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Q. You have no idea if she had one visit of physical therapy to her right knee prior to your arthroscopy, or if she had 100 visits? You have no idea, correct?

A. I can't give you a number right now. No.

Q. You have no idea whether it's 1 or 100, correct?

A. She reported to me that she was going to physical therapy regularly before the pandemic.

Q. Right. But, you have no idea how many visits she actually attended, correct?

A. I don't have that in front of me right now.

Q. Right. You'll never have that in front of you, because you don't have the records, correct?

A. I don't have them in my EMR right now.

Q. Doctor, up until this point, right up until today where you're here giving deposition testimony, you've never

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seen a physical therapy record for
Ms. Candy, correct?

A. I did see a list of dates that
she did go for physical therapy. I don't
have that right now in front of me. But I
did receive that.

Q. Who gave that to you?

A. Her lawyer.

Q. Was this in your prep?

A. He sent it to me in an e-mail.

Q. Doctor, could you forward me
that e-mail? There's no privilege between
you and Mr. Zemsky. I'm sorry.

A. Mr. Zemsky didn't send it.

Q. Doctor, can you forward me the
e-mail that they forwarded to you? I'll
give you my e-mail address.

A. I can't do it right now. I
have to look for it. I can send it to you,
as long as that's legal.

Q. There's no privilege between
you and the lawyer representing your
patient.

MR. SACK: He should have the

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opportunity to speak with his counsel directly before any of that, if that's what he chooses.

MR. HSU: I can always serve you with a subpoena for it.

THE WITNESS: I didn't say I'm not giving it to you. I'm just saying that he sent it to me. You don't know if he's my lawyer as well, by the way.

MR. HSU: Doctor, if he was your lawyer, then I think there would be a conflict here. I would hope that he's not your lawyer. Hey, it's better for me if he is. So, if he's your lawyer, that's great for me.

Q. Is he your lawyer, Doctor?

MR. SACK: Objection. Is who your lawyer?

Q. The attorney that sent you the physical therapy treatment dates, is that person also your attorney?

A. No, he doesn't represent me.

Q. Who is the person that sent you

1 WEINSTEIN

2 the physical therapy dates?

3 A. He sent me a record with the
4 dates of the physical therapy --
5 Ms. Castillo's lawyer that is representing
6 her.

7 Q. Is that Mr. Zemsky?

8 A. I said it was not Mr. Zemsky.
9 Mr. Lundy, I believe his name is.

10 Q. One of his associates, correct?

11 A. He sent it to me.

12 Q. Mr. Lundy works at
13 Zemsky & Salomon, correct?

14 A. I have no idea.

15 MR. SACK: He does not. It's
16 current counsel, Rich Kenny's office.

17 MR. HSU: Zemsky farmed it out
18 to Richard Kenny's office? Got it.

19 Q. Mr. Lundy is representing
20 Ms. Castillo, you understand that, correct,
21 Doctor?

22 A. I would guess, yes.

23 Q. When he sent that to you, was
24 that in preparation for your deposition?

25 A. I don't believe so. I asked

1 WEINSTEIN

2 him to send anything else that I didn't
3 have.

4 Q. When did you ask him to do
5 that, Doctor?

6 A. Before the deposition.

7 Q. Before this deposition?

8 A. Correct.

9 Q. So, Doctor, when you saw
10 Ms. Castillo on 6/5/2019, which was
11 three years ago, and you then indicated her
12 for right knee surgery, at that time, you
13 had no idea if she went to physical therapy
14 or didn't, because you didn't have any
15 records, correct?

16 A. No. She told me that she did.

17 Q. I'm not asking you what she
18 told you. I'm asking you, at that time,
19 you had not seen any physical therapy
20 records or dates sent to you by lawyers --
21 you had not seen anything like that,
22 correct?

23 A. That's correct.

24 Q. The only information you were
25 getting was from the patient herself,

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1
2 correct?

3 A. That's correct.

4 Q. Doctor, you agree that the
5 right knee MRI, and I think you referenced
6 it, it was negative, correct, doctor?

7 A. It wasn't negative. But there
8 was no meniscal tear.

9 Q. When I say "negative," I mean,
10 the medial meniscus was normal, correct?

11 A. Which MRI are you referencing?
12 What date?

13 Q. The right knee MRI, 5/21/2019.
14 I have it up on the screen. Do you see
15 where it says "Lenox Hill" on the corner,
16 Doctor?

17 A. Yes.

18 Q. The right knee MRI, when I say
19 it was negative, the MRI says the medial
20 meniscus, there's no meniscal tear,
21 correct?

22 A. It's intact. It doesn't say
23 there's no meniscal tear.

24 Q. It's intact, correct?

25 A. Correct.

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2 Q. Lateral meniscus is intact,
3 correct?

4 A. It says there's no lateral
5 meniscus tear.

6 Q. The ACL is intact, correct,
7 Doctor?

8 A. Correct.

9 Q. The PCL is intact, Correct?

10 A. Correct.

11 Q. And the medial collateral
12 ligaments are all intact, correct?

13 A. That's correct.

14 Q. And the lateral collateral
15 ligament is intact?

16 A. Correct.

17 Q. Doctor, based upon this MRI,
18 just this MRI, there's no indication for a
19 right knee arthroscopy, correct, Doctor?
20 Yes or no?

21 A. It's not a yes-or-no answer.

22 Q. Doctor, I'm only asking you, if
23 you only looked at this MRI, there's no
24 indication for a right knee arthroscopy; is
25 that correct?

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A. Again, that is not -- it's not a yes-or-no answer. It bears explaining and to understand the function of an MRI.

Q. Doctor, if you were asked to look at an MRI and offer an opinion as to whether or not a particular patient, based on nothing else than the MRI, needed an arthroscopic repair, and this was the MRI you were shown, you would agree that this patient doesn't need an arthroscopic exploration surgery or any other type of surgery, correct?

A. No. What I would say is that we do not treat MRIs. We treat people. An MRI is a tool that we use in order to treat. MRIs have only approximately an 80 percent sensitivity for a meniscal tear depending on it. As well as, I would want to know about the patient's physical exam findings, the history of whatever happened, as well as the treatment that has been undergone. Certainly, there is cartilage damage on this MRI. There's not a small or little joint effusion. There's a moderate

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1 joint effusion that shows that there is
2 something going on in the knee. As well as
3 there's a soft tissue edema reflecting a
4 soft tissue contusion, showing that there
5 was some sort of trauma to this knee.

6 There's also edema in the Hoffa's pad,
7 which we can see with patellar maltracking,
8 as well as some trauma.

9
10 So, I would want to know the
11 whole story before saying that a person can
12 or cannot have an arthroscopy by just
13 barely looking at an MRI report. Again,
14 without looking at the images -- which, you
15 really need to see the whole picture.

16 Q. Doctor, the soft tissue edema
17 is a bruise, correct?

18 A. Soft tissue contusion means
19 that there was some sort of trauma to the
20 leg. A bruise, I don't know what that
21 means.

22 Q. Doctor, you don't know what a
23 bruise is? When you bang your knee and you
24 sustain a bruise?

25 A. A bruise is not necessarily a

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term that we use.

Q. The fancy term for a bruise is a soft tissue edema or soft tissue contusion, as it's outlined right there in the MRI report, correct, Doctor?

A. You're taking a medical doctor's testimony. We don't use the term bruise. This is a soft tissue contusion. Obviously, there was some sort of significant trauma to the knee that there was soft tissue edema within the knee, as well as a moderate joint effusion, meaning that there's a moderate amount of joint fluid in the knee that should not be there.

Q. Doctor, you would agree with me that you don't need significant trauma to have a soft tissue contusion, correct, Doctor?

A. It depends on the level -- I would agree with you about what? Sorry.

Q. Sure. Doctor, you would agree that a soft tissue contusion -- do you see where it says there in the MRI report "Soft tissue contusion"? You would agree that

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you do not need significant trauma to sustain a soft tissue contusion, Doctor?

A. I think you need some sort of a trauma in order for an MRI to pick up a contusion that's within the soft tissue.

Q. But it doesn't have to be a significant trauma, correct?

A. I think it's pretty significant if it's on the MRI.

Q. Doctor, does the MRI of the right knee show evidence of degeneration or arthritis for Candy's knees?

A. Yes.

MR. SACK: Objection to form.

Q. What would be indicative of arthritis and degeneration in the knee, based on the impression here, Doctor?

A. Cartilage loss.

Q. You would agree that cartilage loss is not a traumatic finding?

A. There could be a traumatic finding with cartilage loss, certainly.

Q. But not cartilage thinning, right? That thinning process takes months

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or years to develop, correct?

A. Correct.

Q. She had cartilage thinning, not cartilage loss, correct?

A. I don't know where you see cartilage thinning. It does say "Cartilage loss."

Q. When you looked at the MRI, did you see cartilage thinning?

A. I really can't talk about cartilage thinning regarding the MRI.

Q. Doctor, in your medical records, other than on 4/7/2021, where you say you reviewed all the imaging studies, which was two years after you started treating Ms. Castillo, is there anywhere in your records where you state your interpretation of the MRI studies?

A. I don't usually put my interpretation inside of my notes.

Q. Doctor, when you create a medical record for a patient and she's undergoing a significant operation -- which, you would deem a fusion to be a

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2 significant operation, correct?

3 A. Correct.

4 Q. You would agree that the
5 surgeon, before he or she performs the
6 fusion, it's good medical practice to look
7 at the MRI film, correct?

8 A. Yes.

9 Q. You would agree that it's also
10 good medical practice to interpret the MRI
11 film, correct?

12 A. Yes. They were interpreted.

13 Q. You would agree that that
14 interpretation should go on the medical
15 record that you're creating for the
16 patient, correct?

17 A. It does say, regarding the
18 lumbar spine, that she had disc herniation
19 at L5-S1, with impingement, as well as
20 discogenic changes -- so, my interpretation
21 is in there.

22 Q. What date is that, Doctor?

23 A. Look at 6/16/2021.

24 Q. By 6/16/2021, that had been
25 about two years since you first saw her,

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correct?

A. Correct.

Q. Is your interpretation of the right knee or the left knee MRI contained anywhere in your records?

A. I don't believe so.

Q. What about your interpretation of the cervical MRI? Is that contained anywhere in your records, Doctor?

A. Prior to the cervical surgery, it says that there's a large disc herniation.

Q. Right. Prior to the cervical surgery. What date is that, Doctor?

A. It's 2/2/2022.

Q. So, about three years after you started treating her?

A. 11/17/2021, it's in there.

Q. Doctor, does it state in your interpretation on either of those dates whether or not there was any cord compression?

A. No.

Q. Does it say anywhere in the

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lumbar MRI interpretation whether or not there's any cord compression, Doctor?

A. No, there's no cord compression.

Q. Doctor, would you agree that you need some cord compression for there to be some radiculopathy?

A. You don't have to have cord compression. I mean, there certainly was pressure on the cord. You just asked if I documented it.

Q. I'm assuming that when you reviewed the MRI you didn't see any cord compression, because it's not documented, correct?

A. I didn't document, except for the times that I told you about, what I felt about the MRI.

Q. Right. So, Doctor, there's no reference to cord compression in any of the records where you documented reviewing the MRI, correct?

A. No records. That's what I said. Yes.

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Q. Had you seen cord compression,
3 if you were actually looking at the MRI,
4 you would have noted that in your record,
5 correct?

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A. I don't usually note my
interpretation of the MRIs, except for
before a cervical lumbar surgery, where I
indicate the surgery. It's just what I do.

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Q. Doctor, if you have a patient
that comes in complaining of neck or back
pain, you want to see an MRI, correct,
Doctor?

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A. Correct.

Q. Because pain varies from
patient to patient, correct?

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Q. You've had patients lie to you,
correct, Doctor?

A. I don't know.

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Q. You've had patients that failed
to tell you things during a medical
history, correct?

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A. That's different than lying.

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Q. Okay. Omitting, lying, in my

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mind, they're in the same category. That's fair, Doctor. Doctor, when you're looking at the MRI, you want to look for positive findings that can explain the patient's symptoms, correct?

A. Yes, of course.

Q. One of those positive findings would be a herniated disc, correct?

A. A positive finding could be a herniated disc, correct.

Q. Another positive finding could be cord compression due to that herniated disc, correct?

A. It's possible.

Q. That cord compression could be causing radiculopathy or radicular symptoms, correct, Doctor?

A. That is correct.

Q. That would be something that you would note in your medical records as one of the reasons you were indicating surgery, correct?

A. I documented that she did have radiculopathy as well as disc herniation.

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Q. You use the word "radiculopathy," but you don't mention that there's any cord compression for the herniated disc, based upon the MRI's interpretation, the radiologist who read the MRI, or yours, correct?

A. I didn't document cord compression. That's correct.

(Whereupon, a short recess was taken.)

Q. Doctor, cord compression resulting from a herniated disc can cause radiculopathy, correct?

A. It can, yes.

Q. When you diagnosed Ms. Castillo with radiculopathy, what was that based on, Doctor?

A. That was based on her decreased sensation in the C5, C6 distribution, as well as her positive Spurling test, which is a test that tests compression on the nerves.

Q. How is the Spurling test performed, Doctor?

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A. You extend the neck a little bit, press down on the head, and then turn to the left side, right side, and see if there is shooting pain down the arm.

Q. In order for you to determine if there's shooting pain down the arm, you ask the patient, "Are you feeling pain down the arm," correct?

A. Correct.

Q. That's based on what the patient tells you, correct? Yes or no?

A. Yes, of course.

Q. You can't see the pain, right?

A. Correct.

Q. Doctor, are you familiar with the term secondary gain?

A. Of course.

Q. What do you understand that term to mean?

A. When someone undergoes some sort of -- at least in my field, if someone undergoes some sort of procedure or exam or whatever in order to get some sort of financial compensation or some other

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compensation.

Q. Doctor, Ms. Castillo last saw you sometime, according to your billing records, in May of 2022; is that accurate?

A. 6/22/2022.

Q. 6/22/2022? Or May 18?

A. She saw me after May 18.
6/22/2022.

Q. Is that the date of the narrative? No. The narrative is dated 4/11/2022. So, 6/22/2022 was the last time she saw you, approximately two months ago.

A. Six weeks ago. Yes.

Q. We are coming up on two months, correct?

A. Correct.

Q. At that time, did you schedule any further visits for her?

A. I believe so, yes.

Q. What's the date of her next visit, or her next appointment?

A. 9/12/2022.

Q. Was that an appointment that you told her you would put on the calendar

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2 in case she needed, or depending upon how
3 she felt, or is that a follow-up visit?

4 A. Follow-up visit.

5 Q. Have you discharged her from
6 your care yet, Doctor?

7 A. No.

8 Q. Do you anticipate discharging
9 her from your care soon?

10 A. No. Not soon. No.

11 Q. Doctor, did Ms. Castillo make a
12 complete recovery from her left knee
13 arthroscopies?

14 A. I believe she's better.

15 Q. Did she make a complete
16 recovery from her right knee arthroscopies?

17 A. I believe she's better.

18 Q. Did she make a complete
19 recovery from her cervical fusion, Doctor?

20 A. I believe she's better.

21 Q. Did she make a complete
22 recovery from her lumbar fusion?

23 A. I believe she's better.

24 Q. Doctor, you're aware that in
25 between the four procedures that you

1 WEINSTEIN

2 performed, Ms. Castillo was going back and
3 forth between the United States and the
4 Dominican Republic, correct?

5 A. Yes.

6 Q. And she was staying in the
7 Dominican Republic for extended periods of
8 time, correct?

9 A. Yes.

10 Q. So, she was able to fly, and
11 sit for extended periods of time, correct?

12 A. I told her she should move
13 around. She shouldn't sit for more than
14 20 minutes to a half hour without walking
15 around the plane.

16 Q. Doctor, is she currently taking
17 any prescription pain medication?

18 A. I don't believe that I'm
19 prescribing her with any prescription --
20 like narcotics? Is that what you're
21 referring to?

22 Q. Yeah, narcotics.

23 A. I don't believe I'm prescribing
24 her any narcotics right now. I'm not sure
25 if other providers are. Read back.

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Q. Are you prescribing her any narcotics?

A. No, not that I'm aware of. No.

Q. Doctor, do you know whether or not Ms. Castillo was working prior to coming to see you?

A. She was working in the past. I don't know when she stopped working.

Q. Right. Do you know when was the last time she worked prior to coming to see you?

A. I don't have a date. No.

Q. When you pause, is that because you've had conversations with her attorney who has given you other information about Ms. Castillo unrelated to your medical treatment? Is that why?

A. What pause are you talking about?

Q. Doctor, have you ever spoken with Ms. Castillo about the last time she worked?

A. I don't remember speaking to her about her working status.

1 WEINSTEIN

2 Q. Do you know what her daily
3 activities were prior to the date of this
4 incident on May 4, 2019? Do you know what
5 her daily activities were?

6 A. I do not.

7 Q. Doctor, based upon your
8 treatment and Ms. Candy's recovery, you
9 would agree that Ms. Candy is able to
10 drive, correct?

11 A. I don't know about that.

12 Q. You don't know if she's able to
13 drive, Doctor?

14 A. I would have to have a
15 conversation with her.

16 Q. Doctor, did she drive before
17 this accident?

18 A. I don't know her driving
19 status.

20 Q. Did you tell her, as of today's
21 date, that she cannot drive?

22 A. I didn't tell her, no. We
23 never had a discussion. I thought that she
24 took public transportation. I didn't think
25 that she drove. I can have a conversation

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with her, and I will.

Q. I'm not asking you to have any conversation. I'm just asking you if you had ever told her that she cannot drive?

A. You're bringing up a good point. I should talk to her about driving.

Q. Doctor, as you sit here today for this deposition, have you ever told her that she's not able to drive based upon the treatment that you provided?

A. I didn't think she did drive. You're bringing up a very good point. I really have to discuss this with her. I would tell her not to drive too much. I don't think she's in any condition to drive.

Q. Is that based on her psychiatric condition or her orthopedic conditions?

A. No, her orthopedic condition. I'm going to call her after this deposition. Thank you for that.

Q. You're welcome, Doctor. Doctor, what is Ms. Castillo able to do,

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based upon your four surgeries, Doctor?

A. Based upon my four surgeries?

Q. Based upon you putting her back to pre-accident health, what is she able to do now?

A. I never said she was back at pre-accident health. I said she was better than when she came to me.

MR. SACK: Objection to the characterization.

Q. Based upon the fact that she's better now than she was before she saw you for the first time, what is she able to do, Doctor?

MR. SACK: Objection to the characterization. You can answer.

A. You bring up a good point about the driving. I have to call her and I have to tell her, I don't think that she can do much. As you see, she has a lot of medical issues regarding musculoskeletal. She injured both knees, and had neck and back surgery. So, I don't think she can do that much.

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Q. Doctor, I'm asking you again,
what is Ms. Castillo able to do?

A. Not much.

Q. Let's go through some daily
activities. Is she able to dress herself,
Doctor?

A. I think she can dress herself.
She may need some help.

Q. Doctor, do all of the patients
who come to see you need help dressing
themselves after your operations?

MR. SACK: Objection.

A. After my operations, I would
hope that they could do most things by
themselves.

Q. You would hope that your
operation would help alleviate their
symptoms, correct, Doctor? Isn't that the
point of the surgery?

A. I hope that it would help them,
of course, yes.

Q. You believe that your surgeries
to the knees and to the neck and to the
back helped Ms. Castillo, correct?

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A. Yeah, I think it did help her.

Yes.

Q. You agree that she is able to take her clothes on and off, and dress herself, correct?

A. I think dressing herself, she may need some help.

Q. Doctor, it's not in your narrative anywhere that she should hire somebody to help dress her. Why is that?

A. Maybe I should add it.

Q. You should. It's not like anybody believes any of the other things you put in there.

MR. SACK: Is that a question?

MR. HSU: No, that's a statement.

Q. Doctor, she's able to dress herself; yes or no?

MR. SACK: He's already answered it.

A. I'm not with her when she gets dressed. I can't tell you.

Q. Would you agree that Candy is

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able to fly back and forth between the Dominican Republic and the United States?

A. She did it. So, yeah, of course.

Q. So, she's able to get to an airport, correct?

A. Yes. Correct.

Q. She's able to go through security, TSA, correct?

A. I don't know how she goes through security. Maybe she takes one of those chairs. We have to investigate.

Q. Doctor, I didn't ask whether she goes standing or sitting. I asked you if she's able to go through security, correct?

A. They are not yes-or-no questions that you're asking --

MR. SACK: How would he know this? How would he know what she can do at an airport?

Q. Doctor, if she flew to the Dominican Republic, you would agree that she went to the airport and went through

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2 TSA, correct?

3 A. I'm not with her. I can't tell
4 you. I know that they also take people on
5 respirators on airplanes, and also they
6 take dead people on airplanes. I can't
7 really testify as to how she got to the
8 Dominican Republic, besides assuming that
9 she took an airplane and went through the
10 proper channels to do it. I can't tell you
11 specifically.

12 Q. Doctor, maybe she took a boat
13 there. Is's possible, correct? Doctor,
14 you would agree that she's able to stand
15 and sit on her own, correct?

16 A. Correct. Yes.

17 Q. You would agree that she's able
18 to grocery-shop, correct?

19 A. I don't know. I'm not sure. I
20 think that she has someone helping her with
21 the groceries.

22 Q. Doctor, you would agree that
23 she's able to push a shopping cart,
24 correct?

25 A. I don't think she can push

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anything significant.

Q. Doctor, what's the most weight she can push at this point?

A. I don't think she can push much more than like 10, 15 pounds, maybe, in something that's rolling.

Q. Doctor, a shopping cart has wheels on it. You push it, correct?

A. Not every shopping cart has wheels. Yes, I would say most have wheels.

Q. The ones that have wheels at the grocery store, she can push those, correct?

A. I don't think she can push it if it's filled with more than 10 or 15 pounds worth of stuff.

Q. Doctor, you would agree that Ms. Castillo can cook, correct?

A. I don't know that she can cook.

Q. Not whether or not she's a good cook. She's able to cook for herself, right, Doctor?

A. I don't know. I don't know if she can. I'm not with her. I'm not sure

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if she can cook or not.

Q. Doctor, based upon your treatment of her, you would agree that she's able to cook for herself, correct? She's not physically unable to cook for herself, correct?

A. Again, I'm not sure about that. I'm not with her. I believe she does have someone helping her at the house. She has some neighbors that maybe bring her food. I believe she was telling me that someone helps her.

Q. Do you know if she has a home health aide?

A. I don't write one for her. I'm not sure if she was someone --

Q. Have you prescribed one for her?

A. I have not prescribed one for her, no.

Q. On your narrative, you don't indicate that she needs a home health aide for the rest of her life, do you?

A. No, I didn't put that in there.

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2 Q. Then, you would agree that
3 she's able to cook and clean and do
4 household chores on her own, correct,
5 Doctor?

6 A. I'm not sure that she can.

7 Q. Doctor, you outlined all of her
8 future care, down to her medications for
9 the remainder of her life, correct?

10 A. I did make an outline. That is
11 correct.

12 Q. But, you're not a life care
13 plan expert, right?

14 A. That's correct.

15 Q. And nowhere in that narrative
16 do you put in there that she needs
17 household help, and what that charge would
18 be, correct?

19 A. Correct.

20 Q. As far as you're concerned, she
21 doesn't need household help, correct?

22 A. I'm not sure.

23 Q. If she did, you would have put
24 it in your narrative, correct?

25 A. I'm not sure if I would have.

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I'm not sure.

Q. Doctor, according to your narrative, what are her current limitations?

A. I'm not sure in my narrative that I state specific limitations.

Q. Doctor, you don't know if she can push more than 10 to 15 pounds, but you can't tell us what Ms. Castillo's current limitations are.

A. I said I don't think it's in my narrative.

Q. What are her current limitations? Tell me where in any of your records it indicates what her current limitations are?

A. I don't think I list her limitations.

Q. Is that because she doesn't have any, Doctor?

A. It's because I don't list them. I'm treating her medical care. I didn't write -- I'm not putting her limitations in this. It's not relevant to her medical

1 WEINSTEIN

2 care, as far as I'm concerned.

3 Q. Doctor, you provided a
4 narrative that outlines care for the rest
5 of her life, correct?

6 A. Correct.

7 Q. You assumed that she would not
8 recover at all, correct?

9 A. I don't believe that that's the
10 assumption.

11 Q. Is there any indication in your
12 narrative what her current limitations are?

13 A. I don't think I spelled out
14 exactly what her limitations are right now.

15 Q. Well, you say in your narrative
16 that she has a permanent and total
17 disability, Doctor, correct?

18 A. Correct.

19 Q. As a patient who has a
20 permanent and total disability -- not a
21 partial, but a total disability -- is she
22 able to do anything, Doctor?

23 A. What do you mean when you say
24 "do anything"?

25 Q. Is she permanently, entirely,

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limited in all range of motion, all activities, Doctor?

A. I was only treating her neck, back, and both knees. So, I can only state range of motion regarding those. I can't state range of motion for her elbows or wrists or hands or feet, or something like that. I can only talk about those body parts, regarding range of motion. But, I believe she is fully disabled. She is fully disabled anyway. She's 100 percent disabled. There's no question about that.

Q. When you say she's "fully disabled anyway," what do you mean by that, Doctor?

A. She's on disability.

Q. Did you learn that from me, or did you know that prior to today's deposition?

A. We were discussing this before.

Q. Right. Did you know that fact prior to today's deposition?

A. No. I think we spoke about that already.

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MR. SACK: Note my objection.

Q. I just want to know, as you sit here today, do you know what Ms. Castillo's current limitations are?

A. She's a high level of disability. Totally disabled. Even classified as disabled by the government.

Q. Was she classified disabled by the government as a result of this accident that she treated with you for?

A. No.

Q. Doctor, based upon your treatment, what are Ms. Candy Castillo's physical limitations?

A. I think I stated she can't push more than 10 to 15 pounds. I have to talk to her about driving. I don't think she should drive much. Very short distances, if anything like that. I would say she can't push, pull, more than 10 to 15 pounds. She shouldn't sit, stand, or walk for more than 10 to 15 minutes, 20 minutes at max. She can use her fine motor skills as tolerated.

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Q. What are her fine motor skills, Doctor?

A. Like, using a pen, buttoning buttons, stuff like that. She shouldn't kneel. She should limit bending or squatting.

Q. Doctor, what about public transportation? Is she able to take public transportation to and from your office?

A. Within limitation. I don't think she should be in one position for more than 20 minutes without moving around or taking a break.

Q. Do you send a car for Candy every time she comes to your office?

A. No.

Q. Do you hire an Uber for her to get to and from your office?

A. No.

Q. Do you pay for her transportation to get to and from your office?

A. No.

MR. HSU: It's been a pleasure.

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Hopefully, we can do this again soon.

Thank you so much.

MR. SACK: I have some
follow-up questions.

EXAMINATION BY

MR. SACK:

Q. Doctor, do you have an opinion
to a reasonable degree of medical certainty
as to what injuries Ms. Castillo sustained
as a result of her trip-and-fall that
occurred in May 2019?

A. Yes.

Q. What was that?

A. Neck, back, and both knees.

Q. What is your basis for that?

A. That's what she originally
complained of, and that's what we've been
treating the whole time. As well as, I
viewed the video. And she goes down on
both knees with axial loading to the low
back, and definitely hits her head on that
garbage can, and the neck.

Q. Do you have an opinion as to
whether those injuries you just stated are

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permanent?

A. Certainly.

Q. What is your basis for that opinion, sir?

A. The video, the treatment that's undergone, and will most probably need to undergo in the future.

Q. Do you have an opinion, regarding the injuries that she sustained, if she will require future care, treatment, and any modifications?

A. I've outlined my opinion in the narrative.

Q. Is that still your opinion today?

A. Yeah.

Q. What's your basis for that opinion that you outlined regarding future care, treatment, and life modifications?

A. Publications regarding risks of these procedures having to be done, as well as clinical experience, and knowing the patient, and seeing her imaging studies and progress.

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Q. There was some testimony before about -- I believe it was Ed Provder's life care plan. Do you know Dr. Provder?

A. No. I don't know him.

Q. Ever speak with him?

A. No.

Q. You have a copy of that care plan that was provided by our office, correct?

A. Yes.

Q. And you reviewed it?

A. Yes.

Q. In your opinion, is it reasonable?

MR. HSU: Note my objection.

A. Yes. The only thing I would say is about the Endocet, about pain management. She should try to be weaned from narcotics long-term. That's not a life to live. That really needs to be addressed.

Q. Why is it your opinion that the life care plan provided by Dr. Provder is reasonable, but for the issue regarding

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future narcotic need or potential for weaning?

A. Reading the report. I agree with the things that he says.

Q. Why is that?

A. Because I think it's reasonable regarding her injury and the surgeries that she's undergone.

Q. When you did all of these surgeries, did you rely solely on MRIs, or was there something else taken into consideration?

A. We rely on MRIs as a tool. We rely on the patient's physical exam. The MRIs, the failure of treatment, and continuation of pain and dysfunction all lead to these surgeries.

MR. SACK: Nothing else.

MR. HSU: Doctor, I'm going to serve you a subpoena for the billing records related to your surgery, which you said indicate whether or not it was funded or on a lien, because I don't have those records.

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I only have what was marked as Defendant's Exhibit A today. I'm going to send you a subpoena to include also your patient intake form. And then, Doctor, I'm going to ask you to forward to me with the date, the time, and who the sender was, every e-mail that you received from Richard Kenny's office or Zemsky & Salomon, related to Candy Castillo. I'm going to follow up with a federal subpoena, Doctor.

THE WITNESS: I can send it to you without the subpoena, but that's fine. Whatever you want to do.

MR. HSU: I'm going to put my e-mail address in the chat. If you send it to me before I draft the subpoena and have it served on your office, then I'll be happy to refrain from --

THE WITNESS: Whatever you want, I'll send it. That's fine.

(Whereupon, an off-the-record

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discussion was held.)

THE WITNESS: You want the
patient intake form?

MR. HSU: Patient intake form.
Billing records for the surgery.

THE WITNESS: What else?

MR. HSU: What was billed and
what was on a lien. And copies of
all e-mails and attachments sent to
you by Candy Castillo's counsel.

MR. SACK: I just ask that if
it does come to a subpoena, please
include us before that is served.

(Time Noted: 1:18 p.m.)

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D E C L A R A T I O N

I hereby certify that having been first duly sworn to testify to the truth, I gave the above testimony.

I FURTHER CERTIFY that the foregoing transcript is a true and correct transcript of the testimony given by me at the time and place specified hereinbefore.

JOSEPH WEINSTEIN, D.O.

Subscribed and sworn to before me
this ____ day of _____ 20__.

NOTARY PUBLIC

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E X H I B I T S

DEFENDANT EXHIBITS

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A	Billing ledger	44
B	Ms. Castillo's medical chart	47

(Exhibits retained by Court Reporter.)

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C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

I, JAMIE BORTNER, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and
that such examination is a true record of
the testimony given by that witness.

I further certify that I am not
related to any of the parties to this
action by blood or by 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 12th day of August, 2022.



JAMIE BORTNER

WORD
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A

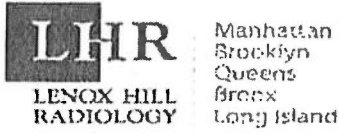
Application Name: Ledger
Name: Candy Castillo
Chart Number: 92230171
Date of Birth: 1/5/1969

Group Name: Joseph Weinstein, D.O., PC
Address: 1628 University Ave Apt 3A Bronx NY 10453 US
Home Phone Number:
Printed: Mon Jun 27 2022 20:24:25 GMT-0400 (Eastern Daylight Time)

Trans	Payor	Transaction	Amount	Run Bal	Svc Date Svc Prov
6/8/2022	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$500.00	\$500.00	5/18/2022 Weinstein, Joseph
3/22/2022	Lien	Radex Spine Cervical 2 Or 3 Views	\$150.00	\$650.00	2/23/2022 Castro, Carlos
3/22/2022	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$500.00	\$1,150.00	2/23/2022 Castro, Carlos
2/16/2022	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$500.00	\$1,650.00	2/2/2022 Weinstein, Joseph
12/8/2021	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$350.00	\$2,000.00	11/17/2021 Weinstein, Joseph
11/28/2021	Lien	Office/Outpatient Established Low Mdm 20-29 Min	\$350.00	\$2,350.00	11/10/2021 Weinstein, Joseph
11/2/2021	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$350.00	\$2,700.00	10/13/2021 Weinstein, Joseph
10/4/2021	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$350.00	\$3,050.00	9/10/2021 Weinstein, Joseph
9/1/2021	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$350.00	\$3,400.00	8/11/2021 Weinstein, Joseph
7/8/2021	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$350.00	\$3,750.00	6/16/2021 Weinstein, Joseph
6/1/2021	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$350.00	\$4,100.00	5/5/2021 Weinstein, Joseph
5/3/2021	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$350.00	\$4,450.00	4/7/2021 Weinstein, Joseph
3/22/2021	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$350.00	\$4,800.00	3/3/2021 Weinstein, Joseph
2/15/2021	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$350.00	\$5,150.00	1/22/2021 Castro, Carlos
12/22/2020	Lien	Office/Outpatient Established Mod Mdm 30-39 Min	\$350.00	\$5,500.00	12/2/2020 Weinstein, Joseph
5/20/2020	Lien	Office/Outpatient Established Low Mdm 20-29 Min	\$350.00	\$5,850.00	5/13/2020 Weinstein, Joseph
4/23/2020	Lien	Office/Outpatient Established Low Mdm 20-29 Min	\$350.00	\$6,200.00	4/3/2020 Castro, Carlos
3/11/2020	Lien	Office/Outpatient Established High Mdm 40- 54 Min	\$350.00	\$6,550.00	2/19/2020 Weinstein, Joseph
1/7/2020	Lien	Office/Outpatient Established High Mdm 40- 54 Min	\$350.00	\$6,900.00	12/18/2019 Weinstein, Joseph
8/22/2019	Lien	Office/Outpatient Established High Mdm 40- 54 Min	\$350.00	\$7,250.00	8/7/2019 Weinstein, Joseph
6/25/2019	Lien	Office Consultation New/Estab Patient 40 Min	\$350.00	\$7,600.00	6/5/2019 Weinstein, Joseph



B



JUN 17 2019

Copy to:
JOSEPH WEINSTEIN MD
1150 PARK AVE
NEW YORK NY 10128

SITE PERFORMED: FORDHAM
SITE PHONE: (718) 220-2500

Patient: CASTILLO, CANDY
Date of Birth: 01-05-1969
Phone: (347) 339-9174
MRN: 4356105NYRP Acc: 1012044857
Date of Exam: 05-20-2019

EXAM: X-RAY THORACIC SPINE 2 VIEWS

HISTORY: Back pain

TECHNIQUE: 2 views.
AP and lateral radiographs of the thoracic spine.

COMPARISON: None.

FINDINGS:

Bone mineral density is normal. There is a 5 degrees levoscoliosis at T11. There is diffuse spondylosis. There are 12 rib-bearing thoracic vertebrae. The heights of the thoracic vertebra are maintained. There is no visualized fracture. There is reduction in disc space height throughout the mid to lower thoracic spine. There is no visible focal lytic or sclerotic bone lesion.

IMPRESSION:

Reduction in disc space height in the mid to lower thoracic spine
Levoscoliosis

Thank you for the opportunity to participate in the care of this patient.

Narayan B Paruchuri MD - *Electronically Signed: 05-23-2019 10:31 AM*
Physician to Physician Direct Line Is: (347) 578-9783

Exam requested by: ALBERT VILLAFUERTE MD

Confidential

Tel: 212-772-3111 - Fax: 212-734-5832 - www.lenoxhillradiology.com

EXHIBIT
B
WEINSTEIN
8.12.2022