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In the Matter of the Claim

of

BROOKLYN MEDICAL PRACTICE P.C.

THE TRAVELERS INDEMNITY COMPANY  
AND ITS SUBSIDIARIES,

MATTER NO: 2019143020

CLAIM NO. IAN8948/Jason Andino

DOL: 8/2/2019

MATTER NO. 2019139621

CLAIM NO. IEI0996/Juan Tineo Nunez

DOL: 10/14/2019

MATTER NO. 2019142996

CLAIM NO. IAN5859/Shakira Isibor

DOL: 5/29/2019

MATTER NO. 2019142989

CLAIM NO. IAN5859/Shelldy Isidor

DOL: 5/29/2019

MATTER NO.: 2020009686

CLAIM NO. IEI1009/Mark Joseph

DOL: 10/19/2019  
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June 11, 2020

11:08 a.m.

EXAMINATION UNDER OATH of DR.

SAYEEDUS S. SALEHIN, before Laura B. Lowenthal, a  
Notary Public within and for the State of New  
York.

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A P P E A R A N C E S:

TSIRELMAN LAW FIRM, PLLC  
Attorneys for Claimant  
120 Livingston Street  
Brooklyn, New York 11201

BY: GARY TSIRELMAN, ESQ.  
E-mail: gtsirelman@gtmdjd.com

WHITE & WILLIAMS, LLP  
Attorneys for Defendant(s)  
7 Times Square, Suite 2900  
New York, New York 10036-6524

BY: JAY SHAPIRO, ESQ.  
E-mail: shapiroj@whiteandwilliams.com

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VIDEOCONFERENCE STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between counsel for all parties present that pursuant to the CPLR section 3113(d) this deposition is to be conducted by video conference, that the court reporter, all counsel, and the witness are all in separate remote locations and participating via videoconference (LegalView/Zoom) meeting under the control of Lexitas Court Reporting Service, that the officer administering the oath to the witness need not be in the place of the deposition and the witness shall be sworn in remotely by the court reporter after confirming the witnesses identity, that this videoconference will not be recorded in any manner and that any recording without the express written consent of all parties shall be considered unauthorized, in violation of law, and shall not be used for any purpose in this litigation or otherwise.

IT IS FURTHER STIPULATED that exhibits may be marked by the attorney presenting the exhibit to the witness, and that a copy of any exhibit presented to a witness shall be e-mailed

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to or otherwise in possession of all counsel prior to any questioning of a witness regarding the exhibit in question. All parties shall bear their own costs in the conduct of this deposition by videoconference, notwithstanding the obligation by CPLR to supply a copy of the transcript to the deposed party by the taking party in civil litigation matters.

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D R . S A Y E E D U S S . S A L E H I N,  
called as a witness, having been first duly  
sworn by a Notary Public, was examined and  
testified as follows:

EXAMINATION BY

MR. SHAPIRO:

Q Can you please state your full name  
for the record?

A Dr. Sayeedus S. Salehin.

Q Can you please state your current  
business address for the record?

A I work at 410 Ditmas Avenue, Brooklyn,  
New York 11218.

Q Good morning, Dr. Salehin. Thank you  
for accommodating Travelers. My name is Jay  
Shapiro and I represent Travelers for these  
Examinations Under Oath.

I just want to make sure most  
important thing is that I pronounce your name  
correctly. So Salehin?

A Yes, Salehin.

Q I will refer to you as Dr. Salehin or  
doctor?

A Okay.

1 S. Salehin, M.D.

2 Q I understand, I know that I don't see  
3 him on the screen but you're with your attorney  
4 Gary Tsirelman; correct?

5 There he is.

6 A Yes.

7 Q Mr. Tsirelman and I have known each  
8 other for a while.

9 Have you ever been deposed before?

10 A For a different company.

11 Q Okay.

12 So you understand that I ask  
13 questions, you should listen to the questions  
14 completely because sometimes witnesses anticipate  
15 what the question is and then they're not quite  
16 correct.

17 So let me finish the question and  
18 obviously it is really really important for Ms.  
19 Lowenthal that you answer verbally so while now  
20 we are discussing this you're nodding your head,  
21 when you do answer a question even if it's just a  
22 quick question you use the word yes, if it is a  
23 quick no you use the word no?

24 On the subject of responses, when I  
25 ask a question if you don't understand the

1                                   S. Salehin, M.D.  
2           question I would appreciate it if you just let me  
3           know and I will do my best to rephrase it, okay?

4           A           Okay.

5           Q           If for some reason you need a break  
6           let me know. Mr. Tsirelman is an extremely  
7           experienced attorney so he knows when you can  
8           talk to him and when you can't talk to him; okay?

9           A           Okay.

10          Q           There are going to be exhibits and  
11          with the technical wonder of our court reporting  
12          system Miss Lowenthal is going to be able to have  
13          both you and I and Mr. Tsirelman look at the  
14          exhibits that I point out. They're not  
15          horrifically long but I want you to take as long  
16          of an opportunity you need to look at those  
17          exhibits; okay?

18          A           Yes.

19          Q           The last request is not so much just  
20          for you but it's also for Mr. Tsirelman. At some  
21          point, approximately around 2:00, if we are still  
22          going at that point, and I have no idea how long  
23          this will take other than you will be home for  
24          dinner for sure, it may end before then but if it  
25          appears that it is going to go after 2:00 we are

1                   S. Salehin, M.D.  
2           going to have a take a break because Ms.  
3           Lowenthal is going to have somebody sub in at  
4           2:00 we will touch base. That will involve a  
5           conversation with me and your attorney; okay?

6                   MR. TSIRELMAN: No problem.

7           Q       With that all said the exhibits that  
8           we have for this, as I said you will be able to  
9           see them, the first six exhibits, five exhibits  
10          rather, are the ones that relate to this  
11          Examination Under Oath.

12                   So what I would like to do they should  
13          be pre marked as Exhibit 1 through Exhibit 5 they  
14          are the scheduling letters that discuss when this  
15          was going to be scheduled, when it was adjourned,  
16          we understand why we had to keep adjourning them  
17          but I will ask Mr. Tsirelman if you can take a  
18          look at Exhibits 1-5.

19                   Exhibit 1 is the Examination Under  
20          Oath letter for the claimant Mark Joseph and its  
21          got matter and claim numbers. That is Exhibit 1  
22          the letter to Mr. Tsirelman.

23                   MR. SHAPIRO: Mr. Tsirelman, do you  
24                   have any objection to that  
25                   admissibility?

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S. Salehin, M.D.

MR. TSIRELMAN: Is this a one page exhibit?

MR. SHAPIRO: Three pages.

MR. TSIRELMAN: For some reason you don't have my address on it.

MR. SHAPIRO: First page.

MR. TSIRELMAN: That is fine.

Q Exhibit 2 is the Examination Under Oath letter for the claimant Juan Tineo Nunez that was sent to Mr. Tsirelman.

MR. TSIRELMAN: Scroll down to the last three pages. I believe they're the same.

MR. SHAPIRO: They are.

MR. TSIRELMAN: Okay. No objection.

MR. SHAPIRO: Exhibit 3 is the Examination Under Oath letter in this matter for Shellydy Isibor that is the claimant. This is the letter sent to Mr. Tsirelman concerning the Examination Under Oath.

MR. TSIRELMAN: Scroll through the three pages please. Okay, without objection.

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S. Salehin, M.D.

Q Please put up Exhibit 4.

Exhibit 4 is the Examination Under Oath letter for today for the claimant Shakira Isibor and if you would show Mr. Tsirelman the other pages when he is ready.

MR. TSIRELMAN: No objection.

Q If you would then put up Exhibit 5.

Exhibit 5 is the Examination Under Oath letter from Travelers to you through Mr. Tsirelman for the patient Jason Andino.

MR. SHAPIRO: When ever you are ready, Mr. Tsirelman.

MR. TSIRELMAN: I am ready.

No objection.

MR. SHAPIRO: Thank you.

Q So, doctor, we are going to discuss things relating to the treatment from Brooklyn Medical concerning those patients. I would like to do some background first.

First of all, what is your position with Brooklyn Medical?

A I am the owner of Brooklyn Medical.

Q For how long have you owned Brooklyn Medical?

1 S. Salehin, M.D.

2 A I opened since 2014.

3 Q Since 2014; is that correct?

4 A Yes.

5 Q You are a medical doctor; correct?

6 A Yes.

7 Q Could you give your background. Where  
8 you went to medical school and start with that?

9 A I graduated from Dhaka Medical College  
10 in Bangladesh.

11 Q When was that?

12 A That was around 2000.

13 Q When did you come to the United  
14 States?

15 A I came 2001.

16 Q Could you explain the background for  
17 your certification?

18 A So I came to country, then I was doing  
19 some work and also I was studying for my USMLE  
20 examination. Then I applied for residency  
21 training in Internal Medicine. I started  
22 Internal Medicine training in 2006 July. Then I  
23 finish my training June 2009. Then I applied for  
24 my license. License, I got the license August  
25 2009. Then I worked as a temporary physician at

1                                   S. Salehin, M.D.  
2       Gloversville, New York and I worked there. Then I  
3       opened Avenue C Medical P.C. I worked there  
4       around 2010 to 2015 I think and I end up 2015 or  
5       beginning of 2016 I started working for the  
6       Brooklyn Medical practice and still working for  
7       Brooklyn Medical practice.

8                   Q       Just one quick question, two quick  
9       questions, about your background.

10                               First, where did you do that training  
11       once you came to the United States?

12                   A       I did my Internal Medicine training  
13       Kingsbrook Jewish Medical Center.

14                   Q       And do you have any particular  
15       certifications?

16                   A       I have board certifications in  
17       Internal Medicine.

18                   Q       Where was Avenue C located?

19                   A       573 McDonald Avenue, Brooklyn 11218.

20                   Q       Were you the sole owner?

21                               Were you the only owner of Avenue C?

22                   A       Yes.

23                   Q       What type of practice was that?

24                   A       That is I used to do no-fault,  
25       workers' comp, slip and fall, evaluation and

1 S. Salehin, M.D.

2 followup, physical therapy treatment.

3 Q Why did you close Avenue C?

4 A I found a bigger place and the  
5 landlord was he was expanding so we want to move  
6 we think we need to move and go bigger so that is  
7 why we wanted to move to Brooklyn Medical.

8 Q Was Brooklyn Medical an existing  
9 practice that you moved to?

10 A No, when we got the building the lease  
11 then I opened a company then we moved.

12 Q So you changed the name?

13 A Yes.

14 Q Was the transition from Avenue C to  
15 Brooklyn Medical did you maintain Brooklyn  
16 Medical and do you maintain --

17 Strike.

18 Did you maintain the same type of  
19 practice as you did in Avenue C?

20 A Yes, I continue the care of the  
21 patients I had in the Avenue C.

22 Q When you moved from Avenue C to start  
23 Brooklyn Medical did you maintain the same  
24 professional staff?

25 A Some. Some of them but not exact.

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S. Salehin, M.D.

Q Did you have support staff that was not -- that were not medical professionals, clerical and such that work with you?

A Some of them stayed.

Q Did you utilize a management company for Avenue C?

MR. TSIRELMAN: Let's stick to Brooklyn Medical because that is the EUO we are here for. I gave you a little leeway but we are getting into areas that has nothing to with this EUO.

MR. SHAPIRO: I will withdraw that and I will ask a different way.

Q For Brooklyn Medical do you have people, do you have a management company?

A No.

Q Do you have people who help run the medical practice in terms of staffing and hours?

MR. TSIRELMAN: What do you mean by that?

MR. SHAPIRO: Scheduling, payroll and billing.

MR. TSIRELMAN: Do you understand the

1 S. Salehin, M.D.

2 question?

3 A Initially no but nowadays yes. I am  
4 using some of them from Avenue C, yes.

5 Q Who are those people?

6 A For payroll and I think now it is  
7 helping me mostly Margarita but I recently I take  
8 Elena V, Elena V is helping me also do payroll  
9 and like stuff.

10 Q Do you know their last names?

11 A Vaynestein.

12 MR. SHAPIRO: Mr. Tsirelman, perhaps  
13 you can get the spelling for us after  
14 this is done.

15 MR. TSIRELMAN: Sure, we can give you  
16 at your request a W-2. They're going  
17 to be in the W-2.

18 MR. SHAPIRO: That is terrific. Thank  
19 you very much.

20 Q That was Elena and who is the other  
21 person Margarita?

22 A Margarita she is full-time, yes.

23 Q Do you know her last name?

24 A Sarkian.

25 Q The location that you are at for

1 S. Salehin, M.D.

2 Brooklyn Medical you say it's larger.

3 Can you describe in terms of waiting  
4 room, therapy rooms and doctor's offices what it  
5 looks like?

6 A When I enter the office I have two  
7 doors, one is like on my right side, the side  
8 door, it goes to second floor, stairway,  
9 elevator.

10 Then we have a second door that is  
11 that door we enter the main waiting room. Main  
12 waiting room and there is a waiting room with the  
13 chairs, television, restroom, water.

14 Then we have door and the door we have  
15 left side like a front desk area on left side  
16 then right side all the way to go to second  
17 floor, elevator and also one room for patient  
18 registration.

19 Then in the hallway to go back side  
20 for physical therapy place patient see physical  
21 therapy in the back, go back is there is private  
22 room and also when I enter the -- when I pass the  
23 front desk I have the room for document, like  
24 medical records room.

25 Then I have a room for chiropractor

1                                   S. Salehin, M.D.  
2     room, then two rooms, one is left side one is  
3     right side now and some chairs for patient to  
4     wait. And also another room for acupuncturist.

5                                   Then I have my own room for  
6     examination room to see patient.

7                                   Then one room for physical therapist.

8                                   Then on right side you have restroom,  
9     then physical therapy. So it's the whole floor.

10                                  Q     You mentioned there is an upstairs.  
11     There are offices upstairs that you use?

12                                  A     Yes, we have the second floor. Second  
13     floor I have like maybe billing and collection  
14     mostly and then I have a cafeteria in the back,  
15     then I have a conference room, conference room,  
16     then room HR room that she helps with employees  
17     records and also the payroll she keeps documents.

18                                  Also another room for my other  
19     managers. There is the second floor.

20                                  Q     Other managers are those in addition  
21     to the two people you mentioned?

22                                  A     I have a couple of managers.  
23     Employees. Margarita she does maybe billing and  
24     collections. And also have Steven, he helps  
25     sometimes Margarita. He helps also sometimes

1 S. Salehin, M.D.

2 Albert.

3 Q I will ask him. Steven helps you. Do  
4 you know Steven's last name?

5 A Steven Roque as I remember.

6 Q Albert?

7 A Albert he is a -- he has big role here  
8 because he oversees all the managers. All the  
9 managers, the Assistant Manager, make sure they  
10 work on time so make sure he does that.

11 Q What is his last name?

12 A Vaynestein.

13 Q So this is a big space. Do you own the  
14 building?

15 A No, this is the lease building.

16 Q Do you know who the landlord is?

17 A George Hoffman.

18 Q What I had like to do now is talk to  
19 you about the patients that are the subject of  
20 these letters that we marked as the first  
21 exhibits.

22 So what I would like to do is these  
23 will be from here on in these will be different  
24 forms, reports and forms and bills.

25 So the first one if you would please

1                                   S. Salehin, M.D.  
2       put up is Exhibit 6 it has to do, one more  
3       moment, what I will do, doctor, to make it easy  
4       even though there are five different patients I  
5       will do it forms for one patient at a time. When  
6       I finish one then we will go on to the next  
7       patient; okay?

8                   A       Okay.

9                   MR. SHAPIRO:   So if you wouldn't mind  
10                   sharing the screen.

11                  Q       Doctor, if you would take a look at  
12       Exhibit 6. It is a one page exhibit addressed to  
13       you from Community Medical Imaging concerning one  
14       of the patients Shakira Isibor.

15                   Did you have a chance to look at that,  
16       doctor?

17                  A       Yes.

18                  Q       Are you familiar with Community  
19       Medical Imaging?

20                  A       Yes.

21                  Q       What is that?

22                  A       I sent patients for M.R.I. and they do  
23       the M.R.I. for my patients.

24                  Q       Do you send patients for M.R.I.s to  
25       other places besides Community Medical Imaging?

1 S. Salehin, M.D.

2 A Yes.

3 Q How far is Community Medical Imaging  
4 on Merrick Boulevard in Rosedale from your  
5 office; do you know?

6 A So I have some visiting cards so I  
7 never drive there how far it is.

8 Q Do you know the physicians at  
9 Community Medical Imaging; do you know Dr.  
10 McDonnell?

11 A No.

12 Q McDonnell?

13 A No.

14 Q Do you know any physicians at  
15 Community Medical Imaging?

16 A Physician, no.

17 Q Do you know anybody who works there?

18 A No.

19 Q Why do you send patients to Community  
20 Medical Imaging?

21 A Because patients need to get M.R.I. so  
22 some patient need to have Queens, some patient  
23 need Brooklyn. So there are a lot of imaging  
24 visiting cards in the front so patient want to go  
25 to they go.

1 S. Salehin, M.D.

2 Q Is it their choice and they pick a  
3 card and they tell you?

4 A Yes, we tell them where do you want to  
5 go, Queens, Queens we have this one, okay you can  
6 go there.

7 Q Do you recall this patient in  
8 particular Shakira Isibor?

9 A I think I remember her face also, yes.

10 Q How many patients do you see a day,  
11 doctor?

12 A I see patients it depends but 15, 25 I  
13 think.

14 Q How many days a week are you open?

15 A We are open six days.

16 Q Do you go to the office six days?

17 A I go four to five days.

18 Q Are there any other physicians who  
19 work there?

20 A Physician only me but I have a  
21 physician's assistant, PA.

22 Q Is that person there the days that  
23 you're not there?

24 A Yes, some other days we work both.

25 Q This report is addressed to you

1                                   S. Salehin, M.D.

2       Exhibit 6 and it's an M.R.I. of the right  
3       shoulder.

4                                   When Dr. McDonnell does this report  
5       how do you -- do you then get this document from  
6       Dr. McDonnell the report?

7                   A       I did not get the question. Can you  
8       repeat the question?

9                   Q       The report that is in front of you  
10       Exhibit 6 that is on the screen is that  
11       transmitted to you by Dr. McDonnell?

12                                   MR. TSIRELMAN: Is the question  
13       whether Dr. McDonnell personally sent  
14       it to him?

15                   Q       No, anybody at Community Medical  
16       Imaging, I know if somebody sends it to you you  
17       don't know who it is who is transmitting it  
18       necessarily.

19                                   So what I am asking is this particular  
20       report did you receive it do you know?

21                   A       Of course. The thing is the way it  
22       works because when patient have the M.R.I.  
23       patient come to us and say I have the M.R.I.,  
24       where's the report. So sometimes they text the  
25       report, sometimes they don't. So I feel that my

1 S. Salehin, M.D.

2 front desk can you call the place to get the  
3 report if it is not there. So they call the  
4 place and get the report and then I talk to the  
5 patient with the report.

6 Q That is actually my question then.

7 After you get the report -- so this  
8 report then would be if you look towards the top  
9 it says the date of service was June 7, 2019,  
10 would you talk to the patient during the next  
11 visit about the results of this M.R.I., did you  
12 do that with this patient?

13 A It depends. Sometimes patient come for  
14 next visit, sometimes the patient come after one  
15 week, so it depends. So I can't remember when  
16 did I spoke to this patient with this report.

17 Q Do you do it, forget about the number  
18 of days, but do you do it the next time the  
19 patient comes?

20 A Yes.

21 MR. SHAPIRO: The next exhibit,  
22 Exhibit 7, if you would please put  
23 that up. Doctor, I understand, going  
24 back to Exhibit 6, I understand it's  
25 not your report but it is about your

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S. Salehin, M.D.

patient you said you received it  
Travelers moves this Exhibit into  
evidence.

MR. TSIRELMAN: Without objection.

MR. SHAPIRO: Now we can turn to  
Exhibit 7.

Q Exhibit 7 is actually five pages. It  
is a bill concerning -- it is a bill and a report  
concerning this same patient.

So I would like you to do, doctor,  
with and obviously your attorney is looking at it  
too, I would like you to take a look and please  
tell the court reporter when you are ready to go  
onto the next page and then after you look at the  
five pages let me know and I have a few  
questions.

MR. TSIRELMAN: It's hard just  
because these numbers are on top of  
the letters. Like if you look at box  
15 and below box 33 I think or 32 it's  
hard to make out some of the wording  
but otherwise we are ready to answer  
your questions.

MR. SHAPIRO: I would try, thank you,

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S. Salehin, M.D.

I will try to avoid those difficult boxes as best as possible. I think I will. So this exhibit I would like to offer this in evidence. I know it is not for you but it is relating to this particular patient and it's a referral to you.

Any objection, Mr. Tsirelman.

MR. TSIRELMAN: You are saying this is not our medical record because I can't even on box 20 something I can't make out the tax I.D. number but if you are telling me this is not Brooklyn Medical then I have no objection.

MR. SHAPIRO: It is not Brooklyn Medical.

MR. TSIRELMAN: We have no objection.

MR. SHAPIRO: Thank you.

Q Doctor, are you familiar with Advanced Orthopedics and Joint Preservation?

A Yes.

Q What is it?

A To me Dr. Avshalumov he works for Advanced and he does orthopedic evaluation for my

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S. Salehin, M.D.

patient.

Q I see that on the bottom of the first, well, we can stick on this page actually. The page that is on the screen. It has your address 410 Ditmas Avenue.

Is their office in the same address of you?

A No, he pays rent. He sees patient, he comes one to two times a week and he pays rent to me.

Q I see. He pays rent.

Does he pay rent to Brooklyn Medical?

A Yes.

Q Do you know how much the rent is?

A He pays \$2,000 per month.

Q He comes once or twice a week?

A One to two times a week.

Q You described the premises before. Which office out of your description where does he see the patient?

A He sees in the basement.

Q So that is a floor below the one that you were describing?

A Yes, another floor, there is a

1 S. Salehin, M.D.

2 basement.

3 Q What is down in the basement?

4 A Basement I have bed, physical therapy  
5 beds, I have a gym, exercise for physical therapy  
6 patients and also I have office for chiropractor,  
7 I have office for acupuncturist, I have office  
8 for orthopedic, I have office for pain management  
9 and also I have x-ray image.

10 Q If you would go to the next page this  
11 patient you said you remembered her; correct?

12 A Yes.

13 Q If you look at the very top where it  
14 says progress note under section it says male; is  
15 that correct?

16 A Yes.

17 Q And then if you go to the text it  
18 describes the patient and it refers to the  
19 patient in which sex?

20 A So this patient is a Shakira. Shakira  
21 is a female patient. Male is a mistake.

22 Q Do you recall speaking to Dr.  
23 Avshalumov and telling him that he made a mistake  
24 about the sex of this patient?

25 A No. I just realize it.

1 S. Salehin, M.D.

2 Q But again, like the M.R.I. report  
3 would this report come to you for your review?

4 A Yes.

5 Q The patient, this review, if you go to  
6 the third page of this report though it's  
7 actually page four of the exhibit I would like to  
8 direct your attention to this, do you see the  
9 section that says Assessment and Plan?

10 A Yes.

11 Q The doctor here suggests he gives a  
12 plan of continued physical therapy three times a  
13 week for six weeks as tolerated and then says if  
14 symptoms persist I will offer surgery.

15 Who decided for this patient whether  
16 she should continue to come back for physical  
17 therapy and for how often, you or this doctor?

18 A When I see initially I tell patient to  
19 start therapy three to four times a week,  
20 definitely done, then when M.R.I. done then if  
21 the matter is significant and patient have  
22 symptoms then I tell the patient please you see  
23 orthopedic. You need to see orthopedic surgeon  
24 for injury. Then it sees orthopedic and  
25 orthopedic makes the plan he should do surgery or

1 S. Salehin, M.D.

2 he should do therapy. It's up to him. So that  
3 is the way it was done.

4 Q Do you know whether your staff does  
5 the reports for Advanced Orthopedics?

6 MR. TSIRELMAN: Which reports are you  
7 referring to?

8 MR. SHAPIRO: The one we are looking  
9 at this exhibit the progress note.

10 A So they mentioned their own records so  
11 I have no idea who helps.

12 Q All Advanced is paying you for is the  
13 rent; correct?

14 A \$2,000, that is it.

15 Q Are there any other doctors associated  
16 with Advanced?

17 A He has his own staff.

18 Q Do you have any interest in Advanced?

19 A I have any interest, no.

20 MR. SHAPIRO: What I would like to do  
21 is then move to Exhibit 8. Exhibit 8  
22 is again a different visit date. But  
23 why don't you take your time so you  
24 can have a chance to look at it with  
25 your lawyer and then if when you're

1 S. Salehin, M.D.  
2 ready let me know. It is another  
3 Advanced Orthopedics report and bill  
4 and if there is no objection once you  
5 look at it I will move this to Exhibit  
6 8.

7 MR. TSIRELMAN: If we all agree that  
8 this is not Dr. Salehin's report. I  
9 have no objection.

10 Q Doctor, without putting it up on the  
11 screen unless you feel the need to look at it,  
12 the last exhibit, Exhibit 7, was July, was a  
13 visit date of July 8, 2019 and it was right  
14 shoulder pain.

15 This exhibit is if you look at the  
16 second page of the exhibit or the bill itself is  
17 August 26, 2019 and this was a referral for the  
18 right knee; am I correct?

19 A Yes.

20 Q Again, Dr. Avshalumov has the patient  
21 described both in the box and in the report as a  
22 male, that is not correct; right?

23 A Not correct as far as I can see.

24 MR. TSIRELMAN: Let's go back to  
25 Exhibit 7.

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S. Salehin, M.D.

Okay go back to Exhibit 8.

A Yes.

Q So the first question I have for  
you --

MR. SHAPIRO: Mr. Tsirelman, if you  
would like you can just write down  
your affirmation and keep it to  
yourself.

MR. TSIRELMAN: Sure.

Q This patient, same patient, this is a  
different body part. Can you tell me why you  
didn't have a referral for both the right knee  
and the right shoulder done the first time that  
Advanced saw this patient?

MR. TSIRELMAN: I have to object to  
your question without the doctor the  
ability to have his own records in  
front of him I don't think it would be  
fair for him to answer and speculate.

Q Well, doctor, do you write referrals  
to Advanced?

A Yes.

Q Travelers has not received a referral  
to Advanced for this patient from Brooklyn

1 S. Salehin, M.D.

2 Medical. Are those in your files?

3 A The way because I saw patient need  
4 orthopedic evaluation so then I tell both the  
5 front desk and the doctor comes here once a week  
6 or twice a week the doctor when you can see the  
7 doctor, so they make sure doctor is coming when  
8 they're available. Then they gave the patient  
9 particulars, information, and they tell okay see  
10 the doctor on that day.

11 MR. TSIRELMAN: I don't know if you  
12 heard the question. The question was  
13 about referrals. Do you have a  
14 referral in your chart or something  
15 else?

16 THE WITNESS: It is preserved.

17 MR. TSIRELMAN: Where is it  
18 preserved?

19 THE WITNESS: Progress note.

20 MR. TSIRELMAN: Does Travelers  
21 receive Progress Notes from Brooklyn  
22 Medical?

23 MR. SHAPIRO: We don't have a record  
24 for this patient that says a referral  
25 for these Advanced Orthopedics for

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S. Salehin, M.D.

either of those.

MR. TSIRELMAN: At your request and we will provide it.

MR. SHAPIRO: We request it.

MR. TSIRELMAN: We will provide it.

MR. SHAPIRO: Thank you, Mr. Tsirelman.

Q If you on Exhibit 8 now turn to the fourth page of the Exhibit. The Assessment and Plan. It says if symptoms persist I will offer surgery.

Does Dr. Avshalumov consult with you orally about this patient?

A In person?

Q Yes?

A No.

Q Did you call you up about this patient?

A No.

Q So is it correct that the communication concerning this patient is through the doctor's document, this document, the report?

A Many, yes.

Q What else is there?

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S. Salehin, M.D.

A If there are any documents but if I see something when I talk to him in the case I talk to him.

Q But you don't recall talking to him about the sex of the patient?

A Regarding this patient, no.

MR. SHAPIRO: If you would close Exhibit 8 and let's go to Exhibit 9. Go to Exhibit 9.

Q Exhibit 9 is a three page document. It is a bill from Brooklyn Medical. We will offer this as Exhibit 9 but I would like you to have the ability just to scroll through it with your lawyer for moment.

MR. TSIRELMAN: I am ready.

MR. SHAPIRO: Are you ready?

MR. TSIRELMAN: We are ready.

Q Doctor, did you see as you looked at it that this was a Brooklyn Medical bill for Shakira; did you see that?

A Yes.

Q These bills are they done internally by your staff?

A Yes.

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S. Salehin, M.D.

Q The second page, I am sorry, the third page of the bill, I am on the second page, there are dates of service; do you see those?

A It is hard to see.

Q Those are dates of service, correct?

A Yes.

Q It was all for November 27, 2017?

MR. TSIRELMAN: 2019.

MR. SHAPIRO: I am sorry, 2019.

MR. TSIRELMAN: It may be 21. I am not sure if it's 27.

MR. SHAPIRO: It is actually I have it blown up a little bit bigger 27.

MR. TSIRELMAN: We will take your word for it.

Q It indicates that one of the procedures is a followup comprehensive visit?

A Followup, yes.

Q Is that a visit that you do face to face with the patient?

A Yes.

Q At that visit would you have discussed with the patient those reports from the M.R.I. provider and the orthopedic surgeon?

1 S. Salehin, M.D.

2 A Yes, if it is available, yes.

3 Q Travelers has not received for this  
4 patient a report.

5 Do you create a report for that visit?

6 A It is a SOAP note to record the  
7 patient visit.

8 Q That SOAP note does it have any  
9 details about your visit?

10 A I mean what ever is SOAP note I don't  
11 know the details of soap notes. What the patient  
12 complain about I did, what is the plan.

13 MR. SHAPIRO: Would you send that  
14 to -- Mr. Tsirelman, can we have the  
15 notes for that visit?

16 MR. TSIRELMAN: Absolutely.

17 MR. SHAPIRO: So we can close this  
18 Exhibit. We will move that into  
19 evidence?

20 MR. TSIRELMAN: Without objection.

21 Q We will now go to Exhibit 10.

22 If you would take the time to scroll  
23 through Exhibit 10. This is about a different  
24 patient for this -- for this examination. This  
25 is Shelly Isibor. Do you recall this patient

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S. Salehin, M.D.

Shelldy?

A Yes.

Q Is Shelldy related to Shakira do you know?

A I think so.

Q I heard you say Shelldy is a male; correct?

A Yes.

Q Turning to page, the second page, please of this exhibit November 18 there is an entry, do you see that 11/18/2019?

A Yes.

Q The last, well, first of all, it says followup comprehensive visit that is the second entry is that the same sort of visit that we discussed before?

A Yes.

Q The last exhibit therapeutic massage and it has a CPT code there do you know what part of the body was massaged?

A From this bill I don't know. You have to take physical therapy note.

Q The exhibit contains with it on the sixth page, actually start with the seventh page,

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S. Salehin, M.D.

so you can see what the title of the document is and then if you want you can go to the I would like you to go to the sixth page are these what you referred to as SOAP notes?

A These are physical therapy note.

Q So your SOAP note is something different; correct?

A Yes.

Q For the physical therapy note we can see then on the 27th areas treated for is that the massage that you're talking about or is that something else?

A So it looks like he has therapy, neck, lower back, he had heating pad, therapeutic massage and electrical stimulation.

MR. TSIRELMAN: Therapeutic massage?

THE WITNESS: Yes.

Q So on the 27th then the TM is the therapeutic massage?

A Yes.

Q C is what again?

MR. TSIRELMAN: C is cervical.

Q L is lumbar?

A Yes.

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S. Salehin, M.D.

MR. TSIRELMAN: Yes.

MR. SHAPIRO: I move this I think I did but this is moved into evidence. There is no objection? It's your bill; right?

MR. TSIRELMAN: No objection.

Q Let's go to number 11.

Exhibit 11 is for this patient Shelldy Isibor. It is a Community Medical Imaging letterhead on top.

I ask you, doctor, have you seen this document before?

A This is request for M.R.I.

MR. SHAPIRO: Any objection to putting this into evidence? You can look at second page.

MR. TSIRELMAN: Go back to page one please. I don't think they're related to each other because the request is for the right foot and the M.R.I. result is for right shoulder but if you want to put them into evidence I have no objection.

MR. SHAPIRO: I don't know if they're

1 S. Salehin, M.D.

2 related either but we are not sure. So  
3 thank you. I think Exhibit 13 may  
4 clarify. I am not sure. I am sorry,  
5 12 maybe.

6 Q This document on the first page of it,  
7 doctor, where it says physician signature is that  
8 your signature?

9 A That is a stamp.

10 Q This was a referral for the M.R.I. of  
11 the right foot; correct?

12 A Yes.

13 Q So this is now, and this date of  
14 service --

15 MR. SHAPIRO: We can move this into  
16 evidence. Let's move to Exhibit 12.  
17 Doctor, we are more than a third of  
18 the way through the exhibits. We offer  
19 this saying it's not your exhibit but  
20 it is relating to this patient.  
21 Any objection?

22 MR. TSIRELMAN: No.

23 Q Doctor, if you look at the first page  
24 of the exhibit, is that your stamp again for your  
25 signature?

1 S. Salehin, M.D.

2 A This is my stamp.

3 Q This is the right knee; correct?

4 A Yes.

5 Q That was being done?

6 A Yes.

7 Q If you go to the bottom of the second  
8 page of the exhibit where it says impression you  
9 see where it says "a mild interstitial tear of  
10 the ACL as noted"?

11 A Yes.

12 Q "There is also another tear noted of  
13 the medial meniscus"; correct?

14 A Yes.

15 Q Did you direct that this patient have  
16 surgery as a result of these injuries?

17 MR. TSIRELMAN: Without the doctor's  
18 medical chart I think he would be  
19 speculating.

20 MR. SHAPIRO: Well, I will rephrase  
21 it.

22 Q Doctor, do you -- with this patient  
23 you are going to see in a moment that it was the  
24 patient was also seen by Advanced.

25 Would you make the determination to

1 S. Salehin, M.D.

2 have surgery or Advanced?

3 A No, I tell patient you need to see  
4 orthopedic surgeon. I don't pick the general  
5 surgeon.

6 MR. SHAPIRO: So this was the date of  
7 service of July 8 for this patient.  
8 The M.R.I. This is in evidence. We  
9 can go now to Exhibit 13.  
10 We are going to be on Exhibit 13 for  
11 only one moment. Mr. Tsirelman, this  
12 is more directed at you. I think that  
13 I have done wonders putting these  
14 exhibits together but I did one  
15 mistake which is Exhibit 13 is a  
16 duplicate so with that stipulation so  
17 the numbers don't get messed up can we  
18 just agree on the transcript that 13  
19 is a duplicate as well?

20 MR. TSIRELMAN: So agreed.

21 MR. SHAPIRO: We can close 13. 13 is  
22 in evidence.

23 MR. TSIRELMAN: Just to be meticulous  
24 I did not see the second page of 13.  
25 Can we go back to make sure it's a

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S. Salehin, M.D.

duplicate of the other exhibit.

Yes, thank you. Next Exhibit.

MR. SHAPIRO: Exhibit 14, knowing this is not your bill but it's about the same patient Shelly Isibor we offer Exhibit 14 into evidence.

MR. TSIRELMAN: No objection.

Q This exhibit refers to an August 26, 2019 exhibit and the examination before that the Community Medical Imaging M.R.I. of the knee was the date of service was July 8, 2019. So this exhibit, this examination, was after the knee M.R.I.

What body part does Dr. Avshalumov refer to in this exhibit?

MR. TSIRELMAN: This is not the doctor's report but I will allow him to answer.

Q That is correct. It is not your report. It is a report directed to you, doctor.

MR. TSIRELMAN: Okay.

A Yes, it is different body part. I can't remember the situation. If the patient has right shoulder complaint but it's okay. If I see

1                                   S. Salehin, M.D.  
2       a different body part and he is talking different  
3       body part of course I make correction I told them  
4       you are putting something wrong. I can't remember  
5       this. Something happens. They put shoulder,  
6       actually it is right knee. It happens sometimes.  
7       So if I catch it I tell them fix the no-fault.

8                   Q       So did you send this patient back for  
9       a different, another examination then?

10                  A       I can't remember. It is in my chart so  
11       I don't know.

12                   MR. SHAPIRO: We will mark this for if  
13       there is such a referral back to  
14       Advanced to be marked for production  
15       of that document.

16                   MR. TSIRELMAN: Sure.

17                  Q       That moves us to a new patient,  
18       doctor?

19                   MR. SHAPIRO: I can't see what is  
20       in -- and Exhibit 14 is in evidence.

21                  Q       Exhibit 15 is another patient. It is a  
22       patient named Juan Octavio Tineo Nunez.

23                   Doctor, do you have water. Do you  
24       need to take a break?

25                  A       We are fine.

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S. Salehin, M.D.

Q Now we are in Exhibit 15. This is the EUO related to Juan Octavio Nunez Tineo. If you would take a look. This is a bill of yours. It is nine pages. After you have had a chance to look at it let me know. Tell the court reporter when you want to move from one page to another.

A Yes.

MR. SHAPIRO: I offer Exhibit 15 into evidence. Any objection?

MR. TSIRELMAN: No objection.

Q Doctor, do you recall this patient?

A No.

Q If you would take a look at this bill page three where the services start to be described in the bill and then page where there are entries, doctor, this patient seems to have a regimen of stimulation, cold pack and therapeutic massage; correct?

A Yes.

Q Is that a typical regimen for a patient with soft tissue injury?

A Yes, physical therapy is the plan. What to do with the physical therapy.

Q The physical therapist came up with

1 S. Salehin, M.D.

2 that plan?

3 A Yes.

4 Q Do you have more than one physical  
5 therapist who works for you?

6 A I have a couple of physical  
7 therapists.

8 Q You tell me their names?

9 A I have physical therapist Sherwin,  
10 Sherwin Tameo. Then I have Sheedal Parmer. I  
11 have Lora Ahmed. Then I have Ahmed Magoosh. So  
12 those I remember at this time.

13 Q Doctor, are those physical therapists  
14 all licensed by the State of New York?

15 A Yes.

16 Q If you would look at the page before  
17 this page the treating provider's names it  
18 indicates your name; correct?

19 A Yes.

20 Q It doesn't say the physical  
21 therapist's name, is there a reason for that?

22 MR. TSIRELMAN: Objection. It is  
23 legal grounds. There is unfortunately  
24 in no-fault the definitions of  
25 provider are not in the statute and

1                                   S. Salehin, M.D.  
2                                   not in the regulations. So there is a  
3                                   very big confusion when this comes up  
4                                   all the time as to who the -- what is  
5                                   the definition of the provider. Is it  
6                                   the person treating or the person who  
7                                   owns the practice. So we are not sure  
8                                   so I don't know how to answer that but  
9                                   we can stipulate that physical  
10                                  therapists names are not on the bills  
11                                  but their signatures are on the note  
12                                  that are sent to the insurance company  
13                                  to indicate who did what service on  
14                                  what date.

15            Q           Let's turn then to the seventh page of  
16            this exhibit.

17                                  You heard your explanation, the  
18            explanation from Mr. Tsirelman.

19                                  Are those the physical therapists  
20            initials in the box?

21            A           Yes.

22            Q           Do you know whose initials are whose?

23            A           I can Sherwin I remember his  
24            signature. Sherwin I remember but the other two  
25            Ahmed but I am not sure.

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S. Salehin, M.D.

Q As far as the areas treated this patient it says had therapeutic massage on each of those days listed and it's lumbar for each of those days and cervical for the 20th and the 21st; right?

A Yes, everything correct, yes.

MR. SHAPIRO: This is in evidence.

Let's move to Exhibit 16.

Q This is a seven page exhibit and, doctor, your lawyer was much smarter than I am. You have water. I will be back while you read this exhibit to get myself some water; okay?

MR. TSIRELMAN: Yes.

Q This is Exhibit 16. It is for this patient Nunez Tineo. I understand it's not your bill. But it is for your patient.

MR. SHAPIRO: With that stipulation it's not your bill but it's about this claim. We offer Exhibit 16. Any objection?

MR. TSIRELMAN: No objection.

Q Doctor, what is North Shore Family Chiropractor, are you familiar with it?

A Yes, he provide chiropractic service

1                   S. Salehin, M.D.  
2       for patient and he has his own company so he sees  
3       his own patient.

4           Q       Is he located in your office?

5           A       He pays rent to Brooklyn Medical.

6           Q       How often is he there?

7           A       What is the question?

8           Q       How often is he there; do you know?

9                   MR. TSIRELMAN:    Are you asking him  
10                   how often the doctor sees him there  
11                   or?

12           Q       He does pay rent so I am just to give  
13       you context the same way you said you knew how  
14       many days a week Advanced came so I am asking you  
15       is North Shore there to your knowledge are they  
16       paying rent for two days a week, three days a  
17       week, all year, what is the relationship?

18           A       They're full-time there so they have  
19       the space, they have use office. So they're  
20       there all the time they're there six days a week.

21           Q       Do you know what his rent is North  
22       Shore?

23                   MR. TSIRELMAN:    What is his rent a  
24                   month?

25           A       He pays \$14,000 per month.

1                                   S. Salehin, M.D.

2           Q           Does he get services like front desk

3 service included?

4           A           Yes, he gets service, yes.

5           Q           Do you know if your staff does his

6 billing?

7           A           No, he has his own billing staff.

8           Q           Are they located in your building?

9           A           Yes.

10          Q           What is the name of the principal of

11 this? Who is the chiropractor? What is his

12 name?

13          A           Without the.

14                           MR. TSIRELMAN: Without the legalese

15 principal.

16          Q           What is the chiropractor's name?

17                           MR. TSIRELMAN: Who is the owner?

18          A           Todd Lebson.

19          Q           Do you coordinate your services with

20 Dr. Lebson's staff?

21          A           No, he does his own care, I do my care

22 so I don't.

23          Q           Doctor, if we can go to the second

24 page of this exhibit do you see it says

25 therapeutic massage one to two areas for 10/21 to

1 S. Salehin, M.D.

2 10/22; do you see those two entries?

3 A Okay, I do.

4 MR. TSIRELMAN: Yes.

5 Q So, doctor, the last -- your bill for  
6 this patient had therapeutic exam for the 21st  
7 and the 22nd. It was the lumbar.

8 Do you know what the difference is  
9 between the massage that Dr. Lebson does as  
10 opposed to your physical therapist massage?

11 A No.

12 Q Is there a difference?

13 MR. TSIRELMAN: If he doesn't know  
14 how can he tell you if there is a  
15 difference?

16 Q So you don't know if there is a  
17 difference?

18 A No.

19 Q Medically speaking if your physical  
20 therapist does a massage is there a reason for  
21 someone else to do a massage that same day?

22 MR. TSIRELMAN: Objection on the  
23 grounds that my doctor is not  
24 qualified to answer in the field of  
25 chiropractor.

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S. Salehin, M.D.

Q Doctor, do you feel that you're not qualified to answer about a chiropractic exam?

MR. TSIRELMAN: He is not a chiropractor or licensed. It doesn't matter how he feels. He is not qualified. If qualifying was determined by feeling we would be in big trouble.

Q Doctor, are you familiar with the schedule treatment codes?

MR. TSIRELMAN: Are you familiar with fee schedule treatment codes? He is talking about like CPT codes, the workers' comp codes.

A Some I get help with the billers they know the code.

Q This code that is for those massage 97124 is the same code that appears on your bill?

MR. TSIRELMAN: Okay, what is the question?

MR. SHAPIRO: I was wondering if he knew whether there was any significance to that?

MR. TSIRELMAN: Okay, do you know if

1                                   S. Salehin, M.D.  
2                                   there is any significance where these  
3                                   are the same CPT codes from your bill  
4                                   and the chiropractor bill.

5            A            I don't know but my billing should be  
6            different but I don't know why it is the same  
7            code.

8            Q            Doctor, can we go back for a moment.  
9            I don't want to put you at a disadvantage. I  
10           want you to look at this exhibit before Exhibit  
11           15.

12                                Doctor, looking at Exhibit 15 box  
13           seven when did the patient first see you for this  
14           condition?

15                                MR. TSIRELMAN:    You want a date?

16                                MR. SHAPIRO:    Yes.

17            A            10/20/19.

18            Q            If you go to the second page of the  
19           bill where the services are there there is no  
20           bill for a comprehensive exam; is there?

21                                MR. TSIRELMAN:    We are not.

22            A            I don't see it.

23            Q            The answer is no; correct?

24                                MR. TSIRELMAN:    No, not on this one,  
25           no.

1 S. Salehin, M.D.

2 Q If you want we will go to the next --  
3 continue on that exhibit to page four there are  
4 other dates of service through 10/29, none  
5 reflect initial visit consultation; do they?  
6 Scroll to page four for the doctor. No initial  
7 visit; correct doctor?

8 A No.

9 MR. SHAPIRO: We can close this  
10 exhibit and go back to exhibit 16. To  
11 that page fact.

12 Q It indicates on 10/20 which is the  
13 first date you saw the patient as well that Dr.  
14 Lebson did a new patient exam moderate  
15 complexity; do you see that entry, doctor?

16 A Yes.

17 Q Now I am wondering when a patient  
18 comes in to 410 Ditmas Avenue does the patient  
19 come to Brooklyn Medical for an evaluation or to  
20 the chiropractor?

21 MR. TSIRELMAN: Objection.

22 Q Do you know, doctor?

23 MR. TSIRELMAN: You can answer over  
24 my objection. You can answer over my  
25 objection. If you can answer that you

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S. Salehin, M.D.

can answer over my objection.

A Depends.

Q Tell me what the difference is.

A Sometimes if I am available I see the patient first. If I am not available the doctor the patient want to see other person. It depends on the patient what he wants to do.

Q So in this circumstance with this patient the exam, the first exam, was with Dr. Lebson.

When that happens who controls the subsequent treatment of the patient and the referrals, you or Dr. Lebson?

MR. TSIRELMAN: Objection but you can answer over my objection. Objection as to the form. You can answer over my objection.

A I just needed to do physical therapy to the patient. Something else I don't know.

Q If there is a referral for other treatment would that be by Dr. Lebson under the circumstances?

A No, physical therapy should be by me.

Q Right, I am saying if there was a

1                                   S. Salehin, M.D.  
2       referral for example for an M.R.I. would that be  
3       by Dr. Lebson?

4           A           If it is for cervix like neck, back it  
5       could be but not for shoulder and knee because  
6       shoulder and knee injury they don't see for  
7       shoulder and knee.

8           MR. SHAPIRO:    This is Exhibit 17.  
9                            Just to make sure, Miss Lowenthal,  
10                           this is in evidence.

11           MR. TSIRELMAN:   No objection.

12           Q           Let's go to Exhibit 17.

13           MR. SHAPIRO:    Doctor, Mr. Tsirelman is  
14                           now rested and we continue on.

15           MR. TSIRELMAN:   Yes.

16           Q           This is a report for this patient Juan  
17       Octavio Tineo Nunez, an M.R.I. for the left hip.

18                            Doctor, this then is a referral that  
19       you would have made because; is that correct?

20           A           Most likely, yes.

21           Q           If you take a look I want you to focus  
22       on this it'll be for some substantive question.  
23       If you take a look and keep in mind the  
24       impression one, two, three in particular one and  
25       three and then tell me if you have had a chance

1 S. Salehin, M.D.

2 to read those?

3 A All set. Yes.

4 Q Doctor, what is a tear of the at the  
5 base of the anterior labrum?

6 MR. TSIRELMAN: What do you mean by  
7 that?

8 Q What is it? Is it an injury, is it  
9 trauma?

10 MR. TSIRELMAN: Objection to that.

11 Q Doctor, this is directed to you;  
12 correct, this report?

13 MR. TSIRELMAN: Right, but that is  
14 not he is a board certified Internal  
15 Medicine doctor. I don't understand  
16 the point of the question.

17 Q I will ask.

18 Doctor, you direct the physical  
19 therapy that this patient is doing; correct?

20 A Yes.

21 Q When you see that first impression  
22 does that condition influence the type of  
23 physical therapy the patient has?

24 A When I see this M.R.I. I should tell  
25 him to see orthopedist because he has an injury

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S. Salehin, M.D.

there.

Q Would that injury do you know without telling me what it is do you know what that injury is?

A In the labrum. It states in the report. Without the report patient might have symptom like examination I can suspect.

Q I understand that.

What I am saying to you then is when you see in this report that is to you a tear is seen at the base of the anterior labrum with slight displacement I am just asking you yes or no do you know the significance of that injury?

A Yes.

Q Does that injury then aside from the referral to the orthopedist does that injure influence the type of physical therapy this patient undergoes?

A I think physical therapy is okay.

Q Okay. Including to the lower body; correct?

A Including.

Q To the lower body?

MR. TSIRELMAN: Lower body, like the

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S. Salehin, M.D.

lower body you mean the lower spine?

Q I mean from the waist down?

MR. TSIRELMAN: From the waist down.

A I think it is okay because if the patient need to physical therapy he see orthopedic, if he has plan it's different.

Q When you saw this report did you discuss it with the patient?

A It is in the chart so I can't remember this patient. Usually, yes, when patient come see the report I discuss the report with the patient I make the recommendations what he needs. That is the usual process.

MR. SHAPIRO: Exhibit 17 is in evidence.

MR. TSIRELMAN: No objection.

Q Exhibit 18 is this patient. Tineo Nunez and it's your bill. Take a minute and take a look at each of the pages.

Doctor, let's go to the fourth page of this report. The M.R.I. that we had discussed was on for the last, I am sorry --

MR. SHAPIRO: We offer this in evidence. Any objection?

1 S. Salehin, M.D.

2 MR. TSIRELMAN: No.

3 Q The M.R.I. that we just discussed was  
4 on November 4, 2019. This is your bill, Brooklyn  
5 Medical bill, that has date of service from  
6 November 4 through November 21.

7 Is there any indication in this bill  
8 itself that you met with the patient to discuss  
9 that tear that was reflected in the M.R.I.?

10 A In this bill, no.

11 Q Would there be as you described SOAP  
12 notes that indicate that conversation?

13 A Progress Notes, yes.

14 MR. SHAPIRO: We ask that this be  
15 marked so we can get those notes;  
16 okay?

17 MR. TSIRELMAN: Yes.

18 Q Doctor, let's go to the next exhibit  
19 which is Exhibit 19. It is another one of your  
20 bills for this patient. It is the next one.

21 MR. TSIRELMAN: Okay.

22 Q If we could when you're ready let's  
23 stay on this page.

24 MR. TSIRELMAN: Okay.

25 Q Doctor, just to be fair, go back to

1 S. Salehin, M.D.

2 page two, let the doctor look at the entries on  
3 page two and then go to the last page of the  
4 exhibit.

5 A Okay.

6 Q Doctor, if you look at the entries,  
7 the third entry, the first one for December 29,  
8 2019 that does indicate a followup comprehensive  
9 visit; correct?

10 A Yes.

11 Q Would that be when you would discuss  
12 the M.R.I. results with this patient?

13 MR. TSIRELMAN: Objection. Calls for  
14 speculation.

15 Q Do you recall, doctor? It is your  
16 report.

17 MR. TSIRELMAN: Calls for  
18 speculation. Without having the  
19 actual report in front of him I don't  
20 think he can answer that.

21 MR. SHAPIRO: Doctor, will you  
22 produce to us that 12/29/19?

23 MR. TSIRELMAN: Absolutely. We will  
24 produce all the reports.

25 MR. SHAPIRO: Thank you very much.

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S. Salehin, M.D.

Q We can close out of Exhibit 19.

Look at the entries on Exhibit 19 on the page two of the exhibits therapeutic massage on 12/4 and on 12/11; do you see those, doctor?

A Yes, I see it, yes.

Q Now let's go to the next exhibit which is Exhibit 20.

Doctor, this is a North Shore Chiropractic exhibit. Take a look at it. And then I just want to direct your attention.

MR. TSIRELMAN: Okay.

MR. SHAPIRO: I understand this is not your bill but it's about this patient his treatment. We move to put in Exhibit 20.

MR. TSIRELMAN: No objection.

Q Doctor, if you look at those dates that I mentioned 12/4 and 12/11 this patient down towards the bottom got therapeutic massage from this provider as well; is that correct?

MR. TSIRELMAN: Objection. He can only tell you what is marked off on this log sheet.

Q Would you agree it's marked off as

1 S. Salehin, M.D.

2 therapeutic massage?

3 MR. TSIRELMAN: That is what it  
4 appears, yes, I would agree to that.

5 MR. SHAPIRO: Can I have the doctor  
6 agree to it?

7 MR. TSIRELMAN: I stipulate to that.

8 Q Doctor, we can close this Exhibit.

9 Doctor, we are on a new patient for  
10 this EUO. The patient's name is Jason and this is  
11 from you. It is four pages. Tell me when you're  
12 ready to talk about it.

13 Doctor, do you remember this patient?

14 MR. TSIRELMAN: Jason Andino.

15 A I could remember but I have some  
16 patient with Andino but I am not sure which one.

17 Q Do you know if those patients are  
18 related?

19 A I can't remember the face but Andino I  
20 have some couple of patient with last name  
21 Andino.

22 Q Doctor, sticking with the first page  
23 of this form box eight "has patient ever had same  
24 or similar condition", this is your form; correct  
25 doctor, not your form.

1 S. Salehin, M.D.

2 Withdrawn.

3 This is submitted by you to Travelers;  
4 is that correct?

5 A Yes.

6 MR. SHAPIRO: We move this into  
7 evidence. Any objection?

8 MR. TSIRELMAN: No, no objection.

9 Q Number eight prior same or similar  
10 condition, what qualifies as a same or similar  
11 condition, doctor? Is it the same body part or  
12 the same exact injury, how do you evaluate that  
13 question?

14 MR. TSIRELMAN: Objection. This is  
15 part of the form that I don't think  
16 anyone fills out. It's just a  
17 standard I think the same on every  
18 page on every document no one really  
19 knows.

20 MR. SHAPIRO: Thank you, Mr.  
21 Tsirelman.

22 Q Doctor, the box no is checked;  
23 correct?

24 A It is checked, yes.

25 Q Do you know why you checked it?

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S. Salehin, M.D.

MR. TSIRELMAN: Objection. I  
already --

MR. SHAPIRO: I know you did but I  
don't know what that objection is for.

MR. TSIRELMAN: The objection is that  
nobody knows what those definition  
are. They're not defined. So nobody,  
when I say nobody I mean nobody across  
the State of New York fills out box  
eight, nine, ten. They're all standard  
and it's marked the same way with  
every provider.

MR. SHAPIRO: That is your testimony,  
Mr. Tsirelman. Thank you.

MR. TSIRELMAN: That is what I have  
been in this business for twenty  
years. I have never seen anybody  
check anything different on box eight,  
nine, ten and there is no software as  
far as I know that marks any of these  
boxes differently. It is all into  
those answers.

MR. SHAPIRO: Now that he have had  
your testimony can I ask some

1 S. Salehin, M.D.

2 questions of the doctors?

3 MR. TSIRELMAN: Absolutely.

4 Q Doctor, if you look up to five it  
5 describes lumbar, I am sorry, cervical injury,  
6 lumbar injury, shoulder injury, right knee and  
7 left knee; correct, among others?

8 A Yes, lumbar, cervical, shoulder, yes.

9 Q If this patient had prior surgery for  
10 example of the right knee would you have still  
11 checked no for same or similar condition?

12 MR. TSIRELMAN: Objection.

13 Q You can answer, doctor.

14 MR. TSIRELMAN: He doesn't have to  
15 answer that.

16 MR. SHAPIRO: What is the basis of  
17 the objection?

18 MR. TSIRELMAN: The basis as I have  
19 explained before.

20 MR. SHAPIRO: Okay, if that is what  
21 you're relying on.

22 Q Doctor, I will ask a different  
23 question.

24 If somebody sprains their right knee  
25 and had surgery beforehand would that be in your,

1                                   S. Salehin, M.D.  
2       forget about what the box says, is that a similar  
3       condition?

4                                   MR. TSIRELMAN:     Similar to what?

5               Q           If somebody had knee surgery prior to  
6       this accident and then sprained -- and then you  
7       have a diagnosis here of sprain of the knee is  
8       that a similar condition to you?

9               A           Most likely, yes, because most likely  
10       yes.

11              Q           So doctor, with this patient it  
12       indicates on the second page there is a  
13       comprehensive physical examination.

14                                MR. SHAPIRO:     Would you provide that  
15       to us?

16                                THE WITNESS:     Yes.

17                                MR. SHAPIRO:     We can then close  
18       Exhibit 21 which is in evidence.

19              Q           This is a one page exhibit. It is a  
20       disability letter.

21                                MR. SHAPIRO:     Mr. Tsirelman, it is  
22       from Brooklyn Medical. We had like to  
23       move this into evidence.

24                                MR. TSIRELMAN:     Without objection.

25              Q           Doctor, is that your signature at the

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S. Salehin, M.D.

bottom?

A Yes.

Q Is that a signature or a stamp?

A Signature.

Q It says that on August 22, 2019 Mr. Andino had a medical reevaluation. Is that a comprehensive examination?

A Evaluation looks like followup.

MR. SHAPIRO: Would you produce that form to us?

THE WITNESS: If it's done of course I have to check the chart.

MR. SHAPIRO: We can close that out. Move this into evidence. We are now up to 23.

Q Take a look at all the pages, doctor. First this is about Jason Andino. These are two reports addressed to you plus your form.

MR. SHAPIRO: Mr. Tsirelman, any objection?

MR. TSIRELMAN: No.

Q Doctor, are you familiar with Eclipse Medical Imaging P.C.?

A Eclipse, yes.

1                                   S. Salehin, M.D.

2           Q           Is that an M.R.I. facility?

3           A           Yes.

4           Q           It says on the bottom of the first Dr.

5 Baldassare?

6                                   Do you know Dr. Baldassare?

7           A           Not in person.

8           Q           Have you spoken to him on the phone?

9           A           I think maybe once.

10          Q           Do you know any other doctors at

11 Eclipse Medical?

12          A           At that facility?

13          Q           Yes.

14          A           No.

15          Q           Is 651 Coney Island Avenue, Brooklyn

16 close to your office?

17          A           Yes.

18          Q           So doctor, this indicates that on

19 8/9/2019 Mr. Andino had an M.R.I. of the left

20 knee without contrast at Eclipse; right?

21          A           Yes.

22          Q           If you would, go to the next page of

23 the exhibit Community Medical Imaging letterhead

24 that is a referral from you; correct?

25          A           Yes.

1 S. Salehin, M.D.

2 Q Is that your signature stamp?

3 A It is a stamp.

4 Q Doctor, this is for an M.R.I. of the  
5 left shoulder; correct?

6 A Yes.

7 Q Why is it that you sent the patient to  
8 Community Medical Imaging for the M.R.I. of the  
9 left shoulder yet the prior referral was to  
10 Eclipse Medical Imaging?

11 MR. TSIRELMAN: Say that again.

12 Q The first referral the first M.R.I.  
13 was of the left knee and that was at Eclipse  
14 Medical Imaging. This left shoulder.

15 MR. TSIRELMAN: I understand. Go  
16 ahead.

17 A I don't know. It is up to the patient.  
18 Maybe appointment was not available where the  
19 patient want to have the M.R.I. I don't know  
20 exactly.

21 Q It is up to the patient?

22 A Yes.

23 Q Let's go to Exhibit 24. It is Advanced  
24 Orthopedic for Mr. Andino.

25 MR. SHAPIRO: Doctor, Mr. Tsirelman,

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S. Salehin, M.D.

this is for this same patient,  
understanding that it's not Brooklyn  
Medical examination. We would like to  
move this into evidence.

MR. TSIRELMAN: Yes.

Q Doctor, do you recall this report?

A It is in the chart so.

MR. TSIRELMAN: Are you asking if he  
recalls this specific report of all  
the reports he has? That would be  
pretty amazing.

A I can't remember this patient.

Q So doctor, if you look at on this  
exhibit at the for surgical history it says right  
knee 2015 and in both shoulders were operated on  
in 2014.

If you recall you did not check prior  
similar condition even though both the knees and  
the both the shoulders were indicated in your  
diagnosis for this patient.

Can you explain why in light of that  
you did not in light of the surgeries you did not  
check the other box in the form?

MR. TSIRELMAN: Objection.

1                                   S. Salehin, M.D.

2                   MR. SHAPIRO: By you Mr. Tsirelman.

3           Q           Can you explain it, doctor?

4                   MR. TSIRELMAN: No.

5                   MR. SHAPIRO: You are not allowing him

6                   to explain; correct?

7                   MR. TSIRELMAN: I objected to the

8                   question.

9                   MR. SHAPIRO: So you're not allowing

10                   him to answer?

11                   MR. TSIRELMAN: You know the answer.

12           A           It should be.

13           Q           You did doctor, right?

14           A           Yes, I did. I mentioned that if

15                   someone has right knee injury before, some

16                   surgical history and secondary -- last time I

17                   mentioned regarding this question if someone has

18                   right knee surgery or injury before and he comes

19                   now with same knee injury knee pain it could be

20                   significant.

21           Q           Thank you, doctor.

22                   MR. SHAPIRO: I don't know if I

23                   offered 24 in evidence but we do.

24                   MR. TSIRELMAN: Okay.

25           Q           Exhibit 25, doctor, this is a bill for

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S. Salehin, M.D.  
Mr. Andino; is that correct?  
A Yes.  
MR. SHAPIRO: Mr. Tsirelman, we want  
to offer this into evidence.  
MR. TSIRELMAN: Scroll through it.  
Okay no problem.  
MR. SHAPIRO: So this is in evidence.  
We are now onto our last patient.  
Q Are you a familiar with a patient  
named Mark Joseph?  
A I can't remember this patient but.  
Q Doctor, are you familiar with Enisa  
Dukanovic?  
A Yes, this is my PA.  
Q If you would take a look at the second  
page when you have a chance.  
MR. TSIRELMAN: Okay.  
Q What is this referral for, M.R.I. of  
what body part?  
A Right shoulder.  
MR. SHAPIRO: We offer this into  
evidence.  
MR. TSIRELMAN: No objection.  
Q Take a look at these two pages,

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S. Salehin, M.D.

doctor, and tell me when you're ready?

A Okay.

MR. SHAPIRO: We offer this into evidence, Mr. Tsirelman. Any objection?

MR. TSIRELMAN: No objection.

Q Doctor, what is the referral for an M.R.I. of what?

A Left knee.

Q Go to the first page, doctor.

A Left knee.

Q Where it says diagnosis history?

A Yes.

Q What does that say?

A M.R.I. of left knee. Patient complain of left knee pain.

Q Diagnosis history on this page that is on the screen?

A M.R.I. of looks like left knee.

Q That in the circle looks like an L?

A No, yes, left knee. Yes.

Q I just want to be sure that we are talking about the same thing.

On this page that is on the screen

1                                   S. Salehin, M.D.  
2       which is the first page of Exhibit 27 where -- is  
3       that your handwriting?

4           A       No.

5           Q       Whose handwriting is?

6           A       Office assistant.

7           Q       When you read that you see that  
8       indicating left knee; is that correct?

9           A       She wants it to stay there but I take  
10       that out left knee. Also take this out from the  
11       chart. Chart should say left knee.

12          Q       Do you review these referrals before  
13       they go out, doctor?

14          A       I mean I sign. If I have sometimes  
15       questions in front of patient. It depends.  
16       Sometimes I need to look everything. Sometimes I  
17       need to change it. It depends.

18                   MR. SHAPIRO: This is in evidence. Go  
19                   to the next exhibit.

20          Q       Exhibit 28. Let's go to the fourth  
21       page of this exhibit. It indicates that the  
22       patient is going to have surgery; is that  
23       correct?

24          A       Yes.

25          Q       Right shoulder?

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S. Salehin, M.D.

A Yes.

Q Right shoulder surgery; correct?

A Yes.

Q It then says the patient will go to rehab following surgery. Can you tell me where this patient would go to rehab? Would that be your practice?

A It depends on orthopedics. Usually they come to my facility. If something require, depends orthopedic what they want to do.

Q It depends on who?

A Orthopedic.

Q The orthopedist.

Do you know if Dr. Avshalumov refers to patients for physical therapy to you after surgery?

A Yes, he does the followup and the followup patients needs therapy he gives a prescription.

Q Do you know if there is a prescription from Dr. Avshalumov in your file for this patient?

A Yes, patient need physical therapy.

MR. SHAPIRO: Mr. Tsirelman, would you

1 S. Salehin, M.D.

2 produce that for us?

3 MR. TSIRELMAN: If it's in the file  
4 absolutely.

5 MR. SHAPIRO: Exhibit 28 is in  
6 evidence. Let's go to Exhibit 29.

7 Q Take a look at it, doctor. It is your  
8 bill. Doctor, on this bill if you go to the six  
9 page?

10 MR. TSIRELMAN: Okay, we are here.

11 Q This patient then has physical  
12 therapy, do you know if this patient had any  
13 examinations with you after that recommendation  
14 for surgery and by with you I mean with you in  
15 particular? Go to page four and let me know if  
16 there is visit with you as opposed to the  
17 physical therapist.

18 A Your question is did I see patient  
19 after surgery?

20 Q No, before the surgery, after the  
21 recommendation for surgery?

22 MR. TSIRELMAN: Do you understand the  
23 question? Can you rephrase it please.  
24 He is not sure.

25 Q Doctor, if you look at this page there

1                                   S. Salehin, M.D.  
2           is no indication of a visit with you personally;  
3           correct, it's only physical therapist?

4           A           Yes, I don't see any followup visit  
5           here, yes.

6                           MR. SHAPIRO:    We can close this  
7                           Exhibit. This is in evidence.

8           Q           This is North Shore Family  
9           Chiropractic.

10                          Doctor, this is the same patient. I  
11           know it is not your bill.

12                          MR. SHAPIRO:    We are offering this in  
13                          evidence.

14                          MR. TSIRELMAN:    Sure.

15           Q           Doctor, once a patient, just explain  
16           how this would work, once the patient is directed  
17           to have surgery by the orthopedist do you have  
18           any coordination, do you speak to Dr. Lebson  
19           about the therapeutic massage and the treatment  
20           the patient would have in reference to that  
21           potential surgery?

22           A           No.

23                          MR. SHAPIRO:    We are on Exhibit 31.

24           Q           I offer this into evidence, doctor,  
25           because I wanted to let you know when the surgery

1                                   S. Salehin, M.D.  
2       occurred by looking at this. I know you didn't do  
3       the surgery but it just gives you a procedure  
4       date; do you see that doctor?

5           A       Yes.

6           MR. SHAPIRO:    I offer this in  
7           evidence. Any objection Mr. Tsirelman?

8           MR. TSIRELMAN:   No.

9           MR. SHAPIRO:    12/12 is the surgery.

10          MR. TSIRELMAN:   Yes.

11          Q       This is your bill. You can take a look  
12       at it, doctor.

13          A       Okay.

14          Q       Doctor, this bill does not have on it  
15       any examination by you, does it, and I will  
16       direct you for your convenience to the second  
17       page of the bill that has the services. You see  
18       the patient?

19                   MR. TSIRELMAN:    We see it.

20          Q       Yes, you did not see the patient;  
21       correct?

22          A       Correct.

23                   MR. SHAPIRO:    Let's close this. This  
24       is in evidence. Let's close this and  
25       go to the last exhibit which is 33.

1 S. Salehin, M.D.

2 Q This is 17 pages, doctor. It is a  
3 range of motion from your practice. Take your  
4 time and let me know when you are ready to talk  
5 about it.

6 A Okay.

7 Q Doctor, what surgery was done on this  
8 patient if you recall?

9 A Left shoulder.

10 Q Doctor, on this report what is a range  
11 of motion test? What is this test?

12 A Range of motion to see how a joint  
13 moves in different directions.

14 Q Doctor, this surgery it was right  
15 shoulder surgery, by the way, doctor.

16 So on this range of motion test page  
17 15 does that relate to the shoulder? When you  
18 look at this does that indicate an improvement in  
19 the flexion of the shoulder?

20 A Can you go back to the right shoulder.  
21 When was it done?

22 Q Right shoulder.

23 A When was the surgery done?

24 MR. TSIRELMAN: 12/12. This is 1/9.

25 A 1/9.

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S. Salehin, M.D.

MR. TSIRELMAN: This is the right.

A Restrictive.

Q So does that mean that the shoulder is not better yet?

A Depends upon on what the situation before.

Q Is that your answer what you're attorney just said, doctor?

A It depends, yes.

MR. TSIRELMAN: I am repeating what he said.

Q So you need a baseline; is that what you're saying, doctor?

A Yes, sometimes patient has 160, 170 patient have surgery and it goes back to like then the patient has severe restriction after surgery, then it stay there or it can improve. It depends. You don't have the same outcome all the time. It depends.

Q Doctor, do you have a prior computerized muscle range of motion test for this patient before the surgery?

A I am not sure if it is in the chart.

MR. SHAPIRO: If you have that will

1 S. Salehin, M.D.

2 you produce that?

3 THE WITNESS: Yes.

4 MR. SHAPIRO: We can close the  
5 exhibits now. I will offer this in  
6 evidence. Any objection?

7 MR. TSIRELMAN: No objection.

8 Q Doctor, it is good to see your face  
9 again. If you can move -- a few more questions  
10 about the practice.

11 Doctor, are there other surgeons that  
12 you make referrals to that you could have  
13 referred those patients to instead of Dr.  
14 Avshalumov?

15 A Before I had a different doctor also.  
16 I don't know how long but recently Dr. Avshalumov  
17 was seeing patient recently. Currently only Dr.  
18 Avshalumov was seeing my patients for orthopedic  
19 needs.

20 Q Who was the prior surgeon?

21 A Dr. Avshalumov.

22 Q Who is the prior surgeon?

23 A Prior Dr. Howard Baum I remember.

24 Paul Ackerman I remember . That is who  
25 I remember.

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S. Salehin, M.D.

Q What about Dr. Avanesov?

A He sees my patients for spine, neck spine.

Q Dr. Reyfman?

A He does pain management.

Q Is there a reason you didn't refer these patients for pain management?

A These patients?

Q These patients, yes?

A If patient need pain management I refer the patient to pain management.

MR. TSIRELMAN: He can't say without his chart.

Q I understand.

MR. SHAPIRO: Doctor, Travelers is concluded now with this examination pending the production of the other documents we have requested.

(Continued on next page to include jurat.)

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S. Salehin, M.D.

MR. TSIRELMAN: If you can get it to us within three days we will provide everything within a week or two. Thank you so much.

(Time noted: 1:30 p.m.)

-----  
DR. SAYEEDUS S. SALEHIN

Subscribed and sworn to before me  
this            day of            , 2020.

NOTARY PUBLIC

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S. Salehin, M.D.

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- Exhibits 10-14, Shellydy Isibor
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- Exhibits 21-33, Jason Andino

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36	SOAP note (Shakira Isibor)
61	12/29/19 report (Juan Octavio Nunez Tineo)
67	Comprehensive physical examination (Jason Andino)

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S. Salehin, M.D.

68 August 22, 2019 medical

reevaluation (Jason Andino)

76 Prescription from Dr. Avshalumov

in your file for this patient

(Jason Andino)

81 Computerized muscle range of

motion test for this patient

before the surgery (Jason Andino)

----- INFORMATION TO BE FURNISHED -----

-NONE-

----- RULINGS -----

-NONE-

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S. Salehin, M.D.

CERTIFICATION

STATE OF NEW YORK )

) ss.:

COUNTY OF NEW YORK )

I, LAURA B. LOWENTHAL, a Notary Public within and for the State of New York, do hereby certify:

That DR. SAYEEDUS S. SALEHIN the witness(es) whose deposition(s) is(are) hereinbefore set forth, was(were) duly sworn by me and that such deposition(s) is(are) a true and accurate record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to the action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of June, 2020.

\_\_\_\_\_  
LAURA B. LOWENTHAL

LAURA B. LOWENTHAL

June 11, 2020

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