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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS : CIVIL TERM : PART 7
-----X
MOAZZAM R. GILL,

Plaintiff,

-against- Index No. 706989/2020

SIGFREDO VALLADARES-LOPEZ & EXCERPT OF TRIAL
FLEETWASH, INC,

Defendants
-----X
Supreme Courthouse
88-11 Sutphin Boulevard
Jamaica, New York 11435
May 15, 2025

B E F O R E:

THE HONORABLE NICOLE MCGREGOR-MUNDY,
J U S T I C E

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

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FRANCINE SPAULDING,
KENNETH PERSCHKE
Senior Court Reporters

1

2

(Whereupon, the following is an excerpt of the

3

testimony from 5/15/25.)

4

DIRECT EXAMINATION

5

BY MR. LESNEVEC:

6

Q Good morning, Doctor.

7

A Good morning.

8

Q Have we ever met before?

9

A Yes, well over the phone.

10

Q Have we ever met in person before?

11

A No.

12

Q When was the first time we spoke?

13

A Last night.

14

Q You never spoken to me before that?

15

A No.

16

Q Have you ever testified in court before where my office

17

was representing one of your patients?

18

A I don't think so, no. I do not.

19

Q Can you give us a brief his history about your

20

educational background?

21

A I am originally from Argentina, my medical school is

22

Argentina. I graduated in 1988, the name is National University

23

of Cordoba, C-O-R-D-O-B-A, School of Medicine. There I was

24

trained as an orthopedic surgeon. I came to this country in

25

2001. Here I did a full residency. I took all of the exams you

1 had to take. I did full residency in orthopedic surgery
2 Downstate Medical Center in Brooklyn and two fellowships in
3 spine surgery; one in Miami Children's Hospital in spine, in
4 childrens' spine; and, one in NYU here in New York.

5 Q So, are you board certified?

6 A I am a board certified orthopedic surgeon.

7 Q What does it mean to be board certified in orthopedic
8 surgery?

9 A After you finish your residency, you have to start your
10 practice, private practice and you have to have a speciality.
11 Orthopedic surgery is the one that was my speciality. You have
12 to present cases in front of professors in orthopedic surgery
13 and then you have to take an exam. That is the highest status
14 in this country for a doctor.

15 Q Is every doctor that is an orthopedic surgeon board
16 certified?

17 A Not necessarily.

18 Q You mentioned you held a residency?

19 A Yes, my position as a clinical assistance -- what was
20 the question, I am sorry.

21 Q Did you do a residency?

22 A I did a residency, full residency in Downstate in
23 Brooklyn.

24 Q Tell us more about that, what was the residency?

25 A Residency first you had get in a spot, a place. It is

1 difficult in orthopedics because it is one of the top rating.
2 Then you do one year internship where you going to do a rotation
3 through different specialities and then you do four years of
4 orthopedic surgery, special surgery, take care of patients, full
5 training.

6 Q Did you do a fellowship?

7 A I did two fellowships. One in pediatric spine in Miami
8 Children's Hospital, the other one in pediatric adults in NYU.

9 Q NYU?

10 A Yes.

11 Q Are you affiliated with any hospitals?

12 A Yes, some hospital affiliations in Manhattan with NYU
13 Langone, Hospital for Joint Diseases, Bellevue Hospital. In
14 Long Island with Mercy Hospital, St. Francis Hospital, Winthrop
15 Hospital and in New Jersey with Hudson Regional and Palisades
16 Surgical Suites.

17 Q How long have you been in private practice as a
18 surgeon?

19 A Here in the United States since I finished my
20 fellowship 2013, 2014.

21 Q What percentage of surgery do you perform are to the
22 spine?

23 A Almost a hundred percent.

24 Q How do you obtain your patients?

25 A Basically the patients came from different sources.

1 After they exhausted conservative treatment, they mostly
2 physical therapy, pain management doctors, primary doctors.
3 Some threw the web or mouth to mouth referred.

4 Q If you were not here today, what would you be doing?

5 A I have an office in Queens.

6 Q Are you being compensated for taking time away from
7 your practice today?

8 A Yes.

9 Q How much?

10 A The office, because I am an employee of my office, they
11 are getting \$12,500, that's about 30 percent of that.

12 Q What is the name of your practice?

13 A New York Spine Institute.

14 Q Are you the owner or did you say you are an employee?

15 A Employee.

16 Q Are there other surgeons as part of that practice?

17 A Yes.

18 Q How many?

19 A About five now.

20 Q Can you tell us about the anatomy of the spine, the
21 different parts?

22 A Well, in general, the full spine has 33, 34 vertebrae.
23 They got bony structures of the spine, they have three main or
24 four main parts. The neck that is the cervical, spine middle
25 body is the thoracic spine, and lower back is lumbar spine. All

1 of them have the same more or less structure. It is a bony
2 part, it is bone, and between bones you have cushions that are
3 discs, okay. The disc are like cartilage with a gel inside and
4 permitting movement and cushions, the vertebra.

5 Q What are the discs specifically? What are their role
6 in the spine?

7 A That is why cushioning between bony structures, those
8 are the vertebrae. We have one vertebra -- the vertebra and the
9 disc in the middle, okay, and at the same time they let you
10 perform some movements because the bone cannot move by itself.

11 Q Are there nerves in the spinal canal or spinal cord --

12 A Yes, besides the disc, they are behind the disc and the
13 bone, the spine, perfectly puff. You have multiple nerves that
14 are coming in different regions. Those nerves are in charge of
15 taking basically sensations, receiving the sensation from the
16 legs or the arms or help the muscle, muscles to move around,
17 perform movements.

18 Q How do the nerves relate to feelings of pain?

19 A Basically, there are multiple reasons. But talking
20 specifically about the spine, the most common thing is when they
21 are compressed, okay, they are -- it has some irritation, they
22 are swollen because of some chemical reaction due to muscle
23 trauma, could be age, but this is a different situation.
24 Basically, we are talking about herniated discs, okay, that is
25 when you have trauma and the gel inside the disc came out. The

1 gel compress the nerve and they produce different symptoms
2 numbness, tingling, burning pain, muscle problems, okay, they
3 interfere with the motor function.

4 Q What does a physician, like yourself, wants to look at
5 the inner workings of the spine such as the discs, how is it
6 that you would go about doing that? If you wanted to look at a
7 particular patient's discs, how would you do that; what would
8 you use?

9 A We use basically MRIs they are the preferred study at
10 this moment. It is giving you a pretty good access of the
11 anatomy of spine.

12 Q How is an MRI different from let's say a CAT Scan or
13 X-ray?

14 A There are different things. A CAT Scan is to able
15 mostly bone structure, it not able to see, the CAT Scan the disc
16 is not really well. The disc cannot be seen, they have to be --
17 the MRI is better for soft tissue like the disc.

18 Q Who about an X-ray? Is an X-ray useful to look at a
19 herniated disc?

20 A No.

21 Q Why not?

22 A Because they show us basic anatomy. You can see
23 fractures, dislocations but not discs.

24 Q Not discs?

25 A Not discs.

1 Q Did there come a point in time when Moazzam Gill came
2 under the care of your practice?

3 A Yes.

4 Q What did he come under your care for?

5 A I think the neck and lower back pain.

6 Q Do you know what the cause of that was?

7 A Can I check?

8 Q Yes, sure.

9 A I want to be sure.

10 Q You are referring to your notes or medical records?

11 MR. MCNIFF: Your Honor, if we may, can we have
12 that marked for identification if he is going to refer to
13 it.

14 MR. LESNEVEC: No objection.

15 THE COURT: Doctor, one second. Let me see what
16 this is. Counsel take a look before I mark it.

17 MR. MCNIFF: Thank you very much.

18 THE COURT: We are going to mark this as
19 Plaintiff's 1, for identification purposes.

20 THE COURT OFFICER: Plaintiff's 1, has been marked
21 for ID.

22 (Whereupon, Plaintiff's Exhibit 1, was marked for
23 identification, by the Reporter.)

24 Q Doctor, for the record, what we marked, what is that;
25 can you tell us for the record what it is?

1 A We have all the records since I started seeing the
2 patient.

3 Q Are those the records from your practice specifically?

4 A Yes, they were printed out from the computer.

5 Q Records that you signed and wrote?

6 A Some of them, yes.

7 Q What did Mr. Gill come under your care for?

8 A A work accident on December 4th, 2019. He was a driver
9 of a Uber and was rear-ended by another car.

10 Q When was the first time Mr. Gill saw you?

11 A January 9, 2020.

12 Q Did you take a history from Mr. Gill from that initial
13 visit?

14 A Yes, I am reading it right now.

15 Q Did you take the history for the purpose or diagnosing
16 and treating Mr. Gill?

17 A Yes, it is part of the exam.

18 Q Are you aware whether or not Mr. Gill had been treating
19 with any other doctors before he came to see you?

20 A Yes, he was. I think he was referred to me by physical
21 therapy doctor.

22 THE COURT: Doctor, you can look at the records to
23 refresh your recollection, but you can't read from it right
24 now because it is not in evidence.

25 MR. MCNIFF: Can we have last answer read back.

1 THE COURT: Read the doctor's last answer.

2 (Whereupon, at this time the testimony was read
3 back by the court reporter.)

4 Q When you say physical doctor, are you talking about a
5 physical therapy doctor?

6 A Correct, physical therapy.

7 Q Did you perform an initial evaluation of him when you
8 first saw him on January 9th?

9 A Yes.

10 Q That was about a month after the collision?

11 A Yes. About a month, yes.

12 Q Can you just tell us about your initial visit with him?

13 A Basically, he was in the physical exam. They took a
14 physical exam only of the spine, okay. In the neck, of the
15 cervical spine of the lower back, he was evidence of muscle
16 spasm, the range of motion was painful, there was tenderness to
17 palpation and the range of motion was decreased in both cervical
18 and lumbar.

19 Q Let me ask you, muscle spasm, you said it was positive
20 for muscle spasms?

21 A You can touch him, do palpation.

22 Q What does it mean to do palpation of the muscle?

23 A When you exam the patient, you can touch the muscles
24 are tight.

25 Q Were you able to physically feel that on Mr. Gill?

1 A Yes.

2 Q Where did you feel that when you examined him?

3 A In the neck and lower back.

4 Q You also mentioned that he was tender to palpation?

5 A Yes, that means that it painful when you touch the
6 place.

7 Q What, if any, complaints did Mr. Gill make to you at
8 the initial visit?

9 A The most important part of the physical exam is the, he
10 had a problem related to the nerves in the upper and lower
11 extremities. That means he has numbness and tingling and
12 weakness in some of the muscles of the upper and lower
13 extremities.

14 Q Did that have any medical significance to you that he
15 had numbness and tingling.

16 A This is the most important part of the exam.

17 Q Why is that?

18 A Because I am a surgeon, okay. As a surgeon, I don't
19 treat neck pain or lower back pain. I always explain to the
20 patient the surgeons are not assigned for the neck and lower
21 back pain. The surgeons are assigned to the compression of the
22 nerves that are bringing the problem to the upper and lower
23 extremities. That is why it is so important.

24 Q Are you familiar with the term radiculopathy?

25 A Yes.

1 Q What is radiculopathy?

2 A It is some symptoms or related to inflammation of the
3 nerve basically.

4 Q What type of symptoms can radiculopathy produce?

5 A They are basically numbness and tingling or shooting
6 pain like burning pain to the legs or arms and the most
7 important is the weakness of some muscles of the upper and lower
8 extremity.

9 Q In your opinion was Mr. Gill suffering from
10 radiculopathy during that initial visit that you saw him?

11 A Yes.

12 Q What, if anything, did that mean to you in medical
13 sense?

14 A When I discussed with the patient these are red flags,
15 this is what is really important. It means that some nerves are
16 swollen in the neck or lower back. We need to see the MRI to
17 evaluate what is the reason for that.

18 Q Did you mention that you performed any range of motion
19 testing?

20 A Yes.

21 Q What portions of the body did you perform range of
22 motion testing to?

23 A Say that again.

24 Q What portion of the body did you perform range of
25 motion testing?

1 A Neck and lower back.

2 Q Can you explain for us what is range of motion
3 testing?

4 A Range of motion is basically we make the patient, we
5 uses a special device called a goniometer and we measure
6 different movements of the neck and lower back and we compare
7 that with normal range of motion that is specified here. It is
8 not so important for us. It is really important for the legal
9 reasons. But for us, range of motion does not change a lot. It
10 could change day to day if the patient took medications or it
11 more pain in night -- in the day but it is not an indication for
12 surgery basically.

13 Q So range of motion of a patient can change day to day
14 based on how you are feeling?

15 A Correct.

16 Q In terms of the testing that you performed on that day
17 to the neck and back, what were the results of the range of
18 motion test?

19 A They were range of motion was compromised. Let me see,
20 it was decreased in both.

21 Q Can you just, I guess, describe for us for the neck
22 range of motion, can you give us an example or show us how that
23 test would be performed?

24 A Yes, we do it in two ways. It basically some movement
25 of the neck. We do flexion of the neck, extension and we

1 measure, okay, how much is that lateral flexion, lateral -- left
2 lateral flexion, right lateral flexion and rotation in both
3 sides.

4 Q You mentioned an instrument you said a goniometer?

5 A Yes.

6 Q Is that what you used to measure what the range of
7 motion results were?

8 A Correct.

9 Q So, just generally how did Mr. Gill perform on the neck
10 range of motion testing?

11 A They were decreased in both.

12 Q Meaning what?

13 A Meaning he has pain, muscle spasm, that are affecting
14 the range of motion.

15 Q At some point was Mr. Gill prescribed MRIs for his neck
16 and back?

17 A I think he already came with MRIs performed.

18 Q At the point he came to see you, MRIs were already
19 performed?

20 A Correct.

21 Q You saw him approximately a month after the collision?

22 A Correct.

23 MR. MCNIFF: Judge I am going to put the TV on.

24 THE COURT: Yes. Do you need assistance?

25 MR. LESNEVEC: No, I should be okay.

1 MR. MCNIFF: Your Honor, I think if he is going to
2 show MRIs, we have to mark it and introduce it.

3 THE COURT: I am not sure what he is doing.

4 MR. LESNEVEC: My intention, I told counsel we
5 will be marking the MRIs and showing the MRIs. I will mark
6 it as we go along. It is the actual film.

7 THE COURT: Do you have them in a tangible format?

8 MR. LESNEVEC: Yes, it is attached to the computer
9 here. It is a digital film.

10 THE COURT: Come on up.

11 MR. LESNEVEC: Sure.

12 (Whereupon, an off-the-record discussion was held
13 at the bench.)

14 THE COURT: Okay, you can proceed, counsel.

15 MR. LESNEVEC: Thank you, Judge.

16 THE COURT: Do you need to go around counsel to
17 see, just don't block the reporter's view of counsel.

18 MR. MCNIFF: I can stand over there, wherever you
19 want.

20 MR. LESNEVEC: With the Court's permission, can I
21 have the doctor step down and we will go through with
22 marking them.

23 THE COURT: Doctor, you can move closer to the
24 television.

25 Q Doctor, did you review the MRIs film for Mr. Gill for

1 his lower back as well as his neck?

2 A Yes.

3 Q So, for the record, I think we are up to Exhibit 2?

4 THE COURT: Tell me, you are doing this one at a
5 time.

6 MR. LESNEVEC: So, I am marking this as Exhibit
7 Number 2.

8 THE COURT: One second, we have to mark it on the
9 sheet paper. Can you all see the screen clearly? One
10 second.

11 The film number, counsel.

12 MR. LESNEVEC: So, sequence 103/4, and it is image
13 7/13, which is at the left top hand corner of the exhibit.

14 THE COURT: You may proceed, counsel.

15 Q Can you tell us what we are looking at here? Is this
16 the MRI of Mr. Gill's lower back?

17 A Yes, this MRI is from December 18, 2019. We can see
18 the lower back. This is what we call the sagittal view. It is
19 the view from the side. Everything that is in the front is the
20 belly of the patient. You can see the white stuff in the back
21 is fat. Basically, that is the lower back.

22 Q So, the lower back is towards the right side of the
23 image?

24 A Yes, that's -- the lower back is going to be -- that is
25 only fat, the white stuff.

1 THE COURT: Doctor, this is what we are going to
2 do. If you want step closer and step to that side of the
3 television. You can point out stuff. You can use your
4 fingers. Keep your voice up.

5 Q Step over here.

6 A Basically what you want to see, this is -- this is the
7 lower back. Everything that you see here in the back is just
8 fat what we have here, we can touch it. This is the abdomen of
9 the patient. This is what we care the most. The gray, the gray
10 squares are the vertebrae. That is the bone basically. Between
11 the vertebrae, we have these gray images there is the disc,
12 okay. This is a normal disc that you see there. The disc
13 should be that color gray or light gray. It has cartilage
14 basically inside and inside of the cartilage is gel, a gel. And
15 behind that we talked before, that is more the black lines are
16 the nerves. You know here is normal, normal, this is a little
17 bit dark, and this is darker perhaps because we have normal
18 height. We call this black disc basically. Because how it
19 shows disc there is stiffness, it not cushion any more because
20 the gel that is inside came out, that black image in the back,
21 and in the back there are disc herniation, the gel came out and
22 it is compressing the nerves. You see they are being
23 compressed, that is why you have symptoms in the lower
24 extremities.

25 Q So, can you just for the record identify, I know there

1 different levels of discs, which discs are you pointing out that
2 are herniated?

3 A Unfortunately, we never give a number to discs. That
4 means every discs name, naming the vertebra the bony back, this
5 is lumbar, that means this is lumbar four, that is called L-4,
6 L-5 disc, and this is L-5, this is the sacrum, S-1, sounds
7 confusing but there are only two discs.

8 THE COURT: Repeat the last thing you said,
9 Doctor.

10 A Okay, the disc compromise at L-4, L-5 and L-5, S-1.

11 Q How can you tell that the discs above that towards the
12 top of the image are not compromised or not herniated?

13 A Because they are nice, they are puffy, they are gray,
14 light, they have content of soft tissue, water inside.

15 Q So, I am going to switch to a different exhibit. I am
16 going to show you the December 18, 2019 cervical spine MRI.

17 THE COURT: One second.

18 Q Is this a good image to stop at?

19 A This should be both images. There are two cuts, this
20 is from the side.

21 Q We will start with the one to the left.

22 THE COURT: One second, we are going to mark it.
23 We will mark that as Plaintiff's Exhibit 3 for
24 identification purposes.

25 (Whereupon, Plaintiff's Exhibit 3, was marked for

1 identification, by the Reporter.)

2 One second, please identify it.

3 MR. LESNEVEC: Top left hand corner indicates
4 SD:102-3 then IM 6-13.

5 THE WITNESS: IN as in?

6 MR. LESNEVEC: M as in Mary.

7 Q So, at the right top corner this indicates this is the
8 MRI of film of Moazzam Gill, the plaintiff, is that correct,
9 Doctor?

10 A That is correct.

11 Q This was taken December 18, 2019?

12 A Correct.

13 Q Can you tell us what we are looking at in terms of this
14 film?

15 A Well, it is difficult to explain everything in
16 something that is like this because MRIs are dynamic. You are
17 moving around and you see different things. Basically, what we
18 see here is similar to what we see in the lower back. The neck
19 we see from the side, okay, this is the neck, and this is the
20 posterior part. This is the brain, this is the tongue, and this
21 is the spine, okay. You see something similar but much smaller.
22 You see the square, the vertebra, and the middle of the disc and
23 the most important thing here is, this is not the nerves only,
24 this is the spinal cord. An injury of the spinal cord can
25 paralyze the patient. It is a totally different situation. But

1 anything small, as I said, the disc shouldn't have anything to
2 the back of the spinal cord.

3 Okay, for example two, four, five, six, this disc is
4 touching and this discs if you move the MRI, as I said, it is
5 going to be touching the spinal cord also.

6 Q I will go to the next. Is this image appropriate?

7 A Yes.

8 MR. LESNEVEC: I will mark this as Exhibit 4.

9 THE COURT: Which one?

10 MR. LESNEVEC: The one I just put on the screen
11 and it is labeled as SE102/3. IM:8-13.

12 THE COURT: We are going to mark this at
13 Plaintiff's 4 for identification purposes.

14 (Whereupon, Plaintiff's Exhibit 4 for
15 identification, by the Reporter.)

16 MR. LESNEVEC: Yes.

17 Q Can you just tell us what we are looking at in Exhibit
18 4?

19 A Yes this is the same, the same part of the body, same
20 images basically, but we can see the vertebra disc, disc
21 herniation. This small black part is compressing the spinal
22 cord. This is really important because we can see for example
23 the disc here below has a wide image in the middle, the white
24 stuff, that is acute. That disc injury is acute. It is not
25 chronic. It does not have fluid inside. If you see a chronic

1 injury, it will be totally different. This is something that
2 happened recently.

3 Q Could you tell us what it means when you say it is an
4 acute injury?

5 A That it happened recently. It is not an injury that
6 for example comes from arthritis, chronic, over time. Something
7 acute, something that happened now, or one month ago or two
8 months ago. It is new.

9 Q Can you identify what levels that you identified which
10 are herniated?

11 A C-5, C-6, C-6, C-7.

12 MR. LESNEVEC: For the record, I pulled up
13 Exhibit 5.

14 THE COURT: We will mark this as Plaintiff's 5 for
15 identification purposes only.

16 (Whereupon, Plaintiff's Exhibit 5, was marked for
17 identification, by the Reporter.)

18 MR. LESNEVEC: My intention is to move all of them
19 in at the same time.

20 THE COURT: Give me the number.

21 MR. LESNEVEC: This is December 11, 2020 MRI to
22 the cervical spine. So this is SE102/3, IM 7 of 13.

23 THE COURT: Okay.

24 Q So, we are referring on the left-hand side for the
25 record, do you recognize this MRI film, Doctor?

1 A Yes.

2 Q Is this Mr. Gill --

3 THE COURT: One second, show the one we are
4 talking about to counsel.

5 Q Is this Mr. Gill's MRI film, Doctor?

6 A Yes.

7 Q That is from December 11, 2020?

8 A Correct.

9 Q This would have be taken after the last MRI which I
10 showed you for the neck?

11 A That is correct.

12 Q This was also was taken before you eventually performed
13 surgery to his neck?

14 A Yes, correct.

15 Q So, can you tell us what we are looking at in this
16 imagine?

17 A Pretty much the same as I described before. You can
18 see it better here because I think the quality of the image is
19 better. They show disc herniation here, compressing the spinal
20 cord. You shouldn't see -- normally you see white behind,
21 between the spinal cord and the disc, that is fluid, that
22 normally is in the spinal cord moving around. There are no
23 fluids, they are compressed.

24 Q Are those the same two levels C5-6 and C6-7, you
25 identified in the prior study?

1 A Yes.

2 Q What about the other discs in this film, how do they
3 look?

4 A It don't look terrible, not significant disc
5 herniation. They are -- okay, the one here but this is the
6 thoracic spine, lower. It not the same thing. The two
7 important discs are these two, identified as C-6, C7 --
8 identified as C5-6 and C6 and C7.

9 MR. LESNEVEC: At this time, we would ask
10 Exhibits, 2,3, 4, 5 be admitted in evidence.

11 THE COURT: One at a time.

12 MR. LESNEVEC: I would ask Exhibit 2 be admitted
13 in evidence.

14 THE COURT: Any objection?

15 MR. MCNIFF: No.

16 THE COURT: What was previously marked
17 Plaintiff's 2, for identification purposes, will be entered
18 as Plaintiff's 2 in evidence.

19 One second. We have to mark it. We have to
20 change the tab mark.

21 (Whereupon, Plaintiff's Exhibit 2, was marked in
22 evidence, by the Reporter.)

23 MR. LESNEVEC: I would ask that Exhibit No. 3 be
24 admitted in evidence.

25 THE COURT: Any objection?

1 MR. MCNIFF: No objection.

2 THE COURT: What was previously marked as
3 Plaintiff's Exhibit 3, for identification purposes, will be
4 entered as Plaintiff's 3 in evidence.

5 (Whereupon, Plaintiff's Exhibit 3, was marked in
6 evidence, by the Reporter.)

7 (Whereupon, the following was recorded by Senior Court Reporter
8 Ken Perschke.)

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1 MR. LESNEVEC: I ask that Plaintiff's Exhibit 4 be
2 admitted into evidence.

3 THE COURT: Any objection?

4 MR. MCNIFF: No objection, your Honor.

5 THE COURT: What was previously marked as
6 Plaintiff's 4 for identification will be entered as
7 Plaintiff's 4 in evidence.

8 THE CLERK: Plaintiff's Exhibit 4 marked in
9 evidence.

10 MR. LESNEVEC: I ask that Plaintiff's 5 be
11 admitted into evidence.

12 THE COURT: Any objection?

13 MR. MCNIFF: No objection, your Honor.

14 THE COURT: What was previously marked as
15 Plaintiff's Exhibit 5 for identification will be entered as
16 Plaintiff's Exhibit 5 in evidence.

17 THE CLERK: Plaintiff's Exhibit 5 marked in
18 evidence.

19 THE COURT: You can continue.

20 MR. LESNEVEC: I request the doctor retake the
21 stand.

22 THE COURT: Yes.

23 Q Is there any way for a patient to have the types of
24 herniations that you pointed out to us in Exhibits 2, 3, 4 and 5
25 not to be causing pain to the patient?

1 A Could be, yes.

2 Q Did this testing, after you took a look at the MRI, did
3 that correlate with the testing that you performed with the
4 patient, the range of motion testing?

5 A Absolutely, yes.

6 Q Can you describe the types of pain that herniated discs
7 such as what we saw here can cause to a patient?

8 A There are different ways that compromise the sensation
9 of the arm and the leg. Every disc is going to compress a
10 nerve. Our body is like a map, every nerve brings sensation or
11 takes care of muscles in different parts of the arm or the leg.
12 This is consistent with the level of the disc herniation where
13 the sensation is compromised. It's not going to be all the arm
14 sometimes, it's going to be just segments that are compromised.
15 It could be compromised in multiple ways. I ask the patient is
16 it a funny sensation, meaning you feel different. Could be
17 burning pain, that's extreme, could have numbness, tingling, but
18 it's different one arm to the other for sure.

19 Q Did you review these MRI films with Mr. Gill before you
20 performed surgery?

21 A Yes.

22 Q We talked about your first visit, did you then see him
23 again a second time?

24 A I saw him a couple times before.

25 Q Can you tell us about the various dates you saw him?

1 A I saw him again, the second time was 8/20/2020.

2 Q Can you tell us all the dates overall, how many times
3 did you see him?

4 A Since the first time until now?

5 Q Yes?

6 A I have maybe 12 times or something like that, I saw him
7 multiple times.

8 Q At the point of the second visit you did perform
9 surgery yet?

10 A The first visit we discussed conservative treatment, I
11 refer him to pain management for injection and continue physical
12 therapy. This is not an emergency, it doesn't need to go to
13 surgery right away. He's treating, he came back a second time
14 because the symptoms were getting worse.

15 Q How so, what types of symptoms was he continuing to
16 experience as of the second time you saw him?

17 A For example the symptoms in the upper extremities were
18 getting worse. First time was mostly to the right side, now he
19 has more weakness.

20 THE COURT: Doctor, remember you can look at the
21 report but you cannot read from it. You can look at it to
22 refresh your recollection but you can't read from it.

23 MR. LESNEVEC: Judge, I'm going to mark here what
24 was subpoenaed from the record room, the doctor's records.

25 THE COURT: That's not the same document.

1 Q Doctor, the records you have before you, is that a
2 complete copy of the medical records for Mr. Gill?

3 A Correct.

4 Q You signed those records?

5 A Correct.

6 Q You authored those records?

7 A Correct.

8 MR. LESNEVEC: I ask they be admitted into
9 evidence.

10 THE COURT: Any objection?

11 MR. MCNIFF: I do. There are a lot of documents
12 in there. I had a quick look when you allowed me to but I
13 didn't go through them all.

14 THE COURT: At this point it's sustained.

15 MR. LESNEVEC: I had a discussion with counsel
16 beforehand -- can we approach?

17 THE COURT: Yes.

18 (Whereupon, at this time a discussion was held at
19 sidebar.)

20 THE COURT: Before we do that, we're going to take
21 a quick break.

22 Members of the jury, we are going to take a
23 comfort break. During the break please do not do any
24 research on any topic about this case. Do not discuss
25 anything related to this case with anyone including your

1 fellow jurors and do not speak to the attorneys, the
2 parties or any witnesses. If anybody attempts to
3 communicate with you about this case, please let my officer
4 know who will in turn let me know.

5 We're going to take about a 10 minute break.

6 THE COURT OFFICER: All rise, jury exiting.

7 (Whereupon, the jury exited the courtroom.)

8 MR. MCNIFF: Your Honor, before we get the jury --
9 I don't want to spend more than a minute or two but I
10 didn't want to do it while we have the jury here. I wanted
11 to look at the chart quickly, I scanned through it before.

12 THE COURT: Which one are you talking about?

13 MR. MCNIFF: The one we have marked for ID.

14 THE COURT: That's going to be marked as
15 Plaintiff's Exhibit 6 and we're going to go with that one?

16 MR. MCNIFF: Yes, but while we're doing at I would
17 like to look at his chart.

18 THE COURT: Sure.

19 MR. MCNIFF: Thank you, your Honor.

20 THE COURT: We can bring in the jury.

21 THE COURT OFFICER: All rise, jury entering.

22 (Whereupon, the jury entered the courtroom.)

23 THE CLERK: Do all parties stipulate to the
24 presence and proper seating of the jurors?

25 MR. LESNEVEC: So stipulated.

1 MR. MCNIFF: So stipulated.

2 THE COURT: You may proceed.

3 MR. LESNEVEC: If I could have this marked as
4 Plaintiff's Exhibit 6.

5 THE COURT OFFICER: Marked as Plaintiff's
6 Exhibit 6 for identification.

7 (Whereupon, the document referred to was marked
8 for identification as Plaintiff's Exhibit 6.)

9 Q Doctor, take a look at Plaintiff's Exhibit 6 and tell
10 us if you recognize it.

11 A Yes. This is my records from the computer for the
12 patient.

13 Q Are you aware that my office subpoenaed those records
14 from your office to be sent directly here to the courthouse?

15 A Yes.

16 Q Are those a fair and accurate copy of the records your
17 office sent to the courthouse?

18 A Yes, it looks like it.

19 MR. LESNEVEC: I ask that they be admitted into
20 evidence.

21 THE COURT: Any objection?

22 MR. MCNIFF: No objection, your Honor.

23 THE COURT: What was marked as Plaintiff's
24 Exhibit 6 for identification will be entered as Plaintiff's
25 Exhibit 6 in evidence.

1 THE COURT OFFICER: Plaintiff's Exhibit 6 marked
2 in evidence.

3 Q Doctor, if you need to refer to the records, you can
4 refer to Plaintiff's Exhibit 6 in evidence if you need to read
5 from anything.

6 The first time you saw Mr. Gill was January 9, 2020; is
7 that correct?

8 A Yes.

9 Q The second time was August 20, 2020?

10 A Correct.

11 Q How was he progressing at that point?

12 A He was doing worse, now the upper extremities, in the
13 beginning was one, now we have compromise of both upper
14 extremities and the weakness is getting worse. The lower back
15 is still remain more or less the same but the neck is getting
16 worse.

17 Q When was the next time you saw him after August 20,
18 2020?

19 A I saw him 10/15/2020.

20 Q October 15, 2020?

21 A Yes.

22 Q What, if any, complaints did Mr. Gill make to you at
23 that time?

24 A He was complaining of weakness in his legs at that
25 time.

1 Q Did he complain to you of dizziness?

2 A Yes.

3 Q When did you actually perform surgery on Mr. Gill?

4 A December 21, 2020.

5 Q What type of surgery was that?

6 A It's called anterior cervical discectomy and fusion,
7 ACDF.

8 Q What levels did you perform that surgery to?

9 A The ones we were talking about before that you showed
10 there, C5-C6 and C6-C7.

11 Q Those are the images you pointed out that were
12 herniated?

13 A Correct.

14 Q Can you describe the surgery. How is it performed?

15 A The surgery is performed from the front of the neck,
16 because the back of the neck is really dangerous for this kind
17 of surgery. I make an incision on the right side of the neck, I
18 do that at because I'm right handed, it's easier for me. The
19 spine is right there, it's not in the back of the neck that
20 everyone thinks.

21 We cannot go in the middle, that's the trachea but on
22 the side there's a small hole there you can press, the disc is
23 right there. We put a microscope to see everything magnified.
24 We get to the discs that are compromised, these discs are not
25 like a normal disc. A normal disc, if you want to remove it you

1 have to cut it. This disc you can take with a small tool you
2 take the disc out. We make sure the nerve -- that's the main
3 reason of the surgery, relieve the pressure on the nerves.

4 We see the nerve but the most important thing is the
5 spinal cord is behind, that's why the risk of paralysis with
6 this surgery is minimal, almost nonexistent. Then he's going to
7 be -- not in the middle, we have to use something. We used to
8 use bone, but now we use a small metal cage, it's titanium, we
9 put it there and we use a plate in the front because you don't
10 want the cage which come out. We put a plate in the front with
11 the screws, it's like carpentry.

12 Q Did you have to replace the disc that you took out as a
13 part of that surgery?

14 A Yes. It's not actually a disc replacement. It's
15 fusion, you have to put the cage.

16 Q What is the purpose of the cage?

17 A The cage is going to maintain the height. The idea is
18 the bone is going to grow from one vertebrae to the other
19 through the cage. It's going to be one structure, that's why
20 it's a fusion.

21 Q You said you use something to be able to magnify, to
22 see inside?

23 A We use a microscope.

24 Q Were you able to see Mr. Gill's discs with your own
25 eyes when you were looking through the microscope during

1 surgery?

2 A Yes.

3 Q What did they look like?

4 A They are not normal discs, I wrote here you can see
5 disc herniation, both levels.

6 Q Both levels meaning C5-C6 and C6-C7?

7 A Yes.

8 Q The surgery is called discectomy and fusion. Can you
9 tell me what the discectomy portion of it is?

10 A This is a discectomy when you remove the disc and the
11 disc herniation.

12 Q Approximately how long did the surgery take to perform?

13 A I do the surgery in about one hour.

14 Q The cage that you implanted, is that intended to be in
15 there permanently?

16 A Yes.

17 MR. LESNEVEC: Judge, I'm going to put an exhibit
18 up on the screen and I'll mark it.

19 THE COURT: Okay. We'll mark this as Plaintiff's
20 Exhibit 7 for identification.

21 (Whereupon, the document referred to was marked
22 for identification as Plaintiff's Exhibit 7.)

23 THE COURT: If you can identify it.

24 MR. LESNEVEC: This IM:2, 3692/1885.

25 Q Are you able to see that from here, doctor?

1 A Yes.

2 THE COURT: Does the doctor need to approach?

3 MR. LESNEVEC: I don't think so this time.

4 Q Do you recognize this exhibit, doctor?

5 A Yes, this is from the surgery I performed.

6 Q It indicates on the top left-hand corner the name
7 Moazzam Gill. Can you tell us is this an x-ray, MRI?

8 A It's an x-ray.

9 Q Can you describe what we're looking at in the center,
10 are you able to see any hardware that you implanted?

11 A Yes. The most important thing is identify the level,
12 this was one at C5-6 and C6-7. As I said before, where the disc
13 was we put that square element there, that's the cage. There's
14 a hole in the cage because the bone is going to grow through the
15 cage and then to avoid the cage moving around you put the plate
16 and you can see the plate with six tiny screws.

17 Q Is this a fair and accurate copy of the x-ray from
18 Mr. Gill dated February 11, 2021 to his cervical spine?

19 A Yes.

20 Q Did you review the x-ray of Mr. Gill after you
21 performed the surgery?

22 A As a standard of care I personally do x-ray at six
23 weeks, three months, six months and one year.

24 MR. LESNEVEC: I ask this be admitted into
25 evidence.

1 THE COURT: Any objection?

2 MR. MCNIFF: No objection.

3 THE COURT: What was marked as Plaintiff's
4 Exhibit 7 for identification will be entered as Plaintiff's
5 Exhibit 7 in evidence.

6 MR. LESNEVEC: I show you what will be marked as
7 Plaintiff's 8.

8 THE COURT: Marked as Plaintiff's Exhibit 8 for
9 identification.

10 (Whereupon, the document referred to was marked
11 for identification as Plaintiff's Exhibit 8.)

12 MR. LESNEVEC: This is IM:1, 3473/1888. The top
13 left-hand corner indicates the name Moazzam Gill.

14 Q Doctor, do you recognize this image?

15 A Yes, it's the same thing, another view of the neck,
16 this time from the front. We request from the front and the
17 lateral that we saw.

18 Q This shows the cage that you implanted with the screws
19 and plate?

20 A Yes.

21 Q Is this a fair and accurate copy of the MRI that you
22 reviewed dated February 11, 2021?

23 A Yes.

24 MR. LESNEVEC: I ask it be admitted into evidence.

25 MR. MCNIFF: No objection.

1 THE COURT: What was marked as Plaintiff's Exhibit
2 8 for identification will be entered as Plaintiff's
3 Exhibit 8 in evidence.

4 Q Did you continue to see Mr. Gill after you performed
5 the surgery for follow up?

6 A Yes.

7 Q How was he progressing during that time after the
8 surgery?

9 A He was progressing okay, the nerve symptoms were
10 resolved almost but he still was complaining of some neck pain.

11 Q When you say the nerve symptoms, you're talking about
12 the radiation or radiculopathy?

13 A Yes, the weakness.

14 Q What type of medications, if any, did you prescribe for
15 him after the surgery?

16 A I prescribed medication only for three months. The
17 patient has normally a pain medication, muscle relaxer,
18 antiinflammatories. These are the medications that he had.

19 Q Did you continue to see Mr. Gill throughout 2021 and
20 2022?

21 A Yes.

22 Q How was he progressing during that time?

23 A Regarding the neck, same thing. Resolved significantly
24 the symptoms to the upper extremities. Still complaining of
25 neck pain.

1 Q How was he doing with the lower back during those
2 years?

3 A The lower back was getting worse.

4 Q Did you ever recommend any specific treatment for the
5 lower back?

6 A He continued conservative treatment, I recommended
7 injection that he performed. I think he had microdiscectomy, a
8 small surgery. At the end the symptoms were getting worse and I
9 recommended lumbar fusion.

10 Q What is lumbar fusion?

11 A It's the same we talk about for the neck but in this
12 case we do for the back. The discs that are compromised are
13 removed and replaced with a cage, it's similar but bigger, and
14 screws in the back.

15 Q Do you know if he ever underwent the lumbar fusion
16 surgery?

17 A I don't believe so.

18 Q Did Mr. Gill have any prior accident that you're aware
19 of?

20 A No.

21 Q Are you aware of any prior injuries that he had before
22 this accident?

23 A No injuries that I know.

24 Q Do you know what Mr. Gill did for work before this
25 accident?

1 A I think he was an Uber driver.

2 Q Did you have any conversations with him about his
3 ability to work?

4 A Yes.

5 Q Can you tell us about that?

6 A I think currently he's -- we call it temporarily
7 totally disabled. It's going to be difficult for him to perform
8 the same work. I think he tried to go back and he couldn't do
9 it. The neck is going to be in pain but the lower back is
10 significant.

11 Q Did you make any recommendations to him in terms of his
12 ability to work?

13 A He's 100 percent disabled for that kind of work. Even
14 to sit to work, it's difficult because this patient has to
15 change positions every 20 to 30 minutes.

16 Q Have you formed an opinion within a reasonable degree
17 of medical certainty as to what the cause of herniated discs
18 that you identified for us was?

19 A Every insurance is different --

20 Q My question is a legal question. Have you formed an
21 opinion within a reasonable degree of medical certainty as to
22 what the cause of his injuries was that you identified?

23 A I think they are related to the accident that we
24 described before.

25 Q Why is that your opinion?

1 A Because it's consistent. The patient didn't have
2 symptoms before, no recorded symptoms or previous accident. He
3 didn't have anything before, everything start after the
4 accident. His complaints are consistent with the MRI findings
5 and my medical exam. Everything point towards that side that is
6 related to the accident.

7 Q Is your opinion based on a reasonable degree of medical
8 certainty?

9 A Yes.

10 Q Have you formed an opinion within a reasonable degree
11 of medical certainty as to the permanency of his injuries?

12 A He is totally disabled at least for the work he was
13 performing, I don't think he's going to be able to do it. It's
14 going to be difficult for him to perform any sedentary job at
15 all because the lower back is significant for that, you have to
16 change positions constantly. It's going to be difficult to do a
17 job without moving or changing positions.

18 Q Is that your opinion within a reasonable degree of
19 medical certainty?

20 A Yes.

21 Q The cervical spine surgery that you performed, do you
22 have an opinion with regard to whether or not he needs future
23 surgery to his neck?

24 A We know every patient that has a fusion has 2.5 percent
25 chance the disc above or below get bad due to increased stress,

1 that means they need a new surgery. 2.5 percent chance in one
2 year is going to be 25 percent chance in ten years.

3 Q We heard during opening arguments in this case some
4 comment about degeneration, what is degeneration?

5 A It's related mostly to age that we undergo. As we get
6 older our bones and joints getting worse. They start changing,
7 mostly the bones.

8 Q Were any of the injuries you saw during the surgery or
9 in the MRI films, did you find those were due to aging or
10 degeneration?

11 A No.

12 Q Why not?

13 A As I said before, aging is going to grow over time.
14 Even if he had previous arthritis, it's a preexisting condition,
15 you start all this with something. When age you have pain
16 slowly growing, when you have an accident it's acute, they start
17 with symptoms that are significant.

18 Q Were you aware that Mr. Gill was 45-years-old on the
19 date of the accident?

20 A Yes.

21 MR. LESNEVEC: I have no further questions.

22 THE COURT: Thank you. Any cross?

23 MR. MCNIFF: Yes, your Honor.

24 CROSS-EXAMINATION

25 BY MR. MCNIFF:

1 Q Good afternoon, doctor. We have never met; Right?

2 A I don't remember you.

3 Q You did talk to plaintiff's counsel on the phone you
4 told us; correct?

5 A Yes.

6 Q Was that about your testimony?

7 A It was about the case in general.

8 Q Did you go over the treatment that you rendered?

9 A Yes.

10 Q How long was the phone call?

11 A Last night, maybe 40 minutes, one hour.

12 Q You went over what you were going to do here today in
13 court; correct?

14 A Not necessarily but we were discussing the case, yes.

15 Q I think you said before, doctor, that you get patients
16 referred after they finish conservative care or it's exhausted;
17 is that correct?

18 A After conservative treatment, correct.

19 Q That happened in this case; right?

20 A I believe it was referred by physical therapy as I said
21 before.

22 Q In your world, you are what's known as a consultant;
23 right?

24 A As a surgeon. They refer me patients as candidate for
25 surgery.

1 Q You get patients from different doctors; true?

2 A Yes.

3 Q In this case the doctor that referred the patient to
4 you, do you know the name?

5 A I think I see it before in the records, I don't know
6 him personally.

7 Q Do you recall, doctor, that the plaintiff was referred
8 to you by the attorney's office, Michael Lamonsoff's office in
9 this case?

10 A No.

11 MR. MCNIFF: Can we have this marked as
12 Defendant's Exhibit A for identification.

13 THE COURT: You can.

14 MR. LESNEVEC: It would be subject to a lot of
15 redactions. Can we approach?

16 THE COURT: Yes.

17 (Whereupon, at this time a discussion was held at
18 sidebar.)

19 THE COURT OFFICER: Defendant's Exhibit A marked
20 for identification and shown to the witness.

21 (Whereupon, the document referred to was marked
22 for identification as Defendant's Exhibit A.)

23 Q Does that refresh your recollection as to who referred
24 this patient to you?

25 A Per this paper, it says here Lamonsoff's office.

1 Q According to that paper they referred the patient to
2 you?

3 A Yes.

4 Q That's a bill from your office; right?

5 A I don't know if it's a bill or not.

6 Q You are familiar with the billing practices of your
7 office?

8 A Some of them, yes.

9 Q On the top part of that document does it say New York
10 Spine Institute?

11 A Yes.

12 Q Would that be a bill from your office?

13 A It's from my office, I don't know if it's a bill.

14 Q On the bottom of that document it says referred by
15 Michael Lamonsoff, the attorney in this case; right?

16 A That's what it says.

17 Q Thank you, doctor. Are you familiar with the website
18 that New York Spine Institute has?

19 A Yes.

20 Q There's a whole section on your website for referrals
21 by attorneys; true?

22 A I think it's related to attorneys, yes.

23 Q In fact, there's a liaison that you employ that's on
24 the website to work out cases with attorneys; correct?

25 A Correct.

1 Q So not all of the cases come from doctors after
2 conservative care has been exhausted; right?

3 A I don't think that's correct. I don't get patients
4 coming without treatment.

5 Q Doctor, let's see if we can agree on some terms. Are
6 you familiar with the term desiccation?

7 A Yes.

8 Q Desiccation in the context of the spinal surgery, can
9 that refer to drying out of discs?

10 A I explain what we call black disc disease, it's the
11 same thing.

12 Q The black discs that we looked at, that's desiccation?

13 A Correct.

14 Q We were looking at an MRI T2 sequence; correct?

15 A Yes.

16 Q In T2 the water content is white when healthy; right?

17 A Yes.

18 Q In this case we were looking at a lot of unhealthy
19 discs. They were black; right?

20 A There were two unhealthy discs, I explained the rest of
21 the discs were excellent.

22 Q Those two unhealthy discs in the cervical spine were
23 the ones you performed surgery on; right?

24 A The two unhealthy ones, yes.

25 Q Do you agree that desiccation takes time to develop?

1 A Not necessarily.

2 Q It can take time to develop; true?

3 A Yes.

4 Q It can develop as a result of the aging process; true?

5 A Yes.

6 Q Are you familiar with the term osteophyte?

7 A Yes.

8 Q Are osteophytes bony growths?

9 A Yes.

10 Q Sometimes referred to as arthritis in a general way?

11 A Not necessarily arthritis, it's going to be another
12 thing. Osteophytes can come from trauma, from age, from
13 different situations.

14 Q Bony growths take a while a develop; would you agree
15 with that?

16 A Yes.

17 Q They take more than two weeks to develop; right?

18 A Yes.

19 Q Let's talk a little about what happens when a disc
20 dehydrates or desiccates. First the disc will shrink; right?

21 A The first thing you see -- the desiccation can come
22 from two situations, arthritis is going to be multiple discs but
23 we're going to talk about one disc. The first thing, the water
24 content that is the gel coming out. That means it's not going
25 to shrink, it's going to show black in the MRI. It could shrink

1 over time or not, depends how much gel comes out.

2 Q But it can happen over time; true?

3 A Yes.

4 Q And it can happen as a result of the aging process?

5 A Absolutely.

6 Q When that happens over time, the disc will shrink a
7 little; correct?

8 A As I said, could shrink pretty fast also, depends how
9 much contents came out.

10 Q Do you agree or not agree that the discs will shrink
11 when the water content desiccates?

12 A When it comes out, yes.

13 Q When it shrinks, does that create something called disc
14 space narrowing?

15 A Yes.

16 Q That can be caused as a result of the aging process;
17 true?

18 A Could be one of the reasons, could be aging.

19 Q Are you familiar with the term bulging disc?

20 A Yes.

21 Q Bulging, would you agree, is a diffuse finding?

22 A You said diffuse?

23 Q As opposed to a focal finding in a disc?

24 A I don't understand, I'm sorry.

25 Q A herniated disc, would you agree, can be focal?

1 A Herniated disc can be a bulge? These are two different
2 things in anatomy.

3 Q Herniated disc and bulging disc are two different
4 things?

5 A Correct.

6 Q Can a focal herniated disc exist in medicine?

7 A Yes.

8 Q Are you familiar with that term?

9 A Yes.

10 Q Can you tell us what a focal herniated disc is?

11 A It's not really focal. The difference between disc
12 bulge and disc herniation --

13 Q Can you answer my question?

14 A I can't say. Could be a disc bulge -- this is a
15 radiology term, we don't care if it's focal or diffuse, it could
16 be a bulge or a herniation.

17 Q But you can have a focal herniated disc; do you agree
18 with that?

19 A Yes, herniated disc.

20 Q Can you have a diffuse bulge; yes or no?

21 A The definition --

22 Q Yes or no --

23 THE COURT: Let him answer the question.

24 A It's different terms, that's why I wanted to clarify.

25 A bulging disc is by definition diffuse. If you allow me to

1 clarify the difference between bulging and disc herniation, it's
2 anatomy. When the base of the bulge or the herniation is less
3 than 25 percent of the circumference of the disc it's called
4 disc herniation. More than 25 is a disc bulge. Doesn't mean a
5 bulge cannot have symptoms.

6 (Whereupon, the following was recorded and
7 transcribed by Senior Court Reporter Francine Spaulding.)

8 (Continued on next page.)

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1 Q I did not ask you about symptoms, I just want to know
2 if it was diffused and I think you --

3 A Okay.

4 Q Correct?

5 A Yes.

6 Q You can have a herniated disc without symptoms, true?

7 A Absolutely, yes.

8 Q You can have a bulging disc without symptoms, true?

9 A Absolutely, yes.

10 Q Not everybody who comes to your office ends up with
11 surgery, right?

12 A No, most of the people don't.

13 Q They may have herniated discs and they may have bulging
14 discs, true?

15 A Correct.

16 Q Now, Doctor, you took a history in this case from the
17 plaintiff, right?

18 A Yes.

19 Q And when you take a history you ask them what is going
20 on, true?

21 A Yes.

22 Q You want the history to be accurate; is that fair?

23 A Yes.

24 Q You are relying on the patient or the plaintiff in this
25 case to give you an accurate history?

1 A Correct.

2 Q You want the history to be thorough, right?

3 A Correct.

4 Q Do you teach residents, Doctor?

5 A At NYU, yes.

6 Q Not here?

7 A Not at Mercy.

8 Q But you do teach?

9 A Yes.

10 Q As part of what you teach residents is to take an
11 accurate history, right?

12 A Correct.

13 Q A thorough history?

14 A Correct.

15 Q A complete history?

16 A Yes.

17 Q That is important for you for a number of reasons; do
18 you agree with that?

19 A Yes, it is part of the full process.

20 Q That and the physical examination are very important,
21 true?

22 A It is the most important part mainly.

23 Q It help you form what is called a differential
24 diagnosis, right, sir?

25 A One of the parts, yes.

1 Q A differential diagnosis is a list of possible
2 conditions that you want to rule out; do you agree?

3 A Correct.

4 Q In part you are relying on the patient to be accurate
5 to give you information that is true in order to form a
6 differential diagnosis?

7 A No, you talk about physical exam, physical exam is not
8 part of what the patient tells me. Physical exam is what I see
9 objectively.

10 Q Is there a subjective component to your physical
11 examination in general yes or no?

12 A Could be.

13 Q In fact, I think you write in your report in your notes
14 when you use the goniometer you are confirming the subjective
15 movement of the patient, true?

16 A Yes.

17 Q So, you do agree with subjective being part of your
18 physical examination, it is in your notes?

19 A Yes.

20 Q So subjective is when somebody tells you how they feel,
21 right?

22 A Not necessarily. Subjective mean that I cannot confirm
23 that with a specific study or test. That is subjective.

24 Q Do you agree that a complaint of pain is subjective;
25 yes or no?

1 A Yes.

2 Q When you do the range of motion testing like you did on
3 the plaintiff in this case, you are relying on the plaintiff to
4 accurately tell you when they feel pain, true?

5 A Yes, correct.

6 Q You don't push them beyond that limit, true?

7 A I try not.

8 Q When you do your range of motion testing, are you doing
9 it active, passive or both?

10 A I try to do both.

11 Q What are you recording, you general record one number,
12 active, passive?

13 A The major one, the worst one.

14 Q Is the active range of motion when you ask the
15 plaintiff or the patient to do it on their own?

16 A No, that is the passive range of motion when I push a
17 little bit.

18 Q Passive is when you push?

19 A Yes.

20 Q Active is when they do it on their own?

21 A Yes.

22 Q Right. In this case, you recorded range of motion
23 testing with a subjective component from the plaintiff, right?

24 A Correct.

25 Q When you test strength and you perform your neurologic

1 examination, is there a subjective component to that test?

2 A Yes.

3 Q The weakness that you documented in your records in
4 general from the plaintiff contained a subjective component,
5 right?

6 A Yes.

7 Q You are looking and feeling and your part is objective,
8 right?

9 A Correct.

10 Q But the plaintiff's part when they are saying how weak
11 I am, that is the subjective part?

12 A Yes.

13 Q Now, I know you told us about the surgery and
14 everything you performed on the neck, Doctor. The surgery was
15 that performed inpatient or outpatient?

16 A I do not recall this one. Normally this patient can go
17 home the same day but sometime they have to stay. I don't
18 recall if they went home or not.

19 Q If I were to tell you, in this case this was performed
20 on an outpatient basis, does that sound right to you?

21 A Yes.

22 Q The patient comes in on goes home the same day?

23 A Yes.

24 Q I think you told us before the procedure took about an
25 hour, right?

1 A My part is about an hour in general.

2 Q I think you also told us you do an incision in the neck
3 or off to the sides a little bit, right?

4 A Never in the center.

5 Q Was the incision you did in this case about five
6 centimeters?

7 A About one inch. I don't know, depends on the neck.

8 Q And inch to two inches?

9 A No two inches is too much.

10 Q Less than --

11 A It is about one inch. It depends on the neck. It not
12 same.

13 Q Would you describe that as a minimally invasive
14 procedure?

15 A It is minimally invasive procedure we perform on the
16 neck.

17 Q You are familiar with the term in general degenerative
18 disc disease, right?

19 A Yes.

20 Q That is a general term, would you agree with that?

21 A Yes.

22 Q It covers all kinds of degeneration in the spine,
23 right?

24 THE COURT: One second. Can you please repeat the
25 question.

1 (Whereupon, at this time the testimony was read
2 back by the court reporter.)

3 A Yes, degeneration is the space, not the spine.

4 Q It is a concept recognized in medicine, degeneration of
5 the spine?

6 A Can you clarify the question? Degeneration of the
7 spine could be -- yes, could be coming from multiple things. I
8 think you refer that is the common thing in that when you have,
9 when you age, you have arthritis, that is going to be a
10 degeneration of the spine.

11 Q Recognize in medicine, true?

12 A Yes, under my clarification.

13 Q Now, when you take a history from the patient in
14 general, again, you are relying on them to give you the
15 information accurately, right?

16 A Yes.

17 Q And not that we expect you, you don't do background
18 checks on patient I take it?

19 A No.

20 Q Are you familiar with the term, Doctor, secondary gain
21 in medicine?

22 A Yes, medicine in law, and multiple things.

23 Q Including medicine, right?

24 A Medicine also.

25 Q Secondary gain means people sometimes exaggerate their

1 claims for money, true?

2 A Yes, for secondary gain to get compensation or
3 something like that.

4 Q Now, Doctor, you treat patients, you told us before,
5 referred from attorneys, true?

6 A There are attorneys. Not that the attorney calls me
7 and say I will send you a patient. Okay. Normally a patient is
8 not coming from them to me. But we need to know what attorney
9 it was.

10 Q You work with certain firms more than others, correct?

11 A We try not to, okay. We try not to do specific,
12 receive a specific patient for one or the other. When the
13 patient is coming to me, I don't know where it is coming from.

14 Q You do business with other firms for example, William
15 Schwitzer's Office?

16 A I almost don't see patients from that firm.

17 Q You don't see patients?

18 A I almost don't see.

19 Q Because they have a problem, right?

20 A I don't know why I don't refer to me.

21 Q How about Sacks & Sacks?

22 A I don't know.

23 Q How about Elefterakis & Elefterakis?

24 A Yes, I know them. I know the firm, yes.

25 Q So, some of these firms sent you patients and you are

1 familiar with their patients; true?

2 A No.

3 Q Yes or no, if you can't answer my question let me know.

4 A I cannot answer the question.

5 Q Have you testified before, Doctor?

6 A About -- patients I did surgery, this is not part of my
7 job. But I testified about, I don't know, 12, 15, I don't
8 remember how many times.

9 Q 12 or 15 times?

10 A I think so, about, I cannot be exact.

11 Q In those cases where you testified you have been in a
12 courtroom much like this?

13 A Correct.

14 Q And an attorney like me has asked you questions, true?

15 A That is correct.

16 Q You been called by the attorney for the plaintiff,
17 true?

18 A Yes, most of the time.

19 Q They call and ask you questions just like they did
20 today, right?

21 A Yes. We go over the case, correct.

22 Q You have done that for different firms, right?

23 A Absolutely, yes.

24 Q Did there come a time, Doctor, while you were treating
25 this plaintiff, where you said he could return to work?

1 A I do not recall that. I think it temporary disabled
2 every time that I saw him but I do not recall.

3 Q You don't ever recall saying he could return to work to
4 full duty?

5 A No, I do not recall that.

6 MR. MCNIFF: Your Honor, may I take a look at
7 chart that the doctor has in front of him that is mark for
8 identification.

9 MR. LESNEVEC: Exhibit No. 1.

10 MR. MCNIFF: Thank you. Can I have the page
11 marked for identification.

12 THE COURT: The document is marked, the entire
13 document.

14 MR. MCNIFF: With the Court's permission, I would
15 like to hand this to the witness and have him take a look
16 at a particular page.

17 THE COURT: If you want to indicate to my officer
18 what the page is.

19 MR. LESNEVEC: Can I also see?

20 THE COURT: Yes, let's show your adversary first.

21 Q You did, right?

22 A Yes, it is in my notes.

23 THE COURT: One second. Doctor and counsel, only
24 one person speaking at a time for the court reporter.

25 Okay.

1 Q You clearly said he could return to work full duty back
2 in April of 2021, right?

3 A Yes.

4 MR. MCNIFF: Thank you, Doctor, no further
5 questions.

6 THE COURT: Any redirect?

7 MR. LESNEVEC: Yes. Thank you, Judge.

8 REDIRECT EXAMINATION

9 BY MR. LESNEVEC:

10 Q Doctor, in terms of the bills that were shown to you
11 during the beginning -- or the exhibit that was shown to you
12 during the beginning, that was a bill, correct?

13 A I don't know if is a bill, it is all crossed out for
14 me.

15 Q If an attorney that is representing one of your
16 patients that you treated requested records, do you typically
17 send these to the lawyers or does your office?

18 A My office deals with that, yes.

19 Q Does your office record who the lawyer is?

20 A Say that again.

21 Q Does your office record who the lawyer is that requests
22 those records?

23 A Yes, they have to.

24 Q Do you do that for any lawyer that contacts you and
25 asks for the records of a patient, do you record who the lawyer

1 is?

2 A You have to.

3 Q You did that for my office, correct?

4 A It has to be done, yes. I don't do it personally, but
5 it has be done.

6 Q You were asked by the desiccation of the discs. Was
7 surgery performed to Mr. Gill due to long term disc desiccation?

8 A No.

9 Q You mentioned unhealthy discs was your testimony, were
10 you referring to the discs that were herniated when said
11 unhealthy?

12 A Correct.

13 Q You were also asked about questions about osteophytes,
14 right?

15 A Correct.

16 Q Bony growths, is that what they are?

17 A Correct.

18 Q Did that play any factor into you finding Mr. Gill
19 required surgery?

20 A Not in this case.

21 Q Did you perform any surgery due to any type of disc
22 osteophytes or any osteophytes?

23 A No.

24 Q You were asked about arthritis, did you perform surgery
25 due to arthritis?

1 A No.

2 Q Did you find that Mr. Gill had some type of long term
3 arthritis that had been going on causing pain from well before
4 this accident?

5 A No.

6 Q The disc that herniated, basically you described that
7 they lost the gel that was inside, do I have that correct?

8 A Correct.

9 Q What is your opinion as to why the gel came out of
10 discs in the case of Mr. Gill?

11 A Trauma.

12 Q Meaning the car accident?

13 A To a reasonable degree of medical certainty, yes.

14 Q When you say trauma, does that mean -- describe what
15 you mean by trauma?

16 A Trauma is any kind of major event, big event that is
17 going to create some stress on the disc, that the disc is
18 affected.

19 Q Did you see any medical records whatsoever from before
20 this accident that showed that Mr. Gill was suffering from
21 degeneration?

22 A No.

23 Q Did you see any medical records whatsoever from before
24 this accident where he was treating due to any type of pain from
25 before the accident?

1 A No.

2 Q You were asked about taking history of the patients and
3 whether or not you want that to be accurate; do you remember
4 that?

5 A Yes.

6 Q How many patients have you treated over your career?

7 MR. MCNIFF: Objection.

8 THE COURT: Basis.

9 MR. MCNIFF: Beyond. How many patients is beyond
10 the scope. I did not ask about that.

11 MR. LESNEVEC: I will rephrase the question.

12 THE COURT: Sustained.

13 Q Of all the patients you treated over your career, did
14 you find that Mr. Gill was in some way inflating his pain?

15 A No.

16 Q Did you find that Mr. Gill was exaggerating his pain in
17 any way?

18 A No.

19 Q Did you have any reason to believe he was giving less
20 than full effort on any of the tests you performed?

21 A No.

22 Q Did Mr. Gill require the surgery you performed due to
23 arthritis?

24 A No.

25 Q Is it your opinion that he is exaggerating any of these

1 claims --

2 MR. MCNIFF: Objection.

3 THE COURT: Basis.

4 MR. MCNIFF: His opinion as to the exaggeration.
5 That is not why the witness is here to offer an opinion as
6 to him as a person.

7 MR. LESNEVEC: Judge, he asked about secondary
8 gain. He asked about this whole topic.

9 MR. MCNIFF: If I may, he is here to offer medical
10 opinions.

11 THE COURT: In this case, overruled, based on
12 prior questions that were asked.

13 Q Do you have an opinion as to whether or not Mr. Gill
14 was -- went and got the surgery for some reason other than for
15 his pain and suffering?

16 A No.

17 Q Did you find Mr. Gill went through with the surgery due
18 to exaggerating for his legal case?

19 A No.

20 Q How many years did you treat Mr. Gill?

21 A Two, three years.

22 Q Approximately how many times did you see him?

23 A I don't recall more than ten or twelve -- about ten.

24 THE COURT: I am sorry, I did not hear your
25 answer.

1 A About ten, twelve I say before, but I could not be
2 accurate.

3 Q During any of the time you saw him over those years,
4 did you find that he was going through any of this treatment for
5 secondary gain?

6 MR. MCNIFF: Objection.

7 THE COURT: Basis.

8 MR. MCNIFF: At his point it has been asked and
9 answered twice.

10 THE COURT: Sustained.

11 MR. LESNEVEC: No further questions. Thank you.

12 THE COURT: Sir --

13 MR. MCNIFF: Your Honor, May I?

14 THE COURT: For redirect?

15 MR. MCNIFF: Yes.

16 THE COURT: No, direct, cross, redirect. Sir you
17 may stand down. Thank you, you may stand down.

18 THE WITNESS: Yes, thank you.

19 THE COURT: Counsel, please approach.

20 Members of the jury, it IS that time of the day
21 where it is lunchtime. We are going break for lunch and we
22 are going to come back at two o'clock sharp.

23 Let me give you the admonitions. Get used to
24 hearing them because I have to give them to you each time.
25 During the break, please do not do research about any topic

1 of the case, do not discuss anything related to the case
2 with anyone, including your fellow jurors. Do not speak to
3 the parties, attorneys or witnesses. If anyone attempts to
4 discuss the case with you, please notify my court officer
5 who in turn will notify me.

6 Everyone have a good lunch and I will see everyone
7 back here at two o'clock.

8 THE COURT OFFICER: All rise, jurors are exiting.

9 (Whereupon, the jury exits the courtroom.)

10 THE COURT: Off the record.

11 (Whereupon, at this time a lunch recess was held.)

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1 THE CLERK: All rise, Part 7 is back in session.

2 THE COURT: You can be seated everyone.

3 THE COURT OFFICER: All rise.

4 (Whereupon, the jury entered the courtroom.)

5 THE CLERK: Do all parties stipulate to the
6 presence and proper placement of the jurors beginning with
7 counsel for the plaintiff?

8 MR. LESNEVEC: I do.

9 THE CLERK: Defense?

10 MR. MCNIFF: I do.

11 THE CLERK: Thank you, jurors may be seated.

12 THE COURT: Everyone may be seated. Proceed.

13 MR. LESNEVEC: Yes, at this time I call my client
14 Maza Gill.

15 THE COURT: Mr. Gill, please take the stand.

16 THE CLERK: Remain standing.

17 THE WITNESS: I am sorry.

18 THE CLERK: Do you solemnly swear or affirm the
19 testimony you shall give will be the truth, whole truth and
20 nothing but the truth?

21 THE WITNESS: Yes.

22 THE CLERK: You may be seated.

23 THE WITNESS: Thank you.

24 THE CLERK: In a loud clear voice state and spell
25 your name.

1 THE WITNESS: Maza M-O-A-Z-Z-A-M, last name Gill,
2 G-I-L-L.

3 THE CLERK: State your address for the record.

4 THE WITNESS: 164 Arkansas Drive, Valley Stream,
5 New York 11580.

6 THE CLERK: Thank you.

7 THE COURT: You may proceed.

8 DIRECT EXAMINATION

9 BY MR. LESNEVEC:

10 Q Good afternoon Mr. Gill.

11 A Good afternoon.

12 Q How old are you, sir?

13 A About 50 now.

14 Q What is your date of birth?

15 A 6/20/1974.

16 Q Where were you born?

17 A Pakistan.

18 Q When did you move to the United States?

19 A 1996, I believe.

20 Q I apologize if I misspoke about this, are you a
21 citizen?

22 A Yes.

23 Q When did you become a U.S. citizen?

24 A 2001, I believe.

25 Q To be clear, when you first came to the United States

1 you were not a citizen but then you later you applied?

2 A I came as a green card holder.

3 Q Are you married?

4 A Yes.

5 Q Did you have children?

6 A Three.

7 Q How old are your children?

8 A My elder one is going to be 15 now, and then three are
9 younger than him, and three are after that. So the last one is
10 going to be ten, probably. Nine, yes, yes.

11 Q Where do your wife and children live?

12 A They are in Pakistan right now.

13 Q Are you currently -- are you separated from your wife?

14 A Yes, for right now. Yes.

15 Q When did that happen?

16 A After the accident.

17 Q Why is it that you separated?

18 A After the accident the way things went, she say she did
19 not like -- I am not the same person any more and we always
20 argue. I was not able to travel and my father was very ill and
21 she wanted me to visit and see them because they were there at
22 that time already. My father passed away and I was not able to
23 travel either for that. So, all that accumulated.

24 Q How did the accident that we heard about affect your
25 relationship?

1 A Well my accident happened in December in 2019, and I
2 wanted to go back to visit my country. My father was ill. I
3 sent my family for that over there. She was telling me he's not
4 feeling well and I was arranging to go back end of December, but
5 I was not able to because of the accident happened. I was not
6 feeling well and not able to travel.

7 Q How long have you lived in Queens?

8 A In Valley Stream.

9 Q Valley Stream, excuse me?

10 A Yes, I have been there about like nine years, I
11 believe.

12 Q Who do you live with?

13 A Right now I have a friend of mine who is taking care of
14 me, Nasir Mahmood.

15 Q Did you start working here in the United States after
16 you came?

17 A Yes.

18 Q Where did you work after you got here?

19 A Dunkin' Donuts.

20 THE COURT: I am sorry, where.

21 THE WITNESS: Dunkin' Donuts.

22 Q What did you do at Dunkin' Donuts?

23 A I started as a cleaning worker, like a regular job, a
24 porter job. Then I moved up as a general manager, working
25 there. I used to take care about like seven stores -- more with

1 Baskin-Robbins. So about 12.

2 Q By the way, how many languages do you speak?

3 A I can speak Spanish, Urdu, Hindi English.

4 Q Did you also work as an Uber driver?

5 A Yes.

6 Q Was it just Uber or did you do Lyft or any other
7 driving services?

8 A Lyft, Uber, Juno.

9 Q When did you start driving for Uber?

10 A I started as a taxi driver, a yellow cab driver 2012 I
11 believe, yes. The reason was because I wanted to try something
12 my own, make my own business, open a small coffee shop. I tried
13 but it did not work, with a friend. So, I started to drive a
14 cab. I drove a cab until Uber came in and taxi business got
15 down and I started working as an Uber driver.

16 Q When was last time that you worked as an Uber driver?

17 A December 4th, 2019.

18 Q That was after the accident we are here for?

19 A Yes, I had a passenger on that date with me.

20 Q You were working for Uber on that date?

21 A Yes.

22 Q It was one passenger with you at the time?

23 A Yes.

24 Q I understand it was a rear-end impact?

25 A Yes.

1 Q Were you moving or stopped?

2 A I was moving.

3 Q What was your rate of speed when you were hit?

4 A About 35 to 40.

5 Q Miles per hour?

6 A Yes.

7 Q Can you describe the impact?

8 A It was a very hard hit on the driver's side, back
9 behind the trunk area on the driver's sides. I was in right
10 lane on the Van Wyck Expressway going towards the exit for Main
11 Street by the 495.

12 Q Can you just describe what you felt when you got hit,
13 what was the impact?

14 A It was a hard hit, very bad.

15 Q Did you body make contact with any part of the vehicle?

16 A Yes, my seat belt got stuck, and I hit the side of the
17 window.

18 Q That would have been the driver's side?

19 A Yes, left side.

20 Q What part of your body hit the window?

21 A My head.

22 Q Did your air bags deploy?

23 A No.

24 Q Did any glass break?

25 A No.

1 Q You said you were wearing your seatbelt?

2 A Yes.

3 Q Did your vehicle move as a result of the impact in any
4 way or sideways or anything like that?

5 A I can't tell.

6 Q Immediately after you got hit, what were you feeling?

7 A As a driver, I was working that long the first question
8 I had to my passenger if she was okay. I was like in shock,
9 what happened, and all of that.

10 Q Did you have any pain after you were able to stop the
11 vehicle?

12 A I can't say right away, I had any pain -- I don't know,
13 I was in shock in that position.

14 Q After you were hit were you able to pull the vehicle
15 over or stop your vehicle?

16 A Well, that was the very right lane. The vehicle was
17 stopped right there.

18 Q So, you stopped in the right lane?

19 A Yes.

20 Q Were you bleeding at all at that point?

21 A No.

22 Q Did you lose consciousness?

23 A No.

24 THE COURT: Sir, you have to answer out loud for
25 the court reporter.

1 THE WITNESS: Yes, sure.

2 Q What was the answer? Did you lose consciousness?

3 A No, I don't think.

4 Q Did your airbags deploy?

5 A No.

6 Q After you stopped, did you get out of your vehicle?

7 A I think I did.

8 Q What, if anything, did you do after you got out?

9 A I checked my vehicle and what happened to the car
10 because we have to report to Uber right away. Also, if you
11 have, if we got in an accident, we have to report to the company
12 and I was driving a garage car. That was my natural reaction to
13 see what happened.

14 Q I am sorry, whose car were you driving?

15 A I rent a car from the garage.

16 Q How long were you renting the car prior to the
17 accident?

18 A Six months.

19 Q After you stopped the vehicle, did you take any
20 photographs?

21 A Yes.

22 Q Why did you take photographs?

23 A I have to show that to Uber and to the garage.

24 MR. LESNEVEC: Your Honor, I would ask these
25 photos be marked and shown to the witness.

1 THE COURT: May I see them. Did you show counsel?

2 MR. LESNEVEC: I did.

3 THE COURT: We will do it one at a time.

4 MR. LESNEVEC: No problem.

5 THE COURT: Does it matter what order?

6 MR. LESNEVEC: That is the order.

7 THE COURT: Okay. We will mark this photo as
8 Plaintiff's 9 for identification purposes.

9 (Whereupon, Plaintiff's Exhibit 9, was marked for
10 identification, by the Reporter.)

11 THE COURT OFFICER: Plaintiff's 9, has been marked
12 for ID.

13 THE COURT: Do you want to keep going or show it
14 to the witness?

15 MR. LESNEVEC: You know what, Judge, we can mark
16 them now.

17 THE COURT: Can we mark this document as
18 Plaintiff's 10 for identification purposes.

19 (Whereupon, Plaintiff's Exhibit 10, was marked for
20 identification, by the Reporter.)

21 THE COURT OFFICER: Plaintiff's 10, marked for ID.

22 THE COURT: We will mark this as Plaintiff's 11,
23 for identification purposes.

24 (Whereupon, Plaintiff's Exhibit 11, was marked for
25 identification, by the Reporter.)

1 THE COURT OFFICER: Plaintiff's 11 marked for ID.

2 THE COURT: We will mark this as Plaintiff's 12
3 for identification purposes.

4 (Whereupon, Plaintiff's Exhibit 12, was marked for
5 identification, by the Reporter.)

6 THE COURT OFFICER: Plaintiff's 12, was marked for
7 ID.

8 THE COURT: We will mark this as Plaintiff's 13,
9 for identification purposes.

10 (Whereupon, Plaintiff's Exhibit 13, was marked for
11 identification, by the Reporter.)

12 THE COURT OFFICER: Plaintiff's 13, marked for ID.

13 THE COURT: We are going to mark this document as
14 Plaintiff's 14, for identification purposes.

15 (Whereupon, Plaintiff's Exhibit 14, was marked for
16 identification, by the Reporter.)

17 THE COURT OFFICER: Plaintiff's 14, marked for ID.

18 THE COURT: We will mark this document as
19 Plaintiff's 15, for identification purposes.

20 (Whereupon, Plaintiff's Exhibit 15, was marked for
21 identification, by the Reporter.)

22 THE COURT OFFICER: Plaintiff's 15, marked for ID.

23 (Whereupon, the following was recorded by Senior
24 Court Reporter Ken Perschke.)
25

1 Q Mr. Gill, take a look at what we have marked as
2 Exhibits 9 through 15 and let me know when you are finished.

3 A Yes.

4 Q Do you recognize those photos?

5 A Yes, this is my car and the vehicle that hit me.

6 Q Those photos depict your vehicle after the collision?

7 A Yes.

8 Q Does it also depict the van that hit you?

9 A Yes.

10 Q Are those fair and accurate copies of photographs
11 showing the damage to the vehicles after the collision?

12 A Yes.

13 MR. LESNEVEC: I ask that Exhibit 9 be admitted
14 into evidence.

15 THE COURT: Any objection, counsel?

16 MR. MCNIFF: No objection, your Honor.

17 THE COURT: What was previously marked as
18 Plaintiff's Exhibit 9 for identification will be entered as
19 Plaintiff's Exhibit 9 in evidence.

20 THE CLERK: Plaintiff's Exhibit 9 marked in
21 evidence.

22 MR. LESNEVEC: I ask that Exhibit 10 be admitted
23 into evidence.

24 THE COURT: Any objection, counsel?

25 MR. MCNIFF: No objection, your Honor.

1 THE COURT: What was previously marked as
2 Plaintiff's Exhibit 10 for identification will be entered
3 as Plaintiff's Exhibit 10 in evidence.

4 THE CLERK: Plaintiff's Exhibit 10 marked in
5 evidence.

6 MR. LESNEVEC: I ask that Exhibit 11 be admitted
7 into evidence.

8 THE COURT: Any objection, counsel?

9 MR. MCNIFF: No objection, your Honor.

10 THE COURT: What was previously marked as
11 Plaintiff's Exhibit 11 for identification will be entered
12 as Plaintiff's Exhibit 11 in evidence.

13 THE CLERK: Plaintiff's Exhibit 11 marked in
14 evidence.

15 MR. LESNEVEC: I ask that Exhibit 12 be admitted
16 into evidence.

17 THE COURT: Any objection, counsel?

18 MR. MCNIFF: No objection, your Honor.

19 THE COURT: What was previously marked as
20 Plaintiff's Exhibit 12 for identification will be entered
21 as Plaintiff's Exhibit 12 in evidence.

22 THE CLERK: Plaintiff's Exhibit 12 marked in
23 evidence.

24 MR. LESNEVEC: I ask that Exhibit 13 be admitted
25 into evidence.

1 THE COURT: Any objection, counsel?

2 MR. MCNIFF: No objection, your Honor.

3 THE COURT: What was previously marked as
4 Plaintiff's Exhibit 13 for identification will be entered
5 as Plaintiff's Exhibit 13 in evidence.

6 THE CLERK: Plaintiff's Exhibit 13 marked in
7 evidence.

8 MR. LESNEVEC: I ask that Exhibit 14 be admitted
9 into evidence.

10 THE COURT: Any objection, counsel?

11 MR. MCNIFF: No objection, your Honor.

12 THE COURT: What was previously marked as
13 Plaintiff's Exhibit 14 for identification will be entered
14 as Plaintiff's Exhibit 14 in evidence.

15 THE CLERK: Plaintiff's Exhibit 14 marked in
16 evidence.

17 MR. LESNEVEC: I ask that Exhibit 15 be admitted
18 into evidence.

19 THE COURT: Any objection, counsel?

20 MR. MCNIFF: No objection, your Honor.

21 THE COURT: What was previously marked as
22 Plaintiff's Exhibit 15 for identification will be entered
23 as Plaintiff's Exhibit 15 in evidence.

24 THE CLERK: Plaintiff's Exhibit 15 marked in
25 evidence.

1 MR. LESNEVEC: I do have blowup of those if I
2 could publish those to the jury.

3 THE COURT: Do you want the easel?

4 MR. LESNEVEC: I can hold them up, I don't need
5 the easel right now.

6 Q Can you tell us what is depicted in Plaintiff's
7 Exhibit 9?

8 A That's my car.

9 Q Showing the rear of your vehicle after the impact?

10 A Yes.

11 Q I'm showing you Plaintiff's Exhibit 10. Do you
12 recognize this?

13 A Yes, that's the van.

14 Q What is this?

15 A The van that hit my car.

16 Q This is the picture of the front of the van that struck
17 the rear of your vehicle?

18 A Yes.

19 Q Showing Plaintiff's Exhibit 11. Do you recognize this?

20 A Yes.

21 Q What is this?

22 A That's my car from the passenger's side.

23 Q Who is depicted in the photograph here?

24 A That's my roommate, Nasir. He's a friend of mine.

25 Q Was there any damage to your vehicle prior to this

1 accident happening?

2 A No.

3 Q Did an ambulance respond to the scene after the crash?

4 A Yes.

5 Q Were you taken to the hospital in the ambulance?

6 A Yes.

7 Q What about your passenger, was she removed in an
8 ambulance?

9 A Yes.

10 Q What hospital were you taken to?

11 A Queens.

12 Q Tell me what you were experiencing in the hospital,
13 what type of symptoms?

14 A My body was aching, feeling pain in the head,
15 headaches, blurry vision.

16 Q Had you ever had headaches or blurry vision before the
17 accident?

18 A No.

19 Q What type of treatment did they give you in the
20 hospital?

21 A They did a lot of testing, that's it.

22 Q Do you have any x-rays?

23 A They did CT scan and x-ray.

24 Q Were there any broken bones?

25 A Yes.

1 Q Were you discharged the same day?

2 A Yes.

3 Q Where did you go after that?

4 A Home.

5 Q How did you get home?

6 A Uber.

7 Q Can you tell us about any symptoms you may have had in
8 the week after the crash?

9 A Day by day I was feeling more pain in my body, getting
10 tired, my muscles getting tied up, feeling bad headaches. On my
11 ear I feel ringing noise in my left ear.

12 Q When did the ringing in the left ear start?

13 A After the accident.

14 Q Can you describe what the pain felt like that week
15 after? Start with your neck, did you have neck pin?

16 A I start having pain all over the back of my body, my
17 neck, shoulder, lower back, feeling numbness in my hands,
18 tingling pain and getting worse day by day.

19 Q Did you go to see any doctors after you left the
20 hospital?

21 A I went to my primary doctor for painkillers, he gave me
22 Tylenol and I was not feeling well so then the doctor across the
23 street, Premier Medical. They have physical therapy and my
24 friend recommend me, he said you should try with them so I went
25 there.

1 Q That was Premier Physical Medicine and Rehab?

2 A Yes.

3 Q What did your primary doctor give you, you said it was
4 Tylenol?

5 A Yes.

6 Q Did your primary care care doctor do anything else in
7 terms of offering any specific treatment or anything?

8 A No, he said you need heat and cold pack.

9 MR. MCNIFF: Objection as to what someone else
10 said.

11 THE COURT: Sustained.

12 Q What, if any, other treatment did your primary care
13 doctor give you?

14 A Use the heat and cold pack, maybe it help you feel
15 better. Do therapy, that's why I ask my friend and I see the
16 doctor across the street so I went there, Dr. Raj.

17 Q What Dr. Raj's his last name?

18 A Tollat.

19 Q What type of treatment did you receive at Premier
20 Physical Medicine and Rehab when you started to go there?

21 A They gave my physical therapy, they start giving me
22 heat and cold pack and he prescribe me cyclobenzaprine, muscle
23 relaxer.

24 Q Was there any range of motion testing performed to any
25 parts of your body?

1 A Yes.

2 Q Did you have any difficulty with those tests?

3 A Yes.

4 Q What parts of your body did they do that testing to?

5 A My left shoulder, neck, back. Legs getting numb, hand
6 on the left side and he gave me treatment for that.

7 Q What was going on in terms of symptoms for the left
8 shoulder after the accident?

9 A Feeling numb in my arms and leg. Even now I'm feeling
10 numb in the left leg.

11 Q Were you prescribed MRIs?

12 A Yes.

13 Q Initially, right after the accident, what MRIs did you
14 undergo?

15 A I went for lower back and my neck and the shoulder.

16 Q The left shoulder?

17 A Yes.

18 Q Did Dr. Tollat go through the MRI results with you?

19 A Yes.

20 Q Did you review the MRIs with him?

21 A Yes.

22 Q After you went through the review with the doctor, what
23 if any, types of treatment did you get after they looked at the
24 films?

25 A I was taking the therapy and getting all the medicine

1 that he recommended for the pain management, injections and I
2 started that but after that pandemic hit, everything was shut
3 down for a few months and I was suffering through all that time
4 but I was not able to reach any doctor because of the pandemic.

5 Q What, if anything, did you do for yourself during that
6 time when the offices were closed?

7 A I bought the machine, the massage machines they use at
8 the therapy place. I ask them about those machines, you put on
9 your neck and back, give you heat and stimulation. I bought the
10 heat and cold pack, try to do for myself as much as I can.

11 Q How frequently were you going to physical therapy after
12 the offices reopened after COVID?

13 A Three to four times a week.

14 Q Was that helping you?

15 A Yes, it does help but not -- you take the therapy, it
16 takes a few minutes or hours, you feel better, relax, because
17 maybe the heat or something and then you go back the same thing,
18 slowly and then you come home and you end up in the same
19 position.

20 Q Did you also treat with a specialist specifically for
21 your left shoulder?

22 A Yes, Dr. Touliopoulos.

23 Q What was your shoulder pain like when you first started
24 to see Dr. Touliopoulos?

25 A My shoulder was getting jammed, I wasn't able to raise

1 it to my level. I have bad pain, he took the x-ray and he
2 recommended surgery.

3 Q Did you go over the MRI of your left shoulder with
4 Dr. Touliopoulos?

5 A Yes, I did.

6 Q You said he recommended surgery?

7 A Yes.

8 Q How did that make you feel?

9 A Now I'm much better, I can move my arm.

10 Q I'll get to after the surgery. When you were told the
11 recommendation is surgery --

12 A It scared me.

13 Q What was going through your mind at that point?

14 A Make me feel like, I never had any surgery before but
15 at the time time I'm worried if I'm ever going to be able to use
16 my arm normally.

17 Q What was your understanding of the surgery?

18 A He explained everything.

19 MR. MCNIFF: Objection to what the doctor said.

20 THE COURT: Sustained. Sir, you can't state what
21 somebody else said.

22 Q From your state of mind, what was your understanding of
23 the surgery?

24 A I'm going to have my shoulder cut open and going to
25 have -- why I'm having this pain and why do I have to go through

1 all that. That affect my feeling and everything.

2 Q Leading up to the surgery, in the days or week before
3 that, how was the left shoulder doing at that point?

4 A Painful. If it was not pain I wouldn't go through
5 surgery.

6 Q How did you feel after the surgery?

7 A After that they start giving me the therapy and with
8 the therapy I get better.

9 Q Were you prescribed any medications?

10 A Yes, for three weeks after the surgery I had to take
11 some, I forget the name of the medicine. Antibiotics and for
12 pain.

13 Q Do you have any scars on your left shoulder now?

14 A Yes, I have four scars on my shoulder.

15 Q Is one on the front of the shoulder, one on the side,
16 on on the back?

17 A Two over here, one here and one here.

18 Q So you have two scars in the front --

19 A Front and one on the back.

20 Q Let me finish. You have two on the front?

21 A Yes.

22 Q One on the side?

23 A Yes.

24 Q And one in the back?

25 A Yes.

1 Q Do those scars give you any discomfort now?

2 A Looking at them don't make me feel any better, it's
3 going to be there.

4 Q What was your recovery process like after the surgery
5 to your shoulder?

6 A It took a year or two.

7 Q Of what?

8 A Recovery, pain management, physical therapy, it took
9 that long. Even now sometimes, I have to keep doing therapy
10 even now most of the time to keep it normal, otherwise it starts
11 having pain again.

12 Q I'm going to switch to your neck. How was your neck
13 progressing in the weeks and months after the accident?

14 A Getting worse and then I was recommended surgery and I
15 look at the MRI. I send that MRI to my niece, she's in England,
16 she work for a cardiac hospital but I want to have someone look
17 at it. She's not an orthopedic but she consult with the people
18 over there.

19 MR. MCNIFF: Objection, talking about what the
20 niece said.

21 THE COURT: Can you read back what the witness
22 said.

23 (Whereupon, at this time, the requested portion of
24 the record was read back by the reporter.)

25 MR. MCNIFF: Objection withdrawn.

1 Q Did you eventually start consulting with Dr. Macagno
2 who we heard from?

3 A Yes.

4 Q He's with New York Spine Institute?

5 A Yes.

6 Q Can you tell us about the treatment with Dr. Macagno
7 before the surgery?

8 A I went there, Dr. Raj refer me through pain management,
9 I went there. Then he look at the MRI, he recommended surgery.

10 Q What was going through your mind at that point when he
11 recommended spine surgery?

12 A Very scary, it's going to be on my neck. I also did my
13 own research a little bit on it. Making that decision is not
14 easy and then I had to have it.

15 Q Did you have the surgery approximately a year after the
16 accident?

17 A Yes.

18 Q Were you treating with physical therapy and pain
19 management in between?

20 A Yes. In the middle of that, yes, I was.

21 Q What was your understanding of that surgery to your
22 neck?

23 A Painful and scary, it's going to be there forever.

24 Q Did you have any injections at all?

25 A Yes.

1 Q Can you describe what you had?

2 A Pain management injection they put in my neck,
3 shoulder, right here and same thing. I'm still receiving some
4 pain management injections in my lower back, the surgery for my
5 lower back is also recommended but it's scary.

6 MR. MCNIFF: Objection. Move to strike what
7 somebody else said.

8 THE COURT: Can you read back the answer.

9 (Whereupon, at this time, the requested portion of
10 the record was read back by the reporter.)

11 THE COURT: Overruled.

12 Q Why did you undergo the injection for the neck?

13 A I want to have it without the surgery, I want to get
14 better.

15 Q Did you try the injections before the surgery to the
16 neck?

17 A Yes, I did.

18 Q Can you tell us about what your neck pain was like in
19 the weeks before the neck surgery?

20 A It was getting worse.

21 Q How so?

22 A I was not able to sleep. I was not able to move my
23 neck. I get stiffness in my shoulders. My arms were getting
24 numb. After the accident day by day or week by week it was
25 getting worse, that's why I was getting more nervous and scared

1 by it.

2 Q What was your recovery like after the surgery to your
3 neck?

4 A Still getting treated with the heat and cold pack, it
5 get better. I don't have the same kind of pain, I'm able to
6 move my arm, don't feel numbness in my hands after the surgery.

7 Q So the numbness has improved?

8 A Yes.

9 Q So the surgery helped you?

10 A Yes.

11 Q We talked about your shoulder, your back and neck.
12 What about your head, did you have any symptoms stemming from
13 your head after the accident?

14 A I have constant pain in my left side. My left eye is
15 blurry, ringing in the ear still. Even today is constant
16 ringing in the ear, it doesn't stop and I have headaches all the
17 time.

18 Q When did all these symptoms begin?

19 A After the the accident.

20 Q How soon? That day, that week?

21 A The next day I was having headache and pain but it was
22 getting worse with time and I had it checked out and getting
23 medicine for that but even now I still have the headaches.

24 Q How do the headaches affect you in terms of your daily
25 activities?

1 A I don't like to go out that much, I get angry easy. I
2 don't feel like being around people much, I'd rather be alone.

3 Q Tell me about your social life before the accident.
4 How was it different, if at all?

5 A I used to go to work early in the morning, come home to
6 my family, see my kids, my friends and now most of the time I'm
7 just in my apartment. More in my room, not only in the
8 apartment, just in my bedroom.

9 Q Did you mention vision? You mentioned your the
10 ringing, your head?

11 A Left eye I have blurry vision.

12 Q Can you describe that in more detail?

13 A Anything I can look at from my left eye I cannot see it
14 clearly, it's blurry. Watching TV or anything, looking at it I
15 cannot pay attention, I cannot watch for more than five or ten
16 minutes, it start giving me headache. Scenery change, my left
17 eye right away, you move something quick in front of my eye I
18 won't be able to detect that easy.

19 Q Did you read at all before the accident?

20 A I love to read books.

21 Q Are you able to continue to do that?

22 A Not much. I still try.

23 Q The ringing in the ears, is that something that's all
24 the time, does it come and go?

25 A It's all the time.

1 Q Does the level, how high the sound is change at all?

2 A It goes up sometimes but most of the time -- right now
3 after five years now, it just feels the same, always ringing,
4 constant pain.

5 Q Did you treat with a doctor for these symptoms?

6 A Yes.

7 Q Did you treat with with Dr. Kim Busichio?

8 A Yes.

9 Q Did you treat in a Dr. Jason Brown's office?

10 A Yes.

11 Q What, if any, treatment did you get by Dr. Busichio?

12 A She did examination on me and she was giving me
13 therapy. I have another doctor, she call over the phone and I
14 go, I take the treatment twice a week. It's like they ask me
15 questions, they show me some pictures, I have the go through
16 them. Sometimes I have to draw them and look at them.

17 Q How frequently do you do this type of treatment?

18 A Twice a week now.

19 Q When did you start doing this type of treatment?

20 A After the the accident I start doing it, probably after
21 a couple months.

22 Q Did you also treat with a Dr. Mehrdad Golzad for your
23 head?

24 A After Dr. Brown, yes.

25 Q So you have treated at a couple different facilities

1 for your head?

2 A Yes.

3 Q Is the treatment helping you at all?

4 A It does a little bit but most of the time I feel pain
5 in the head. I don't want to pay attention to anything and
6 that's what the doctor tell me, I have to work out with these
7 things, try to communicate with people, try things and they give
8 me medicine, I'm still taking the stress medicine and anxiety
9 pills. If I don't take them I won't be able to sit here. I
10 have painkillers, medicine in my pocket right now. I just took
11 them on the break.

12 Q Did you have any MRI done for your head?

13 A Yes.

14 Q I want to move into 2022, '23, '24. During that period
15 were you still treating?

16 A Yes.

17 Q What kind of treatment were you getting during those
18 years? Physical therapy?

19 A Physical therapy, pain management, I just have an
20 injection done a month ago now and I have a second appointment
21 coming in a week to go over that again for the pain management.
22 I was treating, I'm still getting treatment with physical
23 therapy twice a week but it was recently, only a month and a
24 half ago they stop it and now I'm trying to get back to it.

25 Q Did you have any difficulty with sleeping after the

1 accident?

2 A Yes.

3 Q Can you tell us about that?

4 A I get nightmares, get the medicine through sleep,
5 painkillers, cyclobenzaprine also help with sleep and a couple
6 other painkiller medicine, Tylenol P.M., gabapentin.

7 Q Are you able to sleep through the night?

8 A No. A couple hours, two to three hours, then I get up,
9 have to get out of bed, walk a little bit.

10 Q What causes you to wake up like that?

11 A Pain in my body.

12 Q Where are you experiencing pain when you wake up at
13 night?

14 A More in my back, shoulder, neck area.

15 Q On the occasions that you wake up in the middle of the
16 night are you able to get right back to sleep?

17 A No. It takes time, sometimes I have to take sleeping
18 pill, like Tylenol P.M.

19 Q How is your lower back doing right now?

20 A It gets better after the last surgery I had,
21 discectomy, it gets better. My right leg I'm not feeling that
22 much numbness but I still have on my left leg.

23 Q Did you treat specifically with a pain management
24 doctor for your lower back?

25 A Yes.

1 Q Was that Dr. Kalter?

2 A Yes.

3 Q What type of treatment did Dr. Kalter give you?

4 A He gave me injections. That I've been getting since
5 the accident and then it didn't get better so he recommended
6 surgery but I'm not that easy with the surgery, I don't want to
7 jump in so that's why I took the discectomy option and they did
8 that and now he's recommending a second time, going to try again
9 for the left leg.

10 Q Was the discectomy to your lower back June 24, 2024?

11 A Yes.

12 Q What were you experiencing in your lower back in the
13 week before that surgery?

14 A Both legs get numb, sitting, standing, anything.
15 That's why I start using the cane. Any time I start walking,
16 ten steps or more I feel like I'm going to fall down so I say
17 that to my regular doctor so he recommended the cane. I start
18 having the symptoms, losing hair on the outside side of my
19 thighs, both legs and that happened after the accident.

20 Q Was that hair?

21 A I start losing hair very slowly, now it's almost to my
22 knee. I say that to my doctors, they say maybe it's nerve pinch
23 or something and they give me the treatment and it's getting
24 worse. After the discectomy I'm getting better on the right leg
25 but the left is still the same.

1 Q You had numbness and tingling in both legs?

2 A Both legs all the way to the toes.

3 Q You had numbness and tingling in both legs before the
4 lumbar discectomy surgery?

5 A Yes.

6 Q And now it's only one leg?

7 A Left leg.

8 Q What were you saying about hair?

9 A I start loosing hair, it's really weird. The inner
10 side of my thigh I have normal and the outer side is totally
11 wiped up.

12 MR. LESNEVEC: Your Honor, can I ask the witness
13 to step down to show us?

14 THE WITNESS: This side I have, this side --

15 MR. MCNIFF: Can we approach?

16 (Whereupon, at this time a discussion was held at
17 sidebar.)

18 THE COURT: Objection sustained.

19 Q What are you experiencing besides hair loss in your
20 left leg right now?

21 MR. MCNIFF: Objection.

22 THE COURT: Sustained.

23 MR. LESNEVEC: Your Honor, the radiculopathy was
24 already testified to by the last doctor.

25 THE COURT: Can you read back the last question?

1 (Whereupon, at this time, the requested portion of
2 the record was read back by the reporter.)

3 MR. LESNEVEC: The question is in term of
4 radicular symptoms which was already testified to.

5 THE COURT: Just in general, the question is the
6 symptoms he's experiencing?

7 MR. LESNEVEC: I don't want to lead the witness.

8 MR. MCNIFF: It's the phrasing of the question,
9 besides hair loss. If he's asking what symptoms, that's
10 one thing.

11 MR. LESNEVEC: That's the question.

12 THE COURT: Overruled. You can answer.

13 A Numbness and pain.

14 Q How frequently are you experiencing numbness and pain
15 in the left leg?

16 A Most of the time.

17 Q Does it come and go, is it constant?

18 A If I lay down it gets better, if I'm sitting it stays
19 there, walking it come and go.

20 Q Were you billed by your medical providers for the
21 treatment provided to you?

22 A Yes.

23 Q Did you receive copies of those bills?

24 A Yes.

25 Q You turned those over to my office?

1 A Yes.

2 MR. LESNEVEC: I ask that this be marked. This is
3 the original and the copy we discussed.

4 (Whereupon, the document was handed to the Court.)

5 THE COURT: What do you want me to look at?

6 MR. LESNEVEC: The second one I just handed up.

7 THE COURT: Have you seen it, counsel?

8 MR. MCNIFF: I have, your Honor.

9 THE COURT: Let me speak to you.

10 (Whereupon, at this time a discussion was held at
11 sidebar.)

12 THE COURT: You can proceed, counsel.

13 MR. LESNEVEC: Thank you, Judge.

14 Q Have you attempted to go back to work since the crash?

15 A Yes, I did.

16 Q Tell us about that?

17 A I try a couple weeks for Uber Eats. It was not good, I
18 was feeling pain, I was not able to pay attention, getting
19 headaches, pain in my whole body. I work one day, the next day
20 I was even worse so I had to stop.

21 Q How long ago was that that you attempted to do Uber
22 Eats?

23 A I believe it was in 2021 sometime.

24 Q How many hours per week were you working before the
25 crash?

1 A I used to work six days a week, about 50, 55 hours.

2 Q That's per week?

3 A Yes. Most of it when you driving Uber, the hours they
4 count is when you have a passenger. Most of the time you
5 driving you're looking for the passenger, they don't count that.

6 Q The 55 hours per week, was that rides that you were
7 giving or also waiting for rides?

8 A Going to work, starting work at 5:00 in the morning,
9 coming home about 5:00 in the evening, six days a week.
10 Sometimes three, sometimes four, sometimes five.

11 Q Have you had any help from friends or family members
12 since you have been injured?

13 A After the accident, yes.

14 Q Can you tell me about that?

15 A One friend of mine used to drive a cab with me and he's
16 become very close friend to me. He helps me pay for my rent, my
17 bills.

18 Q Who is that friend?

19 A Asad Anwar.

20 Q How long have you known Asad for?

21 A About 11 years now.

22 Q How much were you earning on average per year before
23 the accident?

24 A About 35, 40,000, in that bracket.

25 Q Per year?

1 A Yes. More or less, depends.

2 Q Have you ever been out of work for this long before?

3 A No.

4 Q Did you ever injure your neck or back before this cash?

5 A No.

6 Q Did you ever injure your left shoulder before the
7 crash?

8 A No.

9 Q Did you ever have headaches or any issues with your
10 vision or ringing in your ears before the crash?

11 A No.

12 Q Have you ever been injured before this cash?

13 A No.

14 Q Have you ever had an MRI before this crash?

15 A No.

16 Q Other than the type of work that you described, Dunkin
17 Donuts, driving, did you ever do any type of heavy work,
18 construction or anything like that?

19 A No.

20 Q What about weightlifting? Did you lift weights or
21 anything like that?

22 A No.

23 Q Were you told by any of your doctors at any point in
24 your life that you had some type of degenerative disease?

25 MR. MCNIFF: Objection, hearsay.

1 MR. LESNEVEC: I'll rephrase.

2 Q Are you aware of whether or not you were ever diagnosed
3 or you ever suffered from degenerative disc disease before this
4 accident?

5 MR. MCNIFF: Objection, foundation.

6 THE COURT: Can you read back the question.

7 (Whereupon, at this time, the requested portion of
8 the record was read back by the reporter.)

9 THE COURT: Overruled, you can answer.

10 A No.

11 Q At some point after the crash were you sent to doctors
12 by the defense?

13 A No.

14 Q Did you ever see any doctors that examined you one time
15 only that were hired by the defense, those doctors?

16 A Yes.

17 Q How many of those did you see?

18 A Three, I believe.

19 Q One for your neck, one for your shoulder, one for your
20 head. Does that sound familiar?

21 A Yes.

22 Q Can you tell us about what happened during those visits
23 with any of those doctors?

24 A Those visits only lasted maybe two to three minutes
25 except the one with the brain doctor. Other two doctors I went

1 in and they ask me a couple questions and that's it. They never
2 send me a letter again to come and visit again or see them.

3 Q The first doctor that you saw, how long was that visit?

4 MR. MCNIFF: Objection.

5 THE COURT: Basis?

6 MR. MCNIFF: He just said two to three minutes.

7 THE COURT: Sustained.

8 Q Was it two to three minutes each?

9 A About that, each doctor.

10 Q Other than asking you questions, what, if anything
11 else, occurred when you went to see the doctor for your neck and
12 back and the doctor for your shoulder that were hired by the
13 defense?

14 A They ask me questions like if I feel pain. Yes, I do.
15 They ask me to move my neck, bend, move my shoulder. That's it.

16 Q Did you have a difficulty performing any of the bending
17 of your head or neck?

18 A Of course I did.

19 Q Did you have difficulty moving your shoulder during
20 that exam?

21 A Yes.

22 Q Did you make any complaints of pain to those doctors?

23 A Yes.

24 Q What did you tell them?

25 A I told them how bad it hurt that they want me to move.

1 Q The doctor you saw for your head, you saw her recently?

2 A Yes.

3 Q How long was that?

4 A I think that was a couple hours.

5 Q What happened when you saw that doctor?

6 A She ask me questions, I think she show me on a
7 computer, pictures she show me, colors, how fast it change. The
8 same thing as Dr. Busichio.

9 Q Similar to what your doctor did for your head?

10 A Yes.

11 Q Did you have any difficulty with those tests?

12 A Yes, I did.

13 Q Can you describe how was it difficult?

14 A Drawing the picture, looking at images and how fast,
15 it's like a computer game they ask me to play. Balls and
16 things, how fast they moving.

17 Q In terms of your daily activities, are you having
18 difficult performing daily activity that you had no problem
19 performing before the accident?

20 A Before the accident I was perfectly fine going to work,
21 taking care of things regularly. Enjoying my life, going out on
22 weekends with my friends. My friend, we love to play cricket I
23 go with him before, sometimes he force me to go now just to sit
24 and watch.

25 Q Do you play cricket now?

1 A No.

2 Q Why not?

3 A I can't. It's demanding physical activity, running.

4 Q What about things around the home, do you have any
5 difficulty performing tasks around the home?

6 A Most of the time I'm sitting or laying down. Nothing I
7 can do the same way. Doing laundry I need help, cooking I need
8 help. Even doing grocery, sometimes I try to do on my own
9 because I want to get better but it's hard.

10 Q Have you taken any trips out of the country since the
11 accident?

12 A Yes, twice.

13 Q Where did you go?

14 A Pakistan.

15 Q Why did you go?

16 A I try to make my wife, convince her to stay with me and
17 consider it to be together and it's been hard what I'm going
18 through.

19 Q When was that?

20 A One was in '21. The second was in '23 or '24, I don't
21 remember exactly.

22 Q When you went each of the times, how long did you stay
23 in Pakistan?

24 A It was a long flight. I stat there at least a month
25 and a half or two.

1 Q Most recently, this week or this month, can you
2 describe what symptoms you are experiencing?

3 A Now, I'm feeling pain, headaches, ringing in my ear,
4 blurry vision in my left eye, I always look back over my
5 shoulder when I'm walking. My left leg gets numb which scares
6 me more. I want to get better.

7 MR. LESNEVEC: I don't have any other questions.
8 Thank you.

9 THE COURT: Any cross?

10 MR. MCNIFF: Yes, your Honor.

11 CROSS-EXAMINATION

12 BY MR. MCNIFF:

13 Q Good afternoon.

14 A Good afternoon.

15 Q You gave us an address in Valley Stream before; is that
16 correct?

17 A Yes.

18 Q Is that the address you use on your driver's license?

19 A Right now, no.

20 Q What address do you use on your driver's license now?

21 A Right now I use the address of my friend, Asad.

22 Q Did you renew your driver's license in 2025?

23 A Renew?

24 Q Did you have to renew it?

25 A No, I updated it -- what you call it, the star ID,

1 that's what the government requires.

2 Q When you did that you put a different address?

3 A Yes, the reason is --

4 Q Just answer my question. The driver's license that you
5 have, do you have a class E driver's license at the present
6 time?

7 A Yes.

8 Q Does class E allow you to drive a livery vehicle, a
9 taxi?

10 A Yes.

11 Q I want to go to the accident scene. Approximately what
12 time did the accident happen?

13 A It was the morning, I don't remember exact time.
14 Between 9:00 to 10:00.

15 Q It's before COVID; right?

16 A Yes.

17 Q You are on the Van Wyck in the morning?

18 A Yes.

19 Q Near the LIE?

20 A Yes.

21 Q Relatively busy?

22 A It was okay that day.

23 Q Typical morning?

24 MR. LESNEVEC: Objection to form.

25 THE COURT: Sustained.

1 Q Traffic conditions were --

2 A Normal.

3 Q After the contact occurred, you were able to control
4 your vehicle and not have that vehicle come into contact with
5 anything; is that correct?

6 A Yes.

7 Q After the accident you got out of your car unassisted;
8 right?

9 A Yes.

10 Q You walked around the accident scene; correct?

11 A Yes.

12 Q You were able to take photographs of your car which
13 we've seen?

14 A Yes.

15 Q You took photographs of the other vehicle?

16 A Yes.

17 Q You took photographs of the front and back of the cars;
18 right?

19 A Yes.

20 Q You go to the hospital directly from the accident
21 scene; right?

22 A Yes.

23 Q In the hospital you meet with medical professionals,
24 nurses, doctors, whatever they were?

25 A Yes.

1 Q A number of people come up to you, ask how are you?

2 A Yes.

3 Q They perform physical examinations on you, check you
4 out; right?

5 A Yes.

6 Q They check you out from head to toe; right?

7 A Yes.

8 Q They perform diagnostic tests in the emergency room,
9 you told us CT scans?

10 A Yes.

11 Q X-rays?

12 A Yes.

13 Q After those tests are performed, at some point you are
14 discharged home; right?

15 A At night.

16 Q You are not admitted to the hospital; right?

17 A No.

18 Q After the emergency room, does there come a time when
19 you retain an attorney?

20 A I'm sorry?

21 Q Did you get a lawyer?

22 A Not right away.

23 Q When did you get a lawyer?

24 A Later, probably two weeks later.

25 Q Could it be more than two weeks?

1 A Could be.

2 Q If I told you that you retained a lawyer at some point
3 on or before December 11, would that refresh your recollection?

4 A I don't remember.

5 MR. MCNIFF: Can we mark this, your Honor?

6 THE COURT: We'll mark this as Defendant's Exhibit
7 B for identification.

8 (Whereupon, the document referred to was marked
9 for identification as Defendant's Exhibit B.)

10 THE COURT OFFICER: Marked as Defendant's Exhibit
11 B for identification.

12 THE COURT: Members of the jury, we're going to
13 take a brief comfort break. Once again, during the break
14 do not do any research about the case. Do not discuss this
15 case with anyone including your fellow jurors and do not
16 speak with the parties, attorneys or witnesses. If anyone
17 attempts to speak with you please notify my officer who
18 will notify me.

19 We'll take a ten minute break now.

20 THE COURT OFFICER: All rise, jury exiting.

21 (Whereupon, the jury exited the courtroom.)

22 (Whereupon, a brief recess was taken.)

23 THE COURT OFFICER: All rise, jury entering.

24 (Whereupon, the jury entered the courtroom.)

25 THE CLERK: Do all parties stipulate to the

1 presence and proper seating of the jurors?

2 MR. LESNEVEC: So stipulated.

3 MR. MCNIFF: So stipulated.

4 THE COURT: You may continue, counsel.

5 MR. MCNIFF: With the Court's permission, I'd like
6 to hand what's been marked as Defendant's Exhibit B to the
7 witness.

8 (Whereupon, the document was handed to the
9 witness.)

10 Q Does that document refresh your recollection that by
11 December 11, 2019, you had already retained a lawyer?

12 A Yes.

13 Q Thank you. You told us before that you go to physical
14 therapy; right?

15 A Yes.

16 Q Since the accident, at any point in time have you done
17 any exercises at physical therapy?

18 A In the beginning they were only giving me therapy for
19 the heat and cold packs and the massage. After the surgery they
20 start giving me for exercise, yes.

21 Q That's my question. When you started getting exercise
22 what type of exercises were you doing?

23 A For the shoulder I was moving my shoulder up and down,
24 with a rubber ball on the wall, rolling up and down. Nothing
25 like lifting weight or anything.

1 Q The exercises that you just showed us with the
2 shoulder, that you were doing after the surgery?

3 A After the surgery.

4 Q When you did exercises at the facility where you had
5 the physical therapy, would they last about 20 minutes?

6 A Sometimes, yes.

7 Q Would you say before the surgery you didn't do
8 exercises, are you talking about the surgery to your shoulder or
9 the surgery to your neck? What are you talking about?

10 A For the neck. The exercise I did after the surgery is
11 just move my neck like this, up and down, that's it.

12 Q Left and right and up and down; that's it?

13 A Yes.

14 Q You told us that you went to Pakistan twice since the
15 accident; is that right?

16 A Yes.

17 Q Is that a direct flight or do you have to stop?

18 A I had to stop in in UAE.

19 Q How long is that leg of the flight to UAE?

20 A From here to UAE is 11 or 12 hours.

21 Q Is that the same way you went both times?

22 A Yes.

23 Q I think you said that you occasionally go to cricket
24 matches now?

25 A To watch, yes. My friend, sometimes he takes me.

1 MR. MCNIFF: Thank you, I have no further
2 questions.

3 THE COURT: Any redirect?

4 REDIRECT EXAMINATION

5 BY MR. LESNEVEC:

6 Q The flights to UAE and then from UAE Pakistan, could
7 you tell us about those flights? What did you experience, if
8 anything?

9 A I feel pain sitting in the seat all that time. I
10 didn't have anything to do, move around. I also needed a
11 wheelchair to go to the plane and after the plane also.

12 Q Why did you need that?

13 A Because I was not able to walk through the airport.

14 Q Did you have difficulty performing those exercises, the
15 exercise pushing the ball up the wall?

16 A Yes.

17 Q Can you tell me about difficulty you had with those
18 exercises?

19 A It hurt but at the same time, doctors keep telling me I
20 have to little by little move up so I'm able to use my shoulder.
21 Now, thank God, I'm able to use my shoulder, lift my arm, I can
22 have my arm move around.

23 Q I think the first line of questioning by defense
24 counsel was about your address on your license right now?

25 A Yes.

1 Q Did you say it was Asad?

2 A Yes, it's his address.

3 Q Your friend's address?

4 A Yes.

5 Q Why is it your friend's address?

6 A It's easier, he check the mail. Any time he come in,
7 he check. For my TLC license also I use the same address, he
8 have to go and do it for me because I'm not able to perform
9 those things.

10 Q So Asad gets your mail for you?

11 A Yes. Gets my mail, pay the car insurance, check the
12 insurance update, he take care of everything.

13 MR. LESNEVEC: I have nothing else. Thank you.

14 THE COURT: Thank you, sir. You may step down.

15 Counsel, any other witnesses for today?

16 MR. LESNEVEC: Not today, your Honor.

17 THE COURT: Members of the jury, at this time
18 we're going to adjourn for the day. During this break
19 please do not do any research on any topics about the case.
20 Do not discuss anything related to the case with anyone
21 including your fellow jurors and do not speak to the
22 attorneys, the parties, the witnesses or the attorneys. If
23 anyone attempts to discuss this matter with you during the
24 break, please notify the court officer who will notify me.

25 I wish you all good evening, get home safely and

1 I'll see everyone back here tomorrow at 10:00 a.m.

2 THE COURT OFFICER: All rise, jury exiting.

3 (Whereupon, the jury exited the courtroom.)

4 THE COURT: Is there anything else, counsel?

5 MR. LESNEVEC: No, your Honor.

6 THE COURT: I will see everyone tomorrow at
7 10:00 a.m.

8 Have a good night, everybody.

9 (Whereupon, the trial was adjourned until May 16,
10 2025.)

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