

1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF BRONX: CIVIL TERM: PART IA-5  
3

4 NEIL D. CARROLL,  
5

6 Plaintiff,  
7

8 -against-  
9

10 Index No.  
11 23540/2019e

12 MEMORIAL SLOAN-KETTERING CANCER CENTER  
13 (DAVID H. KOCH CENTER) and TURNER CONSTRUCTION  
14 COMPANY,

15 Defendants.  
16

17 Testimony:  
18 Sarah Ford  
19 Neil D. Carroll

20 851 Grand Concourse  
21 Bronx, New York 10451  
22 June 6, 2025

23 B E F O R E:

24 HON. ALISON Y. TUITT,  
25 Justice of the Supreme Court

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

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37 BY: ZACHARY J. LYON, ESQ.

38 Valerie E. Monaco  
39 Senior Court Reporter  
40

(Plaintiff's Exhibit No. 18A, life care plan, 30 year growth rate, was marked for identification.)

(Plaintiff's Exhibit No. 18B, life care plan, 30 year growth rate physician services, was marked for identification.)

(Plaintiff's Exhibit No. 18C, life care plan, 30 year growth rate, routine diagnostics, was marked for identification.)

(Plaintiff's Exhibit No. 18D, care plan, 30 year growth rate, medications, was marked for identification.)

(Plaintiff's Exhibit No. 18E, life care plan, 30 year growth rate, rehabilitation services, was marked for identification.)

(Plaintiff's Exhibit No. 18F, life care plan, 30 year growth rate, acute care services, was marked for identification.)

(Plaintiff's Exhibit No. 18G, life care plan, 30 year growth rate, the total, was marked for identification.)

(Plaintiff's Exhibit No. 19A, life care plan, 60 year growth rate, was marked for identification.)

(Plaintiff's Exhibit No. 19B, life care plan, 60 gear growth rate, physician services, was marked for identification.)

## Proceedings

1 (Plaintiff's Exhibit No. 19C, life care plan, 60  
2 year growth rate, routine diagnostics, was marked for  
3 identification.)

4 (Plaintiff's Exhibit No. 19D, life care plan, 60  
5 year growth rate, medications, was marked for  
6 identification.)

7 (Plaintiff's Exhibit No. 19E, life care plan, 60  
8 year growth rate, rehabilitation services, was marked for  
9 identification.)

10 (Plaintiff's Exhibit No. 19F, life care plan, 60  
11 year growth rate, acute care services, was marked for  
12 identification.)

13 (Plaintiff's Exhibit No. 19G, life care plan, 60  
14 year growth rate, total, was marked for identification.)

15 COURT OFFICER: Come to order.

16 THE COURT: Good morning everyone.

17 For the record, juror number four has been  
18 excused for religious reasons and we are going to replace  
19 her with alternate number one.

20 COURT OFFICER: All rise; jury entering.

21 (Jury enters courtroom; the following  
22 occurred:)

23 THE COURT: Please be seated.

24 Perfect. Wonderful.

25 Good morning, members of the jury.

## Proceedings

1                   THE JURORS: Good morning.

2                   THE COURT: Wow, this is a great day.

3                   Let us continue on with our case. We are still  
4 on Plaintiff's case.

5                   Mr. Weir.

6                   MR. WEIR: Yes, Your Honor.

7                   THE COURT: Do you have a witness?

8                   MR. WEIR: We do, Your Honor.

9                   THE COURT: Okay.

10                  MR. WEIR: Her name is Sarah Ford. She's an  
11 economist.

12                  THE COURT: Please come forward. Please walk  
13 this way and around. Be careful of the wires.

14                  COURT OFFICER: Remain standing for me. Raise  
15 your right hand.

16                  S A R A H   A   F O R D, a witness called on behalf of  
17 the Plaintiff, having first been duly sworn/affirm, took the  
18 stand and testified as follows:

19                  COURT OFFICER: Please state your name and  
20 business address.

21                  THE WITNESS: It's Sarah A. Ford, Vocational  
22 Economics Incorporated, 401 West Main Street, Louisville,  
23 Kentucky 40202.

24                  THE COURT: And the spelling of your last name.

25                  THE WITNESS: F-O-R-D.

1 S. Ford - Plaintiff - Direct (weir)

2 THE COURT: Thank you so much.

3 Ms. Ford, please be seated.

4 I was going to say can you please speak slowly --  
5 the court reporter has already told you that -- and loudly  
6 into the mic so we can get a good record.

7 THE WITNESS: Yes.

8 THE COURT: Thank you so much, Ms. Ford.

9 THE WITNESS: Thank you.

10 THE COURT: You may inquire, Counsel.

11 MR. WEIR: Thank you. Good morning.

12 Good morning, ladies and gentlemen.

13 DIRECT EXAMINATION

14 BY MR. WEIR:

15 Q. Good morning, Ms. Ford.

16 A. You how are you?

17 Q. I'm doing well. How are you?

18 Q. I'm well.

19 why don't we get started here.

20 Q. what's your occupation?

21 A. I'm a vocational economic analyst.

22 Q. what about your background permits you to call  
yourself this name?

23 A. I have an undergraduate degree in economics from the  
24 University of Cininatti and a master's in rehabilitation  
25 counseling from the University of the Kentucky.

S. Ford - Plaintiff - Direct (weir)

1 Q. And have you published in your field?

2 A. I have. Articles about working and earning money, how  
3 disability impacts that, and coming to conclusions about loss of  
4 lifetime earnings.

5 Q. All right. And what is forensic economics?

6 A. The study of, in this case, wage loss into the future  
7 over a lifetime or future medical needs, how they're impacted by  
8 economics, growth in wages, growth in medical needs to replace  
9 what has been lost or what has been damaged.

10 Q. Are you called upon or retained by offices, such as  
11 ours, to represent a person who's hurt?

12 A. Yes, I typically say that I'm helping the jury.  
13 Ultimately, the jury makes the decision. So I'm here to just  
14 offer expertise and guidance.

15 Q. Have you been hired by companies to represent the  
16 companies in these type of matters with economic analysis?

17 A. Yes. So either working for when the plaintiff  
18 attorney hires me or when the company's attorney hires me, the  
19 same calculation, it's the same analysis.

20 Q. The analysis doesn't change as to who hires you. It's  
21 a strict analysis; correct?

22 A. That's correct.

23 Q. In connection with New York City, are you familiar  
24 with New York City construction labor markets and labor  
25 economics?

S. Ford - Plaintiff - Direct (weir)

1           A. I have. I've been with my firm for 20 years. The  
2 first part of that timeframe, I was actually studying the labor  
3 unions in New York assisting other people that were providing  
4 the testimony. I just get to do that on my own now.

5           Q. And our firm represents injured construction workers.

6                   Has your company been hired in the past to apply your  
7 expertise to their lost careers?

8           A. Yes.

9           Q. What kind of documents or records do you need to make  
10 your analysis?

11           A. You need to understand the labor union. So the  
12 looking at the Collective Bargaining Agreements, looking at the  
13 wage scales, at the benefits, how the pension works, ultimately  
14 when someone collects that and they retire, and then you need to  
15 have information about the worker. So their work history, the  
16 hours that they have worked, and then what has been happening  
17 with them to understand how long they might work.

18           Q. All right. Would it be fair to say this isn't your  
19 first time doing an analysis on a Local 580 Ironworker; correct?

20           A. That is correct.

21           Q. And it wouldn't be your first time to do a Local 40  
22 Ironworker; correct?

23           A. That's correct.

24           Q. In fact, you do bridge painters; correct?

25           A. Yes.

S. Ford - Plaintiff - Direct (weir)

1 MR. LYON: Objection. Leading.

2 THE COURT: It's sustained.

3 Q. You do other unions as well; correct?

4 A. Yes.

5 MR. LYON: Objection. Leading.

6 THE COURT: Sustained.

7 Q. Now, under New York law, there's a division between  
8 past and future losses; correct?

9 MR. LYON: Objection. Leading.

10 Q. Is there a difference under New York law with past and  
11 future losses?

12 A. Yes.

13 Q. Can you explain what that difference is?

14 A. The past would be anything before today and the future  
15 would be looking forward, looking in the future what that loss  
16 might look like.

17 Q. Is there a different methodology that's used for past  
18 or future?

19 A. There is. The future has growth to it and so we're  
20 stating things in terms of future value. And the past is kind  
21 of what it is. It's what the wages have been, what the benefits  
22 had been in looking at that time period because we actually know  
23 what has happened.

24 Q. Now, is there a certain period of years that you use  
25 in making your analysis?

S. Ford - Plaintiff - Direct (weir)

1           A. So in looking at the future in the future value, I  
2 typically use a historic rate. Looking at what the rates have  
3 been with unions over the last 20 years to capture times when  
4 the economy has been good and times when it has been down to  
5 kind of level off those big spikes or those big dips.

6           In terms of work history of a person, that really  
7 depends on the individual and how long they have been with the  
8 union or how many hours they typically have.

9           Q. You said a number, 20 years. Did you just pull that  
10 out of a hat or is that some kind of statistical data you use to  
11 get to that number that you're going to look forward for 20  
12 years?

13           A. So I looked at the contracts and the actual wage and  
14 benefit scales over the last 20 years. As I mentioned, so  
15 economists like to smooth things out. we like something that's  
16 steady. we don't like big spikes. we don't like to do  
17 short-term rates because it can capture a lot of differences in  
18 how the economy has done. Twenty years gives us a good time  
19 period where we see some highs and some lows. And so it gives  
20 us a good idea of projecting into the future.

21           Q. Now, are there different growth rates that can be  
22 found in union records?

23           A. Absolutely. Different growth for different items  
24 depending on the union. when you're negotiating a contract,  
25 sometimes the workers really value their wages. For instance,

S. Ford - Plaintiff - Direct (weir)

1 in the economic times that we're in where everything is costing  
2 more, then the unions might push for more wages because that's  
3 the immediate ability to buy something.

4 A couple years ago or even before COVID, it might have  
5 been more focused on healthcare or more focused on the  
6 retirement benefits because those things into the future would  
7 be better. So you do have different growth rates within  
8 different aspects of the contract.

9 Q. Does life expectancy play a role in your analysis?

10 A. Life expectancy does play a role when you're talking  
11 about a pension, you're talking about something that is being  
12 paid for the rest of someone's life. So you have to understand  
13 what an average life expectancy might look like.

14 Q. Over the course of your career, have you seen workers  
15 with average earnings similar to Neil's?

16 A. Absolutely. I've seen workers with higher averages  
17 than Neil and workers with lower averages. He's on the higher  
18 end of the scale. He's above average for his union and for his  
19 work history.

20 Q. When you say "Neil was above average", can you explain  
21 that a little bit more in detail what you mean by that?

22 A. Yes. So part of my analysis, which we will talk  
23 about, looks at the report analyzing the pension. It comes from  
24 a company called the Segal Consulting Group. And it gives us a  
25 lot of information. One of the things it tells us is based on

1 S. Ford - Plaintiff - Direct (weir)

2 their statistical analysis, the average hours worked in a union  
3 in the last five years, in the last ten years.

4 The most recent publication that I have shows that  
5 average right around 1800 hours per year. Mr. Carroll's average  
6 is higher than that, virtually his entire work history for the  
7 last ten years.

8 Q. What does that tell about somebody when they have  
9 those kind of hours?

10 A. It tells me that he's an above-average worker, that he  
11 works the hours that he could, he always wanted to work, that he  
12 had intents to continue to work. He wasn't kind of slowing down  
13 or backing off and he still had steady hours and still was in  
14 demand in his labor union.

15 Q. I'd like you to assume at the age of 55 when  
16 Mr. Carroll was injured, he had a 12 or 13-year-old daughter.

17 what does that factor into an individual's ability to  
18 work in the future?

19 MR. LYON: Objection.

20 THE COURT: What's your objection?

21 MR. LYON: Outside the scope of the disclosure of  
22 the expert.

23 THE COURT: I have no -- I don't have the report.

24 MR. LYON: Do you have an extra report?

25 MR. WEIR: It doesn't say it in the report, Your  
Honor.

S. Ford - Plaintiff - Direct (Weir)

1                   Can we approach?

2                   (Discussion off the record.)

3                   THE COURT: Objection is overruled.

4                   Q. All right. I'd like you to assume that on the day of  
5 Neil's accident he was 55. He had a daughter that was 12 to  
6 13-years old.

7                   What does that tell you about an individual in the  
8 work force? If you were given that information as an economist,  
9 why it is relevant?

10                  A. When you're talking about working, how long someone  
11 might work, you have to look at, you know, typical motivating  
12 factors for them. Do they have a young child that might still  
13 need to attend college? Do they have no retirement savings and  
14 so they have to work as long as possible. For instance, they  
15 might be self-employed or are they getting into a career later  
16 in life. All of these things can be accounted for when you're  
17 talking about how long someone might typically work. And in  
18 this case having a 12-year-old at the age of 55 certainly lends  
19 itself to working and earning money for as long as possible to  
20 help with that situation.

21                  Q. And it would be fair to say that when you looked at  
22 the 580 documents, you could get an assessment of what the  
23 average retirement age was for those workers; correct?

24                  A. Correct. Again, the Segal report tells us that, too.  
25 The average retirement age in 580 right now is right around 61

S. Ford - Plaintiff - Direct (weir)

1 closer to 62. So we know that would have only been six years,  
2 having a 12 or 13-year-old going into 18, 19 at that time,  
3 there's still some college that you would hope to be able to pay  
4 for to assist with. And we also know that Mr. Carroll was an  
5 above-average worker. So when we're looking at the average  
6 statistic being 61, we can say that he likely would have been  
7 above that average or better than that average.

8 Q. And maybe we should just back up a moment. We use  
9 that term a lot. We use the term average.

10 Can you explain how do you determine an average?

11 A. Yes. So this goes back to 5th or 6th grade math when  
12 we're talking about an average. If you have just a group of  
13 numbers and you're taking the average of that group. Typically,  
14 if you have a lot of numbers that are really big and you have  
15 some that are really small, then the average is going to be a  
16 little bit higher than what that midpoint is. And so if you  
17 have a pool one way or the other, you have really low numbers,  
18 then the midpoint is going to be slightly lower, the average is  
19 going to be lower. So when you're talking about an average, it  
20 takes all numbers. And so when you're saying above average,  
21 that you're saying there's more on the top end, there's higher  
22 numbers that are pulling that up.

23 Q. And it would be fair to say, based on your analysis,  
24 that Neil was in the above average category; correct?

25 MR. LYON: Objection. Leading.

S. Ford - Plaintiff - Direct (weir)

1 Q. Was Neil in the above average category?

2 A. Yes, he was above average in terms of how long he had  
3 been with the union and above average in how many hours he  
4 worked in the union.

5 Q. How far above the average was he?

6 A. At the time of his injury, he had roughly 32, 31  
7 pension credits, meaning that he had worked a long time in that  
8 union and was intending to continue, he had a young daughter.  
9 Typically, 30 years is a good amount for pensions and he was  
10 already past that.

11 Q. And you created some exhibits; correct?

12 A. I did.

13 Q. And those are based upon his union records; correct?

14 MR. LYON: Objection. Leading.

15 THE COURT: It's sustained.

16 Q. What are those exhibits based on?

17 A. The exhibits are based on my review of his union  
18 records. My review of the fringe -- excuse me -- wage and  
19 benefit scales, and my review of the Collective Bargaining  
20 Agreement associated with the union.

21 Q. And are they a fair and accurate reflection of your  
22 economic analysis?

23 A. Yes.

24 Q. Would they assist the jury to see those exhibits?

25 A. Yes.

1 S. Ford - Plaintiff - Direct (weir)

2 1 MR. WEIR: Your Honor, we'd like to enter those  
3 into evidence.

4 3 THE COURT: Any objection?

5 4 MR. LYON: Yes. Because she had not talked about  
6 them yet. So they don't belong in evidence quite yet.

7 6 MR. WEIR: Well, I just laid the foundation, Your  
8 Honor.

9 8 THE COURT: Okay. Let us lay a foundation for  
10 the exhibits.

11 10 MR. WEIR: Your Honor, may the expert stand down  
12 from the stand and approach the jury?

13 12 THE COURT: Oh, absolutely.

14 13 Can you reposition yourself, Counsel. They're  
15 just for identification for demonstrative purposes at this  
16 time. These are for the jury.

17 16 Q. Okay. So we are looking at Plaintiff's Exhibit 10 for  
18 ID.

19 18 what is this document and how can you explain it to  
20 the jury?

21 20 A. This document is my analysis in this case. This is  
22 the past loss. So this looks at the date that he last worked  
23 and goes until January 1<sup>st</sup> of 2025. So that time period what he  
24 would have earned in wages and what the union would have paid in  
25 for his vacation and his annuity, and then what the union would  
have paid in for his legally mandated benefits, like Social

S. Ford - Plaintiff - Direct (Weir)

1 Security and unemployment compensation.

2 Q. And all your answers for the next line of questions, I  
3 would like them to be within a reasonable degree of economic  
4 certainty, even if I don't say it, only answer all your  
5 questions within a reasonable degree of economic certainty.  
6 Okay?

7 A. Yes.

8 Q. The first category you have is wages.

9 Where did you get that information from and why did  
10 you come up with the number?

11 A. The wages come from the Wage and Benefit Scales with  
12 the union for the specific time periods that we're looking. So  
13 we know that he stopped working in 2018. So we're using wage  
14 scales, what the workers were actually paid 2018, 2019, 2020 and  
15 forward to 2025, multiplying those hourly rates by the average  
16 that he worked over the last ten years. 2,007 hours per year  
17 was his average. Ten years is a long time of work history and  
18 it went back ten years, so I could capture two years that were  
19 around 1,500. So looking at this average means that he had  
20 years that were above that and years that were below that but  
21 this was a good average for him.

22 Q. Okay. And you had a category called "vacation".  
23 Could you explain that to the jury?

24 A. Yes. I don't know -- so, first, the wages -- the lost  
25 wages over that time \$445,320 that's what I would have expected

S. Ford - Plaintiff - Direct (weir)

1 him to earn in wages over that time. The vacation is what the  
2 union puts into his vacation fund. Union workers when they go  
3 on vacation, they can pull from this fund to cover themselves  
4 for earnings and to receive that as a benefit. This is also a  
5 multiplied by what that contribution is for each of those years  
6 times those ten-year average of 2,000 hours per year.

7 Q. And then you combined those two together but they're  
8 separate then the benefits. So can you explain why you combined  
9 them together and why they're in a separate category than  
10 benefits?

11 A. Yes. So combined together this is what we all work  
12 for, this is kind of our package of earnings that we have. It's  
13 based on individual payments into the system. And then the  
14 benefits are things that might be not directly paid to us when  
15 we're working. These are things like our legally mandated  
16 benefits or our pensions down the road or retirements. So  
17 that's why they're classified differently in terms of the  
18 benefit.

19 Q. All right. And then we go to the "benefits" category.  
20 where did you get the information for the benefits?

21 A. The information from the benefits also comes from both  
22 his work history the wage and benefit scales and also from the  
23 US government. All employers pay into Social Security, they pay  
24 into unemployment compensation at the federal level and so  
25 that's what this is, it's a percentage. It's right around

S. Ford - Plaintiff - Direct (weir)

1 seven-and-a-half percent right now.

2 Q. When you say what that is, you're saying legally  
3 required?

4 A. Legally required. This is what is mandated by the  
5 federal government.

6 Q. And what was that number?

7 A. \$45,980, again, based on the hours that he worked, a  
8 percentage of that going into the retirement funds.

9 Q. And then you have a line for an annuity contribution.  
10 Can you explain to the jury about 580's annuity and what's meant  
11 by the term contribution?

12 A. Annuity -- an annuity, in this case for 580, is  
13 basically like a 401(k). It's another retirement system that  
14 they are able to collect from when they retire and it is based  
15 on the employer's contribution on an hourly rate into that fund.  
16 It's not guaranteed like a pension is. So it depends on growth  
17 in that fund and what they would ultimately get, but it is based  
18 on the amount of hours that they work and what's paid in.

19 Q. Okay. And what number did you come up with for the  
20 annuity contribution based on those recording?

21 A. So the loss to his annuity contribution would have  
22 been \$148,265.

23 Q. Okay. You have another category called "insurance"  
24 and I see that you have a dash there.

25 Can you explain why you've identified that category

S. Ford - Plaintiff - Direct (weir)

1 and why it doesn't have a number associated with it?

2 A. I've identified the category because it is part of  
3 what he earns when he's working health insurance. But it  
4 doesn't have a number associated with it because he doesn't get  
5 the health care unless he is working. It's not a benefit that's  
6 paid to him in his paycheck. It's a benefit that he uses to go  
7 to the doctor. And so there's no value to not having it at this  
8 point.

9 Q. When you say there's no value to having it at this  
10 point, can you explain that a little bit clearer?

11 A. Yes, I probably wasn't clear.

12 There's no value to the past loss of it. So from the  
13 time period that he's injured until today, there's no way for us  
14 to value what that looks like for him because he didn't have it.

15 Q. Thank you.

16 And now there's another category called "pension" and  
17 you have a number associated with it. What did you learn about  
18 the 580 pension?

19 A. The 580 pension is what's known as a defined benefit.  
20 So you receive credits for each hour that you work, 1000 hours  
21 gets you one full credit for that year. And then at the end  
22 when you retire, you get a payment based on what the pension  
23 credit is and the number of credits that you've earned. And  
24 that is defined and it is guaranteed and it comes to you every  
25 single month and that is something that you're guaranteed to get

S. Ford - Plaintiff - Direct (Weir)

1 if you have five years of vesting credits.

2 Q. When you say "guaranteed", does that have like a legal  
3 ramification to it? It's automatically once you achieve the  
4 1000 hours, you're going to get this after five years of  
5 service?

6 A. Yes. So if you have five years of vesting, this goes  
7 for pretty much all pensions, if you have five years into that  
8 pension, you are guaranteed to get some sort of payment from  
9 that pension. You are vested. So it means you're safe and  
10 you're secure in that money. In this case Mr. Carroll has more  
11 than that. So we know that he will have -- he would have  
12 received a pension anyway and he will still currently receive a  
13 pension.

14 Q. And what was that number that you calculated?

15 A. So the value of payments into his pension in this past  
16 losses is \$81,200.

17 Q. Okay. And then you have a category and you say "total  
18 preinjury, less post injury pension", and you lost me there. So  
19 maybe you can explain what you mean by that term and how you can  
20 came up with those numbers?

21 A. Right. so the total preinjury is just our adding up  
22 all of these numbers from the time that he stopped working until  
23 January 1, 2020, what his wages and benefits would have been if  
24 he would have continued to work at this rate every single year?

25 Q. And what was that number?

S. Ford - Plaintiff - Direct (weir)

1 A. It's \$850,310.

2 Q. And now, what do you mean by "less post injury  
3 pension"?

4 A. This value is what he's already received in pension  
5 payments. We know that he's going to receive a pension and  
6 continue to receive that pension. So we have to take that off.  
7 We don't want to give him credit for pension payments that he  
8 has already received.

9 Q. And what total did you get for the past economic loss?

10 A. \$837,355.

11 MR. WEIR: Your Honor, I would like to request  
12 again to have this entered into evidence.

13 THE COURT: Any objection?

14 MR. LYON: I do. My objection is that it's based  
15 upon speculation and a number of assumptions.

16 THE COURT: It's overruled.

17 MR. LYON: Thank you, Your Honor.

18 THE COURT: Plaintiff's number 10 in evidence.

19 MR. WEIR: Thank you, Your Honor.

20 THE COURT: We can mark them later.

21 MR. WEIR: This is Plaintiff's Exhibit 11, for  
22 identification.

23 Q. Now, we are looking at something different; correct?

24 A. Correct.

25 Q. You're using future economic loss now instead of a

S. Ford - Plaintiff - Direct (weir)

1 past; correct?

2 A. Correct. So we're looking into the future from  
3 January 1, 2025 through his life expectancy.

4 Q. And you have something -- a word here "growth rate  
5 equals 20 year average". We talked about that earlier; correct?

6 A. We did talk about that earlier. Basically, it means  
7 that things always grow, wages grow, medical cost grow. And so  
8 we have to capture what that growth would look like. What we  
9 would reasonably assume someone to make in the year 2030 versus  
10 in the year 2026.

11 Q. Now, you have some notes here to explain why there's  
12 some missing categories. So do it in the order you want, the  
13 note first or the missing category first, whatever would be  
14 easier for you to explain to the jury.

15 A. Sure. The first thing that I need to explain is that  
16 I did two analyzes in this case. One that looked at the  
17 statistical work life for people in the union 580, for workers  
18 in Local 580. And we talked about that, that's to the age of  
19 61. This is what that looks like because Mr. Carroll is beyond  
20 that age already. So any past loss is in the past. The only  
21 future loss is the difference in what his pension value would  
22 be. What he would have gotten, had he continued -- he had  
23 stopped working at the age of 61 versus what he will get now.

24 Q. Okay. And that explains why the wages and vacation  
25 are little dots; correct?

S. Ford - Plaintiff - Direct (weir)

1           A. Correct. In the future, in this analysis, I don't  
2 have expected him to continue to work. He's also past the age  
3 of 61.

4           Q. But you do have a pension loss. So why do you have a  
5 pension loss here but you don't have wages and vacation loss?

6           A. Because we're looking into the future. The future --  
7 the pension continues on. He's going to stop working but he  
8 still has that pension sitting there, and we still have to  
9 account for the payments that he would have gotten in his  
10 pension had he continued working all the way to 61 and then  
11 stopped working versus what he will get now.

12           Q. And what was that pension loss?

13           A. The pension loss is \$403,119.

14           Q. But you have some numbers here. \$1,000,157. Where  
15 did that number come from?

16           A. That pension comes, again, assuming that he worked  
17 until 61, just like the statistics, and then looking at what  
18 that value of that pension would be into the future.  
19 Subtracting from that the value of the pension that he receives  
20 is expecting to receive for the rest of his life now, in  
21 addition to those payments that we saw all the \$12,000 that he's  
22 already received.

23           Q. So if he worked to 61, his future economic loss would  
24 be what?

25           A. His future economic loss, if he worked to 61, is

S. Ford - Plaintiff - Direct (weir)

\$403,119.

Q. And you based all this information as you did on the prior chart; correct?

A. Yes, it all comes from the union, what they've actually paid out with the assumption of growth rate into the future, again, based on what the union has done in the past.

MR. WEIR: Your Honor, respectfully, request this to be entered into evidence.

THE COURT: And that's Plaintiff's 10?

MR. WEIR: Plaintiff's 11.

MR. LYON: Same objection. But, Your Honor, if I could just have an objection to all of them, I won't interrupt.

THE COURT: Okay. So as long as she explains the foundation --

MR. WEIR: Yeah.

THE COURT: -- we'll do it as we go.

MR. WEIR: You got it. Thank you, Your Honor.

THE COURT: Plaintiff's 11 in evidence.

MR. WEIR: Okay.

Q. And now we're looking at Plaintiff's Exhibit 12. And this is a past economic loss.

what's the difference between this past economic loss and the other past economic loss that you did?

A. This economic loss assumes that he's going to work

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1 longer than the average. This economic loss assumes that he  
2 would have worked all the way up until January 1, 2025 for the  
3 past loss. And then in the future loss we can see a difference  
4 as well. This loss basically assumes that he would have still  
5 been working.

6 Q. And one of the things that you took into consideration  
7 was the motivating factors; correct?

8 A. Absolutely. The motivating factors and his history of  
9 being an above-average worker.

10 Q. Okay. And within a reasonable degree of economic  
11 certainty, you do analysis similar to this for a worker with the  
12 type of history that he had; correct?

13 A. Absolutely. Do analyses like this all the time.

14 Q. And the wages category, what have you identified for  
15 the future, past economic loss of wages?

16 A. It's \$571,604.

17 Q. And what was the vacation loss?

18 A. \$169,204.

19 Q. And what was the vacation wages combination?

20 A. \$740,808.

21 Q. And now, on the benefit side, you have your legally  
22 required, and what number did you place there?

23 A. It's \$59,265.

24 Q. And the annuity contribution?

25 A. \$193,184.

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1 Q. Now, you're going to lose me again here because we  
2 have an insurance and we have a pension but we have dots again.

3 Can you explain why there's dots in this category?

4 A. Yes. So he's still working at this point. So he  
5 hasn't collected any of this information yet. There's no past  
6 lost to his annuity because at this point he's still continuing,  
7 employers are still continuing to pay into that. And there's no  
8 past loss to his pension because, again, he is still working to  
9 pay into that pension to increase the value of his pension down  
10 the road.

11 Q. And what is the total preinjury less post injury  
12 pension loss? Or is there another way you want to say that?  
13 Because I'm just looking at your categories here.

14 A. So, yes, so we didn't do the preinjury pension. But  
15 the total past economic loss so wages, vacation, legally  
16 mandated, and the annuity \$980,302 less the pension that he  
17 would have received.

18 Q. And the pension was \$993,257?

19 A. That's the total for the preinjuries.

20 Q. Right.

21 A. This total.

22 Q. And then you minus out -- what do you minus the  
23 pension loss?

24 A. This the pension payments that he's already received.  
25 Again, we don't want to give him credit for pension that he has

S. Ford - Plaintiff - Direct (weir)

1 already received. So we're taking that off.

2 Q. And then you get your total of \$980,302; correct?

3 A. Correct.

4 Q. And you based this all on the union records; correct?

5 A. It's the same union records. Again, we're just  
6 assuming consistent with his working history that he would have  
7 been still been working in this scenario.

8 Q. And within a reasonable degree of economic certainty,  
9 you do an analysis for an individual who has over 2000 hours for  
10 ten years, it's not uncommon for you to do an analysis like  
11 this; correct?

12 A. Correct. I will say ten years is probably the  
13 conservative assumption on my part given, again, all the years  
14 above that that he had worked.

15 Q. Why did you say? Why did you say it was conservative?

16 A. Ten years, again, captures some highs and some lows.  
17 We captured a couple years where he only worked 1,500 hours.  
18 Until this point, he's got a whole lot more than 2,000 hours.  
19 He's got years with 2,600 hours, he has years with 2,100 hours.  
20 So making it a longer history of time brings that average down.

21 Q. So this whole analysis is based on him not being  
22 injured and continued on with his career; correct?

23 A. Correct.

24 Q. Thank you.

25 MR. WEIR: We entered into this evidence, Your

S. Ford - Plaintiff - Direct (Weir)

1 Honor?

2 THE COURT: Plaintiff's 12 in evidence.

3 MR. WEIR: Almost done.

4 Q. Now, we have another future economic loss. I'm  
5 spinning a little bit. This is Plaintiff's Exhibit 13. You  
6 have it based on 2,007 hours -- 2,007 hours and growth rates  
7 equal 20 year average.

8 Can you explain to the jury what you've done here?

9 A. Yes. So this is looking into the future. My  
10 assumption is that he had stopped working at the age of 68 in  
11 this analysis. And what I'm doing into the future is applying  
12 the growth rate that are consistent with the historical average  
13 of the union looking at the wages and the annuity and the  
14 vacation and the pension to see how those have changed. We  
15 talked a little bit about how they can fluctuate over time based  
16 on what the union -- what's important to the workers. And so  
17 that's what this captures is that difference in some of those  
18 things.

19 For instance, the 20-year average for wages, only a  
20 one-and-a-half percent increase. But you could see that the  
21 insurance, the health insurance, 4.7 percent, meaning there were  
22 time periods within the union that the health insurance was a  
23 big value. They really wanted better health insurance, more  
24 health insurance. The annuity was 4.1 percent over 20 years.  
25 Vacation was three and a half percent and the pension accrual

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1 rate was 1.2 percent, meaning that these workers were not  
2 incredibly concerned about retiring. They wanted more money up  
3 front. They wanted more financial stability in the immediate  
4 future.

5 Q. All right. And what did you -- doing this analysis,  
6 what did you get for his wages?

7 A. \$542,780. That assumes working 2,007 hours per year  
8 from January 1, 2025 until the average of 68.

9 Q. And what did you get for the vacation?

10 A. \$183,116.

11 Q. And combined total of wages and vacation?

12 A. \$725,896.

13 Q. And now you have the benefits again. Can you just run  
14 through them for the jury?

15 A. You got the legally mandated, and this is what all the  
16 employers pay in at \$58,072. The annuity contribution, so the  
17 difference in what his annuity would have looked like, is  
18 \$211,306.

19 The difference in his health insurance, the COBRA  
20 rates. COBRA rate is what he's required to pay if he wants to  
21 maintain the same amount of health insurance. So we use that  
22 rate to represent what that health insurance value would be, and  
23 in this case \$131,522 for he and his family which is an  
24 important distinction too, paying for COBRA, paying for health  
25 insurance. After you lose your job, you have to cover it

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2 yourself. But if there was someone on that policy with you, you  
3 want to be able to cover them as well.

4 The pension difference is \$1,057,099 for a total  
5 preinjury. Total earnings into the future and benefits that he  
6 would have been lost, \$2,183,895.

7 Q. And then you minus the pension number here.

8 What number did you minus and why did you minus it?

9 A. This is the value of the pension that he is still set  
10 to receive. He worked hard. His employers paid into that  
11 pension for him. He still gets a pension in the amount of  
12 \$753,981. But there is a difference here that he is missing out  
on.

13 Q. So this future economic loss is based on the  
14 specifications of the union; correct?

15 A. Correct.

16 Q. And what was that future economic loss that you  
17 totaled?

18 A. The future economic loss \$1,429,914.

19 MR. WEIR: Your Honor, Plaintiff's Exhibit 13  
20 into evidence?

21 THE COURT: Plaintiff's 13 into evidence over  
22 objection.

23 Q. Now, I'm going to keep this one close by because I  
24 want you to explain some differences. But you have another  
25 future economic analysis and it's exhibit -- for identification,

S. Ford - Plaintiff - Direct (weir)

1 Plaintiff's Exhibit 14. This one's done on a growth rate that's  
2 4.5 percent. So why don't you explain to the jury just to  
3 clarify why these two are different and which one do you think  
4 is a more accurate analysis?

5 A. So this is based on growth rates that just look at  
6 four-and-a-half percent across the board for all of the items  
7 that are into the future four-and-a-half percent.

8 The US Bureau of Labor Statistics computes  
9 compensation rates, workers being compensated at a certain level  
10 and that changes in that compensation over time. Historically  
11 over the last 60 years, it's been roughly 5 percent per year on  
12 average.

13 So I'm giving you this four-and-a-half percent figure  
14 so that you can consider the growth and the economy. The growth  
15 for overall wages and benefits for individuals, their  
16 compensation and how that has changed.

17 Looking at not specifically what was important to each  
18 union member in terms of annuities or pensions or health,  
19 looking over overall at compensation which would include your  
20 wages and benefits.

21 Q. All right. And what were the numbers that you came up  
22 with when you do the 4.5 percent growth rate?

23 A. These numbers are all higher. So wages is \$599,330.  
24 Vacation is \$189,135. For total wages and vacation \$788,465.

25 Q. And what did you get for the benefits?

1 S. Ford - Plaintiff - Direct (weir)

2 A. The benefits legally required is \$63,077. The annuity  
3 contribution \$214,143. The insurance at \$130,658 and the  
pension at \$1,272,693.

4 Q. And what was total that you got?

5 A. The total preinjury \$2,469,035. And then we take off  
6 his pension that he's going to receive of \$753,981 for a total  
7 future loss in this scenario at four-and-a-half percent of  
8 \$1,715,054.

9 Q. Now, you have two different analysis here. Is one  
10 speculative and the other not speculative, are they both  
11 speculative or are they both consistent with economic principles  
12 and projections in your field?

13 A. They're both consistent with the economic principles  
14 and projections just from a different way of looking at it. One  
15 from the historical rates in the union over 20 years; and one  
16 from what the economy has done with compensation growth.

17 It is not my decision of which one best represented.  
18 It's your all's decision. I'm giving what is the basis of that  
19 decision and what the factors are that go into making that  
20 decision so that you can decide.

21 MR. WEIR: Your Honor, Exhibit 14 into evidence,  
22 please.

23 THE COURT: Yes, Plaintiff's 14 in evidence.

24 MR. WEIR: Your Honor, may the witness sit back  
25 down on the stand?

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1 THE COURT: Yes, you may.

2 Q. And all of these projections that you did were within  
3 a reasonable degree of economic certainty; correct?

4 A. Correct.

5 Q. Okay. Now, you were also asked to do some projections  
6 with Dr. Stein's life care plan; correct?

7 A. Yes.

8 Q. And have you done that in the past?

9           A.    Yes.  Making sure that the money is there for future  
10           medical needs.

11 Q. Is it a different analysis than the one you just  
12 described to the jury?

13           A. It's not a different analysis in terms of putting  
14 things into future value. It involves using different growth  
15 rates.

16 || Q. But it's a future projection; correct?

17 A. Correct.

18 Q. And you said, again, using different growth rates.  
19 why were you using different growth rate for the life care plan?

20           A. Because we know that things grow differently, wages  
21 grow differently than the cost of an MRI or the cost of a  
22 surgery, the cost of medications. And we have information from  
23 the Bureau of Labor Statistics to help us look at how that  
24 change affects our purchasing power, our ability to buy those  
25 things and to consume those things.

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Q. Do these statistics allow you to make a determination within a reasonable degree of economic certainty what an item is going to cost in the future?

A. Absolutely. So I'm using the report of Dr. Stein for the frequency for the item and for the cost. And then I can look into the future what that might cost in ten years, what it might cost in 20 years.

Q. If we could bring up Plaintiff's Exhibit 18A, please.

what are we looking at and why is it relevant?

A. This is the 30-year growth rates for different items that might be contained within Dr. Stein's care plan.

Q. Now, you have a category here "general inflation" and you got some terms there.

Is there a way you can describe this to the jury so we can understand it?

A. Yes. General inflation is the basket of goods that the economy measures. This is the term that we hear all the time about inflation. It's a basket of goods that are measured by the Bureau of -- the Census Bureau to understand how things are changing. The price of your eggs, the price of your gas, the price of your computers, that all gets lumped into general items and it's called the Consumer Price Index which is CPI and it is a measure of inflation.

Q. Now, is it a good and accepted tool to use in your economic analysis?

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1           A. It is. It definitely captures things that might be --  
2 I shouldn't say it captures everything that we're going to talk  
3 about. But it captures things that might be more general,  
4 something that I could buy on my own without the need for a  
5 doctor saying it's necessary. When we look further, we'll see  
6 that the CPI has specific categories of different items within  
7 it removed from this total.

8           Q. And you have two terms there. You have short term and  
9 long term.

10           Can you describe why you have those two terms and  
11 what's their significance?

12           A. Yes. So these two terms are the short term is ten  
13 years. And so if the item is needed within the next ten years,  
14 there is a different rate associated with that. And in this  
15 case, the long term is 30 years, looking at historically what  
16 those rates have done in that 30-year timeframe.

17           Q. And you have a category called medical services with  
18 short term and long term rates associated with it.

19           What do you mean by "medical services" and how are  
20 those percentages interact with that category?

21           A. Medical services is, again, from the Consumer Price  
22 Index. It's specific to those services that are required  
23 medically that don't have a necessarily defined cost. These are  
24 things like MRI's where you're paying for the MRI machine. And  
25 you're paying for someone to read it and you're paying for the

1 S. Ford - Plaintiff - Direct (weir)

2 building that houses it. It's a total cost of performing that  
3 service. Instead of, specifically, how much does it cost to  
4 take the picture, take the film each time.

5 The long term and short term what we see in the short  
6 term is that there's not a lot of change in that field. It's  
7 pretty consistent. It's 3.1 percent. There's not huge amounts  
8 of spikes. Over the long term, that's where you get into the  
9 situations of new services coming onto the markets, new things  
10 being added that might have a higher price tag to it. So that  
cost long term is higher.

11 Q. So what would actually happen if you didn't apply  
12 these rates to a service that you were speaking of; how would it  
13 effect that service in years to come? Would it be an accurate  
14 reflection?

15 A. To a reasonable degree of economic certainty, it  
16 wouldn't be an actual reflection of how much it's going to cost.  
17 And what you're trying to do is say how much do I need today to  
18 cover this cost down the road knowing that costs increase,  
19 prices tend to increase, earnings tend to increase, everything  
20 in the future is more.

21 Q. Do you look at the past to determine what that future  
22 increase is going to be? Is there some kind of historical  
23 understanding of the fluctuations of the past that you can apply  
24 to the future?

25 A. There's nothing that says this is the way that you're

1 S. Ford - Plaintiff - Direct (weir)

2 supposed to do it every single time, this is what's going to be  
3 most accurate. It's all a matter of opinion of economists.  
4 Asking economists to agree is like asking the weatherman to  
5 predict the weather. It can change. It can fluctuate. But  
6 what economists typically do is look at that historical rate to  
determine what's most likely to occur in the future.

7 Q. And then you have a category "hospital services" with  
8 a percentage.

9 A. Hospital services are just what it sounds like, things  
10 that are required in hospitals. Hospitals have more costs  
11 associated with them. The cost of security; the cost of the  
12 people that are checking you in; of the people that are  
13 cleaning; of the different aides and CN's and LPN's that are  
14 there; the nurses; the doctors; the heads of the hospitals; the  
15 marketing. So the hospital costs tend to be higher than any  
16 other medical services that you can get. And I think that  
17 that's pretty well within all our experiences. You'd rather go  
18 to an urgent care than go to the emergency room because there is  
19 a price difference there.

20 Q. And what are the short term and long-term percentages  
21 for hospital services?

22 A. It's 3.9 percent in the short term, so over the last  
23 ten years. And 5.1 percent in the long term in the last 30  
24 year.

25 Q. Okay. And that's one of the highest categories you

S. Ford - Plaintiff - Direct (weir)

1 have for long term; correct?

2 A. It absolutely is the highest because, again, hospital  
3 services increase rapidly.

4 Q. And then you have a category medical commodities.

5 what's a medical commodity and how do you defined it with this  
6 index?

7 A. Medical commodities are items, tangible things that  
8 are needed from a medical standpoint. I think prescription  
9 medications or equipment like canes and wheelchairs and walkers,  
10 things that you need medically that require replacement or they  
11 require prescription often times or they're medically necessary  
12 for the person to function.

13 Q. And what were the short term and long-term percentages  
14 that you used?

15 A. It's 1.6 in the short term ten years. And 2.4 in the  
16 last 30 years.

17 Q. And where are you getting these numbers from?

18 A. It comes from the Census Bureau. It comes from that  
19 Consumer Price Index. But, again, these are specific categories  
20 only looking at those medical commodities portion of that  
21 current Consumer Price Index.

22 Q. And it's a good and accepted practice to do this as an  
23 economist; correct?

24 A. It is, absolutely. This is something that you will  
25 refer back to if you're a hospital, if you're a brand new

S. Ford - Plaintiff - Direct (weir)

1 hospital and you're looking at pricing your items or pricing  
2 your hospital costs, you might refer back to this category to  
3 look at how those have changed in the past.

4 Q. And you have a category "professional service".

5 How is that defined and what are those percentages?

6 A. Professional services are payments to doctors;  
7 payments to physical therapists; payments to the people that are  
8 performing professional services medically necessary on your  
9 behalf. This comes from the Consumer Price Index again. It is  
10 what physicians and professionals are actually being paid, what  
11 their growth are; the wages -- growth and their wages over time.  
12 In the short term it's 1.8 percent in the last ten years. And  
13 2.8 percent in the long term over the last 30 years.

14 Q. Now, this is a vague category. Compensation.

15 How is that defined? Who defines it? And what is it  
16 in this analysis?

17 A. Compensation as we looked at in our  
18 four-and-a-half percent growth rate scenario, this is from the  
19 Bureau of Labor Statistics major compensation survey. This is  
20 looking at the compensation of all workers in the United States  
21 in terms of their wages and their benefits, what has that  
22 typically done, and how that has typically grown and changed.

23 Q. And what numbers do you have that? They seem similar.

24 A. They are. They're 4 percent. This is just a flat  
25 rate. This is not geared towards the ten year or the 30 year.

1 S. Ford - Plaintiff - Direct (weir)

2 This is giving a professional opinion that 4 percent captures  
3 typical growth in the economy for compensation of individuals.

4 Q. And that's a good and accepted practice as an  
5 economist to just use that flat 4 percent?

6 A. Yes. You'll see, for instance, people that are  
7 receiving retirement payments. They might get a cost of living  
8 increase, that's based on the Consumer Price Index inflation.  
9 It's not necessarily based on what wages have done in the past  
10 which is why you hear people saying I didn't even make it to get  
11 a cost of living, I didn't even get a raise this year because  
12 inflation took it all way or it overinflation in some periods.

13 Q. "Immediate need", zero percent.

14 What is immediate need and why is it zero percent?

15 A. If something was needed for Mr. Carroll in the  
16 immediate future within the next year, I assume that there was  
17 no growth to it. So I'm not here to say that in January of 2025  
18 the price is going to be different than in December of 2025. I  
19 just use that as the total price right now and leave it without  
think growth.

20 Q. I'd like you to assume Dr. Stein testified yesterday  
21 to his life care plan and identified all of the categories.  
22 When you get his information -- if we turn to the next exhibit,  
23 why don't you explain what you did and how you did it.

24 A. Sure. So Dr. Stein provides me with the item that's  
25 needed with the frequency that that items is needed and with the

1 S. Ford - Plaintiff - Direct (weir)

2 cost. I will then take that number and project it in future  
3 value based on those growth rates that we saw.

4 So in this case, for physician services, we know that  
5 that's a professional service, as we've just talked about. The  
6 orthopedic surgeon he will be seen annually and the annual cost  
7 is \$253.12.

8 MR. WEIR: And this is Plaintiff's Exhibit 18B  
9 for identification. We'd like to enter this into evidence.

10 THE COURT: Any objection?

11 MR. LYON: No objection.

12 THE COURT: Okay. 18B in evidence.

13 MR. WEIR: Can we go to the next one?

14 THE COURT: Did you move 18A in? Or was it  
15 marked?

16 MR. WEIR: We don't need 18A. We could put 18A  
17 in.

18 THE COURT: Okay. So 18A and B --

19 MR. WEIR: Yes.

20 THE COURT: -- in evidence?

21 MR. WEIR: If we can go to 18C. And why don't we  
22 just do it quickly 18C, D, E, F, G all into evidence,  
23 please, Your Honor?

24 MR. LYON: I've seen them all. No objection.

25 THE COURT: Okay. They'll go directly into  
evidence.

1 S. Ford - Plaintiff - Direct (weir)

2 MR. WEIR: Okay.

3 Q. So let's take a look at this: You have a category,  
4 it's identified as "routine diagnostics."

5 MR. WEIR: What did you do with that information?

6 A. This is the X-ray of Mr. Carroll's knee. We know that  
7 that's a medical service. You're paying for the machine, you're  
8 paying for the people to read it. That's going to be five-year  
9 intervals, the annual cost \$37.68. It's not what an X-ray costs  
10 but Dr. Stein is giving us a total each time it happens which  
11 divides out over that five-year time period to \$37 a year. In  
12 the future it would be a \$1,061 that he needs to cover all of  
13 his MRI's.

14 Q. And that was at the growth rate of medical services;  
15 correct?

16 A. Correct.

17 Q. And that would be 3.1 percent; correct?

18 A. 3.1 percent in the short term. Anything beyond ten  
19 years goes to that long-term percentage.

20 Q. And what was the total future value cost?

21 A. \$1,061.

22 Q. Okay. This is 18D in evidence. It's analgesic  
23 medication. You did the same thing?

24 A. It's the same thing only we're using medical  
25 commodities. This a prescription medication for Percocet. He  
needs it one time, but it's not right now. It's when he's 67 or

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1       77. So it has growth associated with it. we have to make sure  
2 we cover what that growth looks like and so the future value is  
3 \$687.

4       Q. And 18E, I'd like you to assume, for purposes of your  
5 answers, that Dr. Stein removed his vocational evaluation and  
6 his vocational counseling, those totals of \$1,125 and \$1,500.  
7 Okay.

8       A. Yes.

9       Q. All right. What are we looking at for the rest of  
10 these? What are the categories and what were your projections?

11       A. So in this group we have a gym membership so that he  
12 could do some swim therapy. This is a general item. I can go  
13 out and get a gym membership and do some aquatics. I probably  
14 should. But this is monthly costs. And the future value of  
15 that is \$13,817.

16       Q. Okay. What is the other category?

17       A. The other category is physical therapy. This is  
18 paying someone to help him through the physical therapy that he  
19 needs, again, not right now but at the age of 77 or 78. And  
20 we'll see the reason for that or you've already heard the reason  
21 for that at 77 or 78. Annual basis but we have to cover that  
22 into the future at a future value of \$22,772.

23       Q. And then physical therapy periodic. When you get a  
24 word like that "periodic" and you're an economist, is that a red  
25 flag?

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1           A. It is a red flag because it doesn't give me a defined  
2 timeframe. It doesn't give me a defined number of periods of  
3 time where he's going to need it. It just is kind of an  
4 open-ended number. Is it every two months? Is it every ten  
5 months? And so I have to make some decisions about how to  
6 measure that growth rate. Because future value has that  
7 compounding effect where we're looking at the cost now has --  
8 having that growth and then the cost next year with that growth  
9 plus more growth. So in this case, I assumed it all up front  
10 for an immediate need and did not assume any growth for  
11 Mr. Carroll.

12           Q. So there's no growth in this category based on the  
13 words periodic. Is that a good and accepted practice for an  
14 economist?

15           A. It is. It is. You know, if I wanted to, I could have  
16 said, okay, this is how much growth there would be for this year  
17 and next year assuming two months, assuming three months. But  
18 giving it to you of the value of what it is now is a good sound  
19 principle to not inflate the numbers.

20           Q. Would you say that's conservative?

21           A. Yes.

22           Q. There was a statement by counsel saying that  
23 economists pump numbers. Were you pumping a number there?

24           MR. LYON: Objection, I didn't say that.

25           MR. WEIR: Pumper was your word.

S. Ford - Plaintiff - Direct (Weir)

1 Q. Were you pumping a number when you did that?

2 THE COURT: Well, let me make a ruling --

3 MR. WEIR: I apologize, Your Honor.

4 THE COURT: -- please.

5 Are you objecting to the characterization of the  
6 question?

7 MR. LYON: I am. I called the life care planner  
8 a pumper.

9 THE COURT: Okay. I think that's what was  
10 correct, sir.

11 MR. WEIR: Okay. We're doing the life care  
12 plan --

13 THE COURT: Well, do you want --

14 MR. WEIR: -- into the future.

15 THE COURT: You want to rephrase your question?

16 MR. WEIR: Sure.

17 Q. When -- did you -- when you got Dr. Stein's numbers,  
18 by just doing them in the present day value, did you pump those  
19 numbers?

20 A. I did not. I did not include any growth. I did not  
21 raise those above today.

22 Q. Okay. I'll go to 18F.

23 And I'd like to assume for the purposes of your  
24 testimony, that the manipulation under anesthesia actually took  
25 place. So that projection by the life care planner actually

S. Ford - Plaintiff - Direct (Weir)

1 took place. So there's no need for you to use that in your  
2 analysis. Okay.

3 A. Okay.

4 Q. And so what did you put in this category? What was  
5 the duration and what was the cost?

6 A. This is the future knee surgery as opined by  
7 Dr. Stein. A total knee arthroplasty at the age of 76 to 77 at  
8 that time, his price currently is \$64,325 in the future when  
9 he's 77 or -- 76 or 77 he will need \$112,550 to cover that  
10 surgery.

11 Q. All right. 18G.

12 You have a grand total here. Did you change your  
13 numbers on the grand total to take out those calculations?

14 A. I did. So removing roughly \$13,200 from this total.

15 Q. So the total that we have on the screen is \$185,558  
16 but your total is?

17 A. Am I permitted to use my notes to get the correct  
18 number?

19 THE COURT: To refresh your recollection, yes.

20 A. \$171,938.

21 Q. And now we have Exhibit 19 and we're almost done.

22 We have 19A, B, C, D, E and F and G and what analysis  
23 did you do in the second category?

24 A. Second category is the same exact analysis. The only  
25 thing I changed is the long term of growth rates. Now I'm using

1 S. Ford - Plaintiff - Direct (weir)

2 even longer of a term, 60 years to look at what those costs  
3 might be.

4 MR. WEIR: All right. we'd like to enter these  
5 into evidence, Your Honor?

6 THE COURT: Any objection?

7 MR. LYON: No, Your Honor.

8 THE COURT: Okay. 19A through G in evidence.

9 Q. To spare the jury, do we need to look at that first  
10 chart page with the percentages?

11 A. Actually, it's probably easiest to spare the jury if  
12 we only look at that first page and then the total because  
13 there's nothing else that's different other than first page and  
the total.

14 Q. Awesome.

15 So let's take a look at that first page. Why is it  
16 important in your analysis so we could skip to the end. Why is  
17 that an important part of your analysis?

18 A. This gives you the long-term rates. The 60-year  
19 terms, all of these numbers are higher. When you look over a  
20 longer period of time, those rates tend to be higher than the  
21 short term.

22 Q. And it's a good and accepted analysis to do under --  
23 either of these determinations?

24 A. Absolutely is. Again, it's a decision about what best  
25 represents what the future is. These are two ways to looking at

1 S. Ford - Plaintiff - Direct (weir)

2 it, the short term, the 30 year and the 60 year to kind of see  
3 how that goes.

4 Q. All right. And so it's just based on the timeframe  
5 that you're looking at; correct?

6 A. Yes.

7 Q. All right. And what are the -- any other information  
8 that the jury should know of these percentages before you get to  
9 that total?

10 A. I'm just highlighting again the fact that hospital  
11 services it's the largest of the categories still, 7.4 percent  
12 over the last 60 years means we've had a lot of growth in the  
13 cost of hospital services. This is one of the reasons why you  
14 see a lot of off-shoots of things. Medical surgery centers that  
15 you can go to; pain management clinics. It's because those  
16 costs of hospital services tend to be higher. It's also one of  
17 the reasons I don't tend to use this category. It's because  
18 that cost is so high and a lot of those procedures can be done  
19 off sight or at different areas.

20 Medical services though, we still see that number is  
21 very high as well. This is because of those surgery centers and  
22 because of those pain management centers and that cost still  
23 kind of transferring over from the hospitals.

24 Q. Anything else they should know about that category?

25 A. I think that's pretty much it.

Q. All right. Then what was the final cost?

S. Ford - Plaintiff - Cross

1 A. The final cost with those items removed is \$221,606.

2 Q. And all of your analyses, as we stated, were done  
3 within a reasonable degree of economic certainty; correct?

4 A. Correct.

5 Q. Okay.

6 MR. WEIR: Thank you very much for your time.

7 THE COURT: Thank you so much.

8 Let's take a ten-minute recess.

9 COURT OFFICER: All rise; jury exiting.

10 (Jury exits courtroom.)

11 (A recess was taken.)

12 THE COURT: Ms. Ford, you can step down.

13 COURT OFFICER: All rise; jury entering.

14 (Jury enters courtroom; the following  
15 occurred:)

16 THE COURT: Please be seated.

17 Ms. Ford, let me just remind you're still under  
18 oath because we are going to do our cross examination by  
19 Mr. Lyon.

20 MR. LYON: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. LYON:

23 Q. Good afternoon, Ms. Ford.

24 A. Good morning.

25 Q. I'm going to try to slow you down a bit for the

S. Ford - Plaintiff - Cross

1 benefit of our wonderful court reporter. Okay.

2 A. Yes.

3 Q. You speak very quickly.

4 You've done this before; correct?

5 A. Yes.

6 Q. You've testified under oath between deposition and  
7 trial about 675 times; correct?

8 A. Yes.

9 Q. You're from Louisville, Kentucky; that's where you  
10 live?

11 A. That's where I live currently; yes.

12 Q. And did you fly in this morning or last night?

13 A. This morning.

14 Q. Are you aware that we have economists in New York  
15 City?

16 A. I'm sure you probably do.

17 Q. How many economists do you think you flew over on the  
18 way here from Louisville?

19 MR. WEIR: Objection. Argumentative.

20 THE COURT: Stand up.

21 Overruled.

22 MR. WEIR: Oh, I apologize, Your Honor.

23 THE COURT: Yes. Overruled.

24 You could answer the question.

25 A. I really don't know. I have no idea.

S. Ford - Plaintiff - Cross

1 Q. Okay. That's okay.

2 well, welcome to our beautiful city. Welcome to our  
3 beautiful cathedral of justice.

4 A. Thank you.

5 Q. What materials did you review, just the union records,  
6 employment records, tell us what you reviewed?

7 A. I reviewed the records from the union including the  
8 Collective Bargaining Agreements, the fringe benefit scales, the  
9 wages scales, the summary claim descriptions from the annuity  
10 plan, from the pension. And then I had work history for  
11 Mr. Carroll showing all the hours that he worked and the pension  
12 that he was going to receive and then the Bill of Particulars in  
13 this case providing me with the information about the injury in  
14 question.

15 Q. Okay. Did you review any medical records?

16 A. No.

17 Q. Did you speak with Mr. Carroll?

18 A. I did not.

19 Q. How much do you charge for deposition testimony?

20 A. The firm that I work for charges around \$1,800 for me  
21 to give a deposition.

22 Q. \$1,800.

23 And how much to be here with us today?

24 A. Firm charges a day rate. It's \$2,900 for me to come  
25 here and then the cost of my plane ticket or my food.

S. Ford - Plaintiff - Cross

1 Q. And can we agree 675 times you've generated well over  
2 a \$1 million testifying. True?

3 A. Yes. That's a 19-year-time period so not 675 times in  
4 a year.

5 Q. Ms. Ford, we've been following some rules in the  
6 courtroom. If I ask you a yes-or-no question, can you try to  
7 answer it yes or no, please?

8 A. Yes.

9 Q. If you can't, just tell me. Okay?

10 A. Yes.

11 Q. Your company, that you're just talking about, you  
12 describe it as a litigation support firm. True?

13 A. Yes.

14 Q. That's what you do. You help with lawsuits; correct?

15 A. Correct.

16 Q. You've testified all over the US; correct?

17 A. Yes.

18 Q. Ohio, Indiana, Kentucky, West Virginia, Rhode Island,  
19 Florida, Georgia, Texas, Illinois, Tennessee, all those places;  
20 correct?

21 A. Yes.

22 Q. Part of what you do as a vocational economic analyst  
23 is assess a person's ability to work. True?

24 A. There are cases where I assess a person's ability to  
25 work, yes.

S. Ford - Plaintiff - Cross

1 Q. You describe that as your function, your job? That's  
2 what you do as a vocational economist analyst; correct?

3 A. There are times that I am hired to do that. That's  
4 correct.

5 Q. And just two weeks ago you testified in a trial in  
6 Cininatti, Ohio where you were assessing a person's ability to  
7 work; correct?

8 A. Yes.

9 Q. And on page 8 -- well, let me back up.

10 You gave a deposition in that case; correct?

11 A. I did.

12 Q. And the case is called Bruns versus Beacon  
13 Orthopedics; correct?

14 A. Correct.

15 Q. You were under oath during that deposition; correct?

16 A. Yes.

17 Q. On page 8 line 5:

18 "QUESTION: Okay. Tell us what -- what is a  
19 vocational economic analyst?

20 "ANSWER: I basically am putting together reports  
21 to help in litigation support to assess a person's ability  
22 to work and earn money."

23 Q. Is that accurate?

24 A. Yes.

25 Q. Okay. You didn't do that in this case; correct?

S. Ford - Plaintiff - Cross

1 A. No. May I continue?

2 Q. Just please answer my questions.

3 You didn't do that in this case; correct?

4 A. No.

5 Q. You weren't asked to do that in this case; correct?

6 A. Correct.

7 Q. Okay. You could have done it if you were asked;  
8 correct?

9 MR. WEIR: Objection.

10 THE COURT: Sustained as to form.

11 Q. Do you know Mr. Carroll's ability to work?

12 MR. WEIR: Objection.

13 MR. LYON: Does she know?

14 MR. WEIR: Outside the scope, Your Honor. That's  
15 not what she was hired for.

16 MR. LYON: It's what she --

17 THE COURT: Stop. Please. If I need the  
18 explanation, I will ask for it.

19 It's overruled.

20 You can answer.

21 A. No. I do not.

22 Q. You'd agree that just because you have a knee  
23 replacement, that doesn't mean you can't work; correct?

24 MR. WEIR: Objection, Your Honor.

25 THE COURT: Sustained.

S. Ford - Plaintiff - Cross

1 Q. Do you know if Mr. Carroll ever looked for a job?

2 MR. WEIR: Objection, Your Honor.

3 THE COURT: Yes. Sustained.

4 Q. Do you know the percentage of ironworkers who retire  
5 at age 55?

6 A. No.

7 Q. So it could be 95 percent; you don't know?

8 A. It's definitely not 95 percent the average.

9 Q. You don't know; correct?

10 A. No, I do not know.

11 Q. Now, your opinions are based on many assumptions.

12 True?

13 A. Yes.

14 Q. Do you know what the interest rates are going to be in  
15 five years?

16 A. No. If I did, I probably would be pretty well off.

17 Q. Okay. You don't know what the rate of inflation will  
18 be in 2030; correct?

19 A. Correct. Again, if I did, I probably would be not  
20 sitting here.

21 Q. I understand. Just please answer the question.

22 Economists don't know what's going to happen in the  
23 future; correct?

24 A. No one knows what's going to happen in the future.  
25 That's correct.

S. Ford - Plaintiff - Cross

1 Q. So what you do, to a large degree, is guesswork;  
2 correct?

3 A. Not guesswork. It is using my education and my  
4 training to make a reasonable prediction. It's based in  
5 statistics which is something that we use all the time.

6 Q. Are you familiar with baseball batting averages?

7 A. Yes.

8 Q. So if a batter has a .300, he bats .300, that's pretty  
9 good, isn't it?

10 A. For the sport of the baseball, he's likely to be a  
11 Hall of Famer.

12 Q. But if he's up to bat, you don't know if he's going to  
13 get a hit or not; correct?

14 A. Correct.

15 Q. So statistics can't always predict the future. True?

16 A. Statistics aren't used to predict the future.

17 Statistics are used to understand what's most likely to occur in  
18 the future.

19 Q. Okay. But you don't know what's going to happen.  
20 True?

21 A. No one has a crystal ball. That is true.

22 Q. The assumptions you make are only as good as the  
23 information you get; you would agree with that?

24 A. Yes.

25 Q. If Dr. Stein's numbers are wrong, that would effect

## S. Ford - Plaintiff - Cross

1 your numbers. True?

2 A. Yes.

3 Q. Do you know where Dr. Stein got his numbers?

4 A. No.

5 Q. So some other assumptions you made, you assumed  
6 Mr. Carroll's life expectancy; correct?

7 A. Correct. I assume Mr. Carroll had an average life  
8 expectancy.

9 Q. Okay. That doesn't take account -- into account any  
10 details about Mr. Carroll; correct?

11 A. Correct. I'm not a life expectancy expert. So I have  
12 to rely on statistics.

13 Q. Understood. Understood.

14 You assumed the growth rate for medical care. True?

15 A. Yes.

16 Q. You assume the growth rate for inflation rate?

17 A. Yes.

18 Q. You assume that he would continue to generate income.  
19 True?

20 A. Yes, in one of the scenarios.

21 Q. Did you have a scenario where he would continue to  
22 generate income? Did you have that scenario?

23 A. Yes. Into the future, I assumed that he would  
24 continue to work to the age of 68. In the past I assume that he  
25 would stop at 61.

S. Ford - Plaintiff - Cross

1 Q. Did you have a scenario where he continued to work?

2 A. Maybe I don't understand -- you mean post injury?

3 Q. Correct.

4 A. No.

5 Q. Okay. Do you have your report up there with you?

6 A. I do.

7 Q. Can you turn to page 3, please. Do you see post  
8 injury earning capacity?

9 A. Yes.

10 Q. In the first sentence says assumed 100 percent  
11 occupationally disabled as a result of the injuries sustained on  
12 March 27, 2018; correct?

13 A. Correct.

14 Q. You assume that. You assumed he couldn't work. True?

15 A. In the future, I assume that he is unable to work.

16 Q. For the purpose of this report you assumed he was 100  
17 percent disabled from any employment. True?

18 A. Yes, into the future.

19 Q. Okay. Can you turn the page to page 4?

20 In the fourth paragraph, the second sentence says.

21 "If he could reasonably be expected to work in the competitive  
22 labor market in the future, his post-injury earning capacity  
23 should be subtracted from the losses stated in this report."

24 So if he had a reasonable expectation that he could  
25 work, you'd have to change your numbers. True?

S. Ford - Plaintiff - Redirect (Weir)

1 A. Yes.

2 Q. Okay. So the loss of earning capacity, your opinion  
3 is that it is in a range of \$1,240,474 to \$2,600,000; is that  
4 correct?

5 A. Yes.

6 Q. So your prediction varies by \$1 million  
7 and-a-half-dollars; correct?

8 A. Yes.

9 Q. It's not very specific or precise, is it?

10 A. The future could never be specific or precise. I'm  
11 using statistics to help what is best represented by what's most  
12 likely to occur.

13 Q. Okay. Thank you, Ms. Ford.

14 THE COURT: Are you finished, Counsel?

15 MR. LYON: I am, Your Honor.

16 THE COURT: Okay. Any redirect?

17 MR. WEIR: I can do it from here, Your Honor. It  
18 would be brief.

19 REDIRECT EXAMINATION

20 BY MR. WEIR:

21 Q. He asked you about the retirement age, if you knew the  
22 retirement age.

23 A. Yes.

24 Q. And you were cut off in your answer. Can you explain  
25 yourself?

S. Ford - Plaintiff - Redirect (Weir)

1           A. Yes. I believe the question was is 95 percent of  
2 people retired at 55 in this union. That would be incorrect.  
3 We know that the report from the Segal Corporation indicates  
4 that it's an average at 61. So if you had 95 percent of people  
5 retiring at 55, then I would expect that average to be a lot  
6 closer to 55.

7           Q. And if that statistic was true that he was relaying to  
8 you, what effect would it have on the pension and the annuities  
9 and the contributions?

10          A. So the pensions, the annuities, the contributions, the  
11 union would have to have a whole lot more invested, a whole lot  
12 more money to cover their workers because they're going to be  
13 retired for a lot longer. They're going to be taking from that  
14 system for a lot longer period of time. That's why they do the  
15 Segal reports, is to make sure that they can cover the members  
16 and their grouping that are going to retire and that they need  
17 health coverage and they need annuities. So if you have a lot  
18 of people that are retiring, you have to adjust your numbers to  
19 make sure you have the more money there to be able to cover  
20 that.

21          Q. There's a rating system with the Segal with the  
22 pensions; correct?

23          A. There is. So there was a law passed that basically  
24 said you have to make sure that you have money to cover your  
25 pensions. So they put them in a rating system where green means

1 S. Ford - Plaintiff - Redirect (Weir)

2 you're fully funded you're covered, you can pay out everything  
3 that you need to pay out into the future. Endangered and --  
4 endangered is kind of you need to make some adjustments to make  
5 sure you're covered. And then in the bottom is a high risk that  
you're not covered, that your pension is in danger of default.

6 Q. What was the 580's rating?

7 A. They're green. They've been green for the foreseeable  
8 past back to, I think, at least 2018.

9 Q. So you could reasonably infer from that that not all  
10 the workers are retiring at the age of 55; correct?

11 A. That's correct including what they have already said  
12 that don't see workers retiring at the age of 55.

13 Q. Because if they retired at 55, the whole system would  
14 implode on itself; correct?

15 A. Correct.

16 Q. And they would be in some kind of receivership;  
17 correct?

18 A. Yes, so they would be very much in receivership where  
19 they're having to take out loans to cover their things. They're  
20 having to ask for help from other people to cover their  
21 retirees.

22 Q. So there's absolutely no foundation to what he had  
23 said to you; correct?

24 MR. LYON: Objection. Leading.

25 Q. Was there any foundation what he said to you?

S. Ford - Plaintiff - Redirect (Weir)

1 A. No.

2 Q. Did it have any shred of credibility what he said to  
3 you?

4 MR. LYON: That's still leading.

5 Q. Was there any credibility in his statement?

6 A. No.

7 Q. Now, he also said you were guessing.

8 A. Yes, he did say that.

9 Q. Okay. Are you guessing when you're doing your  
10 numbers?

11 A. No. I'm basing it on the information that I have to  
12 review, my knowledge and experience in economics, my 20 years of  
13 performing this type of work of what best represents into the  
14 future.

15 Q. And he also attacked your life expectancy average that  
16 you chose. Why did you pick that and was that good and accepted  
17 practice?

18 A. It is good and accepted practice especially for me.  
19 I'm not a life expectancy expert. I'm not a medical expert. I  
20 have to point to a statistic to be able to understand what an  
21 average life expectancy looks like.

22 Q. I'd like to assume there was no testimony to  
23 contradict Dr. Stein's medical numbers, okay, that you assumed,  
24 all right.

25 Do you rely on doctors to give you numbers that are

1 S. Ford - Plaintiff - Redirect (weir)

2 fair and accurate based on their experience as life care  
3 planners?

4 A. Absolutely. Again, I'm not a life care planner. I'm  
5 not a medical doctor. The only thing I can do is understand how  
6 rates change over time. So I have to rely on those that are  
7 educated and trained to give me the numbers to start with.

8 Q. He also made a statement about you assuming inflation  
9 numbers.

10 A. Did you just assume inflation numbers or was there an  
11 analysis that went into the numbers that you chose?

12 A. The analysis is looking at the past which is something  
13 economists typically do. Something kind of all of us typically  
14 do look at the past to understand what might happen in the  
15 future. And so I'm looking at the past and the historical rates  
16 from the US Government to understand what's most likely to occur  
in future.

17 Q. So is the US Government uses statistics; correct?

18 A. Yes.

19 Q. And you rely on the United States Government's  
20 statistics; correct?

21 MR. LYON: Objection. Leading.

22 Q. Do you rely on those statistics?

23 A. Yes.

24 Q. Do other economists rely on the United States  
25 Government's statistics?

## Proceedings

A. Other economists, the fed, people that are making policies. Everyone relies on statistics.

Q. Do you know if the government relies on the government statistics?

A. They do.

Q. Okay. So it would be a good and accepted practice for you to rely on what the government relies on; correct?

A. Correct.

9 MR. WEIR: I have no further questions. Thank  
10 you.

THE COURT: Thank you.

## RECROSS EXAMINATION

BY MR. LYON:

Q. Mr. Carroll is not a government statistic. True?

A. True.

MR. LYON: Nothing further. Thank you.

THE COURT: Thank you so much, Ms. Ford.

You may step down.

THE WITNESS: Thank you.

THE COURT: Counsel, you want to step up?

(Discussion off the record.)

THE COURT: Okay. Members of the jury, that's going to be all for this morning. Please enjoy your lunch.

Remember my admonitions about speaking among yourselves and with others about the case. But come back

at 2:00 and we'll resume with Plaintiff's case.

2 || Have a great lunch.

3 COURT OFFICER: All rise. Jury exiting.

4 || (Jury exits courtroom.)

5 THE COURT: Okay. Thank you. We stand in  
6 recess.

7 MR. LYON: Thank you, Your Honor.

8 MR. WEIR: Thank you.

9 (Plaintiff's Exhibit Nos. 11, 12, 13, 14, 18A -  
10 18G, 19A - 19G were marked and received into evidence.)

11 (Plaintiff's Exhibit No. 20, employee report of  
12 injury form was marked and received into evidence.)

13 (Plaintiff's Exhibit No. 21, photograph of the  
14 knee, was marked and received into evidence.)

15 (A luncheon recess was taken.)

17 COURT OFFICER: All rise. Jury entering.

18 (Jury enters courtroom; the following  
19 occurred:)

20 || THE COURT: Please be seated.

21 | Good afternoon, members of the jury.

22 THE JURORS: Good afternoon.

23 THE COURT: Thank you again for coming back and  
24 your attendance and your attention. I know it's difficult  
25 for a Friday afternoon, the sun is shining. It was -- I'm

1 N. Carroll - Plaintiff - Direct (Turnbull)

2 so glad you've come back to join us.

3 At this time, we're going to continue on with our  
4 Plaintiff's case.

5 Counselor?

6 MR. TURNBULL: Your Honor, we call the plaintiff  
7 Neil Carroll to the stand.

8 THE COURT: Okay, Mr. Carroll, please be careful.  
9 The officer will guide you.

10 COURT OFFICER: Remain standing. Raise your  
11 right hand.

12 N E I L C A R R O L L, a witness called on his own  
13 behalf, the Plaintiff, having first been duly sworn/affirm, took  
14 the stand and testified as follows:

15 THE COURT: Please state and spell your name.

16 THE WITNESS: Neil Carroll, N-E-I-L. C-A double  
17 R O double L.

18 THE COURT: Good afternoon, Mr. Carroll.

19 Okay. Please, as I tell everyone, please speak  
20 slowly and loudly and use the microphone. You speak to  
21 your attorney so everybody can hear you, the jurors can  
22 hear you.

23 You may inquire, Counselor.

24 MR. TURNBULL: Thank you, Your Honor.

25 DIRECT EXAMINATION

BY MR. TURNBULL:

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. Good afternoon, everyone.

2 A. Good afternoon.

3 Q. Good afternoon, Neil.

4 A. Good afternoon.

5 Q. How are you doing today?

6 A. Good.

7 Q. How do you feel?

8 A. Not bad. A little nervous.

9 Q. All right. That's perfectly natural.

10 As the judge instructed you, just make sure that you  
11 speak loudly so everyone can hear you.

12 A. Yes, I will.

13 Q. There's a glass of water there in case you need it.

14 I'd like you to start just by telling the jury a  
15 little bit about yourself. What's your birthday?

16 A. August 17th.

17 Q. What year were you born?

18 A. 1962.

19 Q. 1962.

20 Where were you born?

21 A. In Manhattan.

22 Q. And where did you grow up?

23 A. I grew up in Yorkville in Manhattan.

24 Q. All right. And as you were growing up, what did your  
25 father do for a living?

N. Carroll - Plaintiff - Direct (Turnbull)

1 A. He was an ironworker.

2 Q. Do you have any siblings?

3 A. Yes, a brother and a sister.

4 Q. All right. Aside from your father, any other  
5 ironworkers in the family?

6 A. Yes, my uncle and his son.

7 Q. Now, were they members of a union?

8 A. Yes.

9 Q. Which union?

10 A. Local 580.

11 Q. Did you go to high school?

12 A. Yes, I did.

13 Q. What year did you graduate?

14 A. I was a Bicentennial, '76, '80.

15 Q. Which high school did you go to?

16 A. St. Agnes in Manhattan on 44th Street.

17 Q. After high school, did you go to college?

18 A. One year of college.

19 Q. Why did you go to college?

20 A. I went to play ice hockey.

21 Q. Hockey?

22 A. Yes.

23 Q. Did you play hockey in college?

24 A. Yes, I did.

25 Q. Did you graduate from college?

N. Carroll - Plaintiff - Direct (Turnbull)

1 A. No. Only one year. It wasn't for me.

2 Q. What did you do after you dropped out of college, if I  
3 may use that term?

4 A. I became an ironwork.

5 Q. How did you get into the union?

6 A. My father got me in.

7 Q. All right. How did your father get you into the  
8 union?

9 A. He got me into the program so I can learn it, the  
10 trade. And then on the field you work.

11 Q. Now, when your father got you into the union, did he  
12 give you any advice or counsel?

13 A. Oh, yeah, work hard, pay your dues and don't start  
14 trouble, don't complain, just get the job done.

15 Q. Explain to the jury what Local 580 Ironworkers do?

16 A. Local 580 Ironworkers they ornamental, like, we do  
17 staircases that rise up from, let's say, one to ten stories. We  
18 put structural beams in the foundation of the buildings of the  
19 high rise. Curtain wall is the sheer of the glass on the side  
20 of the buildings that you see, you put regular windows in,  
21 rolling doors, gates, fences. It's all a variety of things.

22 Q. Why did you want to be a Local 580 Ironworker?

23 A. Oh, it intrigued me. I love the work.

24 Q. Why did you love it?

25 A. It's physical, you're getting exercise, you get paid.

1 N. Carroll - Plaintiff - Direct (Turnbull)

2 Q. All right. You said it's physical.

3 Could you just describe for the jury briefly what the  
physical demands of an ironworker are?

4 A. Picking up, moving things, you know, chain falls, you  
5 hang up things. You pick up heavy steel, it can be on the floor  
6 here, but when you put it altogether, it looks good. You know,  
7 it's like you finished a project, it's like a puzzle.

8 Q. Now, what year did you start becoming -- when did you  
9 start working as an ironwork?

10 A. 1983.

11 Q. And could you just tell the jury some of the projects  
12 that you worked on during your ironworking years that you were  
13 particularly proud of?

14 A. In the beginning, we're on the Winter Garden, you  
15 know, by Battery Park, that glass dome over there, my father ran  
16 that. So we worked for him. That was -- that was very nice.  
17 off the water of the West Side Highway. And then we did Fulton  
18 Street train station. That was beautiful. The glass, you know,  
19 the staircases where the four or five train go through. We were  
20 there for many years on that project.

21 Q. Any others?

22 A. Yes. There was a couple of Ground zero that we were  
23 down there plenty of time.

24 Q. Oh, you worked on Ground zero?

25 A. Worked at Ground zero also.

1 N. Carroll - Plaintiff - Direct (Turnbull)

2 Q. What did you do at Ground Zero?

3 A. Clean up. When the towers went down, we had to go in  
4 and cut all the steel out so we could find the bodies or  
whatever was there, you know, whoever was alive.

5 Q. Now, Ground Zero of the World Trade Center, the  
6 buildings were built there after the areas were cleared.

7 Did you work on any of those building?

8 A. Yes, I worked on the Tower One.

9 Q. Now, as a memory of Local 580, how did you get work?  
10 How did you get your jobs?

11 A. You'd go down to the union hall which is on 42nd  
12 Street and Tenth Avenue. You put your name on the list, and as  
13 they -- as the companies call anybody for extra work, you go out  
14 in order.

15 Q. And when that job finishes, what do you do next?

16 A. Once you get laid off a job, you go back to the hall.  
17 Depending on how long that list is, you know, you could be on  
18 the bottom list, you got to wait 'till everybody else goes first  
19 before they call you.

20 Q. Have you working for a variety of different companies  
21 throughout your career?

22 A. Correct.

23 Q. Now, Neil, are you married?

24 A. Yes, I am.

25 Q. And when did you get married?

N. Carroll - Plaintiff - Direct (Turnbull)

1 A. I'd say about 20-something-years ago.

2 Q. Do you have any children?

3 A. Yes, I got a daughter.

4 Q. All right. When was she born?

5 A. 9/14/05. I know that because I play the lotto  
6 numbers.

7 Q. Now, when you created a family, did you and your  
8 family move to a new home?

9 A. Yes. Well, after Manhattan when I started working  
10 with the ironworkers, I moved up to the Bronx, I was -- it was  
11 before I was married, to 2556 Colden Avenue, I had a bedroom  
12 there. So my wife, well my girlfriend at the time, and my  
13 daughter we adopted. So the room over there -- well, just  
14 thinking of my daughter -- but over there then we moved to  
15 another one after maybe three years after I got together with my  
16 wife and my daughter up there.

17 Q. And where was your new home located?

18 A. It's on 1730 Mulford Avenue, by Pelham Bay, Bronx, New  
19 York.

20 Q. Now, Neil, we're here to discuss an accident that  
21 happened on that March 27, 2018.

22 A. Correct.

23 Q. Prior to that date, had you ever been injured on a job  
24 site?

25 A. No, not in all my years.

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. Have you ever injured your left knee before?

2 A. No, I did not.

3 Q. Had you ever missed a day of work due to an injury?

4 A. No, I did not.

5 Q. Had you ever seen a doctor for any condition related  
6 to your left knee?

7 A. No.

8 Q. Never been treated by any doctor or healthcare  
9 professional for anything related to your left knee?

10 A. No, I have not.

11 Q. So let's talk a little bit about the job site where  
12 your injury happened. Okay?

13 A. Okay.

14 Q. What job was that?

15 A. It was Memorial Sloan-Kettering on 74th Street.

16 Q. Who was the general contractor for that?

17 A. Turner.

18 Q. And when did you begin working at that job site?

19 A. Prior to my accident, maybe three months before that.

20 Q. Right. And what was your expectation of how long that  
21 job would last?

22 A. Oh, a couple of years. It goes in spurts.

23 Q. Is that unusual in your trade to have a job that lasts  
24 for two years?

25 A. No, it's not.

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. You say it's not unusual or --

2 A. No, it's not unusual. That's a blessing to have a job  
3 you can stay four years on, a couple of years, you know. You  
4 don't have to go shape nothing.

5 Q. Well, typically, how long would your jobs last?

6 A. I was on one company a good eight years.

7 Q. On the same job site?

8 A. On the same job site.

9 Q. Which job site was that?

10 A. That was on the Verizon building. That's on Vesey  
11 Street, right outside Ground Zero.

12 Q. Now, at this project, we're talking about Memorial  
13 S lone-Kettering, but who were you employed by?

14 A. I was employed by Greg Logistic Beeche.

15 Q. There's been testimony about Greg Beeche Logistic. Is  
16 that the name of it?

17 A. Yes, that's the name.

18 Q. Now, what were the ironworkers at -- Local 580  
19 Ironworkers, what were you doing at this job site?

20 A. We were building scaffolding like the monorail  
21 systems, so that when you hang off the sides, enclose, the other  
22 ironwork company, can install their panels and window panels,  
23 whatever they had to build over. We supplied, like, the rigging  
24 thing for it.

25 Q. Now, at this job site, did you have a foreman?

N. Carroll - Plaintiff - Direct (Turnbull)

1 A. Yes, I did.

2 Q. Who was your foreman?

3 A. Joseph.

4 Q. He testified earlier this week; correct?

5 A. Correct.

6 Q. Is that the same gentleman?

7 A. Same gentleman; yes.

8 Q. Did you have a nickname for him?

9 A. Excuse me?

10 Q. Did you have a nickname for him? What did you call  
11 him?

12 A. Cap.

13 Q. All right. Had he ever been your foreman on any other  
14 jobs that you worked on?

15 A. No, this is the first one.

16 Q. Had you worked on other jobs with him?

17 A. Yes, I did. Different crews?

18 Q. Oh, okay. So this is the first time you'd actually  
19 worked in one of his crews?

20 A. With him, yes.

21 Q. So on the other job sites, did you actually work with  
22 him or did you see him on the job site?

23 A. I saw him on the jobs.

24 Q. Now, before beginning work on this job site, did you  
25 have to undergo site safety orientation?

N. Carroll - Plaintiff - Direct (Turnbull)

1 A. Yes.

2 Q. Could you please just tell the jury what a site safety  
3 orientation is?

4 A. That's when the GC tells you their rules, what they  
5 want done.

6 Q. Excuse me. Let me just interrupt you. You said GC.  
7 I'm not sure --

8 A. GC means Turner Construction.

9 Q. I just wanted to clarify that.

10 A. They're the general contractor that holds the safety  
11 meetings, that just tells you what they expect, accidents you  
12 must report, you know, anything happens, anything minor, things  
13 you must report to them.

14 Q. At this site safety orientation, did you receive any  
15 instructions regarding safety violations?

16 A. Oh, yes. Any safety violations you'll be dismissed.  
17 Not allowed on that job.

18 Q. All right, so Neil, let's skip forward to the date of  
19 your accident. Okay. March 27, 2018.

20 what time did you arrive at work that day?

21 A. I usually got there early. I got there at 6:45 in the  
22 morning.

23 Q. And what was the first thing you did that morning?

24 A. Went up to the 20th floor, waited for my whole crew to  
25 come, and get the toolbox talk first.

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. What's a toolbox talk?

2 A. A toolbox talk is you go over what the foreman wants  
3 you to do, make sure you have your gear, the helmet, the gloves,  
4 the glasses, everything.

5 Q. All right. Now, you mentioned you waited for your  
6 crew. You testified a moment ago that Cap was your foreman;  
7 correct?

8 A. Yes.

9 Q. Who else was in your crew?

10 A. There was a guy Jake, Noel, and this other guy, I  
11 don't know his name. I think Cap called him Kelvin but it was  
12 five of us there.

13 Q. All right. So once you did your toolbox talk, what  
14 was the next thing you and the crew did?

15 A. Well, we grabbed an A-frame.

16 Q. What's an A-frame?

17 A. An A-frame is metal -- four-wheel dolly, like, with an  
18 A-thing on the back. It's like an A-shape that's attached to  
19 it, that's the only way I can describe it. And when you put the  
20 steel beams on it, you can put it up without falling over.

21 Q. All right. So once you got the A-frame dolly, what  
22 did you do next?

23 A. We loaded up the all the steel beams that had to go  
24 outside off the setback.

25 Q. What's a setback?

N. Carroll - Plaintiff - Direct (Turnbull)

1           A. A setback is like a balcony, a porch outside the  
2 building, with a two-and-a-half, three-foot drop down.

3           Q. So why did you go out to the setback?

4           A. Why did we go out to the setback?

5           Q. Yeah.

6           A. That's where we were building our rigging, our  
7 monorail.

8           Q. Okay. Now, Neil, was there a height differential  
9 between the inside of the building and the setback?

10          A. Yes, there was.

11          Q. And how did you get access from the inside of the  
12 building down onto the setback?

13          A. There was a three step wooden-like platform or wooded  
14 steps there.

15          Q. All right. Could you describe it? What was this  
16 platform stairway made of?

17          A. Wood.

18          Q. How wide was it?

19          A. I'd say about 3-feet wide, maybe 3-feet high or  
20 two-and-a-half -- it was even with the floor that you were  
21 coming out on the 20th so there's no tripping hazard.

22          Q. Were there any handrails on the stairway?

23          A. No, they were not there.

24          Q. Now, before your accident happened, did you go up or  
25 down that stairway?

N. Carroll - Plaintiff - Direct (Turnbull)

1 A. Yes.

2 Q. And when you did that, did you notice any issues with  
3 it?

4 A. No, I did not.

5 Q. Did it wobble or shake or anything?

6 A. No, it did not.

7 Q. All right. So what were you doing at the time of your  
8 accident?

9 A. Well, our foreman -- after we brought the A-frame over  
10 with the steel beams or steel aluminum beams to the door set, we  
11 were manually passing 'em outside to the balcony, porch or  
12 whatever you want to call it, and start laying out our material  
13 so we could build or system.

14 Q. Let me back up one moment.

15 Had you ever worked on this particular setback before  
16 the date of your accident?

17 A. No, I have not.

18 Q. Had you worked on other setbacks at the same project?

19 A. Yes, I have.

20 Q. And on those other setbacks, was there a height  
21 differential between the interior of the building and the  
22 setback?

23 A. Yeah, some of them. Most of them basically.

24 Q. On those prior occasions when you worked on the  
25 setback, was there some device or some way to get from the

N. Carroll - Plaintiff - Direct (Turnbull)

1 interior down onto the setback?

2 A. Yes, they had a small ramp or they had a little box,  
3 like, a little steps down.

4 Q. Okay. Was there a ramp that lead from the building to  
5 the setback on the date of the accident where you were working?

6 A. No, it was a three steps.

7 Q. Okay. So you were describing just a moment ago that  
8 you were passing material from the interior to the outside of  
9 the building; correct?

10 A. Correct.

11 Q. All right. Now, before your accident happened, where  
12 were you positioned?

13 A. Well, Cap had us all like in a line. One guy was  
14 inside, I was right next to him in the middle, two other guys  
15 were to my left. And I was right by the stair as we were  
16 passing the steel -- aluminum beams out.

17 Q. Now, let me pause one second.

18 This stairway, do you know who built it?

19 A. Turner builds everything in there. They always did  
20 the ramps. That's why I assumed Turner did.

21 Q. How did your accident happen, Neil?

22 A. As we were getting ready to pass out the aluminum  
23 beams, Cap -- Kelvin then passed it to me, my leverage, when I  
24 was on the ground there wasn't right. So I stepped up to the  
25 second step of the three steps to get better leverage.

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. Let me pause you right there.

2 How high up the ground was that second step?

3 A. About 18 inches I would say.

4 Q. Okay. So what happened next?

5 A. As we were passing it out, I passed it to Cap, I got  
6 the weight -- the bulk of the weight in my hand more, and I was  
7 passing it to them. As I did, the steps just shift out, I lost  
8 my balance. My leg -- my foot hit the ground first, and then I  
9 twisted my knee, then I went on my knee.

10 Q. All right. So you said your foot hit the ground  
11 first. Did you -- you went from the step to the ground?

12 A. Yes, 'cause I lost my balance. The first thing I hit  
13 was my leg.

14 Q. All right. Did you feel any pain?

15 A. When I went down -- when I got up, I was in shock.  
16 Yes, I did feel pain. I knew something was not right.

17 Q. What happened next?

18 A. Then Cap told me to go down to Turner and tell them.  
19 So I made a report down there, but I --

20 Q. Let me just ask you this: You went down to Turner.  
21 Did Turner have a shanty or an office there?

22 A. Yeah, they had the office down on the first floor just  
23 down the ramp there, yes.

24 Q. Well, how did you get from the 20th floor down to the  
25 Turner office?

N. Carroll - Plaintiff - Direct (Turnbull)

1 A. The hoist.

2 Q. And when you got to the Turner office, did you speak  
3 with someone from Turner?

4 A. Yeah, there was the kid Nick. I told him what  
5 happened.

6 Q. All right. And what did you tell him?

7 A. I told him I stepped off this platform and twisted my  
8 knee. I didn't want to make a big wave. I don't complain.

9 Q. Well, wait a minute, Neil. Did you tell him that the  
10 stairway or platform shifted?

11 A. No, I did -- I didn't. You want to know why? 'Cause  
12 I didn't want to make waves down there.

13 Q. Well, why didn't you tell him that?

14 A. Because I was afraid of losing my job.

15 Q. Well, why were you afraid of losing your job?

16 A. Because they had zero tolerance.

17 Q. But you didn't do anything wrong, did you?

18 A. Yes, I did. I fell. I don't get hurt. I never got  
19 hurt before.

20 Q. Well, why were you afraid of losing your job, Neil, if  
21 you just told Nick the stairway shifted?

22 A. Nah, you can't because if you tell them, then you  
23 won't go back to that job.

24 Q. Was this job important to you and your family?

25 A. Yes, it would have been a long time and the crew was

N. Carroll - Plaintiff - Direct (Turnbull)

1 good. I mean, you don't get a good crew too often, guys that  
2 you work with, you know. The time flies by, everybody has, you  
3 know, fun. And you get the job done.

4 Q. Well, Neil, couldn't you have just gone -- if you lost  
5 this job, couldn't you just go back to the union hall and get  
6 another job?

7 A. You're back on the list again down here. And you  
8 don't know what you get. You might get a two-day job and then  
9 you go back on the bottom of the list.

10 Q. At the time that you spoke with Nick, Neil, did you  
11 think you were seriously injured?

12 A. No, I honestly didn't. I was able to -- I got up,  
13 walked, I knew something was wrong. I just wanted to get it  
14 checked out to see what was wrong with me. I never felt that  
15 before. I never had nothing wrong with my knees.

16 MR. TURNBULL: Your Honor, I'm going to ask to be  
17 put on the screen a document that's been marked as  
18 Exhibit 20. It's in evidence.

19 THE COURT: Okay. we have a new clerk. So as  
20 soon she's finished on the phone. This has been marked as?

21 MR. TURNBULL: Exhibit 20, Your Honor.

22 THE COURT: Plaintiff's 20. And it's in  
23 evidence?

24 MR. TURNBULL: It is.

25 THE COURT: Okay. Thank you.

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. Can you see this document?

2 A. Yes, I can.

3 Q. Okay. Could you tell the jury what this is?

4 A. The one that Nick handed me to fill out.

5 Q. Did you fill this out?

6 A. Yes. Well, I filled out my part here.

7 Q. Okay. What is your part?

8 A. Right here what I described.

9 Q. Describe the circumstances causing the  
10 injuries/illness?

11 A. Wooded platform.

12 Q. Okay. So you wrote out "was on the wooded platform  
13 passing out material. As I went to pass the piece, I stepped  
14 down and twisted my knee." Correct?

15 A. Correct.

16 Q. All right. And that's consistent with what you told  
17 him orally?

18 A. Yes.

19 Q. Now, did Nick ask you whether there were any witnesses  
20 to your accident?

21 A. My guys. Everybody I was working with.

22 Q. You told him that?

23 A. Yeah, he knew, because nobody works alone.

24 Q. You told him where the accident happened?

25 A. I told him where it happened.

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. All right. Now, after you filled this out, what did  
2 Nick do?

3 A. I went to the medic that's on the same floor as them  
4 and he went toward the hoist.

5 Q. So you went to the medic you saw a medic?

6 A. Yes, I did.

7 Q. And what did the medic do for you?

8 A. Well, the medic report -- took ice on my knee, took a  
9 picture, and not too much. They had to cover their basis.

10 Q. They took a picture of what?

11 A. My knee.

12 Q. All right.

13 MR. TURNBULL: Your Honor, I'd like to show the  
14 jury what's been marked as Plaintiff's Exhibit 21. It's in  
15 evidence.

16 THE COURT: Okay.

17 Q. Can you see that, Neil?

18 A. Yes, I can.

19 Q. Can you tell the jury what this is?

20 A. That's my left knee.

21 Q. Now, looking at this photo, do you notice anything  
22 unusual about it?

23 A. Yes. There's a mark here, a bruise, and swollen on  
24 the outside.

25 MR. TURNBULL: Could I have the witness just

N. Carroll - Plaintiff - Direct (Turnbull)

1 circle the mark that he's referring to?

2 THE COURT: Yes, he has to tap the screen.

3 MR. TURNBULL: I actually have a hard copy. I  
4 could have him do it on this.

5 THE WITNESS: I'm not a computer --

6 THE COURT: Me neither.

7 THE WITNESS: My daughter does that for me.

8 MR. TURNBULL: May I just publish this to the  
9 jury?

10 THE COURT: Yes, you may give it to them.  
11 They'll pass it down.

12 COURT OFFICER: Plaintiff's Exhibit 21 was  
13 published to the jury.

14 MR. TURNBULL: Thank you very much.

15 Q. Neil, I want to go back just a moment.

16 You wrote that you were on a wooden platform --

17 A. Yes.

18 Q. -- at the time that your accident happened.

19 A. Yes, I did.

20 Q. Was it a stairway or platform?

21 A. Well, it depends on how you use it.

22 Q. What do you mean by that?

23 A. If it's a stairway, you go up and down it. Right.

24 That's a stair. But if you actually working off a step  
25 that's -- and you're not moving, that's -- we call it a worker's

N. Carroll - Plaintiff - Direct (Turnbull)

1 platform. That's what we call it.

2 Q. So it could be both a stair or a platform, depending  
3 on how you're using it?

4 A. Correct, but some people might not say that but we do.

5 Q. Now, after you saw the medic, what did you do next?

6 A. After I saw the medic, I went over to the hospital.

7 Q. Did you tell Nick that you were going to the hospital?

8 A. Yes, I did.

9 Q. Now, you testified a moment ago you didn't think it  
10 was serious. Right. So why did you go to the hospital?

11 A. Because something was wrong on the inside of my leg,  
12 my knee. I just wanted to double check it.

13 Q. Which hospital did you go to?

14 A. It was on 68th and York. What is that? Columbia  
15 Presbyterian. I call it NYU. I don't know.

16 Q. Now, when you got to the hospital, did a doctor or a  
17 nurse or someone ask you how you were injured?

18 A. Yes.

19 Q. What did you tell that person?

20 A. I can't recall what I said down there because I --

21 Q. Well, did you tell that person the same thing you told  
22 Nick?

23 A. Basically, the same. No, I didn't say wooden  
24 platform. I just said I fell, twisted my knee.

25 Q. Let me ask you this, Neil: Did the doctor, whoever

N. Carroll - Plaintiff - Direct (Turnbull)

1 you spoke to, ask you whether you fell onto your knee?

2 A. Yes, he did.

3 Q. And what did you say?

4 A. No.

5 Q. Why did you say no?

6 A. Because I didn't fall right on my knee. If you're on  
7 that second step, it's 18 inches down, if I would have fell on  
8 my knee, I would have been put in an ambulance, then taken over  
9 there.

10 Q. Well, your knee did strike the ground; correct?

11 A. My foot hit first, that took the cushion, and then  
12 my -- and then it buckled, and my knee went down and hit, then  
13 my shoulder.

14 Q. What did they do for you at the hospital?

15 A. They put ice on it and gave me an X-ray.

16 Q. And what did the results of the X-ray show?

17 A. X-ray showed nothing. I was fine. So he told me I  
18 could go.

19 Q. Did they tell you you could go back to work?

20 A. He said I can.

21 Q. Did you go back to work?

22 A. The same day.

23 Q. When you got back to the job site, did you go back up  
24 to the 20th floor?

25 A. Yes, I did.

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. And what did you do the rest of the day?

2 A. I stood inside because I was limping and my leg was  
3 still hurting.

4 Q. What did you do inside?

5 A. Nuts and bolts, just to get ready to prepare for when  
6 you build those units.

7 Q. When you went back to the job site, was that stairway  
8 platform still there?

9 A. The stairs were still there, yes.

10 Q. Did you use them again that day?

11 A. Nope. I didn't go outside.

12 Q. Did you see your co-workers, the members of your crew,  
13 using those stairs?

14 A. No, I did not. They were already outside.

15 Q. All right. How did you get to work that day?

16 A. On a train.

17 Q. How did you get home?

18 A. My wife came down and picked me up in the car.

19 Q. Why didn't you take the train home?

20 A. I was hurting. That's a long walk and staircases,  
21 couldn't do it.

22 Q. Now, did you go back to work the next day?

23 A. No, I did not.

24 Q. Did you go back to work eventually?

25 A. About two or three days later.

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. Why did you take a couple of days off?

2 A. Next day I got up to go to work, I couldn't do it so I  
3 went back home, put ice on it, called them and said I can't make  
4 it.

5 Q. When you went back to two days later, was your knee  
6 still painful?

7 A. Definitely.

8 Q. All right. But you went to work anyway?

9 A. Yes.

10 Q. Why did you go back to work if your knee was still  
11 pain?

12 A. I need the money. I don't get paid. You don't get  
13 paid, you can't stay home.

14 Q. Well, why didn't you go see a doctor?

15 A. 'cause I knew something was wrong.

16 Q. Well, if you knew something was wrong, why didn't you  
17 go see a doctor?

18 A. I did. I went to the emergency.

19 Q. Well, I know. Two days later, why didn't you go see a  
20 doctor then?

21 A. Because the doctor here told me I was fine. So I'm  
22 assuming it was just going to go away sooner or later. I  
23 thought it was like a bad sprain or something. I didn't know  
24 the outcome.

25 Q. Now, when you went to work two days later, how did you

N. Carroll - Plaintiff - Direct (Turnbull)

1 get to work?

2 A. My wife drove me.

3 Q. Did she pick you up that day, too?

4 A. Yes, she did.

5 Q. And when you got to work, what did you do?

6 A. Nuts and bolts. Finishing my nuts and bolts up. They  
7 kept me inside because I was limping around.

8 Q. Did Cap -- was he was aware that you were hurt?

9 A. Yeah, Cap was the one -- the first day he sent me home  
10 after that. He goes he didn't want me on the job because I'm a  
11 hazard, or whatever the word you want to call it. I'm a  
12 liability.

13 Q. On the date of your accident, did you speak with -- do  
14 you know who Steve Schefler is?

15 A. I seen him on the job.

16 Q. Who is he?

17 A. He was I think the head of the safety.

18 Q. For who?

19 A. For Turner.

20 Q. Did you speak with Mr. Schefler on the day of your  
21 accident?

22 A. No, I did not.

23 Q. Did you speak with him when you went back two days  
24 later?

25 A. Maybe occasionally when we walk by, we didn't speak

N. Carroll - Plaintiff - Direct (Turnbull)

1 about nothing.

2 Q. Did you ever -- did you ever speak with Mr. Schefler  
3 about your accident?

4 A. No, I did not.

5 Q. I want you to assume that Mr. Schefler testified  
6 through his deposition testimony that he spoke with you and  
7 asked about the accident. Is that true?

8 A. I don't recall talking to him.

9 Q. Did you ever speak with Nick about the accident?

10 A. No, I did not.

11 Q. Do you know whether anyone from Turner ever went to  
12 the site of the accident and spoke with witnesses?

13 A. I can't say that because I wasn't there.

14 Q. Did you see anyone from Turner go to the site of the  
15 accident and take any photos?

16 A. No, I did not.

17 Q. How long did you continue working at that job site?

18 A. Up to the day of my surgery.

19 Q. And when was that?

20 A. My surgery was in August.

21 Q. All right. Now, you saw a doctor before you had the  
22 surgery; correct?

23 A. Yes, I did.

24 Q. When did you first see a doctor?

25 A. Had to be sometime in June when the leg was getting

N. Carroll - Plaintiff - Direct (Turnbull)

1 worse.

2 Q. And why did you go wait until June to go see a doctor?

3 A. 'cause I thought it was going to go away. I thought  
4 it was just one of those bumps and bruises you get.

5 Q. Which doctor did you go see?

6 A. First I went to Dr. Pope.

7 Q. Okay. And Dr. Pope, you saw him testify in court;  
8 correct?

9 A. Correct.

10 Q. How did you get to Dr. Pope?

11 A. Well, Dr. Pope -- I wanted a doctor close to where I  
12 live in the Bronx. He's in over by Waters Place, so he's like  
13 five minutes away from me.

14 Q. And when you went to Dr. Pope, did you tell him how  
15 your accident happened?

16 A. I just said I got hurt. That's it.

17 Q. And what did Dr. Pope do for you?

18 A. He took me to get -- he gave me an X-ray then he gave  
19 me the MRI.

20 Q. And at some point, did you return to Dr. Pope to  
21 discuss the results of the MRI?

22 A. Yes, I did.

23 Q. What did he tell you?

24 A. That he don't do meniscus tears any more. He does  
25 total knee replacements. So then he sent me over to Dr. Voleti

N. Carroll - Plaintiff - Direct (Turnbull)

1 his other -- what do you want to call it? A sidekick? His  
2 other doctor.

3 Q. Colleague?

4 A. Yeah, colleague.

5 Q. All right. And so you saw Dr. Voleti?

6 A. Yes, I did.

7 Q. And did Dr. Voleti look at the MRI?

8 A. Yes, he did.

9 Q. And did he tell you what the MRI showed?

10 A. Yeah, I had a torn meniscus.

11 Q. And what did he recommend you do for that?

12 A. Surgery.

13 Q. So you had the surgery done?

14 A. Yeah, he did the first surgery, yes.

15 Q. Okay. We just said that was in August.

16 what kind of surgery was that?

17 A. They went through the knee. They didn't cut nothing  
18 open.

19 Q. Now, Neil, did you hope to get back to work after the  
20 surgery?

21 A. Oh, definitely, definitely. I was praying to go back.

22 Q. After you had the surgery, did you do physical  
23 therapy?

24 A. Yes, I did.

25 Q. How often were you doing physical therapy?

N. Carroll - Plaintiff - Direct (Turnbull)

1           A. It was twice a week at the place and then I did it on  
2 my own.

3           Q. Okay. You did it on your own. You mean at home?

4           A. At home, of course. Yes.

5           Q. Did they teach you at physical therapy certain  
6 exercises you could do at home?

7           A. Yes, they did. They gave me a pamphlet, paper with  
8 instructions.

9           Q. All right. And what kind of exercises were those?

10          A. Like stretching, stretching and then you massage it,  
11 you try to get the swelling down so you don't get scar tissue.

12          Q. Now, Neil, you've been sitting through this trial so  
13 you've heard all the testimony. And I believe you heard counsel  
14 ask Dr. Pope about your reporting a trip or your knee buckling  
15 and you falling.

16          A. Yes.

17          Q. Did that happen?

18          A. That was with Dr. Voleti the first one; yes.

19          Q. Okay. Could you tell the jury what happened?

20          A. The knee just -- when I was doing exercises at home,  
21 because over there they make me walk up and down stairs, walk  
22 around, and they stretch and bend your leg to get it to the  
23 movement. So I was at my staircase, holding on the rail, going  
24 up, the leg buckled, just hit the step and then it inflamed  
25 again.

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. All right. You also, I'm sure, heard counsel ask  
2 Dr. Pope about you going to a batting cage and try to hit balls?

3 A. Yes. I play ball. I just want to see if I could  
4 still do it, you know. That's it.

5 Q. You're a ball player?

6 A. Yes, I love it since I was seven.

7 Q. So you went to a batting cage and what happened?

8 A. Just to see if I could hit it, you know, and see if I  
9 still got it, you know. And then somebody just tweaked it, so I  
10 know I had to put the bat down and that's it. I just tried it.

11 Q. Did Dr. Voleti told you don't go to batting cages?

12 A. Well, he didn't know that I went. I just went on my  
13 own basically to see if I got it.

14 Q. All right. Now, Neil, after having the surgery, and  
15 doing the physical therapy, did the condition of your knee  
16 improve?

17 A. No. It was still there. It was still there. I had a  
18 sharp pain going and I just couldn't get rid of that.

19 Q. So aside from the physical therapy, did Dr. Voleti  
20 give you any other treatment?

21 A. Yeah, he gave me injections a couple of times. They  
22 were temporary relief. It didn't work.

23 Q. So what did you do next?

24 A. Then he sent me back over to Dr. Pope.

25 Q. And what did Dr. Pope recommend?

1 N. Carroll - Plaintiff - Direct (Turnbull)

2 A. He analyzed whatever I had, then we assumed -- so then  
3 that's when the knee replacement came in.

4 Q. Did you have the knee replacement done?

5 A. Yes.

6 Q. So let's talk about the knee replacement a little bit.

7 A. First of all, Neil, did you hope that after having the  
8 knee replacement you would be able to return to ironwork?

9 A. Yes. I thought I could beat the odds. Superman had  
10 kryptonite, you know, so you look at it this way, you know. I  
wanted to.

11 Q. And the knee replacement, you had that done at a  
12 hospital or a surgical center?

13 A. Yeah, I had it on 233rd Street. That's part of  
14 Montefiore.

15 Q. And how long were you in the hospital?

16 A. About three days.

17 Q. After you had the surgery done, what did they do for  
18 you in the hospital?

19 A. When I got out, they had me on a walker walking. I  
20 mean, he wants you up.

21 Q. All right. After you were discharged from the  
22 hospital, did they send a therapist to your home?

23 A. Yes, therapist, a nurse, they were more afraid of  
24 blood clots forming in me.

25 Q. And then did you begin doing physical therapy again?

N. Carroll - Plaintiff - Direct (Turnbull)

1 A. Yes, I did.

2 Q. All right. And where were you doing that?

3 A. At Burke Rehab which is across the street from my  
4 house.

5 Q. Same place you've done the physical therapy before?

6 A. Yeah, same place.

7 Q. After your first surgery?

8 A. Correct.

9 Q. All right. How often were you doing physical therapy?

10 A. At least twice a week there.

11 Q. And how long did you -- for how many weeks?

12 A. First one I'd say six weeks in periods.

13 Q. And after doing the initial period of physical  
14 therapy, did you continue doing it?

15 A. Yes, I did.

16 Q. Did Dr. Pope want you to continue doing physical  
17 therapy?

18 A. Dr. Pope wanted me to continue.

19 Q. Was there any interruption in your physical therapy?

20 A. Yes, there was.

21 Q. Okay. And why?

22 A. The insurance, the plan wouldn't cover.

23 Q. Did you continue to follow up with Dr. Pope?

24 A. Yes, I did.

25 Q. Now, at some point, did you and Dr. Pope have a

N. Carroll - Plaintiff - Direct (Turnbull)

1 conversation about whether you would be able to return to  
2 ironwork?

3 A. Yeah, he told me you can't do that. It's too  
4 strenuous of a job. But in my heart I believed I could. But I  
5 guess he was right.

6 Q. And how did that make you feel?

7 A. Sad, hurt, like just ripped my heart out.

8 Q. What did that mean for you and your family?

9 A. I couldn't provide for my family.

10 Q. Did your family or your daughter have any special  
11 needs?

12 A. Yes. My daughter. H -- whatever she has H --  
13 HD thing, it's special. I had her in therapy. All different  
14 things.

15 Q. Take a moment.

16 THE COURT: Do you need a moment, sir?

17 THE WITNESS: I'm all right. Thanks.

18 A. But I love the kid.

19 Q. All right. Now, Neil, after you had the total knee  
20 replacement, did your condition improve?

21 A. The pain, gone, but then we got different pain. Now  
22 it's swelling going, but it's not the same. You got to -- it's  
23 even worse -- harder than the meniscus things.

24 Q. And what did Dr. Pope recommend that you do?

25 A. Time will heal.

N. Carroll - Plaintiff - Direct (Turnbull)

1 Q. Did you undergo any further surgical procedures?

2 A. Yeah. I had build up so much scar tissue because of  
3 the lapse of the rehab, I build up so much tissue in there that  
4 he had to go back in. They cut me open again.

5 Q. When did that happen?

6 A. About a year later after that.

7 Q. And did you continue to follow up with Dr. Pope after  
8 that?

9 A. Yes, I did.

10 Q. Neil, as you sit here today, what are your complaints  
11 with respect to your left knee?

12 A. I can't do a lot of things I used to. But you  
13 always -- you make it work. You find ways to do something else,  
14 you know, like put food on the table. You got to -- I want to  
15 go back. I just couldn't.

16 Q. Neil --

17 A. That's all I know.

18 Q. Have you done -- you made any effort to find a  
19 different line of work?

20 A. I don't know how to put a computer on. I can't sit  
21 down still in there. I'm an outdoor's person. I've been  
22 outdoor's my whole life, 30 years. I mean, you're also putting  
23 a case -- a lion in a cage. You know, it doesn't work. You  
24 know.

25 Q. Neil, if it weren't -- how long did you intend to

N. Carroll - Plaintiff - Direct (Turnbull)

1 work?

2 A. Wow, at least to about 68, something like that because  
3 my father went to 69. Somehow in the genes. I wasn't ready to  
4 stop.

5 Q. Now, you mentioned a moment -- you just kind of  
6 touched on it, things that you can't really do any more.

7 So I want you to tell the jury. You mentioned playing  
8 baseball before. Could you just tell the jury things that you  
9 can't do any more because of your injury that you used to enjoy?

10 A. Me and my wife used to go to the Poconos, go on  
11 trails, hiking. I can't go on the beach walking, it's too much  
12 on my leg. You know, even long walks I can't do that. Even ice  
13 hockey. I couldn't even put skates on. You know, that's more  
14 strenuous on your knee. But baseball was the biggest one for  
15 me.

16 Q. How often would you play baseball?

17 A. Four games a night.

18 Q. Four games a night?

19 A. Yes.

20 Q. During the summer?

21 A. During the summer first game at 6:30, second one at  
22 8:30. Then you go to another field, 59th Street Bridge that was  
23 11:00 at night. Then you go home. Then you go to work, you get  
24 up to go to work.

25 Q. Were you a member of a league?

N. Carroll - Plaintiff - Cross

1 A. Yeah, a lot of leagues. Saturday was Central Park.

2 Q. And were you playing baseball right up until the date  
3 of your accident?

4 A. No. Maybe a couple of months before -- earlier than  
5 that.

6 Q. All right. You hadn't played baseball since your  
7 accident?

8 A. No, I have not.

9 Q. Aside from the ill-fated attempt to swing a bat at a  
10 batting cage, have you picked up a bat?

11 A. No, I have not.

12 MR. TURNBULL: Thank you, Neil.

13 THE COURT: Mr. Lyon, are you ready?

14 MR. LYON: I am, Your Honor. I'm going to need  
15 this.

16 CROSS EXAMINATION

17 BY MR. LYON:

18 Q. Good afternoon, Mr. Carroll?

19 A. Good afternoon.

20 Q. You understand I have to ask you some questions.

21 A. Of course.

22 Q. And you've been here throughout the trial. You know  
23 the rules. If I ask you a yes-or-no question, would you please  
24 answer it yes or no or just tell me I can't answer it yes or no.  
25 Fair enough?

N. Carroll - Plaintiff - Cross

1 A. Fair enough.

2 Q. Okay. Now, you've been here everyday. You heard your  
3 attorney in opening statement say you've never had an injury to  
4 your left knee. Do you remember that?

5 A. Yes.

6 Q. Your doctor said that you told them you never had an  
7 injury to your left knee. Do you remember that?

8 A. Yes.

9 Q. And you just said four or five times you've never had  
10 an injury to your left knee?

11 A. Not that I recall of.

12 Q. October 24, 2002, can you tell us what happened on  
13 that day?

14 A. I don't recall.

15 Q. Okay.

16 MR. LYON: I would like to direct the Court's  
17 attention to Exhibit 15. This is a page from the certified  
18 union records.

19 Q. That's your name?

20 A. Yes.

21 Q. That's your Social Security number?

22 A. Yes.

23 Q. October 24, 2002. Description of injury. What does  
24 that say?

25 A. Tear of the left knee.

N. Carroll - Plaintiff - Cross

1 Q. Sir, you received an \$18,000 check from workers'  
2 Compensation for a tear in your left knee. Don't you think  
3 you'd remember that?

4 A. Yes. I don't.

5 Q. You don't remember that?

6 A. No, I do not. No, I do not.

7 Q. This document says that there is a 22.5 percent  
8 scheduled loss of use of your left leg.

9 This document says that in 2002 you're partially  
10 disabled because of your left leg and you don't remember this?

11 A. No, I do not. Did I get it fixed?

12 Q. Sir --

13 A. I don't know.

14 Q. -- how many times, under oath, under penalties of  
15 perjury, did you say I've never ever had a problem with my left  
16 knee?

17 A. I don't remember to my left knee.

18 Q. You don't remember?

19 A. No, I do not.

20 Q. Okay, Mr. Carroll. You know we have your employment  
21 records. The economist testified that she reviewed them. Do  
22 you remember that?

23 A. Yeah.

24 Q. This is also from Exhibit 15, October 25, 2002 you  
25 worked. Next page, the next date is April 23, 2003. Do you

N. Carroll - Plaintiff - Cross

1 remember being out of work for six months at that exact same  
2 time?

3 A. Well, that was -- no. I was laid off.

4 Q. You had a tear in your left knee the day before you  
5 left for six months?

6 A. No, I do not recall on that. Yeah.

7 MR. WEIR: May we approach, Your Honor?

8 MR. TURNBULL: Yeah, may we approach, Your Honor?

9 THE COURT: Yes.

10 (Discussion off the record.)

11 Q. Let's take a look one more time. Date of injury,  
12 October 24, 2002, left knee tear, employment records. Next day  
13 October 25, 2002, you're out for six months. You have no  
14 recollection of that?

15 A. No, I do not.

16 Q. Mr. Carroll, you heard Dr. Pope testify. He said you  
17 had no symptoms until March 27, 2018 and he based his entire  
18 opinion on the fact that you had no symptoms until that date.  
19 Do you remember when he said that?

20 A. I do.

21 Q. That's not true. Is it?

22 A. I don't remember that.

23 Q. Well, if that's true, then you had symptoms?

24 A. Did I get it fixed?

25 Q. Did you have symptoms in 2002 according to that

N. Carroll - Plaintiff - Cross

1 document?

2 A. I don't recall it. I thought I was laid off by the  
3 records here.

4 Q. You don't remember getting an \$18,000 check?

5 A. No, I do not.

6 Q. You've had symptoms in your left knee at least 15  
7 years before the claimed injury in this case. True?

8 A. That's what you're saying. I don't recall it.

9 Q. According to that document, true?

10 A. I don't know. I can't answer that one. I don't know  
11 because I don't remember it.

12 Q. Would a tear in your left knee be a problem for your  
13 left knee?

14 A. It would be a problem for anybody.

15 Q. Would that contradict everything that you've said in  
16 this trial about your left knee?

17 MR. TURNBULL: Objection.

18 THE COURT: Sustained as to form.

19 Q. You've been working as an ironwork since 1983.

20 Have you worked straight from 1983 to 2018 nonstop  
21 every year?

22 A. No.

23 Q. Okay. What years didn't you work?

24 A. I can't recall. Go with the period of -- if there's  
25 work available, sometimes you go up and down with the work. You

N. Carroll - Plaintiff - Cross

1 get a high note, everybody works. You get a low note where  
2 nobody works.

3 MR. LYON: I'm going to direct the Court's  
4 attention, again, to Exhibit 15.

5 Q. You didn't work at all in 1994, 1995, 1996 and 1997?

6 A. Yes.

7 Q. What were you doing?

8 A. Nothing.

9 Q. Okay. You did work for Phoenix Contracting Group,  
10 2007 with Capil Joseph; correct?

11 A. Yes.

12 Q. You've known him a long time?

13 A. We're workers but not in the same gang.

14 Q. Dr. Pope testified yesterday.

15 "QUESTION: And how about the cause for the  
16 necessity of the surgery you performed.

17 Do you have an opinion, to you a reasonable  
18 degree of medical certainty as to the cause for the  
19 necessity of the total knee replacement?

20 "ANSWER: I think he would need a knee  
21 replacement eventually, given what his knee looked.  
22 whether or not it would have happened at that time, I think  
23 that having the surgery back in 2019 was due to the  
24 twisting injury because he was asymptomatic."

25 Q. But that's not true. You had symptoms prior to 2018;

N. Carroll - Plaintiff - Cross

1 correct.

2 MR. TURNBULL: Objection, Your Honor.

3 THE COURT: Overruled.

4 Q. You say you don't know?

5 A. I don't know.

6 Q. You don't know.

7 Before it was I never, ever, ever had a problem with  
8 my left knee. Now, you don't know.

9 A. I never knew I had a problem with my left knee.  
10 You're just telling me now. And I don't remember that. And if  
11 they fix the meniscus, you should be fine; right? Because  
12 didn't I work all the other years after that?

13 Q. Did they fix your meniscus back in 2002?

14 A. I don't know what they did. I don't remember it.

15 Q. You tell us. Did you have a meniscus surgery in 2002?

16 A. I don't know. I don't remember that thing.

17 Q. You don't know if you had surgery on your left knee in  
18 2002?

19 A. Yes. I don't know.

20 Q. You don't know?

21 A. I don't remember it.

22 MR. LYON: I'd like to direct the Court's  
23 attention to Exhibit 17, the pharmacy records.

24 Q. That's your address?

25 A. Right.

N. Carroll - Plaintiff - Cross

1 Q. In 2006 you fill a prescription for Celebrex; do you  
2 recall that?

3 A. What's Celebrex?

4 Q. Celebrex is a medication that is used to treat  
5 osteoarthritis. Are you aware of that?

6 A. No, I'm not.

7 Q. You know this doctor? Mark Mormon?

8 A. No, I do not.

9 Q. Do you know what kind of doctor he is?

10 A. No, I do not.

11 Q. If I said he's an orthopedic surgeon, would that  
12 refresh your recollection?

13 A. No.

14 Q. All right. Let's switch gears.

15 Do you remember seeing a Dr. D'Ambrosio?

16 A. Who?

17 Q. D'Ambrosio?

18 MR. TURNBULL: Objection, Your Honor.

19 THE COURT: Step up please.

20 (Discussion off the record.)

21 Q. Mr. Carroll, it is true that you are officially  
22 retired now; correct?

23 A. Semi.

24 Q. Are you working?

25 A. with the option to go back.

N. Carroll - Plaintiff - Cross

1 Q. Have you worked, at all, since this injury?

2 A. No, I have not.

3 Q. Okay. Have you applied for any jobs?

4 A. No, I have not.

5 Q. Have you looked for any jobs?

6 A. No. Because I thought I was going back to the iron.

7 Q. Okay. So in seven years, you've never applied for any  
8 jobs?

9 A. No.

10 Q. Your pension benefits are fully vested; correct?

11 A. Correct.

12 Q. You retired with a 55/30 service; correct?

13 A. 55/30?

14 Q. Yeah, which means you're at least 55-years old with  
15 30 years of service; correct?

16 A. Yeah, over. Right.

17 Q. And under that pension, you receive full unreduced  
18 pension benefits; correct?

19 A. Four different pensions?

20 Q. Full unreduced benefits; correct?

21 A. What does that mean?

22 Q. You're not penalized from retiring at 55. True?

23 A. No, you can go back. People work to 60s, 80s -- not  
24 80s. 68s, that's the highest. I know people do.

25 Q. You were not penalized because you retired at 50;

N. Carroll - Plaintiff - Cross

1 isn't that correct?

2 A. No, not yet.

3 Q. Okay. Let's switch topics. Okay.

4 A staircase is not a platform. You agree with that  
5 statement? A staircase is a different thing from a platform.  
6 True?

7 A. Depending on how you use it.

8 Q. Were you coached to say that?

9 A. No. We call it that.

10 Q. Capil Joseph said the exact same thing. Do you  
11 remember that?

12 A. Well, we're both ironworkers.

13 Q. Depending on how you use it.

14 You said we would never -- we would never -- or we  
15 call it -- what did you say? "That's what we call it." That's  
16 what you said. Right? And "we" you mean ironworkers; correct?

17 A. Correct.

18 Q. Do you remember when Capil Joseph was asked this  
19 question.

20 "QUESTION: You'd never call a staircase a  
21 platform; would you?

22 Q. His answer:

23 "ANSWER: No."

24 A. Well, different people do. I do. Because if you're  
25 standing on it stationary, and working off it, that is not

N. Carroll - Plaintiff - Cross

1 moving, you're not going up and down the steps.

2 Q. I noticed on direct exam you said the word "tweak".  
3 You used the word "tweak" to refer to what happened at the  
4 batting cages. Is that something you say "I tweaked it"?

5 A. I say a lot -- yes, I said tweak, bumped it.

6 Q. Did you say that to Steve Scheffler "I tweaked it"?

7 A. I don't remember saying anything to him about it.

8 Q. The report that you authored on the day of the  
9 incident says nothing about a staircase; correct?

10 A. No.

11 Q. Is it; correct?

12 A. Yes.

13 Q. The emergency room records from the day of the  
14 incident say nothing about a staircase; correct?

15 MR. TURNBULL: Objection. He had not been shown  
16 the records.

17 THE COURT: Well, you want to show him?

18 MR. LYON: Fair enough.

19 I'll direct the Court's attention to Exhibit 3,  
20 the emergency department records.

21 Q. The history of present illness it says "55-year-old  
22 male with no significant past medical history, presents to the  
23 ED with left knee pain today. Patient was lifting a heavy  
24 object at work and twisted his left knee. Denies falling on to  
25 the knee."

1           That means he specifically asked you did you fall on  
2 the knee and you said no; correct?

3           A.    Correct. Because I didn't fall on the knee directly.  
4 I fell on the foot, twisted my knee, twisted my -- and then hit  
5 my knee on the ground. I didn't fall on it because I would have  
6 shattered it from 18 inches down. I definitely would have hurt  
7 it worse.

8           Q.    Did you bang your knee?

9           A.    Yes.

10          Q.    Okay. The history of present illness in the ER says  
11 nothing about a staircase, does it? The word "staircase" isn't  
12 there?

13          A.    I kept it brief.

14          Q.    Nothing about stairs?

15          A.    No, because my boss would get the records and then  
16 I'll be fired from him.

17          Q.    Your boss Greg Beeche?

18          A.    Yes, and Turner would get the records of everything  
19 that they get, don't they?

20          Q.    Were you here when Mr. Joseph said Turner wouldn't  
21 have my medical records? Do you remember that?

22          A.    No.

23          Q.    These records also say nothing about a fall. Is that  
24 true?

25          A.    what it says here, that's what he wrote.

N. Carroll - Plaintiff - Cross

1 Q. Nothing about you falling. True?

2 A. That's what he wrote.

3 Q. Were you here when Dr. Pope said the history of  
4 present illness comes directly from the patient?

5 A. I didn't understand everything he says.

6 Q. I understand.

7 You don't remember when he said every physician gets  
8 the history of the present illness directly from the patient.

9 Do you remember that?

10 A. Yeah, because you tell him what's going on.

11 Q. That's right. And this came from you; correct?

12 A. Because I don't tell him -- why am I going to  
13 complain? I don't complain and I'll get laid off.

14 Q. What was your pain level in the emergency department  
15 that day?

16 A. It was painful.

17 Q. How much. Zero to ten.

18 A. I'm not going to put a number. It was hurting.

19 Q. You can't give a number?

20 A. All right. Seven.

21 Q. Seven. That's how much it hurt?

22 A. Seven.

23 Q. Seven out of ten?

24 A. Seven out of ten.

25 Q. Here's a four. That says four, doesn't it?

N. Carroll - Plaintiff - Cross

1 THE COURT: What are we looking at, sir? The  
2 same record?

3 || MR. LYON: Same record.

4 Q. Does it say four, sir?

5 A. Yes.

6 Q. Okay. Four is not seven; correct?

7 A. Well, how did they get the four?

8 Q. They asked you presumably.

9 MR. TURNBULL: we move to strike the comment.

10 || MR. LYON: Withdrawn.

11 THE COURT: It's sustained. Stricken.

12 Q. whether it was a platform or stairs or whatever it  
13 was, you never had a problem with it before. True?

14 A. I only saw it that day.

15 Q. Yes, no, I can't answer yes or no. Okay?

16 A. No, I never had a problem with that stair.

17 Q. All right. Well, everybody used it; right?

18 A. I don't know about everybody.

19 Q. It wasn't dangerous. It was fine; correct?

20           A.    When I went down once or twice, it was.  But I don't  
21           know about everybody else.

22 Q. Do you remember giving a deposition in this case?

23 A. Somewhat, yes.

24 Q. You're under oath just like you are today. True?

25 A. Yes. I understand.

N. Carroll - Plaintiff - Cross

1 Q. Page 22, line 19:

2 "QUESTION: Had you ever had a problem with those  
3 steps before?

4 "ANSWER: No. Everybody used them. They were  
5 fine."

6 Q. If they were fine, they weren't dangerous. Agree?

7 A. Yes, I guess. But I'm not everybody.

8 Q. If you were worried about the repercussions of  
9 reporting the truth about what happened to you, were you  
10 hesitant to even go downstairs to report it to Turner?

11 A. I went down there.

12 Q. I know. But were you hesitant? Were you like a  
13 little bit hesitant to go?

14 A. No.

15 Q. Okay. Did you receive any pain medication in the ER?

16 A. I don't think so.

17 Q. Did the emergency department give you any follow-up  
18 instructions?

19 A. They told me that I'm fine. The x-ray don't show --  
20 it shows nothing with the -- what I had.

21 Q. This is Exhibit 3, again. These are the follow-up  
22 instructions from the emergency department.

23 It says ."Return to emergency department for  
24 persistent, worsening or new symptoms including worsening pain,  
25 difficulty walking, or any other new symptoms that are

N. Carroll - Plaintiff - Cross

1 concerning to you."

2 Did you return to the emergency department?

3 A. No.

4 Q. Okay.

5 A. That's when I went up to Waters Place after a couple  
6 of months because I thought I'd get back better. When they told  
7 me I was fine to go back to work, I thought I was good. I  
8 thought it was a just a bad bruise, bump, whatever it was and it  
9 would heal.

10 Q. You went back to work that day?

11 A. I went back to work that day.

12 Q. You went back to work for five months before having  
13 surgery?

14 A. Correct.

15 Q. You worked everyday up to the day of surgery. True?

16 A. Correct.

17 Q. You were not on limited duty either. True?

18 A. No, I was. I couldn't climb outside. I couldn't do  
19 my whole job.

20 Q. You were in the room when I showed Dr. Pope the record  
21 where he said you were not limited. Do you remember that?

22 A. Yes, but my body said no, I couldn't do it. I had to  
23 keep going to put food on the table. I couldn't be laid off.  
24 And that was a good gig.

25 Q. Who took this picture?

N. Carroll - Plaintiff - Redirect (Turnbull)

1 A. The medics, MSK.

2 Q. That's your right knee, sir?

3 A. They took that picture.

4 MR. TURNBULL: Objection. Is that a statement or  
5 a question?

6 Q. Isn't it?

7 A. No, it's my left.

8 Q. Okay.

9 MR. LYON: No further questions. Thank you.

10 THE COURT: Thank you, Mr. Lyon.

11 REDIRECT EXAMINATION

12 BY MR. TURNBULL:

13 Q. All right. Neil, throughout your 30 years of  
14 ironwork, have you had some bumps and bruises?

15 A. Of course.

16 Q. All right. You don't remember hurting your knee in  
17 2002, what 16-years before your accident; correct?

18 A. I don't remember that.

19 Q. Okay. As counsel showed, there was a six-month gap in  
20 employment from October 2002 through April of 2003?

21 A. Right.

22 Q. Are gaps in employment unusual in your line of work?

23 A. Nope. Not in our field.

24 Q. All right. Neil, before your accident, were you  
25 working full time, full duty?

N. Carroll - Plaintiff - Redirect (Turnbull)

1 A. Yes, I was.

2 Q. I want to show you from your union records?

3 MR. LYON: This is Exhibit 15 in evidence, Your  
4 Honor.

5 Q. A list of your work hours -- actually, I'll just read  
6 from it.

7 All right Neil, 2017, the year before your accident,  
8 2,607 hours. Were those the hours that you worked this 2017?

9 A. I can't recall.

10 Q. All right. I'm referring to your union records.  
11 That's what the union record says, 2607.

12 A. For 2017?

13 Q. Can you see that?

14 A. Yes.

15 Q. 2017, 2,607 hours; do you see that?

16 A. Correct.

17 Q. All right. Is that a lot of hours?

18 A. Yes, it is.

19 Q. Were you working full duty?

20 A. Yes, I was.

21 Q. Any limitations, at all, in your performing your  
22 tasks?

23 A. Nope.

24 Q. The year before that, 1,983 hours. Do you see that?

25 A. Yes.

N. Carroll - Plaintiff - Redirect (Turnbull)

1 Q. Any limitations in performing your tasks as an.  
2 Ironworker then?

3 A. Nope.

4 Q. How about 2015, 2114 hours. Any limitations in  
5 working those full hours?

6 A. No.

7 Q. Working full duty?

8 A. Yes, I was.

9 Q. 2014, 2,379 hours. Working full duty?

10 A. Yes, I was.

11 Q. Any physical limitations in performing your work that  
12 year?

13 A. No, it wasn't. I was fine.

14 Q. 2013, 2,118 hours.

15 A. Correct.

16 Q. Full duty?

17 A. Full duty.

18 Q. Any limitations in performing your work that year?

19 A. No.

20 Q. Yes or no?

21 A. No, I'm sorry.

22 Q. I could go on and on. But you see those hours;  
23 correct?

24 A. Yes.

25 Q. All right. So during that several-year period up

N. Carroll - Plaintiff - Redirect (Turnbull)

1 until the date of your accident, were there any limitations  
2 related to your knee that prevented you from working full duty?

3 A. No.

4 Q. Now, there's been some discussion about your fear of  
5 losing your job. You're afraid of losing your job, you'd get  
6 laid off; right?

7 A. Correct.

8 Q. Did you see that happened before, Neil?

9 A. Yes, I did.

10 Q. You've seen workers who reported safety violations get  
11 laid off?

12 A. Yes.

13 Q. Well, tell me about that? How often did you see that?

14 A. Different jobs have different things. Once they  
15 complained over to that, they're gone. You don't see them no  
16 more.

17 Q. Can you see anyone in particular?

18 A. This one guy Danny Frank that worked with us with  
19 Tishman. And the next time he went down and complained and then  
20 the boss laid him off. So he was gone.

21 Q. Now, when you went to the -- according to the hospital  
22 record, you went there, you reported pain four out of ten;  
23 correct?

24 A. Correct.

25 Q. Did the pain increase throughout the date?

N. Carroll - Plaintiff - Redirect (Turnbull)

1 A. Naturally it does because you're using it.

2 Q. All right. So that day, the date of your accident,  
3 was your pain worse at the end of the day then it was when you  
4 went to the emergency room?

5 A. Until I get home and elevated it and put ice on it.

6 Q. So do you remember what your pain was on a scale from  
7 one to ten at each particular point throughout the day?

8 A. No, I don't. Because in the morning with the ice on  
9 it, it goes down.

10 Q. I'm just talking about the date of your accident.

11 Do you remember what your pain was level was hour by  
12 hour for the remainder of the day on the date of the accident?

13 A. No, I do not.

14 Q. Did it get worse throughout the day?

15 A. Yes, it did.

16 Q. And you told counsel that you didn't have any it  
17 problem with the staircase before the accident; correct?

18 A. Correct.

19 Q. Were you carrying material across the staircase before  
20 your accident?

21 A. Nope.

22 Q. When your accident happened, was that the first time  
23 you were actually using it as a platform?

24 A. Yes, it is.

25 Q. To transport material?

N. Carroll - Plaintiff - Recross

1 A. Yes, it was.

2 Q. And this piece of -- this beam that you were handling,  
3 how much did it weigh?

4 A. I would say about 80 to about 120 pounds.

5 Q. Okay. So the platform had your weight plus the weight  
6 of this beam; is that correct?

7 A. Yes.

8 Q. Now, counsel asked you whether you were hesitant in  
9 going down to Turner or reluctant to go down to Turner to report  
10 the accident; do you remember that?

11 A. Yes.

12 Q. Cap was your foreman; correct?

13 A. Cap's my foreman.

14 Q. Did he tell you to go down and report to Turner?

15 A. Yes, he did.

16 Q. All right. And he was your foreman so you followed  
17 his instructions; correct?

18 A. Correct.

19 Q. Is your wife also on your union health plan?

20 A. Yes, she is.

21 Q. So the union also pays for her prescriptions?

22 A. Correct.

23 MR. TURNBULL: Nothing further.

24 THE COURT: Anything further?

25 RECROSS EXAMINATION

N. Carroll - Plaintiff - Recross

1 BY MR. LYON:

2 Q. You have no explanation for the document in evidence  
3 that says you had a left knee tear in 2002. You have no  
4 explanation?

5 A. I have no explanation. I don't remember that.

6 MR. LYON: Nothing further. Thank you.

7 THE COURT: Thank you so much, Mr. Neil. You can  
8 step down -- I mean, Mr. Carroll.

9 Counsel, you want to step up?

10 (Discussion off the record.)

11 THE COURT: Okay. Members of the jury. That's  
12 going to conclude our working portion for this afternoon.  
13 So I'm going to ask you to go home, enjoy the weekend.

14 Remember my admonitions about speaking among  
15 yourselves or with others. And, finally, please do not go  
16 and visit the work site to or past this work incident site.

17 Have a great weekend again and we'll see you  
18 Monday morning, 9:30.

19 COURT OFFICER: All rise. Jury exiting.

20 (Jury exits courtroom.)

21 THE COURT: Okay. The Court stands in recess.  
22 Thank you all. Have a great weekend.

23 \* \* \* \* \*

24 (Trial adjourned to Monday, June 9, 2025 at time  
25 at 9:30 a.m.)

"ANSWER: [3] 440/20 494/20 503/4 "QUESTION: [2] 440/18 494/15 COURT OFFICER: [11] 390/15 390/20 391/14 391/19 436/9 436/13 452/3 452/17 453/9 473/12 511/19 MR. LYON: [36] 395/1 395/5 395/9 398/18 398/20 398/23 400/25 401/14 402/4 408/14 408/17 411/11 428/10 428/23 431/24 432/7 434/6 436/20 441/13 441/16 446/15 448/24 449/4 450/21 451/16 452/7 489/14 490/16 494/3 495/22 499/18 502/3 502/10 505/9 506/3 511/6 MR. TURNBULL: [19] 453/5 453/23 470/16 470/21 470/24 472/13 472/25 473/3 473/8 473/14 489/12 492/8 493/17 495/2 496/18 499/15 502/9 505/4 510/23 MR. WEIR: [45] 391/6 391/8 391/10 392/10 398/24 402/1 402/6 402/10 408/11 408/19 408/21 411/7 411/10 411/16 411/18 411/20 414/25 415/3 417/19 419/21 419/24 428/7 428/12 428/15 428/18 428/20 429/1 431/25 432/3 432/11 432/14 432/16 434/3 436/6 437/19 437/22 441/9 441/12 441/14 441/24 442/2 446/17 451/9 452/8 492/7 THE COURT: [87] 390/16 390/23 391/2 391/7 391/9 391/12 391/24 392/1 392/7 392/9 395/2 395/6 398/19 398/22 399/3 401/15 402/3 402/8 402/12 408/13 408/16 408/18 408/20 411/9 411/14 411/17 411/19 415/2 417/21 419/23 420/1 428/9 428/11 428/13 428/17 428/19 428/24 432/2 432/4 432/9 432/13 432/15 433/19 434/5 434/7 436/7 436/12 436/16 437/20 437/23 441/10 441/17 441/25 442/3 446/14 446/16 451/11 451/17 451/20 451/22 452/5 452/20 452/23 453/7 453/14 453/17 470/19 470/22 470/25 472/16 473/2 473/6 473/10 486/16 489/13 492/9 493/18 495/3 496/19 499/17 502/1 502/11 505/10 510/24 511/7 511/11 511/21 THE JURORS: [2] 391/1 452/22 THE WITNESS: [9] 391/21 391/25 392/6 392/8 451/19 453/15 473/5 473/7 486/17	\$148,265 [1] 405/22 \$169,204 [1] 412/18 \$171,938 [1] 433/20 \$18,000 [2] 491/1 493/4 \$183,116 [1] 416/10 \$185,558 [1] 433/15 \$189,135 [1] 418/24 \$193,184 [1] 412/25 \$2,183,895 [1] 417/5 \$2,469,035 [1] 419/5 \$2,600,000 [1] 446/3 \$2,900 [1] 438/24 \$211,306 [1] 416/18 \$214,143 [1] 419/2 \$22,772 [1] 430/22 \$221,606 [1] 436/1 \$253.12 [1] 428/6 \$37 [1] 429/10 \$37.68 [1] 429/8 \$403,119 [2] 410/13 411/1 \$445,320 [1] 403/25 \$45,980 [1] 405/7 \$542,780 [1] 416/7 \$571,604 [1] 412/16 \$58,072 [1] 416/16 \$59,265 [1] 412/23 \$599,330 [1] 418/23 \$63,077 [1] 419/1 \$64,325 [1] 433/8 \$687 [1] 430/3 \$725,896 [1] 416/12 \$740,808 [1] 412/20 \$753,981 [2] 417/11 419/6 \$788,465 [1] 418/24 \$81,200 [1] 407/16 \$837,355 [1] 408/10 \$850,310 [1] 408/1 \$980,302 [2] 413/16 414/2 \$993,257 [1] 413/18 '76 [1] 455/14 '80 [1] 455/14 'cause [4] 468/12 469/11 477/15 480/3 'em [1] 466/11 'till [1] 458/18	11 [4] 408/21 411/10 411/19 452/9 112 [1] 388/20 11:00 [1] 488/23 12 [6] 398/15 399/5 400/2 411/21 415/2 452/9 12-year-old [1] 399/18 120 pounds [1] 510/4 13 [4] 415/5 417/19 417/21 452/9 13-year-old [2] 398/15 400/2 13-years [1] 399/6 14 [4] 418/1 419/21 419/23 452/9 15 [5] 490/17 491/24 493/6 494/4 506/3 150 [1] 388/16 1555 [1] 388/20 16-years [1] 505/17 17 [1] 495/23 1730 [1] 459/18 17th [1] 454/16 18 [1] 400/2 18 inches [3] 468/3 475/7 500/6 1800 [1] 398/4 18A [7] 389/2 421/8 428/13 428/15 428/15 428/17 452/9 18B [3] 389/4 428/7 428/11 18C [3] 389/7 428/20 428/21 18D [2] 389/10 429/21 18E [2] 389/12 430/4 18F [2] 389/15 432/22 18G [3] 389/18 433/11 452/10 19 [3] 400/2 433/21 503/1 19-year-time [1] 439/3 1962 [2] 454/18 454/19 1983 [3] 457/10 493/19 493/20 1994 [1] 494/5 1995 [1] 494/5 1996 [1] 494/5 1997 [1] 494/5 19A [4] 389/21 433/22 434/7 452/10 19B [1] 389/23 19C [1] 390/1 19D [1] 390/4 19E [1] 390/7 19F [1] 390/10 19G [2] 390/13 452/10 1st [1] 402/22	2
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<p><b>2</b></p> <p>2014 [1] 507/9 2015 [1] 507/4 2017 [4] 506/7 506/8 506/12 506/15 2018 [9] 403/13 403/14 445/12 448/8 459/21 463/19 492/17 493/20 494/25 2019 [2] 403/14 494/23 2019e [1] 388/5 2020 [2] 403/14 407/23 2025 [9] 388/10 402/22 403/15 409/3 412/2 416/8 427/16 427/17 511/24 2026 [1] 409/10 2030 [2] 409/9 442/18 20th [4] 463/24 465/21 468/24 475/24 21 [3] 452/13 472/14 473/12 2114 [1] 507/4 22 [1] 503/1 22.5 percent [1] 491/7 23 [1] 491/25 233rd [1] 484/13 23540/2019e [1] 388/5 24 [3] 490/12 490/23 492/12 25 [2] 491/24 492/13 2556 [1] 459/11 2607 [1] 506/11 27 [4] 445/12 459/21 463/19 492/17 2:00 [1] 452/1</p> <p><b>3</b></p> <p>3-feet [2] 465/19 465/19 3.1 percent [3] 423/6 429/16 429/17 3.9 [1] 424/22 30 [18] 389/2 389/4 389/7 389/10 389/12 389/15 389/18 401/9 422/15 424/23 425/16 426/13 426/25 435/1 487/22 497/12 497/13 505/13 30 years [1] 497/15 30-year [2] 421/10 422/16 31 [1] 401/6 32 [1] 401/6 34th [1] 388/20</p> <p><b>4</b></p> <p>4 percent [3] 426/24 427/1 427/4 4.1 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Agreement [1] 401/20 Agreements [2] 394/12 438/8 aides [1] 424/13 ALISON [1] 388/12 alive [1] 458/4 all [119] 390/20 393/5 394/18 399/4</p>
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