

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 OSAM E. EBRAHEM,

4 Plaintiff,

5 v.

12 Civ. 8253 (SAS)

6 COACH LEASING, INC. and DEREK
7 LESTER MORTON,

8 Defendants.
-----x

9 New York, N.Y.
10 August 14, 2013
10:10 a.m.

11 Before:

12 HON. SHIRA A. SCHEINDLIN,

13 District Judge

14 APPEARANCES

15 MORGAN LEVINE DOLAN
Attorneys for Plaintiff

16 BY: GLENN P. DOLAN

17 GALLO VITUCCI KLAR
Attorneys for Defendants

18 BY: MATTHEW J. VITUCCI
19 ALEX M. HOWARD
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1 (Trial resumed; jury not present)

2 THE COURT: A question about a nonparty witness who is
3 not going to testify?

4 MR. VITUCCI: He left the courtroom anyway.

5 THE COURT: If he is not going to be testifying, who
6 cares.

7 MR. VITUCCI: I meant to say witnesses who are going
8 to testify.

9 THE COURT: They are going to testify. Okay. I was
10 told who aren't going to testify.

11 MR. DOLAN: Your Honor, would this be an appropriate
12 time to discuss my continuing scheduling difficulties?

13 THE COURT: I have no interest in your scheduling
14 difficulties any longer. I have scheduling difficulties.

15 MR. DOLAN: I understand, your Honor. The same issue
16 remains.

17 THE COURT: Then your case will be over. I've told
18 you and told you that. I'm sorry. If they didn't cooperate
19 with you, that's it.

20 (Jury present)

21 THE COURT: Mr. Dolan, do we have a witness?

22 MR. DOLAN: Yes, your Honor. The plaintiff calls
23 Dr. Debra Dwyer to the stand.

24 DEBRA DWYER,

25 called as a witness by the Plaintiff,

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1 having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. DOLAN:

4 Q. Good morning, Dr. Dwyer. Please state your qualifications
5 for the record beginning with your educational background.

6 A. Sure. I received my bachelor of science in economics and
7 English literature from Queens College, City University of New
8 York at Flushing. Then I went on to get my master's and my
9 Ph.D. from Cornell University in labor and health economics.
10 Then I went on to do a post doc at Syracuse University at the
11 center for policy research, also in labor and health economics.

12 Q. Can you please describe your employment history?

13 A. Sure. After I left my post doc at Syracuse University, I
14 was recruited to the Social Security Administration in
15 Washington, D.C. where I worked for the division of economic
16 research as an economist. I worked for the disability research
17 group. Then I went to Stony Brook University where I worked as
18 an assistant professor for eight years in the economics
19 department. Then I was recruited as the chair of the health
20 care policy and management department as a clinical associate
21 professor, which is where I'm currently employed.

22 Q. Doctor, have you published any articles in any journals in
23 the field of economics?

24 A. Yes, I have. I've published several articles in the area
25 of health and labor economics. I've published in journals like

1 the Journal of Health Economics, the Journal of Labor
2 Economics, public health journals, variety of journals,
3 statistics journals, in the areas of disability and work. And
4 several publications in the area of children at risk,
5 adolescents at risk for drug addictions and other sorts of
6 addictive behaviors.

7 Q. Doctor, what is economics?

8 A. Economics is the study of how we use our resources in
9 society. In order to be able to best use our resources we have
10 to place values on them. And so economists will study the
11 value of resources in any economy. I'm a health and labor
12 economist, which makes me an expert in the areas of the
13 resources associated with delivering health care and work in
14 any economy.

15 Q. And, Doctor, have you been qualified as an expert in the
16 field of economics in the past?

17 A. Yes, I have.

18 Q. And have you ever been retained on behalf of a client of
19 mine in the past?

20 A. Yes, I have. Once before.

21 Q. Doctor, did you conduct an analysis and prepare a report in
22 this case?

23 A. Yes, I have.

24 Q. And did you receive a fee for those professional services?

25 A. Yes, I have.

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Dwyer - direct

1 Q. What was that fee?

2 A. \$2,700.

3 Q. Are you receiving a fee for your time here today as well?

4 A. Yes, I am.

5 Q. And what is that fee?

6 A. \$4,000.

7 Q. And are those the usual and customary charges for an
8 economist of your qualifications in this region?

9 A. Yes, it is.

10 Q. And do you receive the same fee regardless of your findings
11 and regardless of the outcome of this case?

12 A. Absolutely.

13 Q. Dr. Dwyer, what records, if any, did you review in
14 conducting your analysis in this case?

15 A. I reviewed the medical report, the lifecare plans of Dr.
16 Lattuga, and also of -- bear with me, sorry, forgot his name --
17 Dr. Stefanides.

18 Q. Dr. Dwyer, assuming that on January 11 of 2012 Mr. Ebrahim
19 was involved in an automobile accident in which his vehicle was
20 struck by a 58,000-pound double decker bus, scraping the left
21 side front quarter panel and ripping the headlight and grille
22 off the front of Mr. Ebrahim's vehicle, causing permanent
23 injuries to his left knee and lumbar spine, including torn
24 menisci in the knee necessitating arthroscopic surgery and
25 exacerbating the disc bulges in his lumbar spine to full-blown

1 disc herniations, weakening his spine, to the point that he
2 required fusion surgery in which metal rods and screws were
3 surgically implanted in his back.

4 Assuming that Dr. Lattuga has opined with a reasonable
5 degree of medical certainty that in addition to his past
6 medical treatment due to the progressive nature of the
7 injuries, Mr. Ebrahim will also require the following future
8 medical care of long-term lifetime duration: Orthopedic visits
9 of approximately five per year at a cost of \$200 per visit;
10 pain management visits of approximately 12 per year at a cost
11 of \$200 per visit; x-rays, approximately two per year, at a
12 cost of \$300 each; MRIs, one every three years at a cost of
13 \$1,000 per MRI; EMG studies, one every two years at a cost of
14 \$1,500 per EMG; pain medication at a cost of \$600 per year; the
15 surgical insertion of an analgesic pump to administer pain
16 medication at a one-time cost of \$75,000; a surgical revision
17 of his lumbar spine fusion within ten years at a one-time cost
18 of \$100,000; epidural injections two times per year, until the
19 surgical revision, at a cost of \$5,000 each; and physical
20 therapy to the lumbar spine three times per week at a cost of
21 \$125 per visit for the next two years, then one time per week
22 until the surgical revision, and then three times per week for
23 an additional two years, then one time per week.

24 Assuming all that I have stated, do you have an
25 opinion within a reasonable degree of economic certainty as to

1 the cost of the future medical care in relation to
2 Mr. Ebrahem's lumbar spine?

3 MR. VITUCCI: Objection. That question assumes facts
4 that are not evidence in the courtroom and the question also
5 calls for speculation from this witness and for opinions beyond
6 her area of specialty.

7 THE COURT: You made several objections at once. As
8 far as facts not in evidence, I assume this is subject to
9 connection, that there are documents. You will be testifying
10 to some of those facts?

11 MR. DOLAN: Yes, your Honor. Narrative reports have
12 been exchanged.

13 THE COURT: I'm overruling that portion of your
14 objection because I know that testimony is coming. As far as
15 speculation, this is what she does. She does projections.
16 It's not speculation.

17 MR. VITUCCI: I withdraw that part of the objection.
18 With that assumption being accepted by the Court subject to
19 connection, I withdraw my objection.

20 THE COURT: Thank you. Go ahead.

21 Q. Doctor, do you have such an opinion yes or no?

22 A. Yes.

23 Q. And, Doctor, utilizing the chart that has been marked in
24 evidence as Plaintiff's Exhibit number 35, pursuant to the
25 terms of the pretrial order, could you please come down from

1 the witness stand and explain your opinion to the jury?

2 MR. VITUCCI: Can I see the chart first, your Honor?

3 MR. DOLAN: Absolutely.

4 MR. VITUCCI: Is this part of the doctor's report?

5 MR. DOLAN: Yes, it is.

6 MR. VITUCCI: No objection.

7 A. Good morning.

8 So what I did was, these -- I'm not a medical doctor.
9 So this is based on the lifecare plan provided by a medical
10 doctor, Dr. Lattuga. And what he recommends were orthopedic
11 visits for Mr. Ebrahem is five visits per year at \$200. So we
12 begin with, we are doing future. What I'm doing is projecting
13 into the future based on these recommendations by an MD. So
14 I'm beginning with the year 2014 since we are coming to the end
15 of 2013. What I need to do for each year is predict what I
16 believe the costs of these procedures that have been
17 recommended by Dr. Lattuga are going to be each year from here
18 on.

19 As we know, even though they cost \$200 per year right
20 now, that cost is not going to remain stable for the next few
21 years, just like all prices are rising as we know. So it costs
22 about 2.50 today to ride the subway. In my lifetime at one
23 point it cost 50 cents to ride the subway. So I do need to
24 grow those numbers based on what economists believe the prices
25 are going to be for an orthopedic visit in 2015, 2016, and so

1 on.

2 The way we do that is, we take these trends from the
3 last 20 years, we look over a business cycle and look at what
4 the prices have been doing over the last 20 years and take the
5 average growth rate. So that's how I predict what the prices
6 are going to be over the remainder of Mr. Ebrahim's life.

7 Q. Doctor, what is a growth rate, if you can define that term
8 for the jury?

9 A. It's the inflation rate or the rate of change in prices.
10 That's what I mean by the growth rate. So how much the
11 percentage by which I am going to grow the prices. If it's
12 \$200 per visit in 2014, how much is that price going to grow by
13 in 2015. So for orthopedic visits what we find is on average
14 they grew by 4 percent, so that growth rate would be 4 percent.

15 Q. Assuming we find that, where is that found?

16 A. I apologize. I didn't say that. From the federal
17 statistics. The Bureau of Labor statistics puts out these
18 prices by industry by month and then annually in their report.
19 That's what I use to come up with these numbers. They break it
20 down pretty specifically. I use 4 percent for orthopedic
21 visits and I'll give you the growth rate for each category as I
22 go through.

23 For orthopedic visits, as I said, it's 4 percent. So
24 five per year at \$200 is \$1,000 in 2014. If I increase that by
25 4 percent in 2015, it's \$1040. I'm not going to bore you and

1 read every number. If you go all the way down to 2034, it
2 reaches \$2,191 by the year 2034. The reason I stopped at 2034
3 is, that is the last remaining full year of Mr. Ebrahem's life.
4 According to the National Center for Health Statistics, again,
5 another federal report, Mr. Ebrahem is expected to live to the
6 age of 78.5.

7 Q. When you say Mr. Ebrahem, that's a statistical average
8 based on males that are currently 56 years of age?

9 A. Exactly.

10 Q. As published by the United States Government?

11 A. Yes. He is expected to live to the age of 78.5, again,
12 based on his birth cohort and the fact that he's a male, 78.5,
13 which brings us to the year 2035. For that year, what we did
14 was, we calculated a quarter of a year. So we give him one
15 more visit for the year 2035, which is the year that he is
16 expected to die, and we give 570 for that year, for a total in
17 orthopedic visits for the rest of his life at \$32,539. We do
18 this for every category of medical services that he is
19 predicted to need.

20 If we go to pain management visits, which are 12 per
21 year at \$200, again, we grow that 2400 at 4 percent. Let me
22 write these percentages. We have 4 percent for orthopedic
23 visits, 4 percent -- now, on average, health care prices have
24 been rising faster than the generate of inflation. You've
25 probably heard that. They have been rising on average over the

1 past 20 years at a rate of 5 percent. In some industries it's
2 higher; for example, pharmaceuticals. In some industries it's
3 lower, medical supplies. For these categories it's 4 percent.
4 So pain management visits, 12 per year at \$200. It begins at
5 2014, it's \$2,400; and then 2034, it totals \$5,259; for a total
6 of \$78,093 in future costs in pain management.

7 For x-rays, again, we have 4 percent, and let me give
8 you the growth rates in each category. It's 4 percent for all
9 of them except Motrin is an over-the-counter prescription drug.
10 Over-the-counter prescription drugs didn't rise as fast as
11 prescription drugs. I'm sorry. Nonprescription drugs did not
12 rise as quickly as prescription drugs. So this was 2 percent.
13 The pump, the analgesic pump, 4 percent, and actually we didn't
14 have to grow that because it's a one-time only. The lumbar
15 spine fusion, one time only, but we did it ten years out. So
16 we did have to grow that at 4 percent. The epidural
17 injections, 4 percent. And physical therapy was slightly
18 slower at 3 percent.

19 Now we have all of the growth rates. X-rays, two per
20 year at 300, starts with 600, for a total future cost rising at
21 4 percent per year of \$19,523. MRIs, one every three years.
22 So I annualized that one at every three years at \$333 per year,
23 for a total future cost of \$10,835. The EMGs are every other
24 year at \$1500 each, so, again, I annualized that at \$750 per
25 year for a total future cost of \$24,404. The Motrin, he needs

1 \$600 a year's worth of Motrin at 2 percent per year, total
2 future costs, \$15,697. The analgesic pump, one-time cost of
3 \$75,000. The lumbar spine fusion, which is a surgery, ten
4 years out, if it's \$100,000 now, ten years from now, at a
5 growth rate of 4 percent, will be \$142,331. The epidural
6 injection, twice a year at 5,000 each, \$10,000 growing at 4
7 percent. And this only goes for ten years for a total future
8 costs of \$105,828. And, finally, physical therapy, annually at
9 \$19,500, 3 percent per year, total future cost of \$251,276.
10 This brings us to a total future cost of health care at
11 \$755,526.

12 Q. That's simply adding the numbers on the bottom line of the
13 various areas of care for the lumbar spine?

14 A. Exactly.

15 Q. Doctor, if you could stay where you are, assuming that
16 Dr. Stefanides, Mr. Ebrahim's knee surgeon, has opined with a
17 reasonable degree of medical certainty that in addition to his
18 past medical treatment, due to the progressive nature of the
19 knee injuries, Mr. Ebrahim will also require the following
20 future medical care: Further arthroscopic surgery at a
21 one-time cost of \$40,000, physical therapy to the knee, 40
22 visits per year at a cost of \$125 per visit for ten years'
23 duration, and injections to the knee with ultrasound guidance
24 four times per year at a cost of \$200 per injection for ten
25 years' duration. Assuming all that I have stated, do you have

1 an opinion within a reasonable degree of economic certainty as
2 to the cost of future medical care in relation to Mr. Ebrahim's
3 left knee?

4 MR. VITUCCI: Objection, your Honor. It assumes facts
5 that are not in evidence nor supported by a medical report.

6 THE COURT: Nor supported by a medical report, that I
7 can't know. To the extent they are not in evidence, I would
8 take it subject to connection, if they are in the report. If
9 you are represent that they are not, this is a problem and you
10 have to stop for a moment and have him show you page and line.

11 MR. VITUCCI: The report of Dr. Stefanides mentions --

12 THE COURT: We don't need to do this in front of the
13 jury. He needs to show you page and line if you really say
14 it's not there.

15 MR. DOLAN: Yes, your Honor.

16 THE COURT: Ladies and gentlemen of the jury, in the
17 meantime, I have a problem.

18 You have a problem.

19 JUROR: Absolutely. There is an issue here. If
20 someone receives a benefit today, this is a finance concept, a
21 future number, it has --

22 THE COURT: It would reduce the present value. That's
23 not your worry. The Court takes care of it. It will get done.
24 Not to worry. You're always one step ahead.

25 I've got a bigger problem than all that. I have a big

1 problem and I kind of need your help and I'm crossing my
2 fingers that this can be accomplished. I have a big problem on
3 scheduling and I need to talk to the jury and see if the jury
4 can somehow rescue me.

5 I hoped this trial would end on Friday. It's looking
6 like we are going to go over a couple of days, maybe Monday or
7 Tuesday. But the real problem is, which Monday and Tuesday.
8 It can't be next Monday and Tuesday, the 19th and 20th. I've
9 committed to another trial.

10 What I have to do is break until the 26th and 27th, if
11 we need those two days, which I am not sure right now, but it's
12 looking that way. I would need two days the following Monday.
13 We would have to take a one-week break.

14 Yes, ma'am. I saw the look.

15 JUROR: I will be on vacation. I've already paid for
16 airline tickets, place to be. That week is a vacation week.

17 THE COURT: That week is absolutely paid for. Where
18 are you off to?

19 JUROR: I'm going down to Florida.

20 THE COURT: Flying or driving?

21 JUROR: Flying.

22 THE COURT: Paid for tickets.

23 I can lose one.

24 Anybody else in an absolute crisis if we have to go
25 over the following week?

1 JUROR: I'm supposed to be in Colorado.

2 THE COURT: Starting when?

3 JUROR: Also, the 26th. I have to look at my
4 calendar. It's on my phone and I checked it downstairs.

5 THE COURT: Would that be moveable or could you go a
6 couple of days late?

7 JUROR: I don't know.

8 THE COURT: Is that a family vacation?

9 JUROR: No. It's for work.

10 THE COURT: Maybe that can be adjusted. Who do you
11 work for?

12 JUROR: It can potentially be adjusted. I have to
13 look, though.

14 THE COURT: Who do you work for?

15 JUROR: Myself.

16 THE COURT: It is meetings or whatever. Maybe it can
17 be switched. My best guess is it would only be a couple of
18 days, at most. I wanted to give you a heads-up alert.

19 You would be excused if I have to do it. I realize
20 that. It's paid for, the condo, the plane, I get it.

21 I could hope could stay with us.

22 I wanted to raise that. That's what it looks like. I
23 have a criminal case on Monday. I have to do it. We will see
24 what happens.

25 Did you all confer?

1 MR. DOLAN: Yes, your Honor. I will amend my
2 hypothetical in terms of the surgery to be surgery likely in
3 the form of either arthroscopic procedure or a total knee
4 replacement, which costs could exceed \$40,000.

5 THE COURT: Doctor, can you adjust your figures to
6 that agreement?

7 MR. DOLAN: The figure remains the same.

8 THE COURT: The figure remains the same. You may
9 continue.

10 Q. Do you have an opinion with a reasonable degree of medical
11 certainty as to the costs of future medical care in the left
12 knee, assuming those recommendations by Dr. Stefanides?

13 A. Yes, I do.

14 Q. Turning to the second page, if you could explain that
15 opinion to the jury.

16 A. Sure.

17 According to Mr. Stefanides, Dr. Stefanides,
18 Mr. Ebrahim may require arthroscopic knee replacement which
19 would cost \$40,000 and that's one time only. So it would be
20 right off the bat in 2014. I don't need to grow that. That
21 would cost \$40,000. Physical therapy following the surgery, 40
22 visits per year for ten years at a cost of \$125 each would be
23 \$5,000 per year for ten years. We grow that at the 3 percent
24 rate as before, which would be a total future medical cost of
25 \$60,031. And then four injections per year, as Mr. Dolan said,

1 at 200 per injection, \$800 per year, ten years, over the course
2 of his life would cost \$9,605 in future dollars for a total
3 future cost of health care at \$109,636, that's associated with
4 the knee problems, for a total future health cost, if you take
5 into account the lumbar spine and the knee replacement, would
6 be \$865,162. And that's total lumbar spine plus knee.

7 Q. Doctor, since the issue was raised by a juror, if you could
8 explain the concept of future value versus present value in
9 terms of these numbers.

10 A. Sure.

11 What I had done is tell you what the future costs
12 would be associated with the medical services needs for
13 Mr. Ebrahem. If he were to be awarded this lump sum at this
14 time for these future medical costs, then he would be given the
15 amount today that would cover those costs for the rest of his
16 life. We would then discount that future amount to what he
17 would need to be paid today to cover that future cost. As we
18 know, if you get an amount of money today, you can put it in a
19 bank and earn interest on it. The concept of present value is
20 how much I would need today so that at the end of my life or in
21 the year 2035 it would be equal to \$865,162.

22 It is not for me to decide. It's for the Court to
23 decide, after the trial is over, what that discount rate would
24 be. So the economists and the Court will decide that later,
25 but it will be discounted back.

1 So the amount of money at the end of the trial will
2 not be \$865,162. This number is to tell you how much he will
3 need to cover his medical expenses and then it will be
4 discounted back.

5 Q. So it's your understanding that any award given by the jury
6 is in future value, but that is subsequently discounted by the
7 Court to present value, is that correct?

8 A. Yes.

9 MR. DOLAN: Thank you. Nothing further, Doctor.

10 THE COURT: You need the chart where it is?

11 MR. VITUCCI: It's fine there.

12 THE COURT: Are you going to use it, is what I'm
13 saying?

14 MR. VITUCCI: I may.

15 THE COURT: I can't see you. It blocks my view.

16 MR. VITUCCI: We can move the chart and we can move it
17 back if I use it.

18 THE COURT: That would be good. Thank you.

19 CROSS-EXAMINATION

20 BY MR. VITUCCI:

21 Q. It's Dr. Dwyer, right?

22 A. Yes.

23 Q. Good morning, Dr. Dwyer.

24 A. Good morning.

25 Q. We just met a second ago?

1 A. Yes.

2 Q. You have never testified for me before?

3 A. No. I'm sorry. I forgot your name?

4 Q. Matthew Vitucci.

5 A. Thank you.

6 Q. You are here to testify about these economic projections.

7 I would be correct in saying you are just testifying about
8 future health care costs, correct?

9 A. Correct.

10 Q. Lost wages are not a part of this case, correct?

11 A. Correct.

12 Q. You were not asked to evaluate lost wages?

13 A. Correct.

14 Q. And your projections are all based upon what Dr. Lattuga
15 and Dr. Stefanides had to say, correct?

16 A. Correct.

17 Q. When you have these figures here, did you consult with
18 them?

19 A. No, I did not.

20 Q. Did you ever speak to them?

21 A. No.

22 Q. Did you ever pick up the phone and talk to them?

23 A. No.

24 Q. Did you ever consult with counsel about the figures?

25 A. No.

1 Q. You're simply accepting what they came up with in terms of
2 these figures?

3 A. Yes.

4 Q. You have no idea if they are accurate or not, correct?

5 A. Correct.

6 Q. You are just plugging in numbers?

7 A. Right.

8 Q. Now, I would be correct in saying, your partner in this
9 endeavor, in this court endeavor is Dr. Leiken?

10 A. Correct.

11 Q. I believe you have testified before that Dr. Leiken is the
12 one that prepares the report normally, is that right?

13 A. We do it together.

14 Q. Did you do this one together with him?

15 A. He does it and then he passes it on to me and we work on it
16 together. I review it.

17 Q. You reviewed it?

18 A. Yes.

19 Q. Did you check over the figures?

20 A. Yes.

21 Q. I would imagine your \$4,000 fee is part and parcel of that
22 as preparation for court, right?

23 A. Yes.

24 Q. And in preparation for court you checked over the figures,
25 correct?

1 A. Correct.

2 Q. Are you sure?

3 A. Yes.

4 Q. You made sure each of the figures in your report were
5 accurate, correct?

6 A. Correct.

7 Q. You stand by the report?

8 A. Yes.

9 Q. You've gone over the figures, added them up, everything is
10 copasetic?

11 A. Yes.

12 Q. Of your \$4,000 fee, how much is the prep time?

13 A. Probably a day's worth. You mean dollar amount?

14 Q. Well, did you spend a day preparing to testify?

15 A. Yes.

16 Q. In this case?

17 A. Yes.

18 Q. I would be correct in saying you didn't have a lot to
19 review here, right?

20 A. Not too much.

21 Q. We just have a couple of numbers for physical therapy and
22 doctor visits, right?

23 A. I do check the interest rates, the growth rates.

24 Q. You don't really have to check the interest rates and
25 growth rates; they have been the same for a while, correct?

1 A. I just review and make sure nothing major --

2 Q. Nothing has changed, right?

3 A. Not terribly.

4 Q. Not for a while?

5 A. Not terribly, but they do tweak a little bit.

6 Q. Not within the last year or two, right?

7 A. They have changed slightly.

8 Q. You haven't had to do a lot of work to change the growth
9 rates at any time recently, right?

10 A. No.

11 Q. They are all on a computer, right? This is all a computer
12 program, right?

13 A. Yes.

14 Q. You just had a couple of numbers for physical therapy,
15 doctor visits and operations to plug in, correct?

16 A. Yes.

17 Q. And you hit a button and it spits it out, right?

18 A. Right.

19 Q. I would be correct in saying that your report here, there
20 is only a couple of pages of it, right?

21 A. Right.

22 Q. Do you have your report in front of you?

23 A. Yes.

24 Q. Do you have your report in front of you?

25 A. Yes.

1 Q. In that report it has a first paragraph: Mr. Ebrahem
2 requires health care.

3 A. Um-hum.

4 Q. That's a boilerplate paragraph essentially, right?

5 A. Pretty much.

6 Q. It's on the computer. All you got to do is stick in the
7 name of Dr. Lattuga, Dr. Stefanides, and Mr. Ebrahem, correct?

8 A. Every report is slightly different, but, yes.

9 Q. Essentially, right?

10 A. Essentially.

11 Q. And then you have a graph here, right?

12 A. Um-hum.

13 Q. That's an old standard graph on your computer, right?

14 Dr. Dwyer did not sit down here and prepare a graph saying
15 annual changes to health care costs from the year 1988 to 2012,
16 right? That's a standard graph you have?

17 A. Yes. I update it, but yes.

18 Q. And that graph pretty much shows the cost of health care
19 going pretty much steadily down from 25 years on, right?

20 A. Right.

21 Q. So you didn't have to do anything to prepare that part of
22 your report?

23 A. Just put it together, yes.

24 Q. So then you have these figures. And would I be correct in
25 saying that essentially a high school student could take these

1 numbers, plug them in, hit the button, and you would come out
2 with the figures, right?

3 A. No.

4 Q. No?

5 A. Would a high school student know which numbers to put in --

6 Q. Assuming you gave the numbers to a high school student and
7 you said, cost of doctor visits are 125 -- \$200 per visit, they
8 would just put it \$200, right? Assuming you gave the high
9 school student \$300 for x-rays, \$1,000 for MRIs, they would
10 just plug it right in, right?

11 MR. DOLAN: Objection to form, your Honor.

12 THE COURT: I'll allow it.

13 A. Under my guidance, yes.

14 Q. And I'd be correct in saying the preparation of this report
15 for which you charged \$2,700 takes about, I don't know, about a
16 minute?

17 A. No.

18 Q. You tell me. Five minutes?

19 A. I set aside a day.

20 Q. A day to do this report?

21 THE COURT: All the drama really isn't necessary.

22 Does it take you a day?

23 THE WITNESS: It takes me a day.

24 Q. During that entire day you would be preparing this report,
25 all two pages of it, where you plugged in some numbers?

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Dwyer - cross

1 A. Maybe not the entire day, but I would put time into it.

2 Q. And you put the time into it to check the numbers to make
3 sure that they are right, correct?

4 A. What I'm paid for is my expertise, not necessarily the
5 time, the quantity of work. It's the quality.

6 Q. The quality of the work. You stand by it?

7 A. Yes.

8 Q. That's why you have a doctorate?

9 A. Yes.

10 Q. What you are offering the jury is the fact that you have a
11 doctorate in economics?

12 A. Yes.

13 Q. But, again, a high school student could have prepared the
14 report?

15 MR. DOLAN: Objection, your Honor.

16 THE COURT: Sustained. Because if that had been the
17 case, you would have objected to the person's qualifications.

18 MR. VITUCCI: Very good point, your Honor.

19 Q. Now, let's turn to Dr. Lattuga. Essentially, you have two
20 lifecare plans here, correct?

21 A. Correct.

22 Q. We have Dr. Lattuga's lifecare plan and Dr. Stefanides'
23 lifecare plan, right?

24 A. Yes.

25 Q. So you have orthopedic visits, he will need five a year

1 times \$200, that equals a thousand dollars a year, right?

2 A. Yes.

3 Q. So you plug in a thousand dollars. And then pain
4 management 12 times a year, \$200, that equals \$2400, right?

5 A. Yes.

6 Q. And you plug that in. And you have x-rays at two a year at
7 300 apiece. That's \$600, right?

8 A. Yes.

9 Q. Again, you're assuming all these things are necessary?

10 A. Yes. I'm calculating what it would cost if they were
11 necessary.

12 Q. And you're assuming as well that he didn't have these
13 conditions that he would need this kind of therapy for in the
14 future anyway, right?

15 A. Right.

16 Q. You are not making any medical assumptions whatsoever?

17 A. No. I'm not an MD.

18 Q. So then you take these numbers and you assign a growth rate
19 to them, right?

20 A. Correct.

21 Q. And that growth rate, I would be correct in saying you have
22 used before in dozens of cases, correct?

23 A. Yes.

24 Q. You did nothing unique here, correct?

25 A. Correct.

1 Q. How long did it take you to figure out the years of these
2 services would be needed in the future?

3 A. That's a fairly quick calculation.

4 Q. In other words, that's on your computer, you go to the
5 Bureau of Labor statistics, plug it in?

6 A. Yes.

7 Q. Now, for Dr. Stefanides you didn't need a future table
8 because he kind of confined it, didn't he? Stefanides had ten
9 years of treatment?

10 A. Yes.

11 Q. We didn't have to refer to a table for him.

12 A. For life expectancy, no.

13 Q. A big component of your projections here for the future is
14 physical therapy, correct?

15 A. Yes.

16 Q. You have checked these figures over, correct?

17 A. Correct.

18 Q. And just as an example, we will turn to Dr. Lattuga. Right
19 in the middle of the -- five items down from the bottom in the
20 year 2030, you have a figure here, 10,431, correct?

21 A. Correct.

22 Q. And that's for physical therapy, correct?

23 A. Correct.

24 Q. And the following year, that grows at 3 percent and you
25 just multiply 1.03 and the following year you come to 10,744,

1 right?

2 A. Right.

3 Q. These numbers are correct. You checked them, right?

4 A. Yes.

5 Q. Let's turn to Dr. Stefanides. Let's take a figure right
6 here, the year 2018, \$5,849. That's what physical therapy is
7 going to cost, correct?

8 A. Correct.

9 Q. And that's at 3 percent growth rate, right?

10 A. Correct.

11 Q. The following year, according to you, should be \$6,083?

12 A. Correct.

13 Q. Is that right?

14 A. Correct.

15 Q. Ma'am, I'm not very good with numbers because that's why I
16 went to law school, but I tried to do this.

17 Do you have a calculator with you?

18 A. In my bag, not here.

19 Q. I brought an extra one for you.

20 Take that figure I just mentioned to you, 5849,
21 multiply it by 1.03. You checked these numbers, you told us,
22 right?

23 A. Yes.

24 Q. Doesn't add up, doesn't it? Something is wrong, isn't it?

25 A. Yeah. It should be 6025.

1 Q. I would be correct in saying you could take any other
2 number on that sheet, multiply it by 1.03, all those figures
3 are wrong, aren't they?

4 A. On the whole sheet?

5 Q. The whole sheet, every single one of those physical therapy
6 numbers is wrong, correct?

7 A. I'm checking. Hold on a second.

8 Q. Take your time.

9 THE COURT: Welcome to the fast-breaking world of
10 court. Since I spoke to you in the last ten minutes it looks
11 like the defendant might plead guilty. I just got an e-mail,
12 which would mean we would just go straight through and finish
13 up next week as planned, if we have to, assuming the e-mail is
14 true. He wants to come in and take the plea today. I want to
15 take the plea before he changes his mind. We will stop a
16 little early tonight so I can take the plea and then we will be
17 done, unless he changes his mind. We will see as the day
18 progresses. Welcome to our world.

19 A. So it's 4 percent that was used accidentally.

20 Q. I want you to say it to the jury. All of your figures
21 there are wrong. Just say it.

22 A. On the physical therapy chart for -- the report for the
23 knee surgery for physical therapy, we accidentally used 4
24 percent instead of 3 percent for physical therapy.

25 Q. I thought you said you checked over this report. That was

1 part of your day's prep time?

2 A. Yes.

3 Q. What happened? I thought you said you stand by this
4 report, you checked all the figures. They are wrong, correct?

5 MR. DOLAN: Objection, your Honor. He is not letting
6 her finish her response.

7 THE COURT: Sustained. She is going to explain how
8 she used 4 percent --

9 A. It was an honest mistake. 4 percent is our standard rate
10 for growth and medical services. I checked -- when I checked
11 each of the rates I must have assumed 4 percent was correct and
12 made a mistake. If I correct the numbers, the adjustment would
13 be off by probably about \$5,000. So instead of \$109,636 for a
14 total, it would be about \$104,636. And, yes, that was a
15 mistake. We make mistakes at times.

16 Q. Am I correct that you were mistaken about checking the
17 numbers in your report because if you had checked the numbers
18 you would have seen it?

19 A. I did check the numbers. I saw -- the 4 percent was
20 careless. I use 4 percent often and it got by me. I
21 definitely checked the numbers. I'm under oath. I swore.

22 Q. Ma'am, I'm not questioning the fact that you are under
23 oath. You were sworn by the judge.

24 What else is mistaken? Do you know if anything else
25 is mistaken in your report?

1 A. I actually did check the numbers and I do believe the rest
2 is fine. We can go ahead and check them all. I have a
3 calculator.

4 Q. Now that I gave you one.

5 A. I have one in my bag, too. I can check the rest, if you
6 would like me to.

7 Q. That's fine. We will move on.

8 Now, another part, major part of your report is the
9 findings of Dr. Lattuga. If I could --

10 MR. VITUCCI: Your Honor, I'm approaching the chart
11 and changing it.

12 Q. Dr. Lattuga's projections regarding the need for
13 Mr. Ebrahem to have a knee replacement, right, and that was a
14 big charge, right?

15 A. Knee replacement?

16 MR. DOLAN: Lattuga, knee replacement? You're
17 misspeaking.

18 MR. VITUCCI: I am misspeaking. I withdraw the
19 question.

20 Q. A big part of your projections here is Dr. Lattuga's fee
21 that he has projected for a spinal fusion?

22 A. Yes.

23 Q. He has already has had one. He is saying he needs another
24 one, right?

25 A. Yes.

1 Q. You reviewed Dr. Lattuga's report, correct?

2 A. Yes.

3 Q. And did you review it carefully?

4 A. I would like to think so, yes.

5 Q. Now, your projections here, you are out to give a
6 conservative number here to the jury, right?

7 A. Yes.

8 Q. You are not here to inflate anything, right?

9 A. No.

10 Q. Call the shots right down the middle, right?

11 A. Right.

12 Q. Whatever is fair is fair, right?

13 A. Yes.

14 Q. You don't want to inflate anything. You are here to give
15 an honest projection, correct?

16 A. Correct.

17 Q. Do you have Dr. Lattuga's report in front of you?

18 A. Yes, I do.

19 Q. What does Dr. Lattuga say about when Mr. Ebrahim allegedly
20 needs a new spinal fusion?

21 A. Within ten years.

22 Q. That's the key word. What's the key word there?

23 A. Within ten years.

24 Q. Within, correct?

25 A. Correct.

1 Q. Within ten years doesn't mean he will need it in year ten,
2 correct?

3 A. Correct.

4 Q. Within means he could need it right now, correct?

5 A. Correct.

6 Q. He could need it next year?

7 A. Correct.

8 Q. If he needed it right now, you wouldn't have to grow it to
9 142,331. You could have just given it 100, right?

10 A. That's correct.

11 Q. And Dr. Lattuga also said, if I'm correct, that Mr. Ebrahim
12 needs injections into his spine for ten years, right?

13 A. Correct.

14 Q. And you grew that epidural injections for another \$105, am
15 I right?

16 A. Correct.

17 Q. Now, if he had his spinal fusion within ten years, if he
18 had it at year one --

19 A. Yes.

20 Q. -- we would have one figure. What would that figure be?

21 A. \$100,000.

22 Q. It wouldn't be 142,331 projected out over year 20, correct?

23 A. Correct.

24 Q. And if he had it in year one, we wouldn't need any of these
25 epidural injections which you have grown out to 105,828,

1 correct?

2 A. Correct.

3 Q. So if within ten years, he had it in year one, we could
4 slice off your projections about 20 percent or more of your
5 total, correct?

6 A. The 142,331, whether he had it in year one or year ten
7 wouldn't make a difference because \$100,000 today and \$142,000
8 ten years from now should be equivalent in theory.

9 Q. No. That's incorrect, Doctor. You teach this subject,
10 right?

11 A. Yes.

12 Q. And you are pretty knowledgeable about it, right?

13 A. Right.

14 Q. You are a doctor?

15 A. Yes.

16 Q. You are the chairperson of the department?

17 A. Yes.

18 Q. You wouldn't be adding this up to 142,331 if it was not
19 necessary, right? You've grown it for ten years. If he needed
20 it in year one it would be 100,000?

21 A. Right. What I'm saying, \$100,000 -- to cost \$100,000
22 today, if we had inflation, ten years from now that would be
23 equivalent.

24 Q. We wouldn't have to calculate in the inflation if he had it
25 now. What are we calculating inflation for? If he needed it

1 in year one, now we could slice that 142 off?

2 A. All I'm saying is, the amount that it may be over by is the
3 number of years that he would need the epidural injection.

4 Q. But we don't need any years of epidural injections if he
5 has the spinal fusion. You said you reviewed Dr. Lattuga's
6 report, right?

7 A. Yes.

8 Q. And he says, epidural injections until he has this alleged
9 new fusion, right?

10 THE COURT: You asked her a question. Then you just
11 kept talking.

12 Do you remember the question?

13 THE WITNESS: Not really.

14 THE COURT: It was, basically, did the report say that
15 he would no longer need epidural injections if he has the
16 spinal fusion?

17 THE WITNESS: Right. It says until surgery.

18 Q. Until surgery. So if he had the surgery tomorrow, slice
19 off the epidural injections and the growth rate, correct?

20 A. Right.

21 Q. Slice off --

22 A. So what I would do, given I could have been more
23 conservative, is bring that back five years and cut five years.

24 Q. It would have been nice, it would have been conservative,
25 but you didn't do that, did you?

1 A. No. I went out the ten years.

2 Q. You went out the ten years because it's a higher figure,
3 right?

4 A. That's not why we went out the ten years. Alan and I just
5 decided to go the ten years because from the report it sounded
6 like he was not going to be able to do it right away and would
7 need injections right away.

8 Q. Alan and you make a lot of money preparing reports and
9 testifying in court for plaintiff's attorneys, correct?

10 A. This is not -- Alan and I are separate.

11 Q. Well, you are not really kind of separate. You are really
12 kind of his partner in this whole endeavor?

13 A. On this particular case.

14 Q. In pretty much all his cases, right?

15 A. We don't make the same amount of money is my point.

16 Q. He makes a heck of a lot more than you do in this, correct?

17 A. Correct. I'm a chairperson of a department and I do this
18 only part time.

19 Q. I know.

20 MR. DOLAN: If she could finish the answer.

21 THE COURT: You know, but the jury has to hear it.

22 A. I'm primarily a chairperson of a department and I fill in
23 when Alan can't make it. It's not a big part of my job.

24 Q. That's good.

25 As the chairperson of the department, you make up the

1 schedules of the people that work in the department, correct?

2 A. Correct.

3 Q. And Dr. Leiken is in the department, correct?

4 A. Correct.

5 Q. And Dr. Leiken's schedule is made by you, correct?

6 A. Correct.

7 Q. Would I be correct in saying that you, in making his
8 schedule, can free him up to testify, which he does about 100
9 times a year, in cases just like this, right?

10 MR. DOLAN: Objection, your Honor. Testifying.

11 MR. VITUCCI: That was a question.

12 THE COURT: Do you know how many times a year he
13 testifies?

14 THE WITNESS: I do not.

15 THE COURT: She can't answer that question.

16 Q. If I would have mentioned 100 times a year as a
17 conservative figure, would that be accurate?

18 THE COURT: She just said she doesn't know how many
19 times a year he testifies. I asked her. I'll ask her again.

20 Do you know how many times a year he testifies?

21 THE WITNESS: I do not.

22 THE COURT: That's twice.

23 Q. How about if that figure refreshes her recollection?

24 THE COURT: The figure that you are throwing in your
25 question?

1 MR. VITUCCI: Yes.

2 THE COURT: Doesn't seem to. She doesn't know how
3 many years he testifies.

4 THE WITNESS: Can I speak to what I do know?

5 THE COURT: Sure.

6 THE WITNESS: Alan Leiken works 20 percent effort at
7 Stony Brook University. So what I do know is what he does for
8 me. And what he does for me is mentor students and run a
9 program. And he fulfills those responsibilities without a
10 problem.

11 THE COURT: That's nice. But you still don't know how
12 many times a year.

13 THE WITNESS: I don't know what he does the other 80
14 percent.

15 THE COURT: Including how many times a year he
16 testifies.

17 THE WITNESS: Exactly.

18 Q. And he works at night, right, at the university?

19 A. He can work any hours. He doesn't teach anymore.

20 Q. He's not there during the day?

21 A. No. Occasionally. Maybe half day a week.

22 Q. The rest of the time he is spitting out reports at \$2700
23 and testifying at 4,000, correct?

24 MR. DOLAN: Objection, your Honor. We are
25 cross-examining Mr. Leiken, who is not testifying.

1 THE COURT: Sustained.

2 Q. Have you testified before that you are his, quote unquote,
3 de facto partner?

4 A. Yes.

5 (Continued on next page)

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1 Q. Just a couple other things. You grew Motrin at 2 percent a
2 year?

3 A. Yes.

4 Q. Motrin is a nonprescription drug that is found in the
5 Consumer Price Index, correct?

6 A. Yes.

7 Q. That is where you got it from, right?

8 A. Yes.

9 Q. I would be correct in saying that the Consumer Price Index,
10 there is all kinds of subindexes in the Consumer Price Index,
11 right?

12 A. Yes.

13 Q. If I were going to look up the price of poultry, I could
14 find that in there?

15 A. Right. Yes.

16 Q. I could look further and there is a subindex for chickens,
17 right?

18 A. Yes.

19 Q. And then I could look a little further and find a subindex
20 for chicken parts, right?

21 A. Yes.

22 Q. So these are all indexed in the Consumer Price Index, am I
23 stating that correctly?

24 A. Yes.

25 Q. And Motrin is in one of those indexes, right,

1 nonprescription drugs, right?

2 A. Yes.

3 Q. And nonprescription drugs the entire time it has been in
4 the Consumer Price Index has been less than 1 percent, right?

5 A. I found it over the last 20 years to be fluctuating around
6 2 percent, but I don't have a photographic memory. I would
7 have to go back and check.

8 Q. You couldn't have done that index because it's only been in
9 the index for four years, right?

10 A. I would have to go back and check the records.

11 Q. Do you want me to hand you something?

12 A. We may have used a broader category for the 16 years prior.

13 Q. You are giving us your projections at a growth rate, an
14 overall growth rate of what, for physicians' expenses?

15 A. 4 percent.

16 Q. 4 percent. Do you think that is an entirely fair
17 projection?

18 A. Yes.

19 Q. That is going back 25 years, correct?

20 A. 20 years we go back.

21 Q. 20 years. It's much lower at 20 years, wouldn't I be right
22 in saying that?

23 A. Medical prices have been rising pretty fast, 4 percent can
24 be pretty conservative.

25 Q. They haven't really been rising that fast, have they?

1 A. They have been rising --

2 Q. If I go to the Consumer Price Index and look at medical
3 care for the United States over the last 20 years --

4 A. That's 25. I did do 25.

5 Q. All right. Well, you tell me. What is more fair? The
6 last two decades or to go back 25 years?

7 A. 25 years captures more of a business cycle.

8 Q. Well, it is not a very accurate business cycle, right?

9 A. Why is that?

10 THE COURT: He can't testify. So it doesn't matter
11 what he thinks.

12 MR. VITUCCI: I don't know what is so funny.

13 THE COURT: Nor does he have a Ph.D. in economics.

14 MR. VITUCCI: I do -- no, I don't.

15 THE COURT: You have a Ph.D.?

16 MR. VITUCCI: No, I don't.

17 BY MR. VITUCCI:

18 Q. Ma'am, would I be correct in saying -- well, you do teach
19 the subject, correct?

20 A. Correct.

21 Q. Would I be correct in saying that the rates -- it is
22 actually in your graph if you look at it. Your graph shows
23 this cost of health care going steadily down over the last
24 couple decades, right?

25 A. It is not steadily down. It has not reached the peak that

1 it had in the '80s, so it went -- it was above 9 percent in the
2 '80s.

3 Q. Right. We can take the '80s --

4 MR. DOLAN: Objection, your Honor. I don't think she
5 has finished her answer?

6 MR. VITUCCI: Withdrawn.

7 THE COURT: OK. Had you finished your answer?

8 A. No. So it reached its peak in the '80s and it never went
9 back up that high.

10 Q. Of course, anyone would know that it would never go that
11 high again and it was ridiculously high in the '80s because
12 that is before managed health care, right?

13 A. Correct.

14 Q. Doctors were rich back then, right?

15 THE COURT: I don't know if you have knowledge whether
16 doctors were rich.

17 Q. You teach the subject.

18 A. They did much better than --

19 Q. They did much better.

20 A. Yes.

21 Q. There wasn't managed care. People got full reimbursement
22 back then.

23 A. Right.

24 Q. And things are much different now. Doctors you often hear
25 not that they are poor, but they don't make the living they

1 made back in the '80s?

2 THE COURT: I think this is a ridiculous line of
3 questioning, what doctors make, unless you want to change the
4 trial and talk about what doctors make today versus what
5 doctors make 20 years ago. It is not not our issue. Let's
6 move on.

7 MR. VITUCCI: Your Honor --

8 THE COURT: I take your point about reimbursement, but
9 we are not going to go into the income level of doctors. I
10 don't think we have the information here and we are not trying
11 that case.

12 MR. VITUCCI: I only made the point.

13 THE COURT: You made the point. No more about what
14 doctors make.

15 BY MR. VITUCCI:

16 Q. Ma'am, would I be correct in saying over the last 20 years
17 that the average growth rate was about 3.9?

18 A. Yes.

19 Q. And over the last 15 years, it was 3.87, correct?

20 A. That sounds about right.

21 Q. Over the last ten years it's been 3.81?

22 A. About right, possibly.

23 Q. So would I be correct in saying that over the last 20 years
24 we have seen costs go down?

25 A. The trend has gone down, yes.

1 Q. All right. And --

2 A. And I used 25 years to project the next 25 years. We do
3 have some changes coming, and there is uncertainty and 4
4 percent -- I mean, 3.9 is not that far from 4 percent, and 4
5 percent is in my profession a fair rate of growth in medicine.

6 Q. I would be correct in saying that your report doesn't
7 mention anything about changes coming, correct?

8 A. Correct.

9 Q. By the way, no one has any idea what those changes are
10 going to be, right?

11 A. That's correct.

12 Q. In fact, most of the literature out there, which I'm sure
13 you are current with, suggests that costs are going to continue
14 going down, isn't that correct?

15 A. It can go either way.

16 Q. All right. You have no reasonable belief that suddenly
17 they are going to spike upwards, right? The trend has been
18 down, you have no reasonable forecast that they're suddenly
19 going to sharply rise, right?

20 A. I can give you reasons for that. I am not sure that is
21 what we should be discussing today. All I am saying is when
22 you make projections into the future, the 4 percent is a fair
23 enough rate when you look at the trend 25 years ago with what's
24 coming. It's a fair projection into the future.

25 MR. VITUCCI: Just another one or two things, doctor.

1 Your Honor, I have no further questions. Thank you?

2 THE COURT: All right. Redirect?

3 MR. DOLAN: Yes, your Honor.

4 REDIRECT EXAMINATION

5 BY MR. DOLAN:

6 Q. My adversary has repeatedly said on cross-examination that
7 the cost of health care has gone down over the last several
8 years. Is it that the costs have gone down or that the rate of
9 increase has subsided?

10 Could you please clarify that.

11 A. The rate has subsided. The costs have not gone down. The
12 costs continue to increase at a decreasing rate is the
13 appropriate way to put it. They have been fairly stable around
14 4 percent.

15 Q. Why is it that you went back 25 years to assess growth
16 rates going forward as opposed to, for example, my adversary
17 suggesting that you just check the last four years in the
18 category of Motrin?

19 A. Four years would not capture an entire cycle of what
20 happens, and Motrin is within a broader category of
21 nonprescription drugs, and we use a broader category when we
22 use that 2 percent. 2 percent is pretty fair when we are
23 talking about overall non -- over-the-counter drugs.

24 Q. Is it fair to say that it is more economically sound to
25 make a projection based on a 25-year history of growth rates

1 than just the last four?

2 A. Yes.

3 Q. Doctor, do you have any reason to believe that Mr. Ebrahem
4 will undergo a second fusion surgery year one, right away?

5 A. No.

6 Q. Do you have any reason to believe that it's common for
7 someone to undergo such a drastic procedure and then
8 immediately under go the procedure again?

9 MR. VITUCCI: Objection, your Honor. She's completely
10 unqualified.

11 THE COURT: She is not qualified to answer that
12 question. Objection sustained.

13 Q. We have established that a 4 percent growth rate was
14 applied to physical therapy with regard to Dr. Stefanides'
15 recommendation for future medical treatment, and you have
16 indicated that if you applied a 3 percent growth rate the
17 number would be approximately \$5,000 less?

18 MR. VITUCCI: Objection. That's already been asked
19 and answered.

20 THE COURT: I will allow it.

21 Q. Could you please come down from the witness stand and make
22 that correction of a decrease of \$5,000 in the total cost of
23 physical therapy in the future under Dr. Stefanides'
24 recommendations?

25 A. Sure. So then the total for physical therapy rather than

1 \$60,031 would be approximately \$55,030, and then the total
2 future cost of health care rather than \$109,636 would be
3 \$104,635, and the total future health care costs, summing the
4 two life care plans, would be \$860,161.

5 Q. Could you please cross out the numbers that you just
6 replaced.

7 A. Sure.

8 Q. Is it fair to say, Doctor, with a total projection of
9 \$865,162 initially, we are talking about a correction of a mere
10 \$5,000 in that total number?

11 A. About.

12 Q. Doctor, my adversary began his cross-examination by saying
13 that you are accepting what they came up with. Who do you
14 understand the "they" to be? Is that the treating surgeons
15 Dr. Lattuga the spinal surgeon and Dr. Stefanides, the knee
16 surgeon?

17 A. Yes.

18 MR. DOLAN: Thank you. I have nothing further.

19 THE COURT: Is there any recross?

20 MR. VITUCCI: Yes.

21 THE COURT: OK.

22 RECROSS EXAMINATION

23 BY MR. VITUCCI:

24 Q. Doctor, we are arguing about the growth rates a little bit.
25 Would I be correct that other economists use a more even