

Exhibit 3

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS - CIVIL TERM - PART 99

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THE ESTATE of JOSE M. BALLEEN DECEASED, by and through its
ADMINISTRATRIX, SONIA B. DALTON,

Plaintiff,

-against-

Index No.
17162/2014

CORPORATION of PRESIDING BISHOP of the
CHURCH of JESUS CHRIST of LATTER DAY SAINTS
MANAGEMENT LLC and BROWN HARRIS STEVENS
RESIDENTIAL MANAGEMENT LLC

Defendant(s).

-----X

Kings County Supreme Court
360 Adams Street
Brooklyn, New York 11201
April 7, 2025

B E F O R E:

HONORABLE RICHARD J. MONTELIONE,
J U S T I C E

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

GORAYEB & ASSOCIATES
100 William Street, 19th Floor
New York, New York 10038
BY: MARIA STAVRAKIS HANSEN, ESQ.
For the Plaintiff

LITTLETON JOYCE UGHETTA & KELLY
39 Broadway, 29th Floor
New York, New York 10006
BY: ROBERT KELLY, ESQ.
SIMINYA MASSIAS, ESQ.

NAOMI SCHWARTZ, RPR
Senior Court Reporter

Proceedings

2

1 THE COURT CLERK: Calling in the continued trial of
2 index number 17162 of 2014.

3 The Estate of Jose M. Ballen, deceased, by and
4 through its Administratrix, Sonia B. Dalton, against
5 Corporation of Presiding Bishop of the Church of Jesus
6 Christ of Latter Day Saints Management LLC and Brown Harris
7 Stevens Residential Management LLC.

8 Appearances, please, starting with the plaintiff.

9 MS. STAVRAKIS HANSEN: Maria Stavrakis Hansen for
10 the plaintiff, Gorayeb & Associates, 100 William Street,
11 19th Floor, New York, New York 10038.

12 Good morning, your Honor.

13 THE COURT: Good morning.

14 MR. KELLY: Good morning, Your Honor.

15 Robert Kelly of Littleton Joyce Ughetta & Kelly on
16 behalf of the defendants.

17 And, Your Honor, with the Court's permission, I'm
18 joined today and this week by Siminya Massias, who is an
19 associate in our New York office.

20 Mr. Gibson is not available this week.

21 THE COURT: Welcome.

22 And good morning.

23 So I have made a decision on the post-trial motion.

24 I reviewed the motion on summary judgment and,
25 frankly, I'm constrained by that.

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Proceedings

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1 That motion indicates that the plaintiff already
2 proved its prima facie case.

3 In fact, at the end of it, the burden is placed on
4 the defendant.

5 So I don't think there was even the need for a
6 trial in this matter.

7 I think after opening statements, if a motion had
8 been made and I read that decision carefully, I probably
9 would have granted that motion.

10 So the motion is denied.

11 And I have placed that in writing, and I'm going to
12 give you a copy of that decision in a minute.

13 But let me first ask: The doctor is still not
14 available; is that correct?

15 MS. STAVRAKIS HANSEN: No, your Honor.

16 So, I actually e-mailed the Court with the case law
17 and the other documentation and I was actually going to
18 again contact the doctor and explain to him the Court's
19 urgency.

20 And he's available with your permission to testify
21 either Tuesday or Wednesday afternoon via Zoom.

22 And I have someone from our office, who, if you
23 need to discuss, we didn't know if the Court would be able
24 to provide the Zoom or what's necessary from our office.

25 So I have Mr. Ken Wonderlock to speak with the

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Proceedings

4

1 Court about what's necessary to make it happen, either
2 Tuesday afternoon or Wednesday afternoon.

3 THE COURT: Well, the decision I wrote, and I'm
4 going to have to rewrite it. Because in that, I was going
5 to strike the note of issue and the certificate of readiness
6 and have you refile it because I can't hold the jury for two
7 weeks.

8 MS. STAVRAKIS HANSEN: Absolutely.

9 THE COURT: But given this news, yes.
10 He's available tomorrow?

11 MS. STAVRAKIS HANSEN: He's available tomorrow
12 afternoon via Zoom, Wednesday afternoon via Zoom and then I
13 have the son of the plaintiff who is available any day this
14 week.

15 THE COURT: Well, what about right now?

16 MS. STAVRAKIS HANSEN: Not today.

17 THE COURT: Who do you have to testify today?

18 MS. STAVRAKIS HANSEN: Well, we have to read the
19 transcript into the record regardless on damages, Your
20 Honor, so we're ready to go forward with that today.

21 THE COURT: Well, call the son because I want him
22 here today. I do not want any delay in this matter.

23 MS. STAVRAKIS HANSEN: Okay. And also we have Dr.
24 Mandelbaum, who's available on Friday.

25 And then I believe counsel's witness is available

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Proceedings

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1 --

2 THE COURT: It's amazing. A three-day trial is
3 going to wind up being seven to ten days.

4 MS. STAVRAKIS HANSEN: Your Honor, I don't know if
5 this helps, but he will be available in the morning on
6 Friday.

7 THE COURT: No, it wouldn't help.

8 MR. KELLY: Your Honor, I have something to add to
9 that too. Not to complicate things, but maybe to simplify.
10 Our damages witness, Dr. Katz, is available
11 tomorrow morning and then I lose him.

12 So I don't think it's fair to have to go out of
13 turn. Especially under the circumstances that have
14 developed in this case. But I don't see where I have much
15 choice. Even though it appears that plaintiff's damages
16 witnesses will be following mine.

17 THE COURT: Is your witness available in the
18 morning?

19 MR. KELLY: No.

20 THE COURT: Only in the morning?

21 MR. KELLY: Only Tuesday morning.

22 THE COURT: And your witness?

23 MS. STAVRAKIS HANSEN: My witness is available in
24 the afternoon, Dr. Kaplan, the first one.

25 MR. KELLY: Dr. Katz is my guy.

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Proceedings

6

1 THE COURT: That's your doctor?

2 MR. KELLY: Yes.

3 THE COURT: When's your doctor available?

4 MS. STAVRAKIS HANSEN: Tomorrow afternoon.

5 THE COURT: So they're both available only in the
6 afternoon.

7 MR. KELLY: No, mine's available tomorrow morning.

8 MS. STAVRAKIS HANSEN: Is he available any other
9 day this week?

10 MR. KELLY: No, he's gone after tomorrow.

11 THE COURT: Your last doctor is who?

12 MS. STAVRAKIS HANSEN: Dr. Mandelbaum, and he's
13 available Friday morning.

14 THE COURT: And there's no way to get him any
15 earlier?

16 MS. STAVRAKIS HANSEN: No.

17 THE COURT: Do you have any other witnesses besides
18 your doctor tomorrow in the morning?

19 MR. KELLY: No, your Honor.

20 THE COURT: So we're going to read the transcript
21 this morning.

22 And your witness is the son, is going to be here
23 late this morning or early in the morning -- or early in the
24 afternoon.

25 MS. STAVRAKIS HANSEN: Okay. I could get him -- I

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Proceedings

7

1 could try to get him for the afternoon, your Honor.

2 THE COURT: Get him for the afternoon. This matter
3 -- look, what we can control, we've got to control. All
4 right.

5 The doctors, we sort of have to bend over backwards
6 on their schedules.

7 But on everyone else, they have an interest here,
8 they should be here and they should really be here right
9 now.

10 So the son can testify right after the transcript
11 is read.

12 All right. So this is what it's going to be: Your
13 doctor will be on tomorrow in the morning. Plaintiff's
14 doctor in the afternoon. Dr. Mandelbaum on Friday morning.

15 That's morning, right?

16 MS. STAVRAKIS HANSEN: Yes.

17 THE COURT: Friday morning.

18 And the son will be here today. Either late this
19 morning or first thing this afternoon.

20 My preference is that he's here, so make a phone
21 call now and we'll call the jury.

22 MS. STAVRAKIS HANSEN: Thank you, your Honor.

23 MR. KELLY: Your Honor, is that going to leave us
24 -- if I'm getting this, is that going to leave us dark on
25 Wednesday and Thursday?

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Proceedings

8

1 THE COURT: Yeah, I don't see any other activity
2 going on in this case. Yeah.

3 MS. STAVRAKIS HANSEN: Your Honor, do you mind if I
4 step out?

5 THE COURT: Yes.

6 (Short break in the proceedings.)

7 MR. KELLY: Your Honor, can I make one request?

8 THE COURT: Go ahead.

9 MR. KELLY: Given the circumstance of having to
10 call Dr. Katz ahead of both of plaintiff's damages
11 witnesses, I have to think about over the next couple of
12 hours whether I bring him in at all, and I will let the
13 Court know by the end of the day.

14 THE COURT: Well, there may be -- is your concern
15 that he's going to testify out of order? Is that basically
16 the concern?

17 MR. KELLY: Yes. And the complications that go
18 with that. He's in the nature of a rebuttal witness,
19 typically, like a damages expert would be and --

20 THE COURT: I'm inclined to say that -- well, it's
21 very difficult. But I'm thinking perhaps plaintiff's doctor
22 shouldn't be aware of the testimony of your doctor. I mean,
23 we're taking physicians out of order.

24 MR. KELLY: That would include counsel not making
25 the plaintiff's witnesses aware.

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Proceedings

9

1 THE COURT: Say that again?

2 MR. KELLY: I'm sorry. That would include, Your
3 Honor, counsel not telling her witnesses what my witness
4 said. That's what you're suggesting?

5 THE COURT: No, that can't be. It's one thing not
6 to relate or speak to a doctor ahead of time. It's another
7 -- because once the jury hears what your doctor is
8 testifying about, you can't erase that from the minds of the
9 jury.

10 MR. KELLY: I agree, your Honor.

11 THE COURT: Is there any other day that your
12 doctor's available besides tomorrow?

13 MR. KELLY: No, your Honor.

14 He was originally available today, but he's no
15 longer available today and I've got him -- I actually
16 thought that each one of the plaintiff's damages experts
17 would testify before tomorrow morning and then it turns out
18 no. So that's what I've got. My time slot is tomorrow
19 morning. It's brief testimony.

20 THE COURT: Similar to plaintiff's physician, I'm
21 willing to have him testify virtually.

22 Is that a possibility?

23 MR. KELLY: I think he's out of the country
24 beginning like tomorrow afternoon. I have him coming in
25 tomorrow.

Proceedings

10

1 THE COURT: Let me ask you, why isn't your doctor
2 available today if he's available Tuesday and Wednesday?

3 MS. STAVRAKIS HANSEN: He's on vacation, your
4 Honor. I believe he's travelling today. So that's why his
5 first day available was tomorrow afternoon. I think there's
6 also like a time --

7 THE COURT: Well, the best suggestion I have is I
8 would give defendant's physician an opportunity to testify
9 after Dr. Mandelbaum on Friday. I know you're saying he's
10 unavailable, but I'm still throwing it out there and I would
11 allow virtual testimony.

12 MR. KELLY: Okay. Thank you, your Honor. I will
13 check and let you know. I'll check whatever you want.

14 And I appreciate the Court's accommodation.

15 Just so the record is clear, defendant is objecting
16 to the whole rearrangement of witnesses out of order in case
17 we have to revisit the issue sometime.

18 THE COURT: Well, I haven't researched the issue
19 recently, and I'm able to take physicians out of order, but
20 never putting in defendant's physician first.

21 MR. KELLY: Your Honor, I don't know. I'm not in
22 the Court management business, but to me this is, the issues
23 are accumulating to the point where the Court might consider
24 bringing this case back on a different calendar.

25 MS. STAVRAKIS HANSEN: I'm sorry --

Proceedings

11

1 MR. KELLY: I just think it can't be put back
2 together in a normal order.

3 MS. STAVRAKIS HANSEN: Well, I mean, I'm just a
4 little confused because we knew that this was going forward
5 this week.

6 THE COURT: No. I'm so sorry. I was prepared to
7 strike the note of issue and the certificate of readiness
8 for trial. I was going to do that this morning. I assure
9 you that's what I was going to do --

10 MS. STAVRAKIS HANSEN: I understand that.

11 THE COURT: -- based on the fact that it was
12 represented to the Court that under all circumstances your
13 doctor was not available.

14 MS. STAVRAKIS HANSEN: Your Honor, but as we left
15 off, you said you are going to make a decision on Monday and
16 do damages going forward, so I did whatever possible to make
17 this case go forward.

18 And my doctors were available last week and my
19 doctors are available this week --

20 THE COURT: I'm so sorry. The doctor available
21 last week wasn't really available for Thursday because --

22 MS. STAVRAKIS HANSEN: Yes --

23 THE COURT: -- we were trying another part of this
24 trial so he wasn't available last week.

25 MS. STAVRAKIS HANSEN: I'm saying before -- on

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Proceedings

12

1 March 31st when we were picking, I had availability for last
2 week, which was Thursday, which didn't work out because we
3 were still trying the case.

4 And then now I have the doctor available Tuesday
5 and Wednesday and my other doctor Friday.

6 What I'm trying to say is that the defense witness
7 knew that they were going to testify this week.

8 So having only one morning available knowing that
9 we still have to put up a case, I mean, at this point, I
10 think we should try to accommodate the Court and try to get
11 everyone this week or something like that.

12 I mean, you know, I tried to get my doctor
13 available as many days as possible, so I believe that, you
14 know, having just one morning for defense witness is, you
15 know, they should at least try to maybe present him
16 virtually.

17 Or did you contact him to see?

18 MR. KELLY: Well, that question hasn't risen. The
19 availability issues start with the plaintiff's witnesses and
20 my --

21 THE COURT: Look, this is what my decision is:
22 I'll allow defendant's physician to testify after both of
23 plaintiff's physicians have testified.

24 I realize that it's possible that he will not be
25 able to do so.

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Proceedings

13

1 And you've got to decide whether you're going to
2 put him on tomorrow in the morning or not. That's going to
3 be up to you. But that's as much as of an accommodation.

4 Let's call the jury in.

5 MS. STAVRAKIS HANSEN: And, Your Honor, are we
6 reading the transcript in right now because we would have to
7 talk with your Honor to make sure that there's no
8 disagreements on what's in it?

9 THE COURT: And you're now bringing that up?

10 MS. STAVRAKIS HANSEN: Well, I tried to mention it
11 before.

12 THE COURT: Okay.

13 MS. STAVRAKIS HANSEN: That's what I was trying to
14 get to.

15 THE COURT: Can you tell her to hold off on the
16 jury?

17 THE COURT CLERK: Yes.

18 THE COURT: Am I using the same transcript or are
19 there other markings that I should look at?

20 MS. STAVRAKIS HANSEN: So I have a copy -- so I
21 have a copy for you, Your Honor, with just the pages that
22 should be read into the record today for damages.

23 THE COURT: Hold up just a moment.

24 Why don't you --

25 There we go. Thank you.

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Proceedings

14

1 Did you already go through this with counsel?

2 MS. STAVRAKIS HANSEN: I provided it to counsel
3 earlier.

4 MR. KELLY: I got through like about half of it,
5 your Honor.

6 There were, just as you were coming out, there are
7 some points that are clearly highlighted and some that look
8 like they were highlighted in shadow or something so I'm not
9 clear --

10 THE COURT: So when you said you let counsel know
11 earlier, you're talking about earlier today or early last
12 week?

13 MS. STAVRAKIS HANSEN: No, in the morning.

14 THE COURT: Okay. So let's go through it.

15 MS. STAVRAKIS HANSEN: So, Your Honor, I believe
16 the last time we left off with the reading of the
17 transcript, I didn't want to repeat questions, so since it's
18 already in the record.

19 So I believe we will be beginning on page 82, line
20 four, 'cause I believe everything before that was read into
21 the record.

22 MR. KELLY: Your Honor, do I understand that
23 counsel is withdrawing the recap of how the accident
24 occurred?

25 MS. STAVRAKIS HANSEN: Yes. I don't need to read

Proceedings

15

1 that into it, yeah.

2 Because I was able to look at the transcript that
3 Keith had provided with the highlights and we already went
4 through that part, so it's the same jury.

5 I don't think we should reread it into the record.

6 THE COURT: So before me is a transcript starting
7 with page 82 that has highlights --

8 MS. STAVRAKIS HANSEN: Yes.

9 THE COURT: Is it the highlighted portion of the
10 transcript that you want read into the record?

11 MS. STAVRAKIS HANSEN: It's the questions, Your
12 Honor, and then the answers following them.

13 THE COURT: Okay.

14 Page 82.

15 Is there any objection, counselor?

16 MR. KELLY: Is it page 82, lines 4 through 25?

17 MS. STAVRAKIS HANSEN: Yes.

18 MR. KELLY: No objection, your Honor. No
19 objection.

20 THE COURT: 83, any objection?

21 MR. KELLY: Are you waiting for me, your Honor?

22 THE COURT: Say that again?

23 MR. KELLY: Are you waiting for me?

24 THE COURT: Yes.

25 MR. KELLY: 83, 4 to 14 is no objection.

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Proceedings

16

1 THE COURT: All right.

2 What about 15 through the 25?

3 MR. KELLY: No objection, except the way my
4 transcript looks, might have been read the other day.

5 THE COURT: That's what I have, 15 through 25.

6 MR. KELLY: Was read the other day?

7 MS. STAVRAKIS HANSEN: Regardless, it has to read
8 to follow.

9 MR. KELLY: Well, I object to the repetition of any
10 testimony.

11 THE COURT: All right. So let me read.

12 I'm going to let it in. 15 through 25 is in.

13 So page 84.

14 MS. STAVRAKIS HANSEN: So page 84, the first
15 question I would ask on that page is starting at line number
16 11, your Honor.

17 THE COURT: So from line 11 to 25.

18 You're not including 24 and 25, are you?

19 MS. STAVRAKIS HANSEN: We could keep that out, your
20 Honor.

21 THE COURT: Any objection?

22 MR. KELLY: No objection.

23 THE COURT: So 11 through 23 on page 84 is in.

24 Any objections to page 85?

25 MS. STAVRAKIS HANSEN: Your Honor, since we're

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Proceedings

17

1 keeping out 24 and 25, we can also keep out line two and
2 three of page -- line two to nine -- to eight from page 85
3 because I believe it follows, but we could keep it out.

4 THE COURT: Two through eight is out.

5 Do you have any objections to line 9 through 25?

6 MR. KELLY: No objection.

7 THE COURT: All right. Any objections to page 86?
8 I don't know if question 23 through 25 is relevant.

9 MS. STAVRAKIS HANSEN: We could keep that out, your
10 Honor. I didn't have that question highlighted on mine.

11 THE COURT: It is highlighted on mine.

12 MS. STAVRAKIS HANSEN: Okay. Oh, you mean line 21?

13 MR. KELLY: 23 to 25.

14 THE COURT: 23 to 25. Although lines 21 and 22
15 don't seem to be relevant either.

16 MS. STAVRAKIS HANSEN: Yes, we can keep those out.

17 THE COURT: Also, 18 through 20 doesn't seem very
18 relevant either.

19 MS. STAVRAKIS HANSEN: That's fine.

20 THE COURT: So lines 2 through 17.

21 Any objection?

22 MR. KELLY: Your Honor, I would strike on line 17,
23 the Douglas was talking to me.

24 THE COURT: Yes. I was thinking about doing that
25 as well.

Proceedings

18

1 So that sentence is stricken.

2 Let's go to page 87.

3 MS. STAVRAKIS HANSEN: Your Honor, from line two to
4 line six, I don't mind if that stays out. I believe it
5 follows the previous page that we kept.

6 MR. KELLY: Your Honor, I object to 2 through 14.

7 THE COURT: Yeah, I don't see --

8 MS. STAVRAKIS HANSEN: That's fine.

9 THE COURT: Okay.

10 MS. STAVRAKIS HANSEN: That's fine.

11 THE COURT: 2 through 14 is out.

12 So it seems the only relevant lines is 15 through
13 17.

14 Any objection?

15 MR. KELLY: No objection.

16 THE COURT: The jury's not going to know --

17 MS. STAVRAKIS HANSEN: Exactly.

18 THE COURT: -- who the him is.

19 You could change the him --

20 MS. STAVRAKIS HANSEN: To anyone in the building?

21 THE COURT: -- to the guy who was at the door.

22 Well, you know, let me ask you -- yeah, let's change it to
23 anyone.

24 MR. KELLY: Your Honor, this entire page is fresh
25 complaint evidence where no one's undermining the underlying

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Proceedings

19

1 occurrence that Mr. Ballen fell. He doesn't need to read
2 with the doorman that he fell --

3 THE COURT: I would think that the defendant would
4 want that in, but, you know, that's your choice.

5 MR. KELLY: Well --

6 THE COURT: So the whole thing's out. That page, I
7 don't think it's relevant.

8 MS. STAVRAKIS HANSEN: Okay.

9 THE COURT: And where else on the transcript, 89?

10 MS. STAVRAKIS HANSEN: So now we would jump to page
11 89, line two.

12 THE COURT: Well, that seems relevant.

13 Any objection?

14 MS. STAVRAKIS HANSEN: Page 89.

15 MR. KELLY: Your Honor, for line ten, the answer
16 should end at I don't know.

17 THE COURT: So let me ask you, what lines on that
18 page did you want read?

19 MS. STAVRAKIS HANSEN: So it's -- so the answer
20 after line eight and nine, the full answer.

21 MR. KELLY: And I object to that.

22 THE COURT: All right. My copy is not yellow
23 highlighted.

24 MS. STAVRAKIS HANSEN: Your Honor --

25 THE COURT: There does seem to be a shade around.

Proceedings

20

1 MS. STAVRAKIS HANSEN: Yes, so the shading is just
2 the highlighting from the computer, your Honor.

3 THE COURT: So the shading means you want that
4 read; is that correct?

5 MS. STAVRAKIS HANSEN: The question, yes, and the
6 answer following it.

7 THE COURT: All right. In the future, please
8 highlight it. It's not easy to read.

9 MR. KELLY: And our objection is to self-serving
10 nature and nonresponsiveness of I was very disoriented. I
11 know I was there for quite a while until my son arrived.

12 I don't know should suffice.

13 THE COURT: All right. Let me just read through
14 it.

15 I'm going to allow everything to be read on the
16 page from line 2 through 22, and line 23 through 25 should
17 not be read.

18 MS. STAVRAKIS HANSEN: Yes, your Honor.

19 THE COURT: And page 90, line two, should not be
20 read.

21 MS. STAVRAKIS HANSEN: Yes, your Honor. I don't
22 believe that was highlighted.

23 THE COURT: So page 90, you don't want it read; is
24 that correct?

25 MS. STAVRAKIS HANSEN: No, I do, but only the

Proceedings

21

1 highlighted portions. So the highlighted portion should
2 start on line 15.

3 THE COURT: Tell me why it's relevant.

4 MS. STAVRAKIS HANSEN: Did anyone from your family
5 go to the hospital. It's related to his hospital treatment,
6 and who was there.

7 MR. KELLY: No objection.

8 THE COURT: That makes it easy.

9 All right, that's in.

10 91.

11 MS. STAVRAKIS HANSEN: 91, the only question that I
12 have highlighted is line three and then the next one is line
13 25.

14 THE COURT: Any objection?

15 MR. KELLY: No objection.

16 Line 25, leading to page 92, is getting close to
17 the excluded statement to the emergency room doctor, which
18 shows up on page 93 and I don't know the purpose of it
19 otherwise.

20 THE COURT: So why does this need to go in?

21 MS. STAVRAKIS HANSEN: On page 92?

22 THE COURT: Yes, starting on page 91, line 25 and
23 then going over to page 92.

24 MS. STAVRAKIS HANSEN: So line 25 is just when he
25 arrived to the hospital and the testimony is that he spoke

Proceedings

22

1 to the receptionist.

2 I understand what counsel is saying regarding line
3 11.

4 THE COURT: Go ahead.

5 MR. KELLY: I object to the entire passage, your
6 Honor. If it does relate, that I think lines 18 through 22
7 on page 93 should be included.

8 MS. STAVRAKIS HANSEN: So are you objecting to line
9 number seven on 92 to line 25?

10 MR. KELLY: On 92?

11 MS. STAVRAKIS HANSEN: Because I'm okay with
12 leaving that part out.

13 MR. KELLY: For starters, I don't see the point in
14 reading it in the first place.

15 It doesn't seem to prove anything. But if it is --
16 so I'll object on that basis through page 93, line 22.

17 If it is read in, I would like to see 93, 18 to 22
18 included.

19 MS. STAVRAKIS HANSEN: No, that wasn't highlighted.

20 So, Your Honor, if you want to keep out line 7 to
21 25 on page 92, and then the remaining portions of what's
22 highlighted on 93, then we would begin on 94.

23 MR. KELLY: And 93, 18 to 22. If it's not
24 highlighted, it would be a counter designation, your Honor.

25 MS. STAVRAKIS HANSEN: Well, I'm removing that --

Proceedings

23

1 THE COURT: Let me ask you. This is the damages
2 phase. What does this have to do with the damages?

3 MS. STAVRAKIS HANSEN: That's what I'm saying, Your
4 Honor. So the only line that I am asking to be read in was
5 from page 91, line 25.

6 THE COURT: Page 91, line 25.

7 MS. STAVRAKIS HANSEN: Yes. Up to line six on page
8 92.

9 Once they get into the translation and all that
10 stuff, again, I don't need the remainder of page 92 read in
11 and I don't need the remainder -- the highlighted portions
12 of 93 because that all has to do with the translation, since
13 that's not coming in --

14 THE COURT: On page 91.

15 MS. STAVRAKIS HANSEN: Yes.

16 THE COURT: The only line you can read is line 25.
17 And 92 you can read line two, which completes the question,
18 and then you can read line three.

19 MS. STAVRAKIS HANSEN: Yes.

20 THE COURT: And then --

21 MS. STAVRAKIS HANSEN: Four.

22 THE COURT: -- four through six.

23 MS. STAVRAKIS HANSEN: And that's it.

24 And then once you get to page 93, again, there's
25 nothing on page 93. We don't have to read that portion

Proceedings

24

1 because it follows with the Spanish translation and all that
2 stuff and then I would start on number 94, line five.

3 MR. KELLY: Your Honor, page 94, lines five through
4 eight are sourced from the same emergency room record that
5 we attempted to be placed into evidence. And would open up
6 that document for further use.

7 THE COURT: All right.

8 MR. KELLY: And five through eight, looks like it's
9 a response to an impeachment, when there hasn't been any
10 impeachment.

11 THE COURT: So let's concentrate first on five
12 through eight.

13 You can ask that question if the other part of the
14 transcript is also in evidence. That's the part of the
15 transcript where he denied losing his balance. But you
16 can't have one without the other.

17 So I'm assuming you're not going to want this,
18 right?

19 MS. STAVRAKIS HANSEN: Line five through --

20 THE COURT: Eight.

21 MS. STAVRAKIS HANSEN: -- eight. That's fine, your
22 Honor.

23 THE COURT: Okay. So let's go to.

24 MS. STAVRAKIS HANSEN: Line 12.

25 MR. KELLY: Your Honor, before we move on, did you

Proceedings

25

1 rule on my counter designation, which would be page 93,
2 lines 18 through 22?

3 THE COURT: I put a line through the entire page.

4 MR. KELLY: If defendant wants to counter with
5 those four or five lines, can we do that?

6 THE COURT: This time you're requesting that it be
7 read?

8 MR. KELLY: Yes. Counter designation. We would
9 want --

10 MS. STAVRAKIS HANSEN: If it's read, then the rest
11 of it has to be read.

12 THE COURT: So tell me exactly which lines you want
13 read from page 93.

14 MR. KELLY: 18 through 22.

15 MS. STAVRAKIS HANSEN: And, Your Honor, I don't
16 have a problem with that being read into the record, as long
17 as then what we just discussed has to also come into the
18 record.

19 THE COURT: Yes. All right.

20 So 18 through 25 on page 93 will be read.

21 And on page 94, lines five through eight will be
22 read.

23 MS. STAVRAKIS HANSEN: And, Your Honor, if you are
24 allowing for 18 to 22 on page 93, then I would ask on page
25 92, line 7 to 25, to be reconsidered because that all goes

Proceedings

26

1 together.

2 THE COURT: No. Line 7 through 17, it has to do
3 with speaking with a nurse that speaks -- that he told about
4 the injuries. Was she able to converse in Spanish.

5 Was that an issue here?

6 MS. STAVRAKIS HANSEN: Yes, he was Spanish
7 speaking, your Honor.

8 THE COURT: I know he's Spanish speaking, but
9 what's the issue?

10 MS. STAVRAKIS HANSEN: If you allow do you recall
11 telling the people at the hospital that you fell down and
12 lost your balance. I would, if there is a problem with
13 translation, I would ask that the previous questions be
14 asked to give a full picture to the jury.

15 MR. KELLY: And that would include 93, seven to
16 ten.

17 MS. STAVRAKIS HANSEN: Yes.

18 THE COURT: So you want from 7 to 17 or from 7 to
19 25? What do you want on page 92?

20 MS. STAVRAKIS HANSEN: On 92, from 7 to 25.

21 MR. KELLY: 22 --

22 MS. STAVRAKIS HANSEN: Well, the answer, the answer
23 is within --

24 MR. KELLY: But there is a comment from plaintiff's
25 counsel.

ns

Proceedings

27

1 MS. STAVRAKIS HANSEN: On what page?

2 MR. KELLY: 93.

3 MS. STAVRAKIS HANSEN: Yeah, we're looking on 92
4 first.

5 So 92, from line 7 to 25 to be read.

6 MR. KELLY: And then --

7 MS. STAVRAKIS HANSEN: And then 93, two to ten.
8 And then we would skip to 18 to 25.

9 THE COURT: Well, let me ask you, if you're going
10 to add all these translations and Spanish speaking, you're
11 going to leave out that the doctor spoke Spanish?

12 MS. STAVRAKIS HANSEN: Where's that?

13 THE COURT: That's on line 10.

14 MS. STAVRAKIS HANSEN: No, that's included.

15 THE COURT: Okay.

16 MS. STAVRAKIS HANSEN: Yeah. It would be all
17 included.

18 THE COURT: So let's go forward.

19 We're back to page 94.

20 MS. STAVRAKIS HANSEN: Yes.

21 THE COURT: Any objections to lines 12 through 15?

22 MS. STAVRAKIS HANSEN: I'm sorry, your Honor. Did
23 you make a ruling on line five to ten already?

24 THE COURT: I have that it's in.

25 MS. STAVRAKIS HANSEN: Okay. Good. Thank you.

Proceedings

28

1 And then line 12 to 14 is the only question that I
2 have on this page left.

3 THE COURT: Well, it would have to include 15,
4 right?

5 MS. STAVRAKIS HANSEN: Yes, that's the answer.

6 THE COURT: Any objection?

7 MR. KELLY: No objection.

8 THE COURT: So that's in.

9 Page 95, lines four through six, any objections?

10 MR. KELLY: No objection.

11 THE COURT: Okay. That's in.

12 You know, I'm looking through all these pages and
13 wondering why this wasn't done ahead of time, and it's 11:10
14 and we already had a late start.

15 Both of you are going to go over the remainder of
16 this. And only when there is a dispute, do I want to hear
17 about it. So get together.

18 We're going off the record.

19 (Short break in the proceedings.)

20 THE COURT: We're back on the record.

21 MS. STAVRAKIS HANSEN: Yes, your Honor --

22 THE COURT: Can you tell me what objections there
23 are?

24 MS. STAVRAKIS HANSEN: So there are eight of them
25 that we would like to discuss.

Proceedings

29

1 On page 99, line 9 to 16, I would like it read into
2 the record. Defense counsel was objecting.

3 THE COURT: That was line --

4 MS. STAVRAKIS HANSEN: 9 through 16.

5 THE COURT: Thank you.

6 MS. STAVRAKIS HANSEN: And then 17 through 21 as
7 well.

8 THE COURT: One at a time. Okay. Thank you.

9 MS. STAVRAKIS HANSEN: Sorry.

10 MR. KELLY: Your Honor, I think we skipped -- never
11 mind.

12 Oh, Your Honor, I think that 9 through 16, the
13 answer is nonresponsive. The answer pretty much should have
14 been no and instead we got a self-serving testimony that was
15 not responsive to the question about prescriptions that he
16 gave me that knocked me out. I think I tried to contact the
17 doctor, but I don't remember. I was so not healed by the
18 medicine I was taking. I object to that.

19 THE COURT: That's not going to be read. It is
20 nonresponsive.

21 MS. STAVRAKIS HANSEN: So we can leave 9 to 16 out,
22 your Honor.

23 THE COURT: What's the next objection?

24 MS. STAVRAKIS HANSEN: So the next one was line 17
25 to 21 on the same page, your Honor.

Proceedings

30

1 So I'm okay with leaving 17 to 21 out, as long as
2 we start on 22.

3 MR. KELLY: Objection for the same nonresponsive
4 reason and lack of relevance, your Honor. 99, 17 to 21.

5 MS. STAVRAKIS HANSEN: We can leave that out, your
6 Honor.

7 THE COURT: All right. 22 and 23, which is the
8 question is okay.

9 24 it will stop at yes.

10 And by the time I felt better I was out. But, yes,
11 I went to see a doctor. That will be the sentence.

12 MS. STAVRAKIS HANSEN: Okay.

13 THE COURT: What's the next one?

14 MS. STAVRAKIS HANSEN: Page 100, there is a
15 disagreement from line 9 to 16.

16 THE COURT: 9 through 14 is just nonresponsive.
17 The question is what is the name of the doctor and the
18 answer is unrelated to that question.

19 What's next?

20 THE PEOPLE: Line 24 to 25 on page 100.

21 MR. KELLY: Actually, beginning at line 20, your
22 Honor.

23 MS. STAVRAKIS HANSEN: So it would be after what
24 type of doctor did he see. What was his discipline. And
25 then it would skip to line 20 of where was he located.

Proceedings

31

1 THE COURT: What's your objection of 20 to 23?

2 MR. KELLY: It's irrelevant.

3 THE COURT: All right. Well, it's in.

4 MR. KELLY: And then 100 to 24 through 101, six.

5 And the answer beginning 101, line two is clearly improper.

6 THE COURT: Tell me how this is relevant to
7 damages?

8 He said he didn't have the money to go to a
9 particular doctor.

10 Does the jury really have to know that?

11 MS. STAVRAKIS HANSEN: The first part of the
12 question just goes with how did you get to this and he
13 explains that he got it from his neighbor.

14 And, Your Honor, I do think it's important that
15 they understand that he didn't have money to pay.

16 THE COURT: No, that's not going in.

17 MS. STAVRAKIS HANSEN: No, I went because my
18 neighbor told me to go see him -- oh, you're saying to leave
19 the last part of that answer out.

20 THE COURT: The only part of the answer is I went
21 because my neighbor told me to go see him.

22 MS. STAVRAKIS HANSEN: That's fine. Okay.

23 THE COURT: What's the next objection?

24 MS. STAVRAKIS HANSEN: The next objection is on
25 page 101, line two to six.

Proceedings

32

1 MR. KELLY: That's what we just did.

2 MS. STAVRAKIS HANSEN: Oh, I'm sorry, I apologize.

3 Page 103, line 13 to 14.

4 THE COURT: Okay. What were the lines again?

5 MS. STAVRAKIS HANSEN: Line 13 to 14. It's a
6 question who is paying your bills, your Honor.

7 THE COURT: And tell me why that's relevant. I'm
8 not sure.

9 MS. STAVRAKIS HANSEN: Well, it's on damages.

10 THE COURT: Okay.

11 MS. STAVRAKIS HANSEN: So it's medical expenses
12 that he incurred and workers' comp that he would have to pay
13 back.

14 THE COURT: Are you going to put in evidence
15 workers' compensation bills?

16 MS. STAVRAKIS HANSEN: I do have -- they're already
17 subpoenaed so I would be moving them into evidence.

18 THE COURT: So the answer to my question is yes?

19 MS. STAVRAKIS HANSEN: Yes.

20 THE COURT: That should be the first thing that you
21 said. You should respond. Are you going to have workers'
22 compensation.

23 Yes, that will go into evidence.

24 What else?

25 MR. KELLY: The question can be read, your Honor.

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Proceedings

33

1 THE COURT: Yes. There is a claim for damages,
2 reimbursement of workers' comp. As long as there are going
3 to be bills placed into evidence, it's relevant.

4 What's the next objection?

5 MS. STAVRAKIS HANSEN: The next objection is page
6 105, line 14 to 21.

7 THE COURT: I don't see how that that's relevant.

8 MS. STAVRAKIS HANSEN: We can keep it out, your
9 Honor.

10 THE COURT: What's next?

11 MS. STAVRAKIS HANSEN: Page 106. This is the last
12 one. Line 20 to 25.

13 THE COURT: No. First, it's hearsay. And
14 secondly, he's referring to an MRI which he's obviously not
15 a doctor.

16 MS. STAVRAKIS HANSEN: Yes, your Honor. So line 13
17 to 19 is okay and then the rest of that we can keep out, as
18 long as you're okay with 17 to 19.

19 THE COURT: Well, is there an objection to 17 to
20 19?

21 That's it?

22 MS. STAVRAKIS HANSEN: That is it.

23 THE COURT: I'm going to anticipate that reading
24 the transcript will be less than one hour.

25 MS. STAVRAKIS HANSEN: Absolutely.

Proceedings

34

1 THE COURT: So let's call the jury in.

2 Thank you.

3 MS. STAVRAKIS HANSEN: Your Honor, we're opening,
4 right, so it would be the opening and reading the transcript
5 before lunch, correct?

6 THE COURT: Yes.

7 MS. STAVRAKIS HANSEN: Okay.

8 THE COURT: The other order that I actually
9 prepared in writing, there's no need to issue.

10 MS. STAVRAKIS HANSEN: I understand, your Honor.

11 THE COURT OFFICER: Ready for the jury, Judge?

12 THE COURT: Yes.

13 THE COURT OFFICER: All rise. Jury entering.

14 THE COURT: Good morning, everyone.

15 Please everyone sit down.

16 First, I'd like to apologize for the delay this
17 morning.

18 There's an old expression, you know, men and women
19 plan and you know who laughs.

20 So it's one of those situations we do the best we
21 can.

22 And initially, you know, there is a question as to
23 whether some witnesses were even going to be able to appear
24 at trial today. So we had to take care of a few issues
25 before we began.

ns

Proceedings

35

1 My opening instructions to you on the phase of
2 damages, which is what we are now entering, is keep in mind
3 the instructions I previously gave to you.

4 Keep an open mind during this trial.

5 Don't start your discussions.

6 Don't communicate with anyone you're not supposed
7 to communicate with.

8 And at the end, after you've heard the closing
9 arguments of counsel and you've heard my instructions to you
10 on the law, then you can begin your deliberations regarding
11 damages.

12 Again, thank you so much for your patience.

13 And, counsel, do you care to make an opening
14 statement?

15 MS. STAVRAKIS HANSEN: Yes, your Honor.

16 Good morning, everyone. Welcome back.

17 So as you were told by the Court, this is the
18 second part of the trial. Damages.

19 I want you to remember two words: Pain and
20 suffering.

21 They have been -- when I talked to you in the
22 beginning, when I first met everyone, I told you that as a
23 juror, you're going to have a responsibility at this point.
24 And this is your chance to be able to listen to evidence and
25 provide a certain amount of -- a monetary amount and assign

Proceedings

36

1 it to make the plaintiff whole in this case and to give him
2 anything that he needs in order to get justice like we have
3 discussed about the first time around.

4 So, in this case, you're going to hear from various
5 people.

6 You're going to hear from two doctors.

7 You're going to hear from the doctors themselves,
8 the treating physician who treated Mr. Ballen.

9 You are going to hear them explain specifically and
10 thoroughly the injuries that Mr. Ballen suffered.

11 He's going to -- Dr. Kaplan is the first doctor.
12 He's going to describe what he did, what treatment he
13 provided. The extent of the injury. How an injury can be a
14 specific injury, but that one injury can lead to different
15 treatment that won't be needed as time goes on.

16 Sometimes an injury is not as simple as oh, it
17 happened. You got injured.

18 It follows up with additional things that need to
19 be done in order for someone to feel as they did prior to
20 that injury.

21 You're also going to hear, I had mentioned this
22 earlier, a lot of things have been -- I've been thinking
23 about in my head, but something that I've been struggling
24 with is that Mr. Ballen is not here with us.

25 So who are we fighting for? What are we fighting

Proceedings

37

1 for? Who are we trying to make whole? Who is going to get
2 this monetary amount since Mr. Ballen is not here?

3 And you're going to hear from Mr. Ballen's family.

4 And you are going to hear how he was prior to the
5 injury, his mobility, what he did prior to the injury and to
6 the accident and how that affected his life and how he was
7 after this injury and how he was after this accident, and
8 the things he wasn't able to do after the accident that he
9 was able to do before this accident.

10 Again, I ask you to use your common sense. I ask
11 you to use your life experiences and I ask you to listen
12 very carefully to what these medical professionals will be
13 saying in order to understand the extent of Mr. Ballen's
14 injuries.

15 And at the end, again, I want you to use your
16 common sense, your life experiences, any knowledge that you
17 bring into this courtroom today to assign a certain monetary
18 amount in order for Mr. Ballen to get what he deserves.

19 And, again, Mr. Ballen is not here with us.
20 However, you will be hearing from his family and you will
21 understand who this -- who will be helped and who is going
22 to have a positive experience if they're at some point able
23 to get justice and able to get what Mr. Ballen deserved
24 regarding the case before you.

25 As I said, you're going to hear from two medical

Proceedings

38

1 professionals.

2 And, again, we spoke about this when I first met
3 you.

4 Everyone comes with different experiences.

5 I want you to listen to the evidence carefully and
6 I want you to use your common sense and everything that you
7 hear from the other witnesses and make a determination.

8 I thank you and I hope that you're able to listen
9 to the evidence carefully and come to the conclusion and
10 find for Mr. Ballen for him to be finally made whole.

11 Thank you very much.

12 THE COURT: Mr. Kelly.

13 MR. KELLY: Thank you, your Honor.

14 Good morning, members of the jury. I hope you had
15 a nice weekend. Thank you for being here today.

16 I have very brief remarks at this point.

17 We are entering the damages phase of the trial and
18 it's the second half.

19 We simply ask, on behalf of the defendants that you
20 continue to be fair and impartial in your hearing and
21 evaluation of the evidence.

22 And that the reason we ask you for that is because
23 we know it will lead to a fair and impartial verdict when
24 we're done. And that's all that the defendant is looking
25 for at this point, is a fair and impartial verdict.

Proceedings

1 So thanks again.

2 I'll have another opportunity to speak with you at
3 the end of the presentation of evidence.

4 THE COURT: Similar to the person who testified
5 through the transcript, we're going to have the same
6 situation here. So it's not the witness -- it's not the
7 original plaintiff 'cause he's now deceased, but it is his
8 words in answering questions.

9 Please, step up.

10 THE COURT CLERK: Please remain standing.

11 Raise your right hand.

12 Do you swear or affirm what you are reading will be
13 accurate?

14 THE WITNESS: I do.

15 THE COURT CLERK: Please have a seat.

16 In a loud and clear voice, please state your name.

17 THE WITNESS: Nolan Burgos.

18 THE COURT CLERK: Spell your last name.

19 THE WITNESS: B-U-R-G-O-S.

20 THE COURT CLERK: Thank you.

21 THE WITNESS: Thank you.

22 THE COURT: Please proceed when you're ready.

23 (Whereupon the previously-taken deposition
24 testimony of Jose Ballen is being read into the record by
25 Ms. Stavrakis Hansen and Nolan Burgos:)

Proceedings

40

1 Q "Good morning, Mr. Ballen.

2 Mr. Ballen, did you lose consciousness when you hit
3 your head?

4 A No.

5 Q Did you cut your head?

6 A No.

7 The worst part was my back, my lower back and my arm.

8 Q Did you get a bruise on your head?

9 A Yeah.

10 Q What part of your head do you believe came in contact
11 with the cabinet?

12 A Right in the back.

13 Q Did you land on the floor after your impact?

14 A Yes.

15 Q When you came in contact with the floor, did you fall
16 down on the left side, right side, forward or something else?

17 A My whole body towards the front.

18 Q Was it the front of your whole body that came in
19 contact with the floor?

20 A My buttocks.

21 Q Did any part of your body when you fell off the ladder
22 come in contact with the ladder?

23 A Yes, my knee.

24 Q Correct me if I'm wrong.

25 Did the ladder fall at the same time as you or did the

Proceedings

41

1 ladder fall right after you already came in contact with the
2 floor?

3 A I fell first. I don't remember exactly what happened,
4 but the ladder hit my knee.

5 Q Did the ladder hit any other part of your body, other
6 than your knee?

7 A No.

8 Q At the moment that you fell, was anyone in the kitchen?

9 A No.

10 Q Immediately after the accident, did you feel pain
11 anywhere?

12 A My whole back and my arm and my shoulder.

13 Q Whole back, right arm and right shoulder?

14 A Yes.

15 Q What did you do after you fell --

16 MS. STAVRAKIS HANSEN: Oh, sorry, withdrawn.

17 Q After you fell, how long were you on the floor before
18 Douglas came over?

19 A Like five minutes, and then he came over and helped me.

20 Q After you the left the building that day, have you ever
21 spoken to Douglas about the accident?

22 A No.

23 Q How long did you remain in the apartment before you
24 left to go downstairs and hail a taxi?

25 A 40 minutes.

Proceedings

42

1 Q What did you do in the 40 minutes after the accident"

2 --

3 MS. STAVRAKIS HANSEN: Sorry, one second:

4 Q "After the accident, while you were waiting in the
5 apartment?

6 A He gave me water, told me to stay calm, drink water.

7 Q Did you take any medicine?

8 A No, nothing.

9 Q Ibuprofen, anything like that?

10 A No.

11 Q Did you clean up the paint that fell down?

12 A I didn't. I couldn't.

13 Q Did you do anymore painting?

14 A No.

15 Q Did you pick up the ladder?

16 A No.

17 Q When you left the apartment, was the ladder still on
18 the floor?

19 A Yes. At the time that I left, yes.

20 Q When you left the building by taxi, where did you go?

21 A Cornell Hospital.

22 Q Did you go directly to Cornell Hospital?

23 A Yes, to the emergency room.

24 Q Approximately, if you can, what time did you arrive at
25 the hospital?

ns

Proceedings

43

1 A I don't know. I was very disoriented. I know I was
2 there for quite a while until my son arrived.

3 Q Okay. Do you have an approximation, a rough estimate
4 of when you arrived at Cornell Hospital?

5 A I don't know. I only know the time that the taxi took"
6 --

7 MR. BURGOS: Sorry.

8 A "I only know the time the taxi takes to when it was out
9 there.

10 Q How long did it take for the taxi?

11 A With traffic, I think 25 minutes.

12 Q Did anyone from your family go to the hospital?

13 A Yes. My son.

14 Q Which son?

15 A Jonathan.

16 Q How did Jonathan know you were at the hospital?

17 A From the hospital I called Sonia and she called him.

18 Q You called your ex-wife and told her about it and she
19 told Jonathan?

20 A Yes, exactly.

21 Q After you left the apartment that day, have you ever
22 spoken at any time to anyone from mar pan (listen), either the
23 boss or Douglas?

24 A No.

25 Q When you get to the hospital, who did you speak with?

Proceedings

44

1 A The receptionist.

2 Q Did you go to the emergency room?

3 A Yes.

4 Q When you got there, were you able to speak to a nurse
5 that speaks Spanish?

6 A Yes.

7 Q What was -- was the person you were speaking to about
8 your injuries, was that person able to converse with you in
9 Spanish?

10 A Yes.

11 Q Who from the hospital was translating from Spanish to
12 English and English to Spanish?

13 A A girl that was there.

14 Q Do you know if she was a nurse or someone else?

15 A She was there until the doctor arrived.

16 Q Did that person translate for the doctor as well?

17 A The doctor arrived.

18 Q Did somebody translate Spanish to English and English
19 to Spanish when you were conversing with the doctor?

20 A The doctor spoke Spanish.

21 Q Do you recall telling the people at the hospital that
22 you turned around and lost your balance?

23 A No, it was the opposite. The ladder moved and I lost
24 my balance.

25 Q Did you tell the people at the hospital that you fell

Proceedings

45

1 down and you did not hit your head?

2 A No.

3 Q Did you complain of bilateral shoulders, left forearm
4 and lower back pain?

5 A Yes.

6 Q Did you tell them that you fell off a five-foot ladder?

7 A That I fell off a ladder, yes.

8 Q Did you tell them that you did not hit your head?

9 A No. I told them I hit my head and that I hit my lower
10 back. I hit my right arm.

11 Q How long were you at Cornell Hospital for?

12 A For about four hours.

13 Q What treatment did you receive, if any, while you were
14 at the hospital?

15 A They told me to go see my doctor for the pain that I
16 had in my shoulder.

17 Q Did you receive any medicine at the hospital?

18 A Yes. I don't know what.

19 Q Did you get a prescription at the hospital?

20 A Yes.

21 Q Did you fill that prescription?

22 A Yes.

23 Q Where did you get the prescription filled?

24 A CVS Pharmacy.

25 Q Was it one medicine or more than one medicine?

ns

Proceedings

46

1 A More than one.

2 Q When you left, did you have any bandages, a sling, a
3 cast, anything like that?

4 A Yes. They put something to hold my arm.

5 Q Which arm?

6 A Right arm.

7 Q You had a sling on it?

8 A Like a bandage.

9 Q Around the right shoulder?

10 A Yes, right shoulder.

11 Q And when you departed from the hospital, who did you
12 leave with?

13 A With my son.

14 Q And was it light or dark out when you left the
15 hospital?

16 A It was dark.

17 Q And where did you go?

18 A Home.

19 Q Back in November 2014, I think you said you didn't live
20 with anybody. Is that right?

21 A I lived alone.

22 Q What did you do the next day?

23 A I was in bed for four days.

24 Q Did you eventually see a doctor after leaving the
25 hospital?

ns

Proceedings

47

1 A Yes. I went to see a doctor.

2 Q When was it that you left -- withdraw.

3 When did you go see a doctor?

4 A Like a week after.

5 Q What type of doctor did you see?

6 A A clinician.

7 Q Where was he located?

8 A In Brooklyn.

9 Q How did you get his name, this doctor?

10 A I went because my neighbor told me to go see him.

11 Q How many times did you see this doctor?

12 A Once.

13 Q What did he do when you saw him?

14 A Continued giving me what they gave me at the hospital.

15 Q He renewed the prescription?

16 A No.

17 Q Did he prescribe medicine?

18 A No.

19 Q Did he do an examination on your body?

20 A Yes.

21 Q Did he move any body parts?

22 A Yes. The parts that I told him were hurting.

23 Q What parts were hurting?

24 A My right arm to my right shoulder, my lower back, my

25 whole back.

ns

Proceedings

48

- 1 Q How long did you see the doctor for?
- 2 A Once, ten minutes.
- 3 Q Did he charge you for the visit?
- 4 A Yes, he charged me.
- 5 Q How did you pay him, credit card, check, cash?
- 6 A I paid 50 bucks.
- 7 Q Did you ask him for pain medicine?
- 8 A No.
- 9 Q Did you discuss medicine at all with him?
- 10 A He told me to continue taking what I was taking.
- 11 Q When was the next time that you saw another doctor
- 12 after that?
- 13 A No. Dr. Kaplan and Dr. Thomas.
- 14 Q When did you first see Dr. Kaplan?
- 15 A In December.
- 16 Q Of 2014?
- 17 A Yes.
- 18 Q How many times have you seen Dr. Kaplan and Dr. Thomas?
- 19 A Every five weeks.
- 20 Q Are you still seeing them?
- 21 A Yes.
- 22 Q Who is paying your bills?
- 23 A Workers' Compensation.
- 24 Q What sort of doctor is Dr. Kaplan?
- 25 A I don't know.

Proceedings

49

1 Q What sort of treatment has he been providing for you?

2 A My back, right shoulder.

3 Q Who performed the surgery?

4 A Dr. Kaplan.

5 Q When was the surgery performed?

6 A June 24, 2015.

7 Q You have seen Dr. Thomas?

8 A Yes. A month ago for my lower back.

9 Q When is the last time you saw Dr. Kaplan?

10 A Six weekends ago" --

11 MR. BURGOS: Or six weeks ago --

12 THE COURT: Six weekends.

13 A "Six weekends ago.

14 Q Six weeks ago?

15 A Six weeks ago.

16 Q How many times have you seen Dr. Thomas?

17 A Once.

18 Q That was one month ago?

19 A Yes.

20 Q What type of doctor is he?

21 A Last week I went to see another doctor, the back

22 specialist.

23 Q Did he tell you what was wrong with your back -- oh, I
24 apologize.

25 You saw Dr. Thomas one time, correct?

Proceedings

50

1 A Yes.

2 Q Did he provide any treatment?

3 A He's going to start.

4 Q What sort of treatment do you know he's going to
5 provide?

6 A He's going to give me an injection, a pain medicine
7 injection in my back.

8 Q Did he tell you what was wrong with your back?

9 A He told me that I needed the injections.

10 Q Did he tell you why you needed the injections?

11 A Because I told him I have so much pain and he told me
12 that it is necessary for me to get an injection to manage.

13 Q Did he take any X-rays or MRIs or diagnostic studies?

14 A Yes, Dr. Kaplan did.

15 Q What about Dr. Thomas?

16 A Before Dr. Kaplan did an MRI.

17 Q Kaplan ordered the MRI?

18 A Yes.

19 Q As you sit here today, do you know what is wrong with
20 your back?

21 A I have a lot of pain.

22 Q Can you describe the pain that you are feeling today in
23 your lower back?

24 A It is very intense.

25 Q Is it in one spot?

Proceedings

51

1 A In the lower back.

2 Q Did you ever have back pain at any time before November
3 21, 2014?

4 A No, never.

5 Q Did you ever complain to anybody before November 21,
6 2014 about lower back pain?

7 A Never.

8 Q In the last year, the doctors you have seen for your
9 lower back would be Dr. Thomas and Dr. Kaplan; is that fair?

10 A Yes.

11 Q Anybody else for your lower back pain in the last year?

12 A No.

13 Q Have you received any medication for your lower back
14 pain in the last year?

15 A The doctor.

16 Q Which doctor?

17 A Kaplan.

18 Q What has he prescribed to you in the last year?

19 A Oxycodone.

20 Q Are you still taking Oxycodone?

21 A No --

22 Q Have you had any injections" --

23 THE COURT: Sorry, 22 and 23 --

24 MR. BURGOS: Sorry, I just saw that --

25 THE COURT: There's no answer to the question?

Proceedings

52

1 MR. BURGOS: I don't see one.

2 MS. STAVRAKIS HANSEN: I don't believe so.

3 THE COURT: Thank you. Sorry.

4 MS. STAVRAKIS HANSEN: No problem.

5 Q "Have you had any injections to your -- yes, have you
6 had any injections to your lower back at all at any time since
7 the accident?

8 A No.

9 Q Other than going to New York Presbyterian, Cornell
10 Hospital, have you been to any other hospital with regard to
11 your injury?

12 A No.

13 Q And you have had one surgery, correct?

14 A In my shoulder, yes.

15 Q Can you describe what sort of surgery you had to your
16 right shoulder?

17 A The doctors know. The only thing that I know is that I
18 had my surgery in my shoulder.

19 Q Are you familiar with the term arthroscopic surgery?

20 A I don't know what that is.

21 Q Do you have a scar due to your surgery?

22 A If I have any scars?

23 Q Yes.

24 A Yes, I do.

25 Q Can you describe what the scar looked like?

Proceedings

53

1 A I have four marks.

2 Q Are they circular, rectangular, square or something
3 else?

4 A They're like a long rectangle.

5 Q How long did the surgery take?

6 A I don't know. Like half a day. I don't know.

7 Q General anesthesia?

8 A Yes.

9 Q Did the surgery work? Meaning, do you feel better now
10 that you have had the surgery?

11 A Yes.

12 Q Were there any complications during the surgery?

13 A No.

14 Q With respect to your right shoulder, have you ever been
15 told what is wrong with your right shoulder?

16 A No.

17 Q Did he tell you why you had to have the surgery to your
18 right shoulder?

19 A Because it was damaged.

20 Q Did he tell you what part of your shoulder was damaged?

21 A This part here. The right shoulder.

22 Q Had you ever at any time injured or damaged any part of
23 your right shoulder before the accident?

24 A Never, no.

25 Q Have you ever had treatment, medical treatment or

ns

Proceedings

54

1 physical therapy to your right shoulder before November 21,
2 2014?

3 A No.

4 Q Did any medical doctor ever tell you that you have a
5 chronic condition with respect to a part of your right shoulder?

6 A No.

7 Q Do you know what a rotator cuff is?

8 A No.

9 Q Did anyone tell you that you have a problem with your
10 rotator cuff before the accident?

11 A No, never.

12 Q Did you have -- have you had physical therapy for your
13 back?

14 A Yes.

15 Q How many times have you seen a physical therapist for
16 your back?

17 A During the treatment.

18 Q How long did you go?

19 A Six months.

20 Q Each time you went, was it 30 minutes, an hour, or
21 something else?

22 A 40 minutes.

23 Q You had that for what parts of your body?

24 A Lower back and knee and then after surgery on my right
25 shoulder.

Proceedings

55

1 Q You have got the right shoulder, the right knee and the
2 lower back, yeah?

3 A Yes.

4 Q The medicine that you got, that you have been
5 prescribed, is that for your lower back or something other,
6 parts of your body that you are taking the medicine for?

7 A Lower back.

8 Q Have you received actual treatment for your right knee,
9 medical treatment?

10 A Yes.

11 Q Can you describe the medical treatment you have
12 received for your right knee?

13 A I went to a therapist.

14 Q A physical therapist?

15 A Yes.

16 Q When was the last time that your right knee was
17 examined by a medical doctor, as opposed to physical therapy?

18 A Never.

19 Q Do you have pain in your right knee" --

20 MS. STAVRAKIS HANSEN: Oh, I apologize.

21 Q "Dr. Kaplan never examined your right knee?

22 A Only Dr. Kaplan.

23 Q Do you have pain in your right knee today?

24 A A little, yes.

25 Q Can you describe the pain that you have?

Proceedings

56

1 A Like a six.

2 Q Is that out of ten?

3 A Yes.

4 Q How often do you get the pain in your right knee?

5 A It depends. If I take my pills everything is related
6 to it gets better.

7 Q Is the pain at the knee, below the knee, to the right
8 or the left?

9 A A little below the knee.

10 Q How often do you feel this pain, is it constant, once a
11 day, once a week, or once a month?

12 A Every day for a while.

13 Q Does it happen if you are standing, sitting running or
14 something else?

15 A It doesn't matter.

16 Q Before November 21, 2014, have you ever injured or
17 damaged your right knee in any way?

18 A No.

19 Q Tell me, sir, today, are there certain things that you
20 can no longer do that you did before November 21st?

21 A I cannot work.

22 Q Is there anything else that your injuries are
23 preventing you from doing, other than painting?

24 A I'm not in a condition to do anything much.

25 Q What do you do on it a typical day?

Proceedings

57

1 A I lay down, I move from one room to another and then I
2 sit down.

3 Q Have you been to a gym or place to work out or to do
4 exercise, like a health club, anything like that, within the
5 last 10 years?

6 A No.

7 Q Have you gone swimming in the last ten years?

8 A No.

9 Q Have you played any baseball, basketball, football or
10 any sports within the last ten years?

11 A No.

12 Q Other than the injury that you talked about today with
13 the right shoulder, the lower back and the right knee, are there
14 any other injuries that you sustained in the accident that we
15 have not discussed that are bothering you today?

16 A No.

17 Q Have you been able to travel at all? Have you left the
18 country in the last two years since the accident?

19 A No, never.

20 Q Have you left the country within the last five years?

21 A No.

22 Q Can you cook?

23 A No.

24 Q Do you know how to cook?

25 A Yes.

ns

Proceedings

58

1 Q Did you cook before the accident?

2 A Yes. Otherwise I wouldn't eat.

3 Q How about nowadays, can you cook?

4 A No.

5 Q Why don't you cook?

6 A Because I'm with my son so he cooks for me.

7 Q Did you ever cook for your son?

8 A No, he cooks for me. Now he takes care of me.

9 Q Does he live with you now?

10 A No.

11 Q Are you saying that you can't cook because of the
12 injuries that you sustained in the accident?

13 A It's not about that. I just don't cook anymore.

14 Q You don't cook anymore because of reasons other than
15 the fall on the ladder?

16 A No. When I need to cook, when I have to cook, I cook.

17 Q So if you wanted to cook eggs and toast, you can do
18 that, correct?

19 A No. I can't eat eggs. They're bad for me.

20 Q Do you go to the movies?

21 A No, I watch TV.

22 Q Do you smoke cigarettes?

23 A No.

24 Q Is there any activities or hobbies or events or
25 charities that you are involved in?

ns

Proceedings

59

1 A Play with my grandkids.

2 Q How many grandkids do you have?

3 A One is five, the other is eight.

4 Q You have eight grandchildren?

5 A One is five years old and one is eight.

6 Q Have you reinjured your shoulder since the accident --
7 meaning, did you have a fall or an accident or some
8 event-triggered pain or damage to your right shoulder?

9 A No.

10 Q How about your right knee, have you reinjured your
11 right knee since the accident? Have you had a fall?

12 A No.

13 Q What about your lower back? Have you reinjured that,
14 had some sort of accident or event that injured it and caused it
15 more pain?

16 A No.

17 Q Is there any other information or knowledge about the
18 injuries that you sustained in your accident that you have not
19 told us today?

20 A No.

21 Q Before the accident, did you at times go to soccer
22 games before the accident?

23 A No.

24 Q Did you ever coach in soccer games before the accident?

25 A Yes, I have been, yes.

ns

Proceedings

60

1 Q What level? Was it children, men, both?

2 A I didn't train anybody. I just wanted to be a coach,
3 but I was never trained.

4 Q Before the accident, did you ever attend soccer matches
5 involving children?

6 A Yes, at the park.

7 Q Would it be your grandchildren or nephews?

8 A No, like friends, acquaintances.

9 Q This is before the accident, correct?

10 A Yes.

11 Q Since the accident, have you ever gone to the park or
12 to the stadium to watch soccer matches?

13 A The neighborhood park, yes.

14 Q Since the accident, how often do you go to the park to
15 watch these games?

16 A I can't. Not anymore.

17 Q Have you gone at all since the accident, at all to the
18 park to watch the kids play?

19 A Yes, a couple of times, yes.

20 Q Can you approximate how many times? More than ten,
21 less than ten, since the accident?

22 A Two or three times.

23 Q Why did you stop?

24 A Because I don't feel well.

25 Q In those two or three times that you went after the

Proceedings

61

1 accident, it was just to watch, correct?

2 A Yes.

3 Q You had never gone to coach the kids or help or
4 instruct them in any way before the accident?

5 A No.

6 Q And before the accident, did you ever instruct them or
7 coach them actively in soccer?

8 A No.

9 Q No further questions.

10 Thank you very much, Mr. Ballen."

11 THE COURT: You don't have any portions of the
12 transcript that you want to read; is that correct?

13 MR. KELLY: Correct, your Honor.

14 THE COURT: You can step down. Thank you.

15 MR. BURGOS: Thank you.

16 THE COURT: We have another witness coming in, but
17 he will not be available until 2:15.

18 So it's going to be a long break today.

19 But hopefully it stopped raining. And enjoy the
20 lunch hour.

21 I'll see everyone at 2:15.

22 Thank you so much.

23 THE COURT OFFICER: All rise. Jury exiting.

24 (Jury exits.)

25 THE COURT: All right. Counselors, can you get to

Proceedings

62

1 me proposed charges and the proposed verdict sheet, maybe by
2 the end of today?

3 MS. STAVRAKIS HANSEN: Yes.

4 THE COURT: Thank you.

5 MS. STAVRAKIS HANSEN: Thank you, your Honor.

6 And, Your Honor, just one last question, do you
7 need my person to be here to set up the Zoom for tomorrow
8 afternoon or does the Court handle that?

9 THE COURT CLERK: I can provide the TV --

10 MS. STAVRAKIS HANSEN: But like the connection?
11 I'll have someone here to do that.

12 THE COURT CLERK: Yes.

13 (Court is in lunch recess.)

14 THE COURT OFFICER: All rise. Jury entering.

15 THE COURT: Please sit down, everyone.

16 Good afternoon.

17 Ms. Stavrakis Hansen, do you have a witness to
18 call?

19 MS. STAVRAKIS HANSEN: Yes, your Honor.

20 Plaintiff calls Mr. Joaquin Ballen to the stand.

21 THE COURT CLERK: Please remain standing.

22 Raise your right hand.

23 Do you solemnly swear or affirm that the testimony
24 you're about to give the Court will be the truth, the whole
25 truth and nothing but the truth?

ns

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 63

1 THE WITNESS: Yes.

2 THE COURT CLERK: Please have a seat.

3 THE WITNESS: Thank you.

4 THE COURT CLERK: You're going to talk right into
5 the mic.

6 In a loud and clear voice, please state your name
7 and address for the record, spelling your last first and
8 last name.

9 THE WITNESS: My name is Joaquin Ballen.
10 J-O-A-Q-U-I-N. And my last name is Ballen.

11 THE COURT CLERK: And address?

12 THE WITNESS: My address is 331 Cornelia Street,
13 that's in Brooklyn, New York 11237.

14 THE COURT CLERK: And zip code?

15 THE WITNESS: 11237.

16 THE COURT: Please proceed.

17 DIRECT EXAMINATION BY

18 MS. STAVRAKIS HANSEN:

19 Q Good afternoon, Mr. Ballen.

20 A Good afternoon.

21 Q The address that you provided for us, how long have you
22 lived at that address?

23 A For over 20 years.

24 Q And are you currently married?

25 A Yes.

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 64

1 Q Do you have any children?

2 A Yes, two.

3 Q What are their names and their ages?

4 A I have a daughter. Her name is Phoenix, she's 16. And
5 I have a son called Griffin. He's 14.

6 Q And are you familiar with a person by the name of Jose
7 Ballen?

8 A Yeah, that was my father.

9 Q In 2014, did you live at that same address?

10 A Yes.

11 Q Prior to 2014, did you see your father often?

12 A Most likely every day, yes.

13 Q And what are some things that you would do with your
14 father or do with him generally?

15 A My father love my kids, two grandkids. He was a really
16 outgoing person. He loved to go to the park and he loved
17 soccer. That was one of his main things. He will play with his
18 grandson.

19 Q Prior to 2014, was he working?

20 A Yes.

21 Q And in 2014, how far or close in relation to your house
22 and where you lived did your father live?

23 A He used to live two doors down by the same street where
24 I live.

25 Q And prior to 2014, did you visit him at his house? Did

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 65

1 he come to you or something else?

2 A It was mutual. I will go to his place or he will come
3 to our home.

4 Q And prior to 2014, how often would you say your father
5 spent time with your children?

6 A Most likely all the time. My wife used to work as a
7 part time and me too, so we have a regular time.

8 And any time that my father would get out of work, he
9 will go to play with my kids or just babysit them if we are at
10 work.

11 Q And when you say he would play with your kids, would he
12 take them in anywhere?

13 A Yes, my father was a super outgoing and he loved the
14 park. And like I say, he loved football -- soccer. He will
15 take them all the time.

16 Q And how would your father take your kids to the park?

17 A Just around the corner. We live really close by. If
18 not, he will take them to Williamsburg. My kids were in both
19 activities. And in summer, he will take them too. By the
20 train.

21 Q And how often would you say your father would spend
22 time with your children prior to 2014?

23 A All the time.

24 Q Can you describe what your father's day to day was
25 prior to 2014?

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 66

1 A He was a hard-working man. He will work hard and then
2 just come home and enjoy and recoup and spend time with the
3 kids, my kids.

4 Q And at some point, at any point, did you become aware
5 that your father was involved in an accident?

6 A Yes. The day of the accident.

7 Q How did you find out?

8 A My mom call me and told me that my father is in the
9 hospital.

10 Q And after, did you go to the hospital?

11 A I went the day after, in the morning.

12 Q When was the next time you saw your father after --

13 A The morning after --

14 Q -- after being informed of the accident?

15 A The morning after the accident.

16 Q And when you saw your father the morning after the
17 accident, where did you see him?

18 A In the hospital. I went in the hospital to see him.

19 Q And then do you know where your father went once he was
20 released from the hospital?

21 A Oh, yeah. My mom have to take care of him for a few
22 days.

23 Q So after the hospital, do you know where your father
24 went?

25 A To my mom house.

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 67

1 Q And do you know why he went to your mom's house and not
2 to his own house?

3 A Because my brother live with my mom and I wasn't able
4 to take care of him and they say they need someone to take care
5 of him for a couple of days.

6 Q And when you say your brother, what's your brother's
7 name?

8 A Jonathan Ballen.

9 Q And at that time was he also living at your mother's
10 house?

11 A He was living at my mother house.

12 Q And after the accident, when was the next time --
13 withdraw.

14 After the accident, you said the first time you saw
15 your father was the morning after; is that correct?

16 A Yes.

17 Q And when you saw him, where did you see him?

18 A They were -- we were going to bring him back to his
19 house, to his apartment.

20 Q And did you -- were you able to observe your father,
21 did you notice anything or can you just describe for us what you
22 observed?

23 A Well, he was in really bad shape. He was all pale and
24 in a lot of pain. He has a sling on his arm. I have to bring
25 --

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 68

1 He lived on the second floor. I had to carry him to
2 his bed.

3 Q Was he able to move on his own? Was he walking out of
4 the hospital or did you have to assist him in any way?

5 A He need a lot of help. He was, he couldn't -- he has a
6 bruises in all of his back and his shoulder hurts and his hip
7 hurt.

8 Q And was he in a wheelchair when he got out of the
9 hospital or was he able to walk to the car?

10 A No, he was in a wheelchair.

11 Q And after that time, the initial time you saw your
12 father and you made these observations, when was the next time
13 you saw him?

14 A I'm sorry, when?

15 Q After the initial time that you saw him once he was
16 released from the hospital, when was the next time you saw him?

17 A On his apartment.

18 Q When?

19 A It's like a day or two day after he was with my mom.

20 Q And after this accident, how often would you see your
21 father?

22 A Any other day, most likely every time.

23 Q And did you make any observation as to how he was the
24 week leading -- the week after the accident took place?

25 A Oh, yes. He was really weak and he was rolling in

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 69

1 pain. He was telling me he has problems sleeping and staying on
2 each side of the bed.

3 Q Did you observe any facial expressions, any sounds that
4 he made?

5 A He was in pain. He was like making noises, like he was
6 in pain. Any time that he tried to move or he tried to turn on
7 the TV, he wasn't able to do much.

8 Q How long was your father in his apartment before he was
9 able to leave after the accident?

10 A I would say it was a long time. It was maybe like two
11 weeks he wasn't able to get out of the bed. I have to help him
12 to go to the bathroom.

13 Q Was there anything else that you were helping him with
14 after the accident in terms of his day to day?

15 A I cook for him or my wife will cook for him and I used
16 to help him to take showers.

17 Q Can you describe that for us?

18 A He hated it, but he used to call me, like can you come
19 help me and just get the sponge on my back or get the shampoo.
20 He couldn't move his arm. And he was struggling to take the
21 towel to dry his body and to get dressed.

22 Q When you saw him after the hospital, after he was
23 released from the hospital, did he have anything on his body, on
24 his arm, on his knee, anything, in terms of assistive devices?

25 A Well, he has a sling and then he has like wraps, like

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 70

1 wrap for his shoulder, for his knee, for his knee.

2 Q Is it fair to say there were bandages or something
3 along --

4 A Bandages.

5 Q -- those lines?

6 After the accident, did you assist him or did he
7 accompany him to any of his doctors' appointments?

8 A To his surgery.

9 Q And he had surgery?

10 A Yes.

11 Q What type of surgery, do you know?

12 A In his shoulder.

13 Q And were you the one who took him to the location to
14 have the surgery --

15 A Yes, my wife drove.

16 Q -- before?

17 A Him.

18 Q Do you remember where you took him to have the surgery?

19 A It was 11th Avenue, I don't remember. It was in the
20 west side.

21 Q Here in New York City?

22 A Yes.

23 Q And when you took him to have the surgery, did you stay
24 at the hospital or the surgery center?

25 A Yeah, I stayed with him. He was really afraid.

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 71

1 Q Do you know how long the surgery took?

2 A Around four hours, probably.

3 Q Did you see your father prior to the surgery?

4 A Yes.

5 Q And what was -- what did he appear to be like prior to
6 the surgery?

7 A He was really nervous. He doesn't speak English so he
8 was -- when the doctor told him to translate, he will be really
9 -- I don't know --

10 Q And did you see him after the surgery?

11 A Yes.

12 Q Did you speak with anyone at the hospital or surgery
13 center?

14 A More than instructions, nothing else.

15 Q Can you describe your observations when you saw your
16 father after he was out of surgery?

17 A Well, he was -- he couldn't move his whole arm and he
18 was in a wheelchair to the car when we took him back to his
19 apartment.

20 Q And when you took him back to his apartment, did anyone
21 assist him? Was anyone staying with him to help him?

22 A Most likely me.

23 Q And what are some things that you saw that your father
24 was able to do prior to the accident that he had great
25 difficulty doing after or couldn't do at all?

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 72

1 A Well, going to the park with my kids. He live for
2 that. He just love the kids. He wasn't able to play. He was
3 actually really upset that he wasn't able to do that anymore.

4 Cook. He loved to cook. He wasn't able to really
5 cook, like enjoy, like a BBQ outside.

6 Going out to places. He used to take my kids on
7 vacation. Take them to summer classes, summer football, summer
8 dance classes.

9 Q Was he able to work after the accident?

10 A No.

11 Q Prior to the accident, did your father ever not work?

12 A I don't think so.

13 Q After the accident, other than not being able to work
14 and the things that you already mentioned, were there other
15 things that you had to help your father or anyone else had to
16 help him do after the accident?

17 A Um -- I'm sorry, can you --

18 Q Anyone other than yourself, did anyone else help your
19 father?

20 A The whole family, my mom, my wife, my brother.

21 Q And who was your mother?

22 A Sonia, Sonia Dalton.

23 Q Did your father help you or your family in any way
24 financially prior to the accident?

25 A Oh, yes, yes.

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DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 73

1 Q How so?

2 A He loved to -- in every single birthday for everybody,
3 he will go out and say, or if I ask the help, taking the kids to
4 a special class, he will be like I will help you.

5 If I needed -- I'm a photographer, so is my wife. If
6 we need any piece of equipment, my father will say just buy it
7 and he lend me money and that's it.

8 Q Prior to the accident, did he help you and your wife
9 with any rent?

10 A Sometimes, yeah.

11 Q Did he ever take your children on vacation prior to the
12 accident?

13 A Yeah. He will live for them.

14 Q Where did he take them?

15 A They took them once to Walt Disney.

16 Q When you say they, can you tell us who you were
17 referring to?

18 A It was my father and my mom, and they get the money
19 together and that was like the Christmas gift for my daughter
20 and my son. It was a big surprise.

21 Q Did your father ever have to use any assistive device
22 in order to walk after the accident?

23 A Yeah. He start wearing a cane.

24 Q Do you know when he started using a cane?

25 A After physical therapy, he realized it was easy for him

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 74

1 to walk with a cane.

2 Q And I know you just mentioned physical therapy, did you
3 ever accompany your father to physical therapy?

4 A Yes.

5 Q How often?

6 A He has to go I think two times per week and I was most
7 of the time with him.

8 Q And when you went -- and when you accompanied him to
9 physical therapy, did you observe him perform the exercises?

10 A Yes. He was -- it used to be like different exercise,
11 but he just was in pain so he was rolling --

12 Q So you said he used to be in pain, can you just
13 describe for us what you observed that indicated to you that he
14 was in pain?

15 A He -- I can tell he was shaky, let's say, and this is
16 an exercise where you have to -- and any time his accident will
17 go up, he will be like ah, ah, stop, stuff like that.

18 Q Do you know what parts of his body he was doing
19 physical therapy for?

20 A For his shoulder.

21 Q Do you know why he was using a cane?

22 A He has pain in his knee too after the accident and his
23 hip.

24 Q When you would observe -- did you ever observe your
25 father walk with a cane after the accident?

DIRECT -- JOAQUIN BALLEEN -- PLAINTIFF/STAVRAKIS HANSEN 75

1 A Yes.

2 Q And when he would use the cane, did you make any
3 observations in terms of any facial expressions, any sounds that
4 he made that would indicate to you that he was in pain?

5 A Yeah, he will walk really slow. He was always really
6 fast walking and he was slow. I could tell on his face that he
7 was really not happy about it, the whole situation because he
8 loved to be running and doing stuff, hike and stuff, but he was
9 really upset that he wasn't able to carry the kids on the
10 shoulder, let's say.

11 MS. STAVRAKIS HANSEN: Okay. Thank you.

12 I don't think I have anything else.

13 Thank you very much, Mr. Ballen.

14 THE WITNESS: Thank you.

15 THE COURT: Cross-examination.

16 MR. KELLY: Thank you, your Honor.

17 We have no questions for Mr. Ballen. Thank you.

18 THE COURT: Thank you so much. You can step down.

19 (Witness exits.)

20 THE COURT: Members of the jury, there are no
21 further witnesses this afternoon.

22 Because of the schedules of the doctors, there's
23 going to be only two days where you're going to hear
24 witnesses.

25 Tomorrow there's only a witness that's available in

Proceedings

76

1 the afternoon at 2:15. It's a doctor.

2 And then on Friday. Those are the only two days
3 this week.

4 That means that Tuesday, Wednesday and Thursday,
5 you'll have free time.

6 And on Friday, there will be a witness in the
7 morning and in the afternoon.

8 So, tomorrow, please show up at 2:15 and then on
9 Friday, at 9:30 a.m.

10 And I can't promise you this, but with some luck,
11 you may be able to start your deliberations on Friday.

12 If not, it will be the following Monday and then
13 I'm very confident that the trial will be over at that
14 point.

15 I want to thank you so much for your attention.

16 I also want to again apologize to you.

17 Sometimes things are just delayed and I do the best
18 I can and I'm up here or I'm working until all the parts are
19 together and we can move forward, but I want to thank you
20 all for being so prompt.

21 Thank you.

22 Enjoy the next -- well, I'll see you tomorrow at
23 2:15 p.m. and I was jumping the gun and saying enjoy your
24 time. But you'll enjoy Wednesday, Thursday without having
25 to come to court and then Friday.

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Proceedings

77

1 Thank you all, again.

2 Enjoy the rest of the afternoon.

3 THE COURT OFFICER: All rise. Jury is exiting.

4 (Jury exits.)

5 THE COURT: Off the record.

6 (Off-the-record discussion held.)

7 MS. STAVRAKIS HANSEN: Your Honor, before we leave
8 the courtroom, in terms of medical records, so they've been
9 subpoenaed. Some of them are certified and I was going to
10 ask counsel just to agree on what could be admitted into
11 evidence or I don't know how your Honor wants to do it. We
12 can do it until our witness comes tomorrow.

13 THE COURT: Well, we may as well tackle that now.

14 Have you seen the records?

15 MR. KELLY: Have not, your Honor. Not in the
16 formal certified sense. We have records we've seen through
17 discovery. I'm not sure.

18 THE COURT: So my suggestion is the trial doesn't
19 start tomorrow until 2:15. Both of you should come to the
20 courthouse and I could make a decision.

21 If you can't decide, I'm here.

22 MS. STAVRAKIS HANSEN: So we'll come earlier.

23 THE COURT: Yes.

24 MS. STAVRAKIS HANSEN: Do you want me to pick up
25 the subpoenaed records?

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