1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------X
ZAI JIN TIAN,

PLAINTIFF,

-against- Civil Action No.:
18-CV-7119

WAYNE AUDIBERT and NFI INTERACTIVE LOGISTICS, LLC,

DEFENDANTS.
----------X
Virtual Deposition

September 13, 2024
10:09 a.m. - 1:32 p.m.

REMOTE DEPOSITION of a non-party witness, DR. ANDREW MEROLA, taken by the respective parties, pursuant to a subpoena, appearing via virtual Zoom, before Laura Antidormi, a professional shorthand reporter.

A P P E A R A N C E S: (Via videoconference)

LAW OFFICES OF GARY S. PARK, P.C.
Attorneys for Plaintiff
488 Madison Avenue
New York, New York 10022
BY: JAMES L. FORDE, ESQ., of Trial Counsel
(212) 714-1515
jforde@omraniandtaub.com

ABRAMS, GORELICK, FRIEDMAN & JACOBSON, LLP
Attorneys for Defendants
One Battery Park Plaza, 4th Floor
New York, New York 10004
BY: STEVEN DiSIERVI, ESQ.
GLENN JACOBSON, ESQ.

WILSON SONSINI GOODRICH & ROSATI, PC
Attorneys for nonparty witness, Dr. Andrew Merola
1301 Avenue of the Americas, 40th Floor
New York, New York 10019
BY: MOE FODEMAN, ESQ.
ALEC LUHRING, ESQ.

ALSO PRESENT: GIL PERETZ, VIDEOGRAPHER

* * *

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

* * * *

(Whereupon, at this time, the Witness produced a New York State Driver License, as identification, for the record.)

Thereupon,

the following proceedings began at 10:09 a.m.:

THE VIDEOGRAPHER: Hold on. Hold on. Good morning. We are on the record and the time now is, approximately, 10:09. Today's date is September 13, 2024. This is video 1 in the video deposition of Dr. Andrew Merola in the matter of Zai Ji Tian versus Audibert and NFI Interactive Logistic, LCC, case number 18-CV-7119.

My name is Gil Peretz. I'm the legal videographer with Shereck Video in association with Jaguar Reporting. This proceeding is conducted on Zoom where all participants are in remote location.

Will Counsel please identity themselves and state whom they represent.

MR. FORDE: For the -- for the plaintiff, Tian, in the -- in the main action, James, middle initial L. Forde, F-O-R-D-E, from the offices of Omrani & Taub, the trial Counsel to the Law Offices of Gary Park.

MR. FODEMAN: Steven DiSiervi from

Abrams, Gorelick, Friedman & Jacobson, Counsel for the defendants.

MR. JACOBSON: Glenn Jacobson; Abrams, Gorelick, Friedman & Jacobson, Counsel for the defendants.

MR. FODEMAN: Moe Fodeman and Alec Luhring from Wilson Sonsini Goodrich & Rosati, PC for the third-party witness, Dr. Andrew Merola.

THE VIDEOGRAPHER: Thank you. The Court Reporter with us today is Laura Antidormi. Would the Court Reporter please swear in the witness.

THE NOTARY: Sir, could you please raise your right hand.

THE WITNESS: (Complied.)

THE NOTARY: Sir, do you swear or affirm that the testimony you are about to give today is the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes, I do.

THE NOTARY: Okay. Sir, you can put your hand down. Take care everybody. Good luck. Have a good weekend.

THE VIDEOGRAPHER: Thank you. You may proceed.

MR. DiSIERVI: Thank you.

D R. A N D R E W M E R O L A, a nonparty witness, having first been duly sworn by a Notary Public, was examined and testified as follows:

EXAMINATION BY

MR. DiSIERVI:

Q. Could you please state your full name for the record.

A. Andrew Merola.

MR. FORDE: Steven -- Steven, before -- before you question the witness, I just want to just place a brief statement on the record. This --

MR. DiSIERVI: Oh, sure.

MR. FORDE: -- deposition -- this deposition is being done pursuant to the directive of a magistrate on this case. The magistrate has directed the deposition to go forward, but I just want to make it clear that the plaintiff, Tian, will object to use of this deposition transcript during the trial of the case. The magistrate directed the deposition, but there was -- there has been no determination that at this point as to whether any or all of the questions that are going to be posed to this witness will be appropriate during the trial of the case.

That's something that she said would be reserved to the -- to the further consideration of Judge Kuntz who is the -- who's the Judge assigned to the case. So -- and but we are objecting to the -- the deposition and we will be objecting to the use of this transcript in any form at the time of trial.

MR. DiSIERVI: Noted.

BY MR. DiSIERVI:

Q. Sir, can you please state your full name for the record.

A. Andrew Merola, M-E-R-O-L-A.

Q. Do you have a middle initial?

A. I do. It is A.

Q. And is it all right if I refer you to as Dr. Merola?

A. Certainly. No problem.

Q. Dr. Merola, what's your address?

A. 567 1st Street, Brooklyn, New York 11215.

Q. Is that a residence or a business address?

A. It's -- it's the main correspondence address for my office.

Q. Okay. Because you haven't given your

personal address, would it be all right, if I need to subpoena you for the trial, that I subpoena your Counsel, Moe Fodeman, instead?

A. Sure.

Q. Sir, are we on any time constraints today?

A. No.

Q. Sir, do you have any documents in front of you?

A. I have my chart.

Q. I'm going to ask you to put your chart to the side. Some of my questions I may ask be based upon your personal knowledge and some questions you may need to refer to your chart. If you need to refer to your chart at any point, I just ask that you tell me that so I know you're referring to your chart.

Okay?

A. Yes.

Q. Other than your chart, do you have any other documents in front of you?

A. No.

Q. When did you first learn that you would testify today?

A. I don't recall.

Q. Was it within the last week?

A. I -- I -- I don't remember. I know that we were given notice that we were gonna have -- I was gonna have to do a testimony, but I honestly don't recall when I heard that.

Q. Was it more than a month ago?

A. Once again, I'm not -- I'm not sure. I do not recall.

Q. In preparation for your deposition, did you speak to James Forde?

A. I did not.

Q. In preparation for your deposition, did you speak to Gary Park?

A. I did not.

Q. In preparation for your deposition, other than your personal Counsel, did you speak to anyone else?

A. No.

Q. Did you review any documents in preparation for your deposition?

A. My chart.

Q. Other than your chart, did you review anything else?

A. No.

Q. And what does your chart consist of?

A. It consists of my treatment records and medical records regarding the patient.

Q. Would there be any billing records within your chart?

A. Billing records would have been sent separately because the billing is outsourced.

Q. Okay. Just -- my question was pretty straightforward and if you know, you do and if you don't, you don't.

Would your chart that -- that you reviewed in preparation for your deposition include any of your medical records?

A. Medical records, yes.

Q. Would it include billing records?

A. So there's -- there are what are known as intake sheets, but they're -- it's not -- well, I guess that's a billing record. I guess that could be referred to as a billing record. Sure.

Q. Are there billing records for this patient that you do not have in your chart?

A. Yes.

Q. And where would those billing records be?

A. They would have been -- they would go through our outsourced billing.

Q. And where is your billing outsourced to?

A. It's outsourced to the billing company that we use.

Q. And what's the name of the billing company?

A. I think it's called -- I think it's called Island Billing. I'm not -- you know what, I can't remember the name off the top of my head. My office manager typically deals with that.

Q. And do you have an ownership interest -- withdrawn.

Do you or a family member have an ownership interest in Island Billing?

A. No.

Q. And where is Island Billing located?

A. It's -- I think they moved, but it was originally out in -- out in the Five Towns area, and I believe that the main billing office has since moved.

Q. As part of your appearance today -- withdrawn.

Were you subpoenaed to appear today?

A. I don't recall.

Q. Do you recall ever seeing a subpoena in the Tian action?

A. I don't have an independent recollection of that, no.

Q. Were you ever made aware that you were required to produce documents for this deposition?

MR. FODEMAN: Let me just interject.

Without revealing the substance of any communications with me, your Counsel, or Alec Luhring, your counsel, you can go ahead and answer the question, if you can.

A. Sure. As I said --

MR. DiSIERVI: Actually -- actually, I'll -- let's stop for a second.

I'll withdraw the question and just as a -- as what I'll call a rule for this entire deposition, I don't ever want you to tell me any conversations you've had with your Counsel, your personal Counsel.

Okay?

A. Yes.

Q. So if -- if in response to any of my questions, it's -- you know, you're going to divulge a

conversation, please don't do it. I may ask you questions about, you know, whether you did certain things. You can tell me whether you did them, but just don't tell me, "I was told by," or, you know, "I was instructed by."

Are we clear?

A. Yes.

Q. And you've done -- you've done depositions before, so this isn't your first time?

A. Yes.

Q. Okay. Did you ever come to learn that you were required to produce documents for this deposition?

A. Yes.

Q. Okay. And what -- what was your understanding as to what you had to produce?

MR. FODEMAN: Again, with -- with the warning not to reveal our conversation.

A. I was -- I mean, my recollection is to have produced my chart and medical records regarding the patient.

BY MR. DiSIERVI:

Q. Were you required to produce any billing records or invoices?

A. As best I can recall, I think we were asked for billing as well. Yes.

Q. And did you produce the billing records?

A. To the best of my knowledge, yes.

Q. And when you produced the billing records, did you reach out to Island Billing to obtain any additional records they may have?

A. I do not recall.

Q. And how long ago was it that you compiled -- withdrawn.

Did you compile the records to comply with the subpoena?

A. I -- I directed my office to put my records together.

Q. And who did you direct?

A. I have a -- I mean, just my office staff, so I have a number of secretaries in the office, including my office manager.

Q. And when did you direct your staff to compile the records?

A. I do not recall.

Q. Would it have been within the last week?

A. I don't remember.

Q. Would it have been within the last two weeks?

A. I do not recall.

Q. Would it have been in the last three weeks?

A. I -- I don't have a recollection of that. I don't know. I'm sorry.

Q. And do you know if your office staff reached out to Island Billing?

A. I don't know.

Q. And who in particular at your office would you have asked to conduct to compile the records?

A. So I have the several secretaries and an office manager, and I don't remember exactly whom I spoke with.

Q. Did you ever compare the records maintained by your office with what was produced to determine if it was complete?

A. I do not recall.

Q. Did your office maintain any diagnostic films with respect to Mr. Tian?

A. No, we do not hold on to films.

MR. DiSIERVI: Okay. For the purposes of this deposition, I am going to mark the production provide by Dr. Merola as Defendants' Exhibit A.

(Defendants' Exhibit A was identified and will be marked after deposition is completed and/or received.)

BY MR. DiSIERVI:

Q. Do you have the production that was produced by your attorney with the Bates stamp?

A. I don't know.

Q. The documents you have in front of you, when you say "your chart," if you look at the bottom right-hand corner, do they say Tian-Merola 000 with three more numbers after that?

A. I'm actually just looking at my office chart which I pulled up on my screen, so I don't -- I don't have a piece of a paper in front of me.

Q. Okay. So what you're looking at on your screen, do they contain anything at the bottom left-hand corner that says confidential or bottom right-hand corner that says Tian-Merola?

A. No.

Q. Okay. So we'll -- we'll work through that.

Do you have a recollection of treating Mr. Tian?

A. I do not.

Q. Do you know if Mr. Tian is proficient in English?

A. I do not recall.

Q. Do you know if Mr. Tian can read and write English?

A. I don't know.

Q. Do you recall how many times you saw Mr. Tian?

A. I don't have an independent recollection of the amount of times that I saw him, no.

Q. Okay. Based upon your chart -- withdrawn.

I would like you to just to now reference your chart.

And based upon your review, does it refresh your recollection as to how many times you saw Mr. Tian?

A. Yes.

Q. How many times?

A. Three.

Q. And what were the dates of those visits?

MR. FODEMAN: I'm sorry, Steven, are you letting him look at the chart, or is he still -- look at the chart or not look at the chart?

BY MR. DiSIERVI:

Q. Okay. Let's do it this way.

Based upon your independent recollection, without looking at the chart, do you know the dates of those visits?

A. I do not.

Q. Based -- I'd like you now to take a look at your chart to determine if it refreshes your recollection as to the dates of those visits.

A. Sure.

Q. And what were the three -- based upon your review of the chart, what were those three days?

A. June 17th, 2019, September 16th, 2019, February 10th, 2020.

Q. Is all of your knowledge that you're able to -- withdrawn.

Is all of your knowledge concerning Mr. Tian memorialized in your notes?

MR. FODEMAN: Objection of form.

MR. DiSIERVI: I'll withdraw it.

BY MR. DiSIERVI:

Q. When you were examining Mr. Tian, did you make contemporaneous notes?

A. I do a dictation right after I see the patient. So that -- if that answers your question. So the dictation is done the day that I see the patient.

Q. And is the dictation then made into a written note?

A. Yes.

Q. And is all of the information you have concerning Mr. Tian based upon your review of the written notes which you maintain?

MR. FODEMAN: Objection of form.

You can, answer, if you can.

A. So when you say "all" -- the -- the written notes are a summary of what happened during the office visit and what I reviewed, my impression/plan, etcetera, regarding the patient, but additionally, there would be medical records that at some point in time would also be reviewed.

BY MR. DiSIERVI:

Q. My point is, if there is information

that's not in the medical records or in your notes, do you have anything other than those two sources of information?

A. No.

MR. FODEMAN: Objection to form.

BY MR. DiSIERVI:

Q. And in creation of your notes, if you're silent as to a finding, does that mean that the finding doesn't exist?

MR. FODEMAN: Objection of form. Speculation.

You can answer it.

MR. DiSIERVI: Withdrawn. Withdrawn. Withdrawn.

BY MR. DiSIERVI:

Q. When you make your notes, do you only dictate positive findings?

A. Not necessarily, no.

Q. And what types of other findings would you not dictate?

MR. FODEMAN: Form. Objection.

BY MR. DiSIERVI:

Q. You can answer.

A. I'm not sure I understand the question

in terms of what findings would you not dictate.

Q. I'll come back to it again. Were you recently given -- withdrawn.

Did there come a point in time when you performed surgery on Dr. -- on Mr. Tian?

A. Yes.

Q. When was the surgery done?

A. August 8th, 2019.

Q. Prior to -- withdrawn.

I would like to turn your attention to the initial examination of June 17th, 2019.

In -- when you did that initial examination, what medical records did you have for review?

A. Can I refer to the -- can I refer to my note?

Q. Do you have any independent recollection?

A. I do not.

Q. Then you can refer to your note.

A. It's taking me a little time to open up, so pardon my -- my delay.

Q. No worries.

A. So my note indicates that I did look at

medical records. I didn't list all the medical records, but I did see an operative report regarding a percutaneous cervical discectomy. I also looked at EMGs and I looked at MRI films.

Q. Now, you said that your -- your report does not reference all of the medical records you looked at; is that correct?

A. So the -- the report -- I just lost it. So the report references medical records and what I dictated was that medical records are available for review, inclusive of percutaneous discectomy, cervical spine, on January 9th, 2019.

Q. And now, you had testified that there were records that you had reviewed that were not included in the report; is that correct?

A. No, I -- I -- I think I said that -- well, I don't recall. I mean, I don't remember what I said, but in terms of reviewing medical records, I had -- based on what I had dictated, it did say that I reviewed medical records and I looked at a percutaneous discectomy-cervical spine report on January 9, 2019.

Q. As you sit here today, do you have any note or recollection that you reviewed any additional

medical records on June 17th of 2019 or any time before that?

A. No.

Q. Now, is it common in litigation for defense firms to process authorizations?

MR. FODEMAN: Objection of form.

Go ahead. You can answer.

A. I don't know.

BY MR. DiSIERVI:

Q. As a physician, do you regularly receive letters from defense firms requesting copies of medical records?

MR. FODEMAN: Objection of form.

You can answer.

A. I've -- I mean, we -- we receive requests for medical records and then we do our best to comply with those requests.

BY MR. DiSIERVI:

Q. Did you receive a request from my office for medical records?

A. I do not recall.

MR. FODEMAN: I'm sorry, Steven, was that in this case, I assume, you're referring?

MR. DiSIERVI: Yes, yes. Yes.

MR. FODEMAN: Okay.

BY MR. DiSIERVI:

Q. Approximately, how many pages are in your chart that you have in front of you?

A. Well, there's -- I mean, there's a number of different sections to the chart. I mean, I have my three office visits, and then I have records as well.

Q. And approximately, how many pages does it total; is it more than 100, less than 100?

A. I don't know. I mean, I'd have to count all the pages. That could take some time.

Q. Is it more than 36 pages?

A. Once again, I mean, I'd have to open up all of the -- all of the PDF files, so I'm not sure.

Q. Okay. If I told that, pursuant to the subpoena, your attorney produced approximately 193 pages, would that sound about accurate?

MR. FODEMAN: Objection of form. Speculation.

A. I mean, all I could say is that we -- we've produced whatever was in my chart for you.

BY MR. DiSIERVI:

Q. Okay. Again, the chart that we've --

we've -- we've received, what we're going to deem marked as Defendants' Exhibit A, I'm now going to refer the witness to Bate stamp 172 of Defendants' Exhibit A.

Please let the record indicate, I have now shared my screen and I am showing Defendants' Exhibit A, Bate stamp 172.

Dr. Merola, this was a document produced by your attorney. Do you recognize this document?

A. It's a document that appears to have been generated from my office, yes.

Q. And is that a document that was generated by your office, providing a complete copy of Mr. Tian's medical records, to my office on February 29th of 2020?

A. Yes.

Q. And do you have that in your chart?

MR. FODEMAN: Objection of form. You mean the thing he's looking at on the computer, that -- that -- is that what you're referring to, Steven?

MR. DiSIERVI: Yes.

BY MR. DiSIERVI:

Q. I'm referring to Bate stamp 172, Defendants' Exhibit A. Do you have a copy of that in your chart?

A. I'm looking. Yes, I see it. Bear with me.

Q. I'm now showing the witness what has been -- what I'm going to mark as Defendants' Exhibit B. And I will e-mail all Counsel and the reporter copies of this. Defendants' Exhibit B is a fax containing, approximately, 35 pages. It's a fax from Dr. Merola' office.

(Defendants' Exhibit B was identified and will be marked after deposition is completed and/or received.)

BY MR. DiSIERVI:

Q. Sir, I would like you to take a look at Defendants' Exhibit B. I have up on the screen. Do you recognize -- just Page 1 -- do you recognize that?

A. No.

Q. Have you ever seen that before?

A. I don't recall.

MR. FODEMAN: And just -- just for the record, Steven, obviously, none of this was provided to us prior. So all -- all he's seeing are the pages

you're flashing in front of him, which, obviously, doesn't include the whole 34 pages you say it has, so...

MR. DiSIERVI: No. Well --

MR. FODEMAN: I mean, you can do whatever you -- you can do whatever you want with the exhibit, but...

MR. DiSIERVI: I got it, Moe. I got it. I got your objection.

MR. FODEMAN: Great.

BY MR. DiSIERVI:

Q. Dr. Merola, is Defendants' Exhibit B in your file?

MR. FODEMAN: Are you going to show it to him or no?

MR. DiSIERVI: Just Page 1. I'm just only referring to Page 1 of Defendants' Exhibit B, which is a fax cover sheet.

THE WITNESS: I'm looking through -- I'm looking through my file. I -- I don't -- I don't see it. I can't actually make out what the date -- it looks like February 29th, 2020.

MR. DiSIERVI: Off the record, indicate that I enlarged it on the screen.

BY MR. DiSIERVI:

Q. And Dr. Merola, if any point if the writing is too small, please let me know and I can enlarge it.

A. Sure. Yeah, I -- I mean, I'm looking at my chart. I don't -- I don't particularly see it, unless I'm missing something.

Q. Now, I'd like you to -- to refer you to the bottom of Defendants' Exhibit B, Page 1.

Do you see the bottom?

A. Yes.

Q. Do you recognize those telephone numbers at the bottom?

A. Yes.

Q. What are those telephone number?

A. One is my office number, one is my fax number.

Q. The first page of Defendants' Exhibit B, be the -- a fax cover sheet used by your office?

A. I -- I mean, I don't typically deal with faxes so I don't -- I mean, I -- those are my telephone numbers. I -- can I see the top of the record, please?

So it does say it came from my office

and my numbers are included on that fax sheet.

Q. Now I'm going to show you all of the pages. I'm going to scroll slowly. Just tell me if at any point you want me to stop.

Just for the record, Defendants' Exhibit B consists of a fax. It's a total of 35 pages.

I've gotten to the end of the document.

Dr. Merola?

A. Yes.

Q. Was what you've seen, Defendants' Exhibit B, your entire file as of February 29th of 2020?

MR. FODEMAN: Objection of form. I mean, you haven't even given him a chance to read the whole thing. You're just flashing pages in front of him.

MR. DiSIERVI: Moe, I appreciate the objections, but the speaking has to stop. If the witness wants to -- again, my instructions to him is -- I'll make this even clearer.

Dr. Merola, if at any point you want to see something again, because I understand that the circumstances aren't ideal, please let me know and I'd

be more than happy to stop at any point, show it to you again. I can e-mail it to you if you would like. Just you tell me how, if you need to see it, and I'll make any accommodation you think is necessary.

Okay?

THE WITNESS: Yes.

MR. DiSIERVI: Okay.

BY MR. DiSIERVI:

Q. So Dr. Merola, my question is: Does Defendants' Exhibit B represent your entire file as of February 29th of 2020?

A. As -- as far as I know, it represents what was sent on February 29th of 2020.

Q. Is there any reason why your office would not have sent the entire file?

MR. FODEMAN: Objection. Speculation.

BY MR. DiSIERVI:

Q. Withdrawn.

So I'll ask the question again because you said what was sent, but my question was, particularly: Is Defendants' Exhibit B your entire file from February 29th of 2020?

MR. FODEMAN: Objection. Asked and answered.

You can answer.

A. So it's -- it represents what appears to be a fax from my office that contains the medical records that were sent from my office on February 29th of 2020.

BY MR. DiSIERVI:

Q. On February 29th, 2020, in addition to Defendants' Exhibit B, did -- did your office maintain any other medical records that were not sent?

MR. FODEMAN: Related to this case?

MR. DiSIERVI: Related to this case. And as of right now, all of my questions are related to this case.

MR. FODEMAN: Great.

A. So I -- I don't have any independent recollection of February 29th of 2020. So as I say, I -- I can only say that, that I have no independent recollection of anything that happened in 2020 regarding the patient, so I can only comment on what was sent and this is a document that just indicates what we had sent on February 29th of 2020.

BY MR. DiSIERVI:

Q. As you sit here today, can you think of any reason why your office would not -- would not have

sent the entire medical chart on February 29th of 2020?

MR. FODEMAN: Objection. Calls for speculation.

You can answer.

A. Yeah, as I say, I don't have any independent recollection of what transpired regarding the fax, so it would be impossible for me to answer that question at this time.

BY MR. DiSIERVI:

Q. Is there any reason for -- withdrawn.

As you sit here today, do you know if your -- if you received any additional medical records after February 29th of 2020?

A. I -- I do not know. Once again, I -- I don't have any independent recollection of that and so I -- I, unfortunately, do not know.

Q. Do you have any independent recollection that it did not occur?

A. I'm sorry. When you say, that it did not occur --

Q. I'll withdraw. I'll withdraw.

Do you have any independent recollection of anyone sending you additional medical

records after February 29th of 2020?

A. I -- I do not know anything about times regarding the medical records themselves, so I -- I do not know.

Q. Do you have any independent recollection as to whether Gary Park sent you additional medical records after February 29th of 2020?

A. I do not have any recollection or independent recollection of receiving medical records.

Q. Do you have any recollection or independent recollection of not receiving medical records?

MR. FODEMAN: Objection of form.

A. Once again, I -- I don't have -- I don't have any recollection other than what I'm looking at, my chart, regarding the medical records.

BY MR. DiSIERVI:

Q. Hold on one second.

Dr. Merola, I'd like you to take a look at Page 1 of Defendants' Exhibit B in the comment section.

Do you see that?

A. No, I do not.

Q. I will highlight it for you to assist you. If you need me to make it larger, please let me know.

Do you see the blue highlighted which is the middle section of Page 1, Defendants' Exhibit B, the area that says Comments?

A. Yes.

Q. Do you see a name there, Melinda?

A. Yes.

Q. In February of 2020, did you have a Melinda work in your office?

A. Yes.

Q. Is Melinda still employed?

A. Yes.

Q. Dr. Merola, during your first visit with Mr. Tian on June 16th of 2019, did you make a recommendation of surgery?

A. Can I refer to my note?

Q. Yes.

A. Yes, I did.

Q. And what was the basis of that recommendation?

A. The basis was, the patient that had presented with symptoms, including his lower back,

with radiating symptoms. His physical findings showed evidence of a radiculopathy, the lumbar region, predominantly. His EMGs were positive for a lumbosacral radiculopathy. And I looked at his MRI film from 2018 and I appreciated a disc protrusion at L5-S1.

Q. And where did you obtain those MRI films from?

A. They would have been brought in by the patient, although I do not have an independent recollection of that, but I did dictate, "MRI films."

Q. And did you also have an opportunity to read the MRI report associated with that film?

A. I did. I do have a copy of the MRI report, yes.

Q. What level of function did Mr. Tian have before his surgery?

A. I'm not sure I understand the question.

Q. Sure. Was Mr. Tian able to work before, before his surgery?

A. Can I refer to my chart, please?

Q. Yes, you can.

A. So as part of my chart, there is a -- there's a -- a note. There's a -- a section called an

Oswestry questionnaire that kind of assesses his subjective level of function.

Q. Okay. And my question was: Was Mr. Tian able to work before the surgery?

A. He -- his ability to work was not assessed on the questionnaire.

Q. So does that mean that, as you sit here today, you don't know or you do know whether he was able to work?

A. So at the time of my first visit, based on my chart and looking at my note, I did not indicate his work status.

Q. So as of June 17th of 2019, did you have any knowledge as to whether Mr. Tian was or was not able to work?

A. Based on my note of that day, I -- I did not have any -- any dictation regarding whether he was or was not working.

Q. Sir, what conservative treatment did Mr. Tian have, that you are aware of, on or before June 17th of 2019?

A. I'm sorry. You -- you blacked out for a moment there. I didn't hear the entire question.

Q. Oh, I'm sorry. I'll repeat it. What

conservative treatment did Mr. Tian have on or -- withdrawn.

What conservative treatment were you aware of that Mr. Tian had on or before June 17th of 2019?

A. So I'd -- I'd have to review my records. Obviously, review his conservative treatment.

Q. By all means, review your records.

Withdrawn. Actually, withdrawn. Don't -- don't answer that question.

Would your report of June 17th of 2019 make reference of any conservative treatment Mr. Tian had?

A. Well, as I say, I did reference the fact that I reviewed medical records, including the cervical percutaneous discectomy, so he had been referred to me by his pain management physician.

Q. And would that be Dr. Caseman?

A. Yes.

Q. Okay. And on or before June 17th, 2019, what conservative treatment were you aware of?

A. So I -- I didn't specifically list all of the conservative care that he had received, but as

I say, I did review his medical records and I did know that he was coming to me from his pain management physician.

Q. If Mr. Tian was taking pain in medication, would that be something that would be important to list in a medical report?

A. If it were pertinent to his treatment or if the medications themselves would have influenced any of his potential surgical-related issues, yes, I would have listed them.

Q. And if Mr. Tian was taking antiinflammatories, would that be something relevant to list in your initial report?

A. They can be. It can be relevant to list antiinflammatories, depending upon what the association of the antiinflammatory treatment was and what the patient's response to that was. But as I say, it depends on multiple factors, so that's just, to some extent, speculation at this time.

Q. I'm not going to ask you to speculate, so please don't do so.

Would pain medication and antiinflammatories be a conservative treatment for a back injury?

A. They can be, yes.

Q. Okay. And does your report list any medications Mr. Tian was taking on or before June 17th of 2019?

A. No, it does not.

Q. Okay. Would spinal injections also be another form of conservative treatment?

A. Spinal injections can be, in some cases, a form of conservative treatment, yes.

Q. Does your report of June 17th of 2019 reference whether Mr. Tian did or did not have any spinal injections?

A. No, the report does not.

Q. Okay. Do any of the records which you have reference whether Mr. Tian was taking any medications on or before June 17th of 2019?

A. No, I don't have that listed in my note.

Q. Do any of the records you have indicate that Mr. Tian was taking -- withdrawn.

Does -- do any of the records you have indicate whether Mr. Tian had spinal injections on or before June 17th of 2019?

A. Well, I'd have to go back and review

all of the -- all of the records to be able to answer that question.

Q. If Mr. Tian did have spinal injections on or before June 17th of 2019, is that something important that you would have put in your report?

A. Not necessarily, no.

Q. And why would it not be important?

A. Well, I have a patient that's presenting with, by history, symptoms since 2018. So there's a chronicity to his complaints and symptoms.

Q. Would it be important to determine whether conservative treatment failed before you recommended surgery?

A. I would have, in my general custom and practice, asked the patient if he had had conservative treatment.

Q. And what was -- well, did you ask Mr. Tian that question?

A. Well, as -- as part of the initial assessment of the patient, in order to determine how -- what his symptoms were, my clinical impression of the patient was that he had significant symptoms that had been persistent since May of 2018.

Q. Did you ask Mr. Tian whether he had any

spinal injections on or before June 17th of 2019?

A. I do not recall.

Q. Is there any -- withdrawn.

Are you currently the subject of any disciplinary hearings?

A. No.

Q. Are you currently the subject of any investigation by a governmental agency?

A. No.

Q. Are you currently a party to any civil RICO lawsuits?

A. Yes.

Q. How many?

A. Two.

Q. And who are those lawsuits commenced by?

A. An insurance company.

Q. Would that be Tradesman?

MR. FODEMAN: Steven, can I -- can I -- excuse me -- interject? I know that there was a proceeding that we weren't a part of regarding this deposition, and your intention to question Dr. Merola regarding unproven allegations made by an insurance company in a RICO action. I'm going to let you ask

the question because I understand to some -- while the specific questions haven't been fronted by a judge, the subject matter has.

You'll note our continuing objection to the relevance of any this, and I'll take each question as it comes and object, and if I think he shouldn't answer, I'll direct him as such, but I -- I assume I'm not getting in your way to go forward.

MR. DiSIERVI: Understand. And, you know, I guess my comment here is for you and for James. I understand relevance is waived at this point. The two of you can both preserve relevance, and that's something we'll deal with later. But I'm going to sort of go forward, and if -- if at any point, I'm just going to ask for both you and James, if there's a speaking objection, I have no problem with it, but if we can not do it in front of the witness if it's going to be a lengthy objection.

Any issue with that?

MR. FODEMAN: I appreciate that.

MR. DiSIERVI: Okay. Thank you.

BY MR. DiSIERVI:

Q. The insurance company, would that be Tradesman?

A. Yes.

Q. And is the first action a Tradesman complaint against you and Gorayeb & Associates?

A. I believe the first action is against Gorayeb & Associates and multiple defendants of which I'm named as well. Yes.

Q. So can we just refer to that as the Gorayeb complaint to differentiate it from the -- any other actions?

A. Yes.

Q. Okay. And is the second action an action by Tradesman against you and Wingate Russotti?

A. It's against Wingate and multiple other defendants, including myself, yes.

Q. So can we refer to that as the Wingate complaint?

A. Yes.

Q. What is the status of the Gorayeb complaint?

A. I do not --

MR. FODEMAN: Wait. Wait. With the -- with the cautionary warning not to disclose the content or substance of our discussions, and attorney-client advice.

BY MR. DiSIERVI:

Q. And again, Dr. Merola that's true of the entire deposition. I don't want you to disclose any conversations you've had with Counsel. And by "Counsel," I mean your personal Counsel.

Okay?

A. Yes.

Q. Do you know what the status of the Gorayeb complaint is?

A. No.

Q. Do you know the status of the Wingate complaint?

A. No.

Q. Have you testified at a deposition in either of those?

A. No.

Q. Have you ever testified in any case about the RICO actions?

A. No.

Q. Have you ever been asked questions in any case about the RICO actions?

A. No.

Q. Do you regularly testify at Workers' Comp depositions?

A. Yes.

MR. FODEMAN: Objection of form.

Go ahead. You got the answer? It was "yes."

MR. DiSIERVI: Yes.

BY MR. DiSIERVI:

Q. And just as a sort of housekeeping rule, Dr. Merola, when -- when your Counsel objects, I just ask that you wait. And following his objection, he is either going to say you can answer the question or you cannot. So just wait for his instruction, allow him to say his objection, and then wait for that instruction before you answer.

Okay?

A. Yes.

MR. FODEMAN: Thank you, Steven. Good advice. That one was my fault. I was sluggish.

MR. DiSIERVI: That's all right.

BY MR. DiSIERVI:

Q. Did you ever testify at a Workers' Comp deposition concerning the RICO actions?

A. When I do my Workers' Compensation depositions, I respectfully decline answering any questions, as I say, because I don't have any relevant

answers.

Q. And so you've been asked at Workers' Comp depositions about the RICO actions?

A. I've been -- I have -- I have been asked to whether or not there is a pending civil lawsuit. And as I say, I respectfully declined answering, because I don't have any pertinent relevant answers.

Q. Have you ever denied the allegations in a Workers' Comp deposition?

A. I have neither -- once again, I -- my standard response is that I respectfully declined answering the question.

Q. Dr. Merola, as you sit here today, do you have an understanding as to whether your medical procedures increase or decrease the settlement value of a personal injury case?

MR. FODEMAN: Objection of form.

BY MR. DiSIERVI:

Q. You can answer.

A. The best answer that I can give is, I'm just treating patients and I do what's necessary to treat the patient and I leave all of the legal work up to you guys.

Q. So you don't have an understanding as to how your procedures impact any personal injury cases?

MR. FODEMAN: Objection of form.

You can answer if you understand the question.

A. I'm not sure I completely entirely understand the question.

BY MR. DiSIERVI:

Q. Dr. Merola, you treat patients who are also plaintiffs?

A. I treat patients who do have litigation, yes.

Q. Do you treat patients who have Workers' Comp and no-fault claims?

A. No.

Q. Do you have an understanding as to how surgical procedures impact a personal injury case?

MR. FODEMAN: Objection of form.

A. The impact of a surgical procedure could be, in some cases, beneficial to patient outcome. So in that sense -- I mean, I have an understanding of the fact that we're -- you know, we're trying to litigate a patient's problem. In

terms of the overall picture -- I mean, my understanding is really limited to the -- to the medical and surgical treatment of the patient. I don't -- I mean, I'm not -- I'm not a lawyer. I'm not someone who's focusing or concentrating on the legal aspects or the said value of a case. It's not -- it's not something that I've take into consideration. So I don't, in that sense, have that kind of an understanding of -- of -- of this issue.

BY MR. DiSIERVI:

Q. Is one of the allegation in the Tradesman-Gorayeb and the Tradesman-Wingate complaint is that you performed surgeries to increase the value in personal injury cases?

MR. FODEMAN: Steven, just one point of -- I don't think this is a problem saying in front of him. As a matter of fact, I know it is. I'll just say it. He hasn't been served with the Wingate one, just so you know, so...

MR. DiSIERVI: Okay. So I'll -- I'll reference it -- I'll -- I'll keep it then to -- to the Gorayeb complaint.

MR. FODEMAN: Fair.

MR. DiSIERVI: Is one --

MR. FODEMAN: I don't even know if the Wingate one has been filed in court, to be honest, but we've seen a copy of it somewhere.

MR. DiSIERVI: I -- I have it with the ECF stamp on top.

MR. FODEMAN: Okay. So then it has been, yeah.

MR. DiSIERVI: It has been filed.

MR. FODEMAN: All right.

BY MR. DiSIERVI:

Q. Sir, is it your understanding that one of the allegations in the Gorayeb complaint is that you would perform surgery upon patients to increase their value of their case?

A. So I haven't -- I, once again, I've left the entire RICO action up to my attorneys. I haven't -- I haven't concerned myself with all of the formal allegations that are in the case because, once again, they are allegations. I can tell you that there is completely and entirely no substance to any of these allegations. Nor would I ever in any way, shape or form do anything in order to impact a legal proceeding in any way, shape or form. It's strictly and completely and entirely confine my treatment of

the patient to the medical aspects of patient care.

MR. DiSIERVI: I'm going to object to the portions which were unresponsive.

BY MR. DiSIERVI:

Q. Dr. Merola, yes or no: Are you aware that one of the allegation in the Tradesman-Gorayeb complaint is that you performed surgeries upon patients to increase their personal injury case value?

A. So I don't have an independent recollection of the complaint. I do not have the complaint in front of me.

Q. But in terms of your personal knowledge, do you have any personal knowledge as to whether one of the allegation -- allegations in the Gorayeb complaint is that your surgeries increased the value of personal injury cases?

And it's a simple yes or no. And if you can't answer yes or no, tell me.

MR. FODEMAN: Objection of form.

You can answer.

A. I -- I don't think I can answer that yes or no. And I believe that it's why I gave the long-winded response --

Q. Okay.

A. -- previously that I -- and I apologize for being, in some sense, nonresponsive.

BY MR. DiSIERVI:

Q. It's all right. Is the reason why you can't answer yes, no, because you don't know, or is it something else?

A. I mean, it's -- it's really based on the -- on the -- on the -- on the question itself and whether or not there's an understanding of this. And as I say, I -- I don't have an in depth understanding of this in order to really be able to answer that question for you.

Q. I'm not asking you about your understanding. I'm asking you as to whether it's an allegation in the complaint. It's not whether you understand it or not.

So I'll -- I'll try this one last time and then I'll move on. It's a simple yes, no: Is it your understanding that in the Gorayeb-Tradesman complaint, one of the allegations against you is that you would perform surgeries on plaintiffs to increase the value of their case?

MR. FODEMAN: Objection of form.

A. So I -- I don't have the document in

front of me so I would have to read through the entire complaint in order to be able to answer that question for you.

Q. I'm asking you about what your understanding is as you sit here, not what the document states.

Does that --

MR. FODEMAN: Steven, you've asked --

MR. DiSIERVI: I'll move on. I'll move on. I'll move on. I'll move on.

BY MR. DiSIERVI:

Q. Is it your understanding that the Gorayeb complaint alleges that attorneys would direct claimants to you?

A. So in terms of being able to answer that question, once again, I don't have the complaint in front of me so I'm -- I'm unable to actually answer that question for you.

Q. Have any attorneys ever directly or indirectly referred claimants to you?

A. Referrals can come from a number of different sources and sometimes those sources can include attorneys.

Q. So I'm going to ask you a simple

yes-no, just so we can barrel straight straightforward.

Has an attorney ever referred a claimant to you, yes or no?

A. Yes.

Q. What attorneys have referred claimants to you?

MR. FODEMAN: Objection. Relevance.

MR. DiSIERVI: It's -- Moe, I think we are -- we've pretty much established that relevance is going to be the standing objection for the entire deposition, but you can object.

BY MR. DiSIERVI:

Q. But what attorneys have referred cases to you?

A. I do not have an independent recollections of -- of attorneys and their specific referrals.

Q. Has Sacks & Sacks referred any cases to you?

A. I have seen patients that are represented by Sacks & Sacks. I don't have any independent recollection of whether or not anybody was specifically referred.

Q. Has Gorayeb & Associates ever referred patients to you?

A. And I have seen patients that are represented by Gorayeb, but once again, I don't have any specific recollection of any specific patients that have been referred.

Q. Has Gary Park ever referred patients to you?

A. I have seen patients that were represented by Gary Park, but I don't have any specific indications of any patients that were referred by Gary Park.

Q. I'll ask this question the opposite question way so we can -- I can figure out the level of your knowledge.

Are all of your patients from Sacks & Sacks referred from other sources other than Sacks & Sacks?

MR. FODEMAN: Objection of form.

I'm not sure -- no, go ahead.

You can answer.

MR. DiSIERVI: Yeah. I'll withdraw the question.

MR. FODEMAN: Sorry.

MR. DiSIERVI: That's all right.

BY MR. DiSIERVI:

Q. Of the Sacks & Sacks patients you're seeing, can you affirmatively state that none of them were -- were referred to you by Sacks & Sacks?

A. Once again, I -- I don't have any independent recollection of that, nor do I track it so I can't answer. I don't -- I don't know.

Q. So you don't know if they were or were not referred to you; is that correct?

A. Yeah, I -- I -- as I said, I don't know if patients were specifically referred or -- or not referred by the actual attorneys themselves because I -- as I said, I don't know.

Q. Approximately, how many patients are you seeing that are being represented by Gary Park?

A. I don't know.

Q. Would it be more than one?

A. I have --

MR. FODEMAN: Objection of form.

BY MR. DiSIERVI:

Q. Would it be more than five?

A. I do not know.

MR. FODEMAN: Objection of form.

BY MR. DiSIERVI:

Q. It's more than -- more than 100?

A. Well, I -- I wouldn't -- once again, I do not know.

Q. More than a thousand?

A. I do not know.

Q. More than a million?

A. I do not know.

MR. FODEMAN: For the record, see, I didn't object each time because I knew we were going to --

MR. DiSIERVI: I -- I got it. You can add them. I'm fine. But I'm pretty certain that the federal rules preserve your objections anyway, but you can add them afterwards. It doesn't matter to me.

MR. FODEMAN: Okay. Thanks.

BY MR. DiSIERVI:

Q. Were you ever told by an attorney that a claimant is exaggerating their injuries?

A. No.

Q. Do you know if an attorney ever told the claimants to exaggerate their injuries?

A. No.

Q. Have you ever referred a claimant for

unnecessary radiological services?

A. No.

Q. As you sit here today, do you know if Mr. Tian was exaggerating his injuries on June 17th of 2019?

A. As I sit here today, reviewing my records, not having an independent recollection of him or his condition other than what I have in the record, he had consistent signs and symptoms of radiculopathy in the absence of any exaggerating factors.

Q. Do you know if Mr. Tian was -- withdrawn. Withdrawn.

I would like to show the witness Bate stamp number 144 of Defendants' Exhibit A. I am going to put it up on the screen.

Dr. Merola, my first question will be is if you have it in your file.

A. Yes, I -- I see it. Would you be so kind as to scroll through the document for me?

Q. Just tell me when to stop.

A. Very good. Thank you.

Q. And just for the record, it's Bate stamp number 114 and 115 of Defendants' Exhibit A.

A. Okay. I -- I have it. Thank you.

Q. Is this a medical record that you had in -- in your chart?

A. I have this medical record in my chart, yes.

Q. Do you know if you had this medical record on or before June 17th of 2019?

A. I do not know.

Q. Do you know if this is a medical record you relied upon when you recommended a surgery on June 17th of 2019?

A. I do not know.

Q. I'd like you to take a look -- do you know Dr. Caseman?

A. Yes.

Q. Okay. Was he the referring physician to you?

A. Yes.

Q. Okay. Is there any examination of Mr. Tian's lumbar spine by Dr. Caseman?

A. I do not see any, no.

Q. Do you see any notation about restrictions of Mr. Tian's lumbar spine in Dr. Caseman's report?

A. No.

Q. Is there any indication of any pain -- current pain in Mr. Tian's lumbar spine as of August 23rd of 2018?

A. It does say, "low back injury."

Q. But are there any notations of pain?

A. No.

Q. Are there any notations of any treatment for Mr. Tian's lumbar spine in Dr. Caseman's report of August 23rd of 2018?

A. Dr. Caseman's report is nonspecific. It does indicate antiinflammatory medications for pain which are, of course, involving the entire body and musculoskeletal system, and it indicates that he was doing physical therapy, but it is not specific as to neck or back.

Q. Okay. I would now like to show the witness Bate stamp number 26 of Defendants' Exhibit A.

MR. FODEMAN: Steven, while you're reviewing that or while you're showing it to him, we've been going a little over an hour. When you get a chance, in a natural place, maybe we could take a break? Unless you're almost done.

MR. DiSIERVI: No. No. No. That's fine.

And Dr. Merola, I apologize if I didn't say this earlier. If at any point you need to take a break, just let me know. The only thing I ask is that if there is an open question, we complete -- you answer the question, then we take our break.

Okay?

THE WITNESS: Yes.

MR. DiSIERVI: So Moe, what I'll do is, I'll take a break right after this document. Is that all right?

MR. FODEMAN: Perfect.

MR. DiSIERVI: Perfect.

BY MR. DiSIERVI:

Q. I'm now showing the witness what has been marked as Bate stamp number 20 -- 26 of Defendants' Exhibit A.

Dr. -- Dr. Merola, do you recognize this document?

A. Yes.

Q. What is this document?

A. It's a MRI report.

Q. And is it an MRI report for an MRI performed of the lumbar spine on or about June 25th of 2018?

A. Yes.

Q. And was this an MRI report that you had in your file before your initial examination or at the time of your initial examination of June 17th of 2019?

A. Yes.

Q. And is this an MRI report that you relied upon in forming your opinion that Tian needed surgery as of June 17th of 2019?

A. Yes.

Q. I'd like you -- I'd like to go through the report with you.

MR. DiSIERVI: Moe, do you want to take break now? It's -- I have, maybe, another ten minutes on this.

MR. FODEMAN: On this document?

MR. DiSIERVI: Yeah.

MR. FODEMAN: And then more after that, I assume, or are you good?

MR. DiSIERVI: Yeah. I was going to just finish another ten minutes, and then we'll take a break?

MR. FODEMAN: Yeah. Whatever is better for you. Either way.

Do you want to keep on going?

THE WITNESS: Yes.

BY MR. DiSIERVI:

Q. Dr. Merola, I would like you to take a look at the first sentence under Interpretation.

Do you see that?

A. Yes.

Q. Okay. Do you know Dr. Rigney?

A. I do not.

Q. Okay. Do you know if Dr. Rigney is a radiologist?

A. It indicates on this document that he is a board-certified radiologist.

Q. Did Dr. Rigney find normal height and signal intensity of the lumbar spine vertebrae without marrow edema from a bone contusion or evidence of any compression fracture at any level?

A. Yes. That's what he had dictated.

Q. Is that a normal finding?

A. Yes.

Q. And is there any indication in that first sentence that we just went through of trauma?

A. No.

Q. And do you know what the date of accident was?

A. I'd have to look at my chart.

Q. Okay. I'd like you now to look at the second sentence under Interpretation of Defendants' Exhibit A, Bate stamp number 26.

Did Dr. Rigney find that there were changes of the -- there were changes of vertebral spondylosis with mild loss of fluid content at L3-L4 intervertebral disc?

A. Yes.

Q. Is that a traumatic condition?

A. So vertebral spondylosis is typically a degenerative condition and can be associated with mild loss of fluid as well.

Q. Okay. Is that a -- is that a traumatic condition?

A. Not in and of itself, no.

Q. Is that evidence of trauma?

A. That's a very general question. Can you be more specific?

Q. Is that a finding of edema?

A. No, it doesn't demonstrate edema.

Q. And is the loss of hydration a traumatic finding?

A. Loss of hydration can be a traumatic

finding.

Q. And at what level was the loss of hydration found by Dr. Rigney?

A. According to Dr. Rigney, L3-L4.

Q. Did you perform surgery on L3-L4?

A. No.

Q. The next sentence in that same paragraph, "The other lumbar discs are normally hydrated."

Is that a normal finding?

A. Yes.

Q. Is there any evidence of trauma?

A. No.

Q. I'd like you to take a look at the third sentence. "The central canal is narrowed on a developmental basis."

Do you see that?

A. Yes.

Q. Does that mean that the central canal, canal narrowing, is a birth defect?

A. It's not specifically a defect so much as is it part of the patient's constitution, according to the report.

Q. So to put it in layman's terms, the

narrowing of the canal would have been something he was born with?

A. Yes.

Q. Is that a traumatic finding?

A. No.

Q. I'd like you to take a look at the third sentence. "At no lumbar disc level is there evidence of a posterior bulge, a herniation, central canal or neuroforaminal narrowing."

Do you see that?

A. Yes.

Q. Are those all normal findings?

A. Yes.

Q. Is there any evidence there of trauma?

A. No.

Q. I'd like you to take a look at the first sentence of the next paragraph.

Did Dr. Rigney find that the distal aspect of the spinal cord is normal in appearance?

A. Yes.

Q. Is that a normal finding?

A. Yes.

Q. Is there any evidence of trauma from that?

A. No.

Q. Based upon Dr. Rigney's report, is there any evidence of any traumatic condition associated with L5-S1?

A. No.

Q. "No," I'd not or "no" -- "no," there's none or -- withdrawn.

There's no trauma or there was no finding? I'm sorry.

A. I'm sorry. Would you repeat the question?

Q. Sure. Is there any finding by Dr. Rigney of any kind of trauma or injury at L5-S1?

A. He does not report a traumatic -- he does not utilize the term "traumatic" in any of his descriptions. No.

Q. But is any finding noted with respect to L5-S1 which would be caused by trauma?

A. Not in the report, no.

MR. DiSIERVI: Let's take a break at this point. What do you guys take, five minutes?

MR. FODEMAN: Yeah, about five.

THE WITNESS: Yeah.

MR. FODEMAN: That's good.

THE VIDEOGRAPHER: We are going --

MR. DiSIERVI: Dr. Merola, just so that you know, when we say "five" minutes, it usually means ten amongst lawyers.

MR. FODEMAN: That's like [inaudible].

MR. DiSIERVI: No problem. It's 11:20 now, right?

THE VIDEOGRAPHER: We are going -- we are going off the record and the time now is 11:20.

(Whereupon, a 14-minute recess was taken.)

THE VIDEOGRAPHER: We are back on the record and the time now is 11:34.

MR. DiSIERVI: Laura, are we ready?

THE REPORTER: Yes.

MR. DiSIERVI: Dr. Merola, are you ready?

THE WITNESS: Yes, I am.

MR. DiSIERVI: Okay.

BY MR. DiSIERVI:

Q. Were you ever asked by an attorney to perform a diagnostic test?

A. No.

Q. Were you ever asked by an attorney to

perform a medical procedure?

A. No.

Q. As you sit here today, did you ever come to learn that any of your patients faked an accident?

A. No.

Q. I'm going to show you again Bates stamp number 26 of Defendants' Exhibit A, which is the Redtree Radiology report.

Was Dr. Rigney's findings consistent with Tian's complaints on June 17th of 2019?

A. No.

Q. Have you ever performed an unnecessary medical procedure?

A. No.

Q. Have you ever billed Workers' Compensation for a medical procedure you did not perform?

A. No.

Q. Did you ever bill no-fault for a procedure you did not perform?

A. No.

Q. Are you familiar with a patient by the name of Richard McGill?

A. Yes.

Q. Have you treated Richard McGill?

A. Yes.

Q. And what procedures did you perform on Mr. McGill?

A. I'd have to go back and reference my chart.

Q. Bear with me. I'm going to share screen again.

MR. FODEMAN: You have my standing objection of relevance of all these questions, but...

MR. DiSIERVI: Please let the record indicate, I'm now showing the witness Defendants' Exhibit C which is an operative report of Richard McGill that was filed in the McGill vs. Whitney Museum action.

(Defendants' Exhibit C was identified and will be marked after deposition is completed and/or received.)

BY MR. DiSIERVI:

Q. Dr. Merola, I'd like you to take a look at it. It is a six-page document. Bear with me for one second. I'm going to scroll slowly. If at any point you want me to slow down, stop, go faster, or

anything else, just let know.

Okay?

A. Yes. Yes.

Q. Do you need to see it some more?

A. No.

Q. Does Defendants' Exhibit C refresh your recollection as to the surgical procedure you performed on Richard McGill?

A. Yes.

Q. What procedure did you perform?

A. Anterior cervical discectomy and spinal fusion.

Q. I would like to draw your attention to the highlighted portion of Page 3 of Defendants' Exhibit C.

Do you see that?

A. Yes.

Q. What procedure is that?

A. It's a partial vertebral corpectomy with resection of 50 percent of the C6 vertebral body.

Q. Did you perform a corpectomy on Richard McGill?

A. As described, yes.

Q. Do you know if postoperative images

were taken of Mr. McGill?

A. Yes.

Q. And would those postoperative images show a corpectomy?

A. They would show the surgical procedure that was done, yes.

Q. And what would be evident in those films to show that the surgical procedure was done?

MR. FODEMAN: Objection. Speculation.

Go ahead.

A. They would be images of a cervical discectomy decompression and spinal fusion.

BY MR. DiSIERVI:

Q. And a corpectomy, that's the removal of bone?

A. A corpectomy involved removing some bone, yes.

Q. And that was removal of bone from a disc?

A. No. The disc is --

Q. I apologize. I withdraw the question.

A corpectomy is the removal of bone from a vertebrae?

A. Yes.

Q. So would you expect that in postsurgical images, the vertebrae would be smaller?

MR. FODEMAN: Objection. Calls for speculation.

You can answer.

A. Yeah. It depends upon the imaging study utilized and you have to also look at multiple factors when interpreting postoperative diagnostics.

BY MR. DiSIERVI:

Q. If a corpectomy of 50 percent was performed, would you expect that the vertebrae on postoperative imaging to be smaller?

MR. FODEMAN: Objection. Speculative.

A. Yeah. Once again, it depends on what imaging studies you're looking at and how you're interpreting those images.

BY MR. DiSIERVI:

Q. Would postoperative X-rays of a corpectomy of 50 percent of the vertebral body show a vertebrae that's more smaller?

MR. FODEMAN: Objection. Speculation.

A. Postoperative imaging studies, once again, would show the procedure itself and they're, of course, always subject to interpretation.

BY MR. DiSIERVI:

Q. If you remove 50 percent mass from something, would that object be smaller?

MR. FODEMAN: Objection. Speculation. Form.

A. If -- if you're removing 50 percent of the vertebral body, you are removing the substance of the vertebral body, and its appearance depends upon the imaging study that you're looking at.

BY MR. DiSIERVI:

Q. What imaging studies would show a corpectomy?

A. Well, imaging studies can be variable in terms of the appearance of a corpectomy. And so in general, if we're looking at imaging studies, there are a variable number of ways that imaging studies can look at corpectomies.

Q. What imaging studies would you use to look at a corpectomy?

A. Once again, there are a variety of imaging studies. All of which can lend some, but not necessary all information regarding a corpectomy.

Q. So what are -- what's the variety? What are they?

A. The imaging studies --

MR. FODEMAN: Object to form.

THE WITNESS: Sorry. I didn't hear you.

MR. FODEMAN: I said "form," but -- do you have the question still?

THE WITNESS: Yes. Please repeat.

MR. DiSIERVI: Laura, can you -- okay.

BY MR. DiSIERVI:

Q. What imaging studies -- withdrawn.

You said there are multiple imaging studies which might show the corpectomy. I want you to get specific.

What imaging study, specifically, would you look at to determine whether a corpectomy was performed?

A. In general, we're not looking at imaging studies to specifically assess corpectomies so much as we're looking at imaging studies to assess decompression and stabilization procedures.

Q. Would imaging studies show a corpectomy of 50 percent or more?

MR. FODEMAN: Objection. Asked and answered.

Go ahead.

A. Once again, imaging studies are subject to interpretation so it depends on the interpretation of the study and the study itself.

BY MR. DiSIERVI:

Q. Does it depend on the interpreter?

A. It certainly can depend upon the interpreter, yes.

Q. And in Mr. McGill's case, do you know if there are any postoperative imaging studies which show the corpectomy?

A. I'd have to look at the postoperative imaging studies, and review them and then, you know, discuss according, which I haven't had an opportunity to do.

Q. Would X-rays possibly show a corpectomy?

A. Anything is possible.

Q. Do X-rays show a corpectomy?

A. X-rays can in some circumstances, depending upon the X-rays, show corpectomies.

Q. Would an MRI film show a corpectomy?

A. Sometimes MRIs can as well.

Q. Is there any reason why an MRI could

not show a corpectomy?

A. You know, MRIs, because they're secondary imaging studies, are, once again, subject to interpretation and they're also subject to the way the MRI is done. So in general, no imaging study is 100 percent perfect.

Q. What do you rely on to show postoperative corpectomies?

A. In general, I'm relying on the patient's clinical course, whether they have improved or deteriorated and whether or not the procedure itself was successful in stabilizing and preventing the patient from deteriorating.

Q. What test do you reply upon to examination a postoperative corpectomy?

MR. FODEMAN: Objection of form.

A. A clinical examination of the patient and their overall outcome is one of the best ways to assess whether or not a surgical procedure was safe and effective in treating the patient's problem.

BY MR. DiSIERVI:

Q. Do you rely on any diagnostic tests in examining a postoperative corpectomy?

A. There's nothing specific, as I

indicated, that gives you 100 percent reliability in any testing that's done, since all tests are secondary assessments of the way the patient is constitutively.

Q. What test would you order for a patient to examination a 50 percent corpectomy?

A. I would not necessarily --

MR. FODEMAN: Hold on. I'm sorry to interrupt. Objection of form.

A. Once again, there's a variety of testing that's available, and in general, it depends on the clinical condition to dictate the type of test that he would be looking at if you had a concern about an issue.

BY MR. DiSIERVI:

Q. Did you treat a patient by the name of Milton Ambilla (phonetic)?

A. I do not recall.

Q. Did you have a -- a patient that you treated from Wingate Russotti where it is alleged you did not perform a corpectomy?

A. I do not know.

Q. Do you know if it is alleged in the McGill case that you fraudulently submitted billing for a corpectomy?

A. I do not know.

Q. Do you know when the McGill case is going to trial?

A. I do not know.

Q. Do you know if the McGill case is scheduled for trial on Monday?

A. I do not know.

Q. When was the last time you looked at the McGill records?

A. I do not know.

Q. Do you know a patient by the name of German Paucay, P-A-U-C-A-Y?

A. I -- that name does not sound familiar so I don't know.

Q. Do you know in you're involved in a case where the patient is being represented by William Schwitzer and it is alleged that you did not perform a laminectomy?

A. I do not know [inaudible] that.

Q. Do you know a patient by the name of Lilo Araujo, A-R-A-U-J-O?

A. I do not have an independent recollection of the name.

Q. Okay. Do you know a patient by the

name of Bowhaz Harsanyi, H-A-R-S-A-N-Y-I?

A. Once again, I do not have an independent recollection of the name.

Q. Do you know a patient by the name of Yester Castillo?

A. I do not have an independent recollection of the name.

Q. Do you know a patient by the name of Thomas Brynes?

A. I do not have an independent recollection of the name.

Q. As you sit here today, do you know of any other actions where it is alleged you submitted invoices for a surgical procedure you did not perform?

A. I do not -- no, I don't know.

Q. How were you paid in this case?

"In this case," meaning -- meaning the Tian case.

A. I believe we sent the patient a bill.

Q. Do you know if the patient had any insurance coverage?

A. I believe they had an insurance plan that covered their hospital stay or visit.

Q. So the answer is yes, he had insurance?

A. Yes.

Q. Did you submit any of your bills to insurance?

A. I'm nonparticipating with the patient's plan, so I'm not submitting billing to the patient's insurance.

Q. Do you know if you were paid via -- withdrawn.

Do you know what a litigation funding company is?

A. I've heard of litigation funding, yes.

Q. Okay. Do you know if you were paid by Mr. Tian through litigation funding?

A. I don't know. I'd have to go back and -- and look at how payment was received.

Q. And what document would you look at for that?

A. Well, I guess -- I mean, if you're asking me how I was paid, I would have to look at the actual payment received.

Q. Okay. And what document would you look at for payments received? Is that the document? Does it have a different name?

A. I guess it would depend on how they

remitted payment.

Q. Do you keep any records on your end as to accounts receivable, meaning, when something is paid, it's removed from the patient's chart?

A. Yes, I think we do have an accounts receivable.

Q. Do you have -- do you have that document in front of you?

A. I do not.

Q. Where would that document be kept?

A. My office manager would manage that accounts receivable section.

Q. What does the document look like?

A. I don't know. I don't typically deal with the accounts receivable so I'm -- I can't -- I can't answer that with any certainty.

Q. I'm now going to show the witness Defendants' Exhibit A, Bate stamp number 129.

Dr. Merola, do you recognize Defendants' Exhibit A, Bate stamp 129?

A. It's a [indiscernible] demographic sheet.

Q. Is this a billing record?

A. It's the -- it's the sheet that I'm

provided with when the patient comes in so I can track their office visit.

Q. Okay. And you'll notice it says "narrative paid" on the right bottom where it says "notes."

Do you see that?

A. Yes.

Q. What does that mean?

A. Well, a narrative is -- a narrative is typically something that an attorney would request to summarize care and treatment of the patient.

Q. And it says "Connie."

Do you know who Connie is?

A. No.

Q. Do you know if Connie works in Mr. Park's office?

A. I don't have an independent recollection of that so I don't know.

Q. And it says "paid."

Do you know whose handwriting that is?

A. No, I do not.

Q. And does that mean that the narrative was paid for?

A. It would be speculative on my part, but

it says narrative, in parenthesis, paid.

Q. And if the narrative was paid for, would that be reflected in an accounts receivable document?

MR. FODEMAN: Objection. Calls for speculation.

A. If it was paid and we received payment, I -- I would assume that we would be able to know that.

BY MR. DiSIERVI:

Q. Earlier, you testified that your office maintains an accounts receivables file; is that correct?

A. Yes.

Q. And so would that file reflect the narrative in the Tian matter?

A. It should.

Q. And do you ordinarily bill for a narrative?

A. Yes.

MR. DiSIERVI: I'm just going to note for the record that I have not received any accounts receivable documents reflecting any payments whatsoever, but we'll deal with that after the

deposition is over.

I'm now showing the witness Bate stamp number 130 of Defendants' Exhibit A.

BY MR. DiSIERVI:

Q. Sir, I'd like you to take a look at this document.

Do you recognize this document?

A. Yes.

Q. What it is?

A. It's the initial form that was hand-filled out when the patient presented to the office.

Q. And who filled it out?

A. I don't know.

Q. You'll notice on the middle of the form above notes, there's the word "funding."

Do you see that?

A. Yes.

Q. Would that reflect to you that the patient had litigation funding?

A. So that term also reflects that the patient would be receiving a bill.

Q. But my question is -- you said, but it also reflects, but my question was: Does the notation

of funding reflect that the patient would be paying you from litigation funding?

A. Not necessarily litigation funding, no.

Q. Then what kind of funding would that reference?

A. That the patient would be receiving a bill and then would have to fund their payment based on the amount of the bill.

Q. Okay. And the date of this document, is it June 17th of 2019?

A. Yes.

Q. And so this would have been done contemporaneous with your examination?

A. Yes.

Q. And that was your first examination?

A. Yes.

Q. So it was already determined on June 17th of 2019 that his insurance did not cover the procedure?

MR. FODEMAN: Objection. Calls for speculation.

If you know.

BY MR. DiSIERVI:

Q. If you know.

A. I don't know.

Q. Okay. Now, you'll notice there's also a reference in the note sections, bulging C5-C6, L5-S1.

Do you see that?

A. Yes.

Q. What does that mean?

A. Well, there's a C5-C6 -- well, actually, I'm sorry. Could you -- the highlighted section?

Q. Yes.

A. It looks like it says EMG C5-C6/L5-S1.

Q. Okay. And is that your handwriting?

A. Yes.

Q. Any other -- any other part of this document -- withdrawn.

The funding word, is -- is that your handwriting?

A. Yes.

Q. So would you have inquired directly from the patient about the method of payment?

A. I don't recall.

Q. And earlier -- withdrawn.

Do you know if there was an interpreter

available for Mr. Tian?

A. I do not recall.

Q. Okay. In other cases where you treat patients, have you ever received money from funding companies?

A. I'd have to go back and look at other cases.

Q. As you sit here today, do you know if you ever received payment for services rendered from funding companies?

A. I don't have any independent recollection.

Q. Do you have any understanding about the interest rates on these litigation funding loans?

A. No, I do not.

Q. Is one of the allegations in the Gorayeb complaint that arrangements would be made for you to be paid through high-interest litigation funding loans?

A. I do not know.

Q. Do you or a family member have an ownership interest in any litigation funding company?

A. No.

Q. Have you ever directed a patient to a

litigation funding company?

A. No.

Q. Have you ever received payment from a litigation funding company for a procedure where you were paid by Workers' Comp or no-fault?

A. Not to my knowledge, no.

Q. Are you aware of whether -- withdrawn.

Is it an -- is it an allegation in the Gorayeb complaint that you would submit invoices to Workers' Comp or no-fault for treatment that was not causally related to this accident?

MR. FODEMAN: Objection. You're talking about this --

MR. DiSIERVI: In any accident. I'm not talking about the case. Is it an allegation in that case -- I'll withdraw the question and I'll reask it.

BY MR. DiSIERVI:

Q. Is it an allegation in the Gorayeb complaint that you would submit Workers' Compensation or no-fault claims for treatment that was not causally related to the Worker's Comp or no-fault claim?

MR. FODEMAN: Objection of form.

A. I -- I do not know.

BY MR. DiSIERVI:

Q. Is it an allegation in the Gorayeb complaint that you're involved in a network or providers that provide treatment to claimants to increase the value of their cases?

A. I do not know.

Q. Are you involved in a network of providers to provide treatment to claimants?

A. I'm a treating physician that works with other physicians providing treatment to patients, but I'm not sure I -- I understand what you mean by "network."

Q. Do you refer patients to other treating physicians?

A. Yes, I have referred patients to other treating physicians.

Q. Okay. Do you refer patients to other treating physicians for the purpose of increasing the value of their case?

A. No.

Q. Were there -- you had testified earlier that there were EMGs formed, correct?

A. Yes.

Q. Do you know who performed those EMGs?

A. I have to reference the chart.

Q. You can reference the chart.

A. It appears to be Dr. Spencer Colden.

Q. Have you ever worked with Dr. Colden before?

A. I recognize the name.

Q. Have you worked with Dr. Colden recently?

A. Once again, I recognize his name. I do not know him personally, but I know I have shared some patients with him.

Q. When was the last time -- when you say you shared, did he refer the patients to you, or did you refer them to him, or something else?

A. I -- it would depend on the patient, and so I don't have any specifics regarding that, but I'm familiar with his name.

Q. But you had said that you shared patients with Dr. Colden.

What did you mean?

A. Well, this is a patient that I treated and Dr. Colden also treated the patient, so in that sense, we share this patient.

Q. Do you know the status of Dr. Colden's

medical license?

A. I do not.

Q. Do you know if Dr. Colden was ever disciplined?

A. I do not know.

Q. Doctor, did you know that Dr. Colden is prohibited from administering or referring any patients for electrodiagnostic studies?

A. I am not aware of that.

Q. Is an EMG an electrodiagnostic study?

A. It is.

Q. Do you know if Dr. Colden was fraudulently submitting false electrodiagnostic studies?

A. I do not know and I am not aware of that.

Q. If he was submitting -- withdrawn.

If he did perform an electrodiagnostic study on Mr. Tian and it's findings were fraudulent, is that something that would be important for you to know?

MR. FODEMAN: Objection to form. And -- you know.

A. I -- I'm unaware of that, and so I --

I -- I mean, I really don't even know how to answer that question because I'm not aware of Dr. Colden's status or anything else that he's done. All I can say is that, in this case, the electrodiagnostic study was consistent with the patient's findings.

BY MR. DiSIERVI:

Q. Did you refer Mr. Tian to Dr. Cole?

A. I'm sorry. Say that again.

Q. Did you refer Mr. Tian to Dr. Cole?

A. Mr. Tian had an MRI done at Cole Radiology, yes.

Q. Did you refer him there?

A. I referred him for updated MRIs. I can reference my chart to pull up the script.

Q. Okay. But did you refer him to Dr. Cole, specifically?

A. Not that I'm aware of, no.

Q. If Mr. Tian testified that you had sent him there, would he be wrong?

MR. FODEMAN: Objection. Argumentative. Form.

A. I -- you'd have to ask Mr. Tian. I don't -- I -- I don't know. I do have a prescription for the patient indicating an MRI without a specific

referral.

BY MR. DiSIERVI:

Q. Have you ever referred patients to Dr. Cole?

A. We have sent patients to Cole Radiology, yes.

Q. And do you send all your patients to Cole Radiology?

A. No, I do not.

Q. What other MRI facilities or diagnostic test facilities do you use other than Cole?

MR. FODEMAN: Currently or at this time or?

MR. DiSIERVI: Currently.

MR. FODEMAN: Currently.

A. Currently, the patients are able to choose whatever diagnostic facility they would like. Clearly, patients that live out of the state typically do something that's close to their home. In New York and in the New York area, there are a number of facilities including Cole Radiology, Lenox Hill Radiology, Stand up MRI. Zwanger Pesiri is around, and there are a host of MRI facilities.

BY MR. DiSIERVI:

Q. Do you refer patients to Cole Radiology that live in the City of New York?

A. I have referred patients to Cole Radiology for patients that live in New York, yes.

Q. Do you refer all of your patients to Cole Radiology that live in the City of New York?

A. No, I do not.

Q. Is Dr. Cole a party to the RICO suit?

MR. FODEMAN: Which RICO suit?

MR. DiSIERVI: The Gorayeb complaint.

A. I'd have to review the action to verify that. Once again, I don't have the action in front of me.

BY MR. DiSIERVI:

Q. As you sit here today, you don't know if Dr. Cole is a party to the Gorayeb complaint?

MR. FODEMAN: You're talking about the first complaint, the new complaint where half of the defendants are gone? Which complaint?

MR. DiSIERVI: The first complaint.

A. I know that there -- there has been some motion in the complaint itself so I'm unaware of what the particular status of that complaint is right now.

BY MR. DiSIERVI:

Q. Okay. I'll make it even clearer.

Do you know if Dr. Cole was ever a party to any case brought by Tradesman against Gorayeb and medical providers?

A. Yes.

Q. Okay. And do you know if he is still currently a defendant?

A. I do not know.

Q. Has Cole's inclusion in the Tradesman complaint changed your referral practice to Dr. Cole?

A. No.

Q. Who was the referring physician here?

MR. FODEMAN: I'm sorry. In your case, Tian?

MR. DiSIERVI: Yeah, Tian.

A. Dr. Caseman.

BY MR. DiSIERVI:

Q. And do you know what office Dr. Caseman works out of?

A. He -- he works out of several offices.

Q. Okay. In this particular case, do you know what office he was working out when he treated Mr. Tian?

A. It's listed as his New York City, Manhattan office.

Q. And what's the address to that office?

A. 141 West 28th Street.

Q. Suite 500?

A. Yes.

Q. Do you know any other doctors who work out of Suite 500 at 141 West 28th Street?

A. I rent space in Suite 500 and Dr. Touliopoulos also rents space in Suite 500.

THE REPORTER: Doctor who?

THE WITNESS: Touliopoulos.

THE REPORTER: Okay.

BY MR. DiSIERVI:

Q. And was Dr. Touliopoulos ever a party to the Gorayeb complaint?

A. Yes.

Q. Is Dr. Touliopoulos still a party to the Gorayeb complaint?

A. I do not know.

Q. Do you know if Dr. Touliopoulos settled with Tradesman?

A. I do not know.

Q. Do you know if Dr. Touliopoulos is

cooperating with authorities in terms of the allegations of the Gorayeb complaint?

A. I do not know.

Q. What space do you rent at 141 West 28th Street?

A. I rent office space one day per month -- I mean one day per week, on a monthly basis.

Q. Do you rent it from Dr. Touliopoulos, do you rent it from Dr. Caseman, or someone else?

A. We're -- we are subletting and dividing the rent, but based on usage, from the landlord.

Q. If you're subletting it, who's the main tenant?

A. I believe we all share the office space together, but I think it's both -- you know, maybe "sublet" was not the correct term. We're all renting space which we -- which we divide up based on usage from the person who owns the space.

Q. And when you work at 141 West 28th Street once a month, do you see Dr. Touliopoulos?

A. I do not.

Q. When you work at 141 West 28th Street, do you see Dr. Caseman?

A. I do not.

Q. How many cases have Dr. Caseman referred to you?

A. I do not know.

Q. Is it more that five?

A. I do not know.

Q. Do you refer cases to Dr. Caseman?

A. I have.

Q. Approximately, how many cases have you referred to Dr. Caseman?

A. I do not know.

Q. For what purpose do you refer cases to Dr. Caseman?

A. He is a pain management physician so I would refer a case for a pain management consultation.

Q. And for what purpose would Dr. Caseman refer cases to you?

A. For surgical consultations.

Q. And the referral you -- you received from Dr. Caseman, did it note any of Mr. Tian's complaints?

A. Not that I'm aware of, no.

Q. Have you become aware of a -- of a -- withdrawn.

Are you aware that there's a situation

in the City of New York with plaintiffs' attorneys withdrawing as Counsel in various personal injury actions?

MR. FODEMAN: Objection of form.

A. No, I'm not.

BY MR. DiSIERVI:

Q. Have you ever been notified by Subin & Associates that they're no longer the attorneys for a patient?

A. Not that I'm aware of.

Q. I'd like to show you Defendants' Exhibit A, 189. Please let the record indicate that I'm now showing the witness Defendants' Exhibit A, Bate stamp 189 and 190. It's a two-page document.

Dr. Merola, I'm going to slowly scroll throw both pages. If at any point you want me to stop, enlarge, minimize, anything to help you view this document, please let me know.

Okay?

A. Yes. Yes.

Q. Do you recognize this document?

A. Yes.

Q. What is this document?

A. It's a bill submitted to the patient.

Q. And what is it a bill for?

A. Surgery.

Q. What kind of surgery?

A. Lumbar decompression.

Q. Was it submitted for a multilevel lumbar laminectomy?

A. Yes.

Q. And what was the fee?

A. $19,750.

Q. Was any portion of that paid by insurance?

A. We would have sent -- well, when you say this particular, this is just the surgical fee from -- yeah, for the -- myself. Yes.

Q. Was any portion -- well, withdrawn.

Were you paid the $19,750?

A. I would have to look at the accounts receivable.

Q. Is it your office's custom and practice to make sure payment was received before a surgical procedure goes forward?

A. It's the office's custom and practice to follow up on the billing, yes.

Q. So the mere fact that the surgical

procedure was completed, does that mean that you were paid in full before it was completed?

MR. FODEMAN: Objection calls. For speculation.

Go ahead.

A. Yeah, there were -- you know, there were a time -- I mean, I -- I can give you a long-winded explanation. I don't want to because it's going to be kind of long-winded, but as you might imagine, there are times when we get paid and there are times we don't get paid and the office typically follows up on payment.

BY MR. DiSIERVI:

Q. As you sit here today, do you have any reason to believe that you were not paid?

A. Once again, I'd have to check the accounts receivable to let you know specifically. I don't have an independent recollection of that.

Q. Do you have the accounts receivable in front of you?

A. I do not.

Q. Do you have access to the accounts receivable right now?

A. I do not.

Q. Do you know if the total bill for this procedure to Mr. Tian was $19,750?

A. I just know that that's my bill that we're looking at right now.

Q. Did you perform a multilevel lumbar laminectomy?

A. I did.

Q. Can -- I'd like to refer you then to your surgical report.

I'm now showing the witness Defendants' Exhibit A, Bate stamp number 174. Dr. Merola, I'm going to scroll down these four pages. It's a four-page document. I am going to go at a slow speed, but if you need me to stop, if you need me to increase speed, please let me know.

Okay?

A. Yes.

Q. Is there any particular page you would like me to focus on in terms of the procedure that was performed?

A. Not necessarily, no.

Q. After reviewing Bate stamp number 174 of Defendants' Exhibit A, does it refresh your recollection as to whether you performed the

multilevel laminectomy?

A. Yes.

Q. Did you perform a multilevel laminectomy?

A. Yes.

Q. Okay. At what levels did you perform it at?

A. L5 and S1.

Q. And L5-S1, those would be the two levels or would the laminectomy be actually between -- well, withdrawn.

Does L5 refer to a vertebrae?

A. L5 refers to a nerve root, specifically, as well as a portion of a vertebra.

Q. And S1 would refer to a vertebrae as well as the nerve root?

A. Yes.

Q. So the laminectomy was performed at L5 and the laminectomy was performed at S1?

A. Correct. It's the -- it's in between the L5 and the S1 segment to decompress the L5 root and the S1 root.

Q. So you just said something that it was in between L5 and S1.

Is that one level or two levels?

A. The approach is in between both vertebral bodies in order to address both levels.

Q. And the laminectomy would have been performed at L5 being one level and the S1 being the other level?

A. Yes.

Q. And as you sit here today, referring you back to Bate stamp number 189 of Defendants' Exhibit A, how much of that would have been paid by insurance?

A. Well, once again, I bill the patient directly for this.

Q. So as you sit here today, do you know if you submitted any bills to the insurance company for the multilevel laminectomy?

A. I would have not have submitted bills to the insurance company since I'm not participating.

Q. Okay. And to your knowledge, are there spinal surgeons who do participate in Mr. Tian's insurance?

A. Yes.

Q. And generally speaking -- withdrawn.

How much would you charge a no-fault

carrier for a multilevel laminectomy?

A. I'd -- I'd have to look at the no-fault reimbursement rate, which I don't have off the top of my head.

Q. Would it be more -- would the no-fault reimbursement rate for a multilevel laminectomy be more or less than $19,000?

MR. FODEMAN: Objection.

A. Yeah, I don't know. I would have to take a look at the reimbursement rate for the no-fault.

BY MR. DiSIERVI:

Q. How much would you bill a Workers' Compensation carrier for a multilevel laminectomy?

MR. FODEMAN: Objection of form.

A. There is a standard rate that you're allowed to bill so it would be based on the standard rate.

BY MR. DiSIERVI:

Q. And do you know if the standard rate for a multilevel laminectomy for the Workers' Compensation carrier would be more or less than $19,750?

A. I don't know off the top of my head.

Q. During Mr. Tian's procedures, did you use any devices? And I can pull up your report, your operative report, if it helps.

A. When you say "devices," could you be more specific?

Q. Would you use any instruments that were sold to you?

A. Instruments that were sold to me?

Q. Or to the hospital.

MR. FODEMAN: Objection of form, but you can answer it if you understand it.

A. I don't understand the question.

BY MR. DiSIERVI:

Q. When you perform a surgical procedure, do you sometimes implant a device into the patient's spine?

A. Yes.

Q. When you perform a surgical procedure, do you sometimes use devices to separate nerves?

A. I don't understand that question.

Q. I'll withdraw the second part.

Do you have any relationships with device manufacturers for the devices you use for your surgeries?

A. I do not.

Q. Do you know what the Sunshine Act is?

A. Yes.

Q. Okay. Do you report under the Sunshine Act?

A. Sure.

Q. Have you ever received money from the device manufacturers?

A. No.

Q. Have you ever received meals and lodging from device manufacturers?

A. I would have to go back and look at -- you know, there's -- there's a website that shows that, and I don't have any specific recollection of any time that device manufacturer representatives have bought lunch for either myself or my colleagues, but it would be reported therein. I do know that this is not something that is regularly done on my behalf in so much as I do not have any relationships with device manufacturers.

Q. Have you ever received trips, vacations, lodging or speaking fees from device manufacturers?

A. Not to my recollection, no.

Q. Do you have any interest in the distribution business for medical devices?

A. No, I do not.

Q. Does a family member have any interest in the distribution of medical devices?

A. No.

MR. FODEMAN: Steven, you mean from a financial interest, right?

MR. DiSIERVI: Yeah.

BY MR. DiSIERVI:

Q. Would you agree with the statement that a herniation can heal with time, and medications, and physical therapy?

A. Yes.

Q. Okay. What medications was Tian taking before you recommended surgery on June 17th --

A. According to my notes --

Q. I'm sorry. I'm sorry. Go ahead.

A. No. I was just going to say, according to the report we saw from Dr. Caseman, he had been on nonsteroidal antiinflammatories.

Q. And for how long?

A. I don't know.

Q. What physical therapy did Tian have

before June 17th of 2019?

A. I'd have to go back and look at the therapy records.

Q. Why did you order a second MRI of Mr. Tian?

A. I had had a date of accident that occurred in 2018, in May, and I had seen him in June of 2019. He had had, as far as I know, some treatments which it included that cervical percutaneous discectomy and I wanted to update his diagnostics after I had seen him in June.

Q. You have made the decision to perform surgery on Mr. Tian before you saw Dr. Cole's MRI report?

A. Well, I had told the patient that he was a candidate based on his subjective complaints and physical findings. And as noted, we updated his MRI to further correlate his condition.

Q. And you had billed him for the surgery before you received Dr. Merola's MRI report -- Dr. Cole's. I apologize. I'll withdraw the question.

You had billed Mr. Tian for the spinal surgery before you saw Dr. Cole's MRI report?

A. He was sent a bill, yes.

Q. So the decision to do the surgery, that was made before you saw Dr. Cole's MRI report?

A. No, the decision -- the decision to proceed with surgery was made after the MRI was correlated with his condition.

Q. And when was the surgery performed?

A. Going back to the operative report, it was done on August 8th of 2019.

Q. And after the surgery, did you place any restriction on Mr. Tian?

A. So the restrictions for the patient are that they should avoid bending, lifting and twisting, and then gradually increase their activities on an as-tolerated basis, based on their overall symptoms.

Q. For how long should they avoid bending, avoid lifting --

A. And avoid twisting?

Q. Yes.

A. So typically I tell patients that, you know, the postoperative course is variable. The first three days are typically the worst of it. And that in uncomplicated surgical procedures, they can proceed with more normal activities on a gradual basis, depending upon their symptoms.

Q. Was this a complicated surgery?

A. No.

Q. Do you know if Mr. Tian was involved in any other motor vehicle accidents?

A. None that I'm aware of.

Q. Do you know if Mr. Tian was involved in any motor vehicle accidents after the surgery?

A. Not that I'm aware of.

Q. Do you know if Mr. Tian has any other personal injury lawsuits pending?

A. I do not know.

Q. I'm now showing the witness Bate stamp number 120 of Defendants' Exhibit A.

Dr. Merola, do you recognize this report?

A. This is a report from Advanced Orthopedics.

Q. And do you have a copy of this report in your file?

A. Yes, I do.

Q. And did you review this report before -- on or before June 17th of 2019?

A. I do not know.

Q. And is there a reason why you didn't

review this report?

A. I do not know.

Q. And I'd like you to read just the history section to yourself and let me know if you need me to make it bigger.

A. Yes, thank you. I've read it.

Q. When Mr. Tian presented to Advanced Orthopedics on August 16th of 2018, did he have any complaints of back pain?

A. Not in the general orthopedic note, no.

MR. DiSIERVI: Just for the record, the discloser we received contained a Excel spreadsheet which was not Bate stamped. Last night I had Bate stamped the Excel spreadsheet and I had provided it to all Counsel. The Bate stamped version is a little different than the Excel spreadsheet, but for the purposes of this deposition, I'm going to use the Bate stamped version. Please let the record indicate, I'm now showing the witness what we have Bate stamped as Merola 191.

BY MR. DiSIERVI:

Q. Dr. Merola, do you recognize this document?

A. It looks like something that says

correspondence with a claim number and an adjuster named Mark Shaw.

Q. Can you see blow that, what it says?

A. It says, contacted Fidelis, was informed four codes do not require authorization as long as it's being done outpatient.

Q. Okay. Was the surgery done outpatient?

A. I believe so, yes.

Q. Does the reference to "contacted Fidelis" mean that Fidelis would have covered the surgery so long as the procedure was done outpatient?

A. Or the hospital. Correct, yes.

Q. Okay. So as you sit here today, does this note mean that the procedure performed on Mr. Tian was covered by Fidelis, according to your office notes?

MR. FODEMAN: Objection. Form objection. Speculation. Sorry. Go ahead.

A. Yes. For the hospital.

BY MR. DiSIERVI:

Q. Okay. And how do you gather that from the note?

A. I'm -- I'm nonparticipating with Fidelis so I do not bill as a nonparticipating

physician.

MR. DiSIERVI: Let's take -- let's take a two-minute break.

THE VIDEOGRAPHER: We are going -- we are going off the record and the time now is 12:26.

(Whereupon, an eight-minute recess was taken.)

THE VIDEOGRAPHER: We are back on the record and the time now is 12:34.

BY MR. DiSIERVI:

Q. Okay. Dr. Merola, I'm now showing you Bate stamp number 120 of Defendants' Exhibit A again. I just want to come back to something you had mentioned. About a few minutes ago, you testified that you did not see the document on June 16th of -- June 17th of 2019.

When did you receive this document?

A. I think I said I didn't know. [Inaudible.]

Q. Okay. So let me ask the question again.

Do you know if you had this document on June 17th of 2019?

A. I don't know.

Q. Was -- was Mr. Tian ever advised to seek a -- withdrawn.

Was Mr. Tian ever advised that it would be cheaper for him to see a spinal surgeon that was within the Fidelis plan?

A. I do not know. But I -- I mean, I don't know.

Q. Did you ever tell him?

A. I can tell you that it's my usual custom and practice to always tell patients that they can seek second opinions, if they'd like. And so in that sense, patients are always advised of that opportunity.

Q. But did you ever tell him, specifically, that it would be cheaper for him to seek a surgeon that was in his Fidelis plan?

A. I do not know.

Q. Is there any record that you have that shows that he was counselled that it would be cheaper for him to have the surgery performed by a surgeon within the Fidelis plan?

A. Not that I'm aware of.

Q. Now I want to come back to Mr. Tian's records. Are they kept digitally, are they kept

paper, both, or something else?

A. So they're scanned and put into an electronic file.

Q. And when you say "they're scanned," does that mean there's a paper copy?

A. Well, if the -- so I guess, it -- you know what, I'll withdraw that answer because it was nonspecific.

The records are put into and electronic file and if there's a paper copy, the paper would be scanned and then placed into the file. If it was something that we obtained through an electronic medium, then it would be placed into the file directly.

Q. Mr. Tian's file that you have in front of you, is that the paper copy or the electronic copy?

A. I'm looking at my electronic medical record.

Q. Would -- did you ever conduct a search for Mr. Tian's paper record?

A. So it's our general practice that we try to be paperless. So if there are any papers, per se, those are shredded, so that we avoid having to store any paper records or paper files.

Q. And in the electronic file, would the billing records we had discussed earlier also be there?

A. No. As I said, the billing is separate from the treatment records.

Q. And do you have access to the billing records?

A. I -- I do not, no.

Q. Who in your office would have access to the billing records?

A. My office manager and, of course, the billing service. But as I say, the billing service is outsourced.

Q. One second, guys.

If there was a referral letter for Mr. Tian, where would that be kept?

A. So I'm sorry. When you say, "a referral letter" --

Q. Yes.

A. -- I'm not sure I know what you mean.

Q. Earlier, you testified that Dr. Caseman had referred Mr. Tian.

Do you recall that?

A. Yes.

Q. Would there be a referral letter?

A. If there was a letter, then it would be in -- in the chart.

Q. And that would be the same chart that you're looking at?

A. Yes.

Q. So if you found no referral letter, that means there isn't one?

MR. FODEMAN: Objection. It calls for speculation.

A. Yeah, I don't know if there is or isn't. I -- I can just say I don't know if there is one in the chart.

BY MR. DiSIERVI:

Q. Which office did you see Mr. Tian at?

A. I would see -- this was in 2019. It was pre-COVID, so I don't know if it was Brooklyn or Manhattan. But, typically, I see most of my patients in Manhattan.

Q. And where is the Manhattan office?

A. 141 West 28th Street.

Q. Suite 500?

A. Yes.

Q. And that's the same office that

Dr. Caseman would have seen Tian at, if you know?

A. I don't know.

Q. If there was an attorney communication, would that be kept in the medical chart?

A. Yes. It should be.

Q. Did you conduct a search for any e-mails from Mr. Park or Mr. Forde concerning this matter?

A. I do not recall.

Q. As you sit here today, do you know if you have any e-mail communications with Mr. Park?

MR. FODEMAN: Any at all or regarding this case?

MR. DiSIERVI: Let's start with any at all.

A. None that I'm aware of.

BY MR. DiSIERVI:

Q. Do you have any communications with Mr. Park concerning this case?

A. Not that I'm aware of, no.

Q. When Mr. Tian came to see you, you said you reviewed the films from Redtree.

Did he bring the actual films, or did he bring a disc, or something else?

A. I have the films so I don't know. You know, when I'm reviewing the film, I'm reviewing it at the computer desk. I don't know where it came from. I'm just looking at the actual film itself, so I don't know.

Q. Do you know if Mr. Tian's films came from Mr. Park?

A. I do not know.

Q. Do you know if the films came from Dr. Caseman?

A. I do not.

MR. DiSIERVI: We're up to Exhibit D, correct?

THE REPORTER: Yes.

MR. DiSIERVI: Let me make sure I get that. I'm now showing Dr. Merola what I've marked as Defendants' Exhibit D, which is a four-page document which was from NYSCEF. It is the billing records for Richard McGill.

(Defendants' Exhibit D was identified and will be marked after deposition is completed and/or received.)

BY MR. DiSIERVI:

Q. Dr. Merola, I'm going to go through the

four pages. If you can -- if you can just look at them. If I need to go slower or enlarge anything, please let me know.

A. Yes.

MR. FODEMAN: What was the exhibit number on this?

MR. DiSIERVI: D.

MR. FODEMAN: B. Thank you.

MR. DiSIERVI: D. D as in dog.

MR. FODEMAN: Yeah. Got it. Thank you.

BY MR. DiSIERVI:

Q. Dr. Merola, is Defendants' Exhibit D the typical accounts receivable document that your office would maintain?

MR. FODEMAN: Objection of form.

A. I don't typically deal with the reports so, I mean, it's a -- it looks like a generated report regarding the billing from my office.

BY MR. DiSIERVI:

Q. And do you know if there's a report similar to Defendants' Exhibit D for Mr. Tian?

A. I don't know.

MR. DiSIERVI: Just at the present

time, I believe that I haven't received any of the billing documents from Dr. Merola's office. While I can appreciate the witness may not have access to them, the subpoena was directed to him.

BY MR. DiSIERVI:

Q. Dr. Merola, the employees who work the office and have access to the billing records, are they your employees?

A. Yes. Well, the -- the billing company is outsourced, but, of course, the office employees are my employees.

Q. And you can direct them to perform a search for billing records relating to Mr. Tian?

A. Sure.

Q. And these would be records that were generated or stored on your computer system?

MR. FODEMAN: Which records?

MR. DiSIERVI: Billing records. Billing records.

A. They would be -- I mean, you know, like I said, that there's outsourced billing and then there would also be an accounts receivable. So I -- in some sense, it may be a combination of both.

BY MR. DiSIERVI:

Q. Did you go to your office manager and ask her to do a printout for all billing records maintained by your office for Mr. Tian?

A. I believe we -- I believe we did. I mean, I can't tell you -- I can't answer that specifically, but I believe it had been. Records, including my file, were requested, and I believe we did our best to comply.

Q. I'd like to refer you to Bate stamp number 157 of Defendants' Exhibit A. Dr. Merola, this is a six-page document. Again, I am going to scroll through it and you tell me if I need to slow down, speed up, or stop, or anything else.

A. Yes. Yes.

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It's an intake -- it's an intake sheet. It's an intake sheet for the patient.

Q. And is this the intake sheet for Mr. Tian?

A. Yes.

Q. Who completed this intake sheet?

A. I don't know.

Q. Is that your handwriting?

A. No.

Q. Is that Mr. Tian's handwriting?

A. I don't know.

Q. If I told you that Mr. Tian can't write or read English -- withdrawn.

Is it usually the custom and practice for the patient to complete the questionnaire?

MR. FODEMAN: Objection of form.

A. The questionnaire would be completed in whatever manner was appropriate to obtain the information.

BY MR. DiSIERVI:

Q. And is it the custom and practice to have the patient complete the questionnaire?

A. The patient --

MR. FODEMAN: Objection of form.

Go ahead.

A. It's -- it's specific to the patient. Once again, whether or not they did or did not complete it depends.

BY MR. DiSIERVI:

Q. And is the questionnaire something you relied upon in forming your opinions on June 17th of

2019?

A. In part.

Q. Now, going through this questionnaire slowly, it appears to be incomplete.

MR. FODEMAN: You want to reference something specific or? Okay.

BY MR. DiSIERVI:

Q. Is there any -- do you ensure that these questionnaires are fully completed before you see the patient?

A. No, not necessarily.

Q. And you'll notice that it says work status.

Do you see that?

A. Yes.

Q. Does that refresh your recollection as to whether Mr. Tian was working before June 17th of 2019?

A. Yes.

Q. And do you know what kind of work he was performing?

A. Based on this document, no, but based on a previous document that we had looked at on his intake sheet, I believe it said driver.

Q. I'm now showing the witness Bate stamp number 170 of Defendants' Exhibit A.

Do you recognize this document, Dr. Merola?

A. Yes.

Q. What is this document?

A. Yeah. It's a sheet regarding whether or not there was any no-fault information.

Q. And you'll notice on the bottom, there's an attorney?

A. Yes.

Q. Is that the attorney, Gary Park, that we had discussed earlier?

A. Yes.

Q. Were you aware when you saw him on June 17th of 2019 that he had a no-fault claim?

MR. FODEMAN: You're talking about -- by "him," you mean the client, Mr. Tian, I assume?

MR. DiSIERVI: Yes.

A. I was aware of the fact that it was a motor vehicular accident, and that he had provided no-fault information. Yes.

BY MR. DiSIERVI:

Q. Were you aware on June 17th of 2019

that Mr. Tian had a personal injury case and was being represented by Gary Park?

A. I don't know.

Q. When was the last time you saw Mr. Tian?

A. I'm going to consult my chart, if I may.

Q. Yes, you may.

A. February 10th, 2020.

MR. DiSIERVI: Guys, let's take a five-minute break. I think I'm just about done. Let me just go through my note.

MR. FODEMAN: Okay. Cool.

MR. DiSIERVI: Thanks.

THE VIDEOGRAPHER: We are going off the record and the time now is 12:50.

(Whereupon, a six-minute recess was taken.)

THE VIDEOGRAPHER: One second. We are back on the record and the time now is 12:56.

BY MR. DiSIERVI:

Q. Dr. Merola, you previously testified that your last examination of Mr. Tian was February 10th of 2020.

What was the purpose of that examination?

A. There -- so it looks like that was a -- a followup to assess the patient's status, on February 10 of 2020, with a -- just a history section, a physical exam and future recommendations.

Q. And you made future recommendations to Mr. Tian on February 10th, 2020?

A. Yes.

Q. And what were those recommendations?

A. Continue conservative treatment, including home therapy. Activity modification.

Q. Do you know if he has sought any medical treatment from February 10th of 2020 to today?

A. I don't know.

Q. Do you know if he's followed your recommendations as of February 10th, 2020 to today?

A. I don't know.

Q. Do you know of any medical treatment Mr. Tian has received as of February 10, 2020 to today?

A. I do not know.

Q. Do you know Mr. Tian's current medical condition in terms of his spine?

A. I do not.

MR. DiSIERVI: I have nothing further.

Mr. Forde?

MR. FODEMAN: The proper order is that I think it's you're the party. Maybe you should go, but up to you.

MR. FORDE: Yeah, who knows. Yeah, we're in some sort of uncharted territory.

EXAMINATION

BY MR. FORDE:

Q. Good afternoon, Dr. Merola. My name is James Forde. I'm just going to follow up with a couple of questions.

Just relating back to the -- the MRI from Redtree Radiology that you were being asked about, can you -- can you tell us what -- how MRIs are used as a diagnostic tool for a patient that you're considering for surgery?

A. So typically, there are what we consider two main indications for an MRI. The first indication is to confirm the diagnosis that we suspect based on a patient's symptoms and physical findings. The other indication for an MRI is to really make sure that there isn't anything crazy going on or something

occult or something hidden that we didn't previously consider.

Q. Okay. And so when a patient has an MRI, is that -- can one single MRI study provide a definitive gold standard as to whether a patient is going to require surgery?

A. No.

Q. What other considerations go into determining whether the -- the patient is a -- is a surgical candidate?

A. Ultimately, it's based on the patient's symptoms and on their physical findings and on their own ability to tolerate a particular condition; whether or not it's significant or severe enough to interfere with their quality of life and their activities.

Q. I think you mentioned when you were -- when you were being questioned before that MRIs are subject to interpretation and subject to how they are done.

Can you explain what you meant by that?

A. Yeah, so any -- any time a diagnostic test is done, an MRI is no exception to that, it -- it depends on the -- for example, with an MRI, the

strength of the magnet, the position of the patient within the actual magnet itself, the quality of the images produced. And then the person reading the MRI has to describe what they're looking at visually in words. So you are subjected to what a particular person is -- is -- is looking at, based on their subjective interpretation of an image that they're looking at.

Q. So would you say that all MRI results and reports are created equal?

A. No.

Q. And as far as the variables that would go into the -- the MRI studies and the report, would the quality of the machine have an impact on the -- the actual reading of an MRI study?

A. Yes, it can.

Q. So would you say that it would be possible to take one single MRI study and definitively determine whether a patient is a candidate for surgery?

A. That MRI has to be weighed against the patient's clinical findings.

Q. So when you were considering, based on the clinical findings that you had for Mr. Tian,

whether he -- his need for surgery, is that why you referred him for other MRI studies?

MR. DiSIERVI: Note my objection.

You can answer.

A. So I -- I wanted to refer him for an undated MRI because he presented with significant symptoms, had positive physical findings, and this had been going on for in excess of about a year or so. And so it was prudent to obtain a new MRI at this point.

BY MR. FORDE::

Q. But would it be correct to say that before you sent him for the MRI, did you believe that he -- he was a candidate for surgery at that point?

A. Based on his symptoms and his clinical status, yes.

MR. FORDE: All right. Thank you, Doctor.

MR. FODEMAN: Hi, Dr. Merola. Just a couple questions from me.

EXAMINATION BY

MR. FODEMAN:

Q. You were asked by Counsel for the defense about these RICO actions that are pending

against you.

First of all, have any -- has there been any findings in any of these RICO cases against your, or are they just allegations?

A. As far as -- pardon me. As far as I know, they are only allegations.

Q. Okay. In fact, have there been any -- as far as you know, have there been any findings as to any of the defendants in -- in any of these actions?

A. To the best of my knowledge, there have only been allegations made.

Q. There was a reference to, I think, two different RICO cases.

Do you recall that?

A. Yes.

Q. One we were referring to as the Gorayeb RICO case, correct?

A. Yes.

Q. And then the other one, do you recall who that involves, or what lawyers does that involve?

A. I believe that was Wingate.

Q. And have you even been served with that lawsuit yet?

A. No, I have not.

Q. Has there been any findings with respect to that particular lawsuit, as far as you know?

A. Not that I'm aware of.

Q. These allegations, I think you referenced in your testimony, are being brought by an insurance company, an insurance carrier; is that correct?

A. Yes.

Q. First, with respect to the Gorayeb complaint, the one that you actually have been served on -- served with, do you -- do you know if that -- if the original complaint has been amended?

Do you know?

A. I believe there has been an amendment.

Q. Do you know how many -- how many defendants -- well, first of all, do you know, approximately, how many defendants this insurance company decided to name in their first version of this complaint, approximately?

A. It was quite a number of persons. I don't recall the number offhand.

Q. Are you aware that they've voluntarily already dismissed their allegations against more than

half of the defendants they originally named?

Did you know that?

A. I am aware that --

MR. DiSIERVI: Objection to form.

You can answer.

A. I am aware that they did dismiss a number of people, yes.

BY MR. FODEMAN:

Q. Okay. And do you know -- do you know -- you told us that in the case that we're actually here on, Mr. Tian's matter, you told us, if I'm correct, that the patient was referred to you by a Dr. Caseman; is that correct?

A. Yes.

Q. Okay. Is Dr. Caseman named in any RICO case, as far as you're aware of?

A. Not that I'm aware of.

Q. And by "any RICO case," I mean the Gorayeb one and the one that you haven't been served with. Are you aware of whether he's been named in either of those?

A. I -- I -- not that I'm aware of. I do not believe he's been named.

Q. Okay. You were asked about some

supposed allegations within the RICO case.

First of all, are you aware that the original complaint was over 100 pages in that case?

A. I do recall that it was rather significant, yes.

Q. Do you know how many pages are dedicated to you, off the top of your head?

A. I don't know the exact number, but as best I can recall, very few.

Q. Counsel, as I recall, didn't show you the complaint, but let me ask you this: Do you know how many -- how many patients have you treated over your career as a spine surgeon, approximately?

A. Counsel, I've been -- I mean, I've been working for 30 years so I've seen, conservatively speaking, likely, many thousands of patients.

Q. Do you know how many of your patients are referenced in the Gorayeb original RICO complaint?

A. To my knowledge, I think there are only two.

Q. Do you know if those two patients, the surgery you performed for those two patients, had previously been approved by the Workers' Compensation Board?

A. To my knowledge, all patients that I've operated on with Workers' Comp have gone through the appropriate approval process, yes.

Q. Prior to the surgery, correct?

A. That's correct, yes.

Q. And are you aware when -- when Tradesman amended their complaint, do you know if they were able to add any more patients of yours to the complaint?

MR. DiSIERVI: Note my objection.

You can answer.

A. I do not believe -- I do not believe anyone was added.

BY MR. FODEMAN:

Q. Is it your intention, if you know, to move to dismiss the RICO action, the amended RICO action, against you, if you know?

A. Yes.

Q. And are you aware whether other defendants intend move to dismiss that action?

MR. DiSIERVI: Note my objection.

BY MR. FODEMAN:

Q. Do you know?

A. Yes, I believe so.

Q. But -- and do you know if a judge has had an opportunity to rule on any motion to dismiss yet, if you know, in that first RICO action?

A. I do not know.

Q. You were asked a number of questions about a patient by the name of Mr. McGill.

Do you recall that?

A. Yes.

Q. Does Mr. Tian have anything to do with Mr. McGill's case --

A. No.

Q. -- as far as you know?

A. No.

Q. And I should have asked this question, but as far as you know, are there any allegations in any RICO case against you that has anything to do with Mr. Tian?

A. No.

Q. The two patients that you said that the Tradesman had brought allegations concerning, are either of them Mr. Tian?

A. No.

Q. Getting back to the McGill case, are you aware that the defense in that case attempted to

bring you into that action as a Third-Party Defendant?

Are you aware of that?

A. Yes.

Q. And are you aware that the nature of the defense's claim against you was that you committed fraud by billing for a partial corpectomy that they say you didn't perform?

A. Yes.

Q. What happened to that action against you, do you know?

A. It was dismissed.

Q. And are you aware that this morning the appellate division refused a stay of trial based on the defense's application, because they intend to appeal that conclusion?

Are you aware of that?

A. Yes.

Q. Did you -- did you bill for a partial corpectomy that you did not perform in that case?

A. No.

Q. Are you aware that in dismissing the action against you, the Court concluded that the defense had failed to allege any actionable fraud against you?

Are you aware of that?

A. Yes.

Q. And are you aware that they concluded that in no way, shape or form was the defence harmed -- well, withdrawn.

Give me just one second. Are you aware that in that case, the state supreme court Judge said -- said in a written decision that utilizing referencing the unproven allegations in the RICO case was a form a harassment against you?

Are you aware that that's what the Court said in that case?

MR. DiSIERVI: Just note my objection.

A. Yes.

BY MR. FODEMAN:

Q. Are you aware that the defense in the McGill case, the same folks that brought this third-party action, made their claims in reliance on a supposed -- not supposed -- withdrawn.

Are you aware that they brought that claim of alleged fraud against you based on the word of a Dr. Kim?

A. Yes.

Q. Let me ask you a question, Doctor: In

your career, do you know how many times you have performed a partial corpectomy?

A. I do not have an exact number.

Q. Is it dozens or more?

A. Over the course of 30 years, it would be more.

Q. Okay. And prior to Dr. Kim coming along, has anyone ever suggested that you bill for a partial corpectomy that you did not perform?

A. No.

Q. And I think you mentioned this earlier, but is it fair to say that many of your patients are involved in litigation concerning their injuries?

A. Certainly, it's fair to say that patients that are involved in injuries do have litigation pending, yes.

Q. And in your experience, does that mean that your treatment of those patients is scrutinized by doctors and experts retained by the defense to --

MR. DiSIERVI: Note my objection.

BY MR. FODEMAN:

Q. Did you understand my question?

A. If you would be so kind as to complete it.

Q. Yeah, it was probably completed, but it wasn't great.

What I was getting at was, are you aware that in -- that it is common in litigation for defense -- defendants to hire experts, doctors and the like, to review and scrutinize your treatment of patients?

A. Yes.

Q. If I understood your prior testimony, prior to Dr. Kim saying that you billed for a partial corpectomy that you didn't perform, no one has ever suggested that concerning any of your other thousands of patients?

A. Correct.

Q. How about any -- has anyone ever suggested -- has anybody ever alleged that you billed for a service that you did not provide?

A. No.

Q. You were asked a number of questions about billing. You were shown -- do you recall that?

A. Yes.

Q. And you were shown, among other documents, I think it was Exhibit -- it was Exhibit A, Page 189. You'll remember it if I just describe it,

so we don't waste time. But it was a bill to Mr. Tian for $19,750.

Do you remember looking at that document?

A. Yes.

Q. Is that something that you would've prepared and sent out to Mr. Tian or is that something that your staff would have prepared?

A. The staff.

Q. Who -- who generally handles the billing in your office?

A. Typically, the -- you know, typically, either my office manager or my billing service.

Q. All right. And so when you were shown that printout which was Exhibit D, is that something that you would be involved in generating, typically?

A. No.

Q. Do you know where that printout even came from?

A. It was on my letterhead so I would assume it's my office.

Q. But it's not something that you would be creating in the general course of things; is that correct?

A. Right.

MR. FODEMAN: I have nothing further. Thanks.

MR. DiSIERVI: I have a bunch of follow-up questions. I'm going try to make this short and sweet.

EXAMINATION CONTINUED

BY MR. DiSIERVI:

Q. Would it be your employees, your office, and your computer equipment that would generate all the invoices?

A. Some of the invoices would be generated by the outpatient billing folks. Some bills would be generated in-house, so it depends.

Q. And the fees set in the letter that was Defendants' 189, who would create that fee?

Who would say that the surgery is going to cost $19,750?

A. So, you know, the billing itself is typically determined as a procedure, usual and customary for the patient, and I don't specifically recall how we came to that number.

Q. Generally, who sets the fees in the office?

A. It's a discussion between myself and my office manager and the billing service, typically.

Q. And so would be involved when a an invoice is sent out as to how much it should cost?

A. Not employees but, of course, you know, it's sent from the office. So in that sense, to a certain extent.

Q. And these are all your employees that are involved in the process, correct?

A. Yes.

MR. FODEMAN: Sorry. I didn't mean to.

A. You know --

MR. FODEMAN: Objection of form.

A. Yeah, with the exception of the outsourcing.

BY MR. DiSIERVI:

Q. Do you think Dr. Kim's a liar?

MR. DiSIERVI: Objection of form.

You can answer.

A. I -- you know, it's not my -- it's not -- I don't believe it's my place to comment on Dr. Kim's opinions and I would have to more specifically look at exactly what he said and how he said it, why he said it and, you know, make inquiries

accordingly. So I would not want to issue any blanket statements. I would offer, though, for the record that I respectfully disagree with his assessment and his opinion.

BY MR. DiSIERVI:

Q. Now, earlier, you testified that there was no other cases where it was alleged that you billed for a procedure you did not perform. I mean, I apologize if I covered this earlier. Did you bill for a procedure you didn't -- withdrawn.

Was it alleged in the case of Milton Ambilla that you billed for a procedure you did not perform?

MR. FODEMAN: Objection. Mischaracterizing the testimony.

A. No, I do not.

MR. FODEMAN: Off the record for a second. I don't want to say it in front of him.

MR. DiSIERVI: Let's -- let's go off.

THE VIDEOGRAPHER: Hold on. Hold on. You wanted -- you want me to stop the video, right?

MR. DiSIERVI: Yes.

THE VIDEOGRAPHER: We are going off the record and the time now is 1317.

(Whereupon, a short recess was taken.)

THE VIDEOGRAPHER: We are back on the record and the time now is 1320.

BY MR. DiSIERVI:

Q. Dr. Merola, is it your understanding that Dr. Kim in the McGill case is the only instance you're aware of where it was alleged that you billed for a medical procedure you did not perform?

A. This is the one I'm most specifically able to recall at this time.

Q. Are there other cases where it was alleged by the defendants that you billed for a medical procedure you did not perform?

A. I -- I do not know.

Q. So when you testified earlier that there was no allegation against you before Dr. Kim concerning you billing for a medical procedure you did not perform, do you want to change that answer now?

A. No. To the best of my knowledge, there is nothing that I know of up until Dr. Kim had been brought into the mix that had alleged any of those things.

Q. Okay. The patient, Milton Ambilla, did you see him before or after you saw Richard McGill?

A. I am not -- I am unfamiliar with that name, so I don't know.

Q. Okay. German Paucay, do you recall testifying at that trial?

A. No.

Q. Okay. Do you recall treating German Paucay?

A. No.

Q. If those -- if in those cases the defendants were claiming you billed for a procedure you did not perform, would that then be contrary to your testimony?

MR. FODEMAN: Objection. Argumentative. Form.

MR. DiSIERVI: You can answer.

A. I would have to -- I would have to look at the -- the testimony and the proceedings. And, to my knowledge, as best I can recall, I had never been asked any questions about that or none of that had ever been brought to my attention.

Q. And you're not privy to all of the hearings and evidence brought in every single defense case, are you?

MR. FODEMAN: Objection of form.

A. I mean, I'm only privy to what's been released to me.

BY MR. DiSIERVI:

Q. Okay. And now, earlier, you testified that the Court and McGill had dismissed the action against you.

Do you recall that?

A. Yes.

Q. Was that dismissal on the merits?

MR. FODEMAN: Objection of form.

THE WITNESS: As far as I know, it was dismissed. I think the attorneys would have to speak to the actual --

MR. DiSIERVI: Okay.

THE WITNESS: -- action itself.

BY MR. DiSIERVI:

Q. So as you sit here today, are you certain as to what the reason for the dismissal was?

A. I know that it's a dismissal and, you know, as -- as in my book, as a physician, that's the -- the best that I can -- I can tell you.

Q. Okay. Do you know why it was dismissed?

A. I would have to look at the specifics

of the dismissal. Once again, I'm not an attorney.

Q. As you sit here today, do you know the reason for the dismissal?

A. I, once again --

MR. FODEMAN: Calls for a legal conclusion.

Go ahead.

A. Yeah. I'm -- I mean, as a -- as a doctor, I can't give you any more information.

BY MR. DiSIERVI:

Q. Okay. Now, earlier, you testified that you were not served with the Wingate complaint.

Do you recall that?

A. Yes.

Q. How did you learn of the Wingate action?

A. I don't know. I don't recall.

Q. Did you see the Wingate complaint?

A. No, I had not.

Q. So when you testified as to who were or not parties to the Wingate complaint, was that speculation?

A. No.

Q. Then how -- how do you know who's

parties to the Wingate action?

A. I - I don't have all the parties memorized, nor do I have the action in front of me, so I don't know.

Q. So when your attorney asked you whether -- whether Dr. Caseman was a party to that action, what did you base your opinion upon?

A. As far as I know, he is not a party to that action.

Q. Do you know why the defendants were dismissed from the Gorayeb case?

A. I do not know.

Q. Do you know if any of the defendants settled in the Gorayeb case?

A. I do not know.

Q. Do you know if a settlement would -- would result in a dismissal in an action?

A. I do not know.

Q. Earlier, you were asked questions about factors that can affect an MRI's quality.

Do you recall that?

A. Yes.

Q. I believe you said it was signal strength was one of the factors?

A. That -- that can be a factor, yes.

Q. If there were any issues with the quality of the Redtree MRI, is that something you would have noted in your report?

A. Not necessarily, no.

Q. Would you've made a recommendation for surgery based upon an MRI report that was of poor quality?

A. In and of itself, not necessarily, no.

Q. As you sit here today, do you know if there are any issues with the Redtree MRI quality?

A. Not that -- not that I'm aware of, and not that I can comment on without looking at the films again.

Q. Okay. And you have no recollection of what you saw when you looked at the films?

A. Only what I transcribed in my report.

Q. And did you transcribe any errors with the MRI quality of the Redtree report?

A. I didn't, no.

Q. Okay. Earlier, you testified that there were numerous factors that go into your decision to recommend surgery.

Do you remember that?

A. Yes.

Q. How many times did you see the plaintiff before you recommended surgery?

A. I had seen him on one occasion.

Q. And what was his condition like before you saw him?

A. I'm not sure I understand that question.

Q. Sure. Was Mr. Tian's spinal condition -- did it get better or worse after the accident, but before he saw you?

A. To my knowledge, it had gotten worse.

Q. And what's that based upon?

A. The referral made to me by his pain management physician.

Q. And what did his pain management physician say to you as -- as to what his condition was before he -- you saw him?

A. Well, the pain management physician had made a referral to me.

Q. So the referral itself means that Mr. Tian's spinal condition had gotten worse?

A. It means that the condition was significant enough to seek a surgical consultation.

Q. Did Dr. Caseman ever tell you anything about Mr. Tian?

A. I don't recall.

Q. And if -- withdrawn.

And when you saw Dr. Caseman's report earlier today, did it make any reference to any problem with his lumbar spine?

A. No.

Q. Would Mr. Tian's ability to work be a significant factor in determining whether Mr. Tian was a candidate for surgery?

A. Not necessarily, no.

Q. If he was able to work at the same capacity he was before the accident, would that be a factor?

A. Not necessarily, no.

Q. If he worked more hours than he did before the accident, would that be a factor?

A. Not necessarily, no.

Q. Two seconds and I think we're done. I -- don't go anywhere.

MR. FODEMAN: Okay.

A. Yeah, no problem.

BY MR. DiSIERVI:

Q. Possibly, the last question: What are the allegations against you in the Gorayeb complaint?

A. I don't know --

MR. FODEMAN: Asked and answered.

Go ahead.

A. Yeah, I would have to go and review the entire complaint again.

MR. DiSIERVI: I have nothing further.

THE WITNESS: Thank you.

MR. FODEMAN: Nothing for me.

MR. JACOBSON: Wait. James --

MR. DiSIERVI: Listen, guys. Stay on. In fact --

MR. JACOBSON: I need James.

MR. DiSIERVI: Why don't -- why don't you call him?

MR. JACOBSON: Okay. I'll call him. I'll call him.

MR. DiSIERVI: I am -- I'm going to -- I'm going to distribute the exhibits to everyone.

THE VIDEOGRAPHER: Please stay. Stay all of you. All the attorneys, please stay after you finish to talk. Please stay, because I need something for you and I need to conclude the deposition.

MR. FODEMAN: Okay.

MR. DiSIERVI: Do you guys want to do that or are we going to lose the connection on Zoom once you conclude?

THE VIDEOGRAPHER: No. No. I will -- I will leave you on the meeting. I will not stop the meeting after concluding until you -- the last of you get off the meeting, so don't worry about it.

MR. DiSIERVI: Okay. So let's conclude it and then -- just, actually, real quick. Moe, I'm going to just distribute the exhibits as they were marked to everyone relabeled.

MR. FODEMAN: Yeah.

MR. DiSIERVI: In -- in terms of the -- the production --

MR. FODEMAN: Yeah.

MR. DiSIERVI: -- I guess -- I guess I'll produce the whole thing. I'm trying to figure out a way not to have to send 192 pages out. I'll -- I'll do it in the files here.

MR. FODEMAN: I'm happy to waive it, if you want, or if that's possible. I mean, I -- I don't know.

MR. DiSIERVI: It's all right. I'll

just produce it. I'd -- I'd rather error on the side -- side of caution.

Okay. Anything else, guys, before we conclude this?

MR. FODEMAN: No, thank you, Steven. Appreciate it.

MR. DiSIERVI: You welcome. I'm just going to --

MR. FORDE: I don't think so.

MR. DiSIERVI: James, I'm going to ask that, and I guess this goes to Moe, too, that a search be conducted for the billing records. I don't know if it was overlooked. I don't know if he didn't ask. I'm not here to right now, you know, make conjecture about what I didn't get, but I just ask that a search be conducted, and if it's located, it be sent to me.

MR. FODEMAN: Yeah, of course. I thought we did it, but -- but I'll work on it and then if I have any issues, I'll call you.

MR. DiSIERVI: Okay. And listen, it won't be the first time a client didn't -- forgot to look for something and -- and then we did a deposition, so...

MR. FODEMAN: Okay. Well, let's see

what we can find.

MR. JACOBSON: Well, since we're -- are we off the record now?

THE VIDEOGRAPHER: No, no. We are not.

MR. DiSIERVI: We're not.

MR. FODEMAN: That's what I thought.

MR. JACOBSON: Okay. I'll call Mr. Forde.

MR. DiSIERVI: Call James.

Okay. Let's conclude this.

THE VIDEOGRAPHER: Okay.

MR. DiSIERVI: Let's conclude this, and then Glenn will call you, James.

THE VIDEOGRAPHER: Okay. Would Counsel please state on the record if you are going to order video transcript or both and state your name.

MR. DiSIERVI: This is Steven.

MR. FODEMAN: Go ahead, Steven.

MR. DiSIERVI: This is Steven DiSiervi from be Abrams, Gorelick, Friedman & Jacobson. I am ordering the transcript and I am ordering the video.

MR. FORDE: Yeah, for the office of Gary Park, James Forde. I'm riding on top of Counsel.

We will order the video and the transcript.

MR. FODEMAN: This is Moe Fodeman for the witness, Dr. Merola. We're ordering just the transcript, not the video. Okay. No rush.

THE VIDEOGRAPHER: Okay. Thank you so this conclude the video deposition of Dr. Andrew Merola. The time is, approximately, 1332. We are off the record.

(Whereupon, at 1:32 p.m., the examination of this witness was concluded.)

_____

DR. ANDREW MEROLA

Subscribed and sworn to before me

this _____ day of _____ 20___.

_____

NOTARY PUBLIC

E X H I B I T S

DEFENDANTS' EXHIBITS:

EXHIBIT LETTER	EXHIBIT DESCRIPTION	PAGE
A	Production by Dr. Merola	16
B	35-page fax	26
C	Operative report	69
D	Four-page document	120

I N D E X

EXAMINATION BY	PAGE
MR. DiSIERVI	6, 144
MR. FORDE	129
MR. FODEMAN	132

C E R T I F I C A T E

STATE OF ARIZONA)
: SS.:
COUNTY OF MARICOPA)

I, LAURA ANTIDORMI, a Notary Public for and within the state of Arizona, do hereby certify:

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

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of September 2024.

_____
LAURA ANTIDORMI

ERRATA SHEET

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

WITNESS: DR. ANDREW MEROLA TAKEN: 09/13/2024

Page	Line	Change	Reason For Change

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

_____ _____

Date DR. ANDREW MEROLA

A

A-R-A-U-J-O 78:22
a.m 1:11 4:6
ability 36:6 130:14 154:10
able 18:22 35:20 36:5,10,16 40:2 51:12 52:3,16 83:9 93:17 137:9 147:11 154:14
Abrams 2:8 5:2 5:4 158:21
absence 57:11
access 101:23 117:7,10 122:4 122:8
accident 62:25 68:6 88:12,15 109:7 126:22 153:12 154:15 154:19
accidents 111:5 111:8
accommodation 30:5
accounts 81:4,6 81:13,16 83:4 83:13,23 100:18 101:18 101:20,23 121:15 122:23
accurate 24:19
Act 107:3,6
action 1:5 4:21 12:4 41:25 43:3,5,12,13 49:17 69:17 94:12,13 137:17,18,21 138:4 139:2,10 139:23 140:19 149:6,16 150:17 151:2,4 151:7,10,18 161:14
actionable 139:24
actions 43:10 44:19,22 45:22 46:4 79:14 99:4 132:25 133:10
activities 110:14 110:24 130:17
Activity 128:13
actual 55:14 80:21 119:24 120:5 131:3,16 149:14
add 56:14,16 137:9
added 137:14
addition 31:8
additional 14:9 22:25 32:14,25 33:8
additionally 19:22
address 7:18,22 7:24 8:2 96:4 104:4
adjuster 113:2
administer 3:9
administering 91:8
Advanced 111:17 112:8
advice 43:25 45:18
advised 115:2,4 115:13
affect 151:21
affirm 5:17
affirmatively 55:5
afternoon 129:12
against- 1:5
agency 41:9
ago 9:7 14:11 114:15
agree 108:12
AGREED 3:4 3:16
ahead 12:12 23:8 45:4 54:21 71:11 75:2 101:6 108:19 113:19 124:19 150:8 155:6 158:19
Alec 2:14 5:7 12:11
allegation 48:12 50:7,15 51:16 88:9,16,20 89:3 147:17
allegations 41:24 46:10 49:13,19,20,22 50:15 51:21 87:17 97:3 133:5,7,12 134:6,25 136:2 138:16,21 140:10 155:3
allege 139:24
alleged 77:20,23 78:18 79:14 140:22 142:17 146:8,12 147:8 147:13,22
alleges 52:14
allow 45:13
allowed 105:18
Ambilla 77:17 146:13 147:24
amended 134:14 137:8,17
amendment 134:16
Americas 2:13
amount 17:14 85:9
and/or 16:7 26:15 69:20 120:23
Andrew 1:13 2:12 4:11 5:9 6:10 7:12 159:7,14 162:3 162:25
answer 12:12 19:17 20:13,24 23:8,15 31:2 32:6,9 37:12 40:2 42:8 45:4 45:11,14 46:21 46:22 47:6 50:19,21,22 51:6,12 52:3 52:16,18 54:22 55:9 60:6 72:6 79:25 81:17 92:2 106:12 116:8 123:6 132:5 135:6 137:12 145:20 147:19 148:16
answered 30:25 74:25 155:5
answering 45:24 46:8,14
answers 19:7 46:2,9
Anterior 70:12
Antidormi 1:15 5:11 161:7,21
antiinflammat... 38:13,16,24 108:22
antiinflammat... 38:17 59:12
anybody 53:24 142:17
anyway 56:15
apologize 51:2 60:2 71:22 109:22 146:10
appeal 139:16
appear 11:25
appearance 11:23 65:20 73:9,15
appearing 1:14
appears 25:12 31:3 90:4 125:5
appellate 139:14
application 139:15
appreciate 29:19 42:21 122:4 157:7
appreciated 35:6
approach 104:3
appropriate 6:25 124:12 137:4
approval 137:4
approved 136:24
approximately 4:9 24:4,10,18 26:11 55:16 98:9 134:19,21 136:14 159:8
Araujo 78:22
area 11:21 34:7 93:21
Argumentative 92:22 148:15
Arizona 161:4,8
arrangements 87:18
as-tolerated 110:15
asked 14:3 15:14 30:24 40:16 44:21 46:3,6 52:9 67:22,25 74:24 129:16 132:24 135:25 138:6,15 142:20 148:20 151:6,20 155:5
asking 51:14,15 52:5 80:20
aspect 65:20
aspects 48:7 50:2
assess 74:19,20 76:20 128:5
assessed 36:7
assesses 36:2
assessment 40:21 146:4
assessments 77:4
assigned 7:4
assist 34:2
associated 35:14

63:13 66:5
Associates 43:4 43:6 54:2 99:9
association 4:15 38:17
assume 23:24 42:8 61:19 83:9 126:19 143:22
attempted 138:25
attention 21:11 70:14 148:21
attorney 16:10 24:18 25:10 53:4 56:19,22 67:22,25 82:11 119:4 126:11 126:13 150:2 151:6
attorney-client 43:25
attorneys 2:4,8 2:12 49:17 52:14,20,24 53:7,15,18 55:14 99:2,9 149:13 155:23
Audibert 1:7 4:12
August 21:9 59:4,10 110:9 112:9
authorities 97:2
authorization 113:6
authorizations 23:6
authorized 3:9
available 22:11 77:11 87:2
Avenue 2:4,13
avoid 110:13,16 110:17,18 116:24
aware 12:7 36:21 37:5,23 50:6 88:8 91:10,16 92:3 92:18 98:22,23 98:25 99:11 111:6,9 115:23 119:17,21 126:16,21,25 134:5,24 135:4 135:7,17,18,21 135:23 136:3 137:7,20 138:25 139:3,5 139:13,17,22 140:2,4,7,12 140:17,21 142:5 147:8 152:13

B

B 26:9,10,13,18 27:13,18 28:10 28:20 29:7,13 30:11,22 31:9 33:22 34:7 121:9 160:2,5
back 21:3 34:25 38:25 39:25 59:5,16 67:13 69:7 80:15 87:7 104:10 107:13 109:3 110:8 112:10 114:9,14 115:24 127:21 129:15 138:24 147:3
barrel 53:2
base 151:8
based 8:13 17:16,20 18:9 18:13,17 19:14 22:20 36:11,17 51:8 66:3 85:8 97:12,18 105:18 109:17 110:15 125:23 125:23 129:23 130:12 131:7 131:24 132:16 139:14 140:22 152:8 153:14
basis 34:22,24 64:17 97:8 110:15,24
Bate 25:4,8 26:2 57:14,23 59:18 60:16 63:5 81:19,21 84:3 99:15 102:12 102:23 104:10 111:13 112:14 112:14,16,18 112:20 114:13 123:10 126:2
Bates 16:10 68:8
Battery 2:9
Bear 26:5 69:9 69:23
began 4:6
behalf 107:19
believe 11:22 43:5 50:23 79:20,23 97:15 101:16 113:9 122:2 123:5,5 123:7,8 125:25 132:14 133:22 134:16 135:24 137:13,13,25 145:22 151:24
bending 110:13 110:16
beneficial 47:22
best 14:2,6 23:17 46:22 76:19 123:9 133:11 136:10 147:20 148:19 149:22
better 61:23 153:11
bigger 112:6
bill 68:21 79:20 83:19 84:23 85:8,9 99:25 100:2 102:2,4 104:13 105:14 105:18 109:25 113:25 139:19 141:9 143:2 146:10
billed 68:17 109:20,23 142:11,17 146:9,13 147:8 147:13 148:11
billing 10:5,7,8 10:16,19,20,21 10:24 11:3,4,6 11:8,11,17,19 11:22 13:25 14:3,4,7,8 15:11 77:24 80:6 81:24 100:24 117:3,5 117:7,11,13,13 120:19 121:20 122:3,8,10,14 122:19,20,22 123:3 139:7 142:21 143:12 143:14 144:14 144:20 145:3 147:18 157:13
bills 80:3 104:16 104:18 144:14
birth 64:21
blacked 36:23
blanket 146:2
blood 161:14
blow 113:4
blue 34:5
Board 136:25
board-certified 62:13
bodies 104:4
body 59:13 70:21 72:20 73:8,9
bone 62:16 71:16,18,19,23
book 149:21
born 65:3
bottom 16:13,20 16:21 28:10,11 28:14 82:5 126:10
bought 107:17
Bowhaz 79:2
break 59:23 60:4,6,10 61:14,22 66:21 114:4 127:12
brief 6:13
bring 119:24,25 139:2
Brooklyn 7:19 118:18
brought 35:10 95:5 134:7 138:21 140:18 140:21 147:22 148:21,23
Brynes 79:10
bulge 65:9
bulging 86:4
bunch 144:5
business 7:21 108:3

C

C 2:2 69:15,18 70:7,16 160:6 161:2,2
C5-C6 86:4,9
C5-C6/L5-S1 86:13
C6 70:21
call 12:18 155:17,18,19 157:20 158:8 158:10,14
called 11:10,11 35:25
calls 32:4 72:4 83:6 85:21 101:4 118:10 150:6
canal 64:16,20 64:21 65:2,10
candidate 109:17 130:11 131:20 132:15 154:12
capacity 154:15
care 5:22 37:25 50:2 82:12
career 136:14

141:2
carrier 105:2,15 105:23 134:8
case 4:13 6:17 6:21,25 7:4 23:24 31:11,12 31:14 44:18,22 46:18 47:19 48:7 49:15,19 50:9 51:23 75:10 77:24 78:3,6,17 79:17,18,19 88:16,17 89:20 92:5 95:5,15 95:23 98:15 119:14,20 127:2 133:18 135:11,17,19 136:2,4 138:11 138:17,24,25 139:20 140:8 140:10,13,18 146:12 147:7 148:24 151:12 151:15
Caseman 37:20 58:14,20 95:18 95:20 97:10,24 98:2,7,10,13 98:16,20 108:21 117:22 119:2 120:11 135:14,16 151:7 154:2
Caseman's 58:24 59:9,11 154:6
cases 39:10 47:4 47:22 48:15 50:17 53:15,20 87:4,8 89:6 98:2,7,9,12,17 133:4,14 146:8 147:12 148:10
Castillo 79:6
causally 88:12 88:22
caused 66:19
caution 157:3
cautionary 43:23
central 64:16,20 65:9
certain 13:3 56:14 145:8 149:19
certainly 7:17 75:8 141:15
certainty 81:17
certification 3:6
certify 161:8,13
cervical 22:4,12 37:18 70:12 71:12 109:10
chance 29:16 59:22
change 147:19 162:4,4
changed 95:12
changes 63:7,7 162:2
charge 104:25
chart 8:11,12,15 8:16,17,20 9:22,23 10:2,6 10:12,22 13:21 16:13,17 17:16 17:19 18:5,6,6 18:10,14,18 24:5,7,23,25 25:19 26:4 28:7 32:2 33:18 35:22,24 36:12 58:3,4 63:2 69:8 81:5 90:2,3 92:15 118:4,5,14 119:5 127:7
cheaper 115:5 115:16,20
check 101:17
choose 93:18
chronicity 40:11
circumstances 29:25 75:21
City 94:3,7 96:2 99:2
civil 1:5 41:11 46:6
claim 88:23 113:2 126:17 139:6 140:22
claimant 53:5 56:20,25
claimants 52:15 52:21 53:7 56:23 89:5,9
claiming 148:11
claims 47:16 88:22 140:19
clear 6:19 13:7
clearer 29:22 95:3
Clearly 93:19
client 126:19 157:22
clinical 40:22 76:11,18 77:12 131:23,25 132:16
close 93:20
codes 113:6
Colden 90:4,5,8 90:20,23 91:4 91:7,13
Colden's 90:25 92:3
Cole 92:8,10,11 92:17 93:5,6,9 93:12,22 94:2 94:4,7,9,17 95:4,12
Cole's 95:11 109:14,22,24 110:3
colleagues 107:17
combination 122:24
come 13:12 21:3 21:5 52:22 68:5 114:14 115:24
comes 42:7 82:2
coming 38:3 141:8
commenced 41:16
comment 31:20 33:22 42:11 145:22 152:14
Comments 34:7
committed 139:6
common 23:5 142:5
communication 119:4
communicatio... 12:11 119:12 119:19
Comp 44:25 45:21 46:4,11 47:16 88:6,11 88:23 137:3
companies 87:6 87:11
company 11:6,9 41:18,25 42:24 80:11 87:23 88:2,5 104:16 104:19 122:10 134:8,20
compare 15:19
Compensation 45:23 68:18 88:21 105:15 105:23 136:24
compile 14:13 14:22 15:14
compiled 14:12
complaint 43:4 43:9,17,20 44:10,13 48:13 48:23 49:13 50:8,11,12,16 51:16,21 52:3 52:14,17 87:18 88:10,21 89:4 94:11,17,19,19 94:20,21,23,24 95:12 96:17,20 97:3 134:12,14 134:21 136:4 136:12,19 137:8,10 150:13,19,22 155:3,8
complaints 40:11 68:12 98:21 109:17 112:10
complete 15:21 25:15 60:5 124:9,16,22 141:24
completed 16:6 26:14 69:19 101:2,3 120:22 123:24 124:11 125:10 142:2
completely 47:8 49:21,25
complicated 111:2
Complied 5:15
comply 14:13 23:18 123:9
compression 62:17
computer 25:21 120:4 122:17 144:11
concentrating 48:6
concern 77:13
concerned 49:18
concerning 18:23 19:14 45:22 119:8,20 138:21 141:14 142:13 147:18
conclude 155:25 156:5,10 157:5 158:11,13 159:7
concluded 139:23 140:4 159:11
concluding 156:8
conclusion 139:16 150:7
condition 57:9

63:11,13,16 66:4 77:12 109:19 110:6 128:25 130:14 153:6,11,18,23 153:24
conduct 15:14 116:20 119:7
conducted 4:16 157:13,17
confidential 16:21
confine 49:25
confirm 129:22
conjecture 157:15
connection 156:4
Connie 82:13,14 82:16
conservative 36:20 37:2,4,8 37:14,23,25 38:24 39:8,10 40:13,16 128:12
conservatively 136:16
consider 129:21 130:3
consideration 7:3 48:8
considerations 130:9
considering 129:19 131:24
consist 10:2
consistent 57:10 68:11 92:6
consists 10:3 29:7
constitution 64:23
constitutively 77:4
constraints 8:6
consult 127:7
consultation 98:15 153:25
consultations 98:18
contacted 113:5 113:10
contain 16:20
contained 112:13
containing 26:11
contains 31:4
contemporane... 19:5 85:14
content 43:24 63:8
Continue 128:12
CONTINUED 144:8
continuing 42:5
contrary 148:12
contusion 62:16
conversation 13:2,19
conversations 12:20 44:5
Cool 127:14
cooperating 97:2
copies 23:12 26:10
copy 3:11,14 25:15 26:3 35:15 49:4 111:19 116:6 116:11,17,17
cord 65:20
corner 16:14,21 16:22
corpectomies 73:18 74:19 75:22 76:9
corpectomy 70:20,22 71:5 71:15,17,23 72:11,20 73:13 73:15,20,23 74:13,16,22 75:12,18,20,23 76:2,16,24 77:6,21,25 139:7,20 141:3 141:10 142:12
correct 22:8,16 55:11 83:14 89:23 97:17 103:21 113:13 120:14 132:13 133:18 134:9 135:13,14 137:5,6 142:15 143:25 145:10
correlate 109:19
correlated 110:6
correspondence 7:23 113:2
cost 144:19 145:5
counsel 2:5 3:5 3:14 4:18,23 5:2,5 8:4 9:17 12:11,12,20,21 26:9 44:5,6,6 45:9 99:3 112:16 132:24 136:11,15 158:15,25
counselled 115:20
count 24:13
COUNTY 161:5
couple 129:14 132:21
course 59:13 72:25 76:11 110:21 117:12 122:11 141:6 143:24 145:6 157:18
court 1:2 3:11 5:11,12 49:3 139:23 140:8 140:13 149:6
cover 27:19 28:20 85:19
coverage 79:22
covered 79:24 113:11,16 146:10
crazy 129:25
create 144:17
created 131:11
creating 143:24
creation 20:8
current 59:3 128:24
currently 41:5,8 41:11 93:13,15 93:16,17 95:9
custom 40:15 100:20,23 115:11 124:8 124:15
customary 144:22

D

D 3:2 6:3,3 120:13,18,21 121:8,10,10,14 121:23 143:16 160:6,8
date 4:9 27:22 62:24 85:10 109:7 162:25
dates 18:2,11,15
day 19:8 36:17 97:7,8 159:18 161:18
days 3:13 18:18 110:22
deal 28:21 42:14 81:15 83:25 121:18
deals 11:13
decided 134:20
decision 109:13 110:2,4,4 140:9 152:23
declare 162:20
decline 45:24
declined 46:7,13
decompress 103:22
decompression 71:13 74:21 100:5
decrease 46:17
dedicated 136:8
deem 25:2
defect 64:21,22
defence 140:5
defendant 95:9 139:2
defendants 1:8 2:8 5:3,6 43:6 43:15 94:20 133:10 134:18 134:19 135:2 137:21 142:6 147:13 148:11 151:11,14
Defendants' 16:4,5 25:3,4,7 26:3,8,10,13 26:18 27:13,18 28:10,19 29:6 29:12 30:11,22 31:9 33:22 34:6 57:15,24 59:18 60:17 63:4 68:9 69:14,18 70:7 70:15 81:19,21 84:4 99:12,14 102:11,24 104:10 111:14 114:13 120:18 120:21 121:14 121:23 123:11 126:3 144:17 160:3
defense 23:6,12 132:25 138:25 139:24 140:17 141:20 142:6 148:23
defense's 139:6 139:15
definitive 130:6
definitively 131:19
degenerative 63:13
delay 21:23
demographic 81:22
demonstrate

63:22
denied 46:10
depend 75:7,8 80:25 90:16
depending 38:16 75:22 110:25
depends 38:19 72:7,15 73:9 75:4 77:11 124:22 130:25 144:15
deposition 1:9 1:12 3:7,8,11 4:11 6:15,16 6:18,20,21 7:5 9:10,13,16,21 10:13 12:8,19 13:14 16:3,6 26:14 41:23 44:4,15 45:22 46:11 53:13 69:19 84:2 112:18 120:22 155:25 157:24 159:7
depositions 13:10 44:25 45:24 46:4
depth 51:11
describe 131:5 142:25
described 70:24
DESCRIPTION 160:4
descriptions 66:17
desk 120:4
deteriorated 76:12
deteriorating 76:14
determination 6:22
determine 15:21 18:14 40:12,21 74:16 131:20
determined 85:18 144:21
determining 130:10 154:11
developmental 64:17
device 106:16,24 107:9,12,16,20 107:23
devices 106:3,5 106:20,24 108:3,6
diagnosis 129:22
diagnostic 15:23 67:23 76:23 93:11,18 129:18 130:23
diagnostics 72:9 109:12
dictate 20:18,21 21:2 35:12 77:12
dictated 22:11 22:20 62:18
dictation 19:6,8 19:10 36:18
different 24:7 52:23 80:24 112:17 133:14
differentiate 43:9
digitally 115:25
direct 14:17,21 42:8 52:14 122:13
directed 6:18,21 14:15 87:25 122:5
directive 6:16
directly 52:20 86:21 104:14 116:15
disagree 146:4
disc 35:6 63:9 65:8 71:20,21 119:25
discectomy 22:4 22:12 37:18 70:12 71:13 109:11
discectomy-ce... 22:22
disciplinary 41:6
disciplined 91:5
disclose 43:23 44:4
discloser 112:13
discs 64:9
discuss 75:15
discussed 117:3 126:14
discussion 145:2
discussions 43:24
DiSIERVI 2:10 4:25 6:2,7,14 7:8,9 12:15 13:23 16:2,8 18:7 19:2,3,24 20:7,14,16,23 23:10,19,25 24:3,24 25:24 25:25 26:16 27:5,9,12,17 27:24 28:2 29:19 30:8,9 30:18 31:7,12 31:23 32:11 33:19 42:10,22 42:23 44:2 45:6,7,19,20 46:20 47:10 48:11,21,25 49:5,9,11 50:3 50:5 51:4 52:10,12 53:10 53:14 54:23 55:2,3,22 56:2 56:13,18 59:24 60:9,13,14 61:13,17,20 62:3 66:21 67:3,7,15,17 67:20,21 69:13 69:21 71:14 72:10,18 73:2 73:11 74:9,10 75:6 76:22 77:15 83:11,22 84:5 85:24 88:15,19 89:2 92:7 93:3,15 93:25 94:11,15 94:21 95:2,17 95:19 96:15 99:7 101:14 105:13,20 106:14 108:10 108:11 112:12 112:22 113:21 114:3,11 118:15 119:15 119:18 120:13 120:16,24 121:8,10,13,21 121:25 122:6 122:19,25 124:14,23 125:8 126:20 126:24 127:11 127:15,22 129:3 132:4 135:5 137:11 137:22 140:14 141:21 144:5,9 145:17,19 146:6,20,23 147:5 148:16 149:4,15,17 150:11 154:25 155:9,13,16,20 156:3,10,15,18 156:25 157:8 157:11,21 158:6,10,13,18 158:20,20 160:10
dismiss 135:7 137:17,21 138:3
dismissal 149:10 149:19,20 150:2,4 151:18
dismissed 134:25 139:12 149:6,13,24 151:12
dismissing 139:22
distal 65:19
distribute 155:21 156:12
distribution 108:3,6
DISTRICT 1:2 1:2
divide 97:18
dividing 97:11
division 139:14
divulge 12:25
doctor 91:7 96:12 132:19 140:25 150:10
doctors 96:8 141:20 142:6
document 25:9 25:11,12,14 29:9 31:21 51:25 52:7 57:20 60:10,19 60:21 61:16 62:12 69:23 80:17,22,23 81:9,11,14 83:5 84:7,8 85:10 86:17 99:15,19,22,24 102:14 112:24 114:16,18,23 120:18 121:15 123:12,16 125:23,24 126:4,7 143:5 160:6 162:21
documents 8:9 8:21 9:20 12:8 13:13 16:12 83:24 122:3 142:24
dog 121:10
doing 59:15
dozens 141:5
Dr 1:13 2:12 4:11 5:9 7:16 7:18 16:4 21:6 25:9 26:12 27:13 28:3 29:10,23 30:10

33:21 34:16 37:20 41:23 44:3 45:9 46:15 47:11 50:6 57:17 58:14,20,24 59:9,11 60:2 60:18,18 62:4 62:8,10,14 63:6 64:4,5 65:19 66:3,14 67:3,17 68:11 69:22 81:20 90:4,5,8,20,23 90:25 91:4,7 91:13 92:3,8 92:10,17 93:5 94:9,17 95:4 95:12,18,20 96:11,16,19,22 96:25 97:9,10 97:21,24 98:2 98:7,10,13,16 98:20 99:16 102:12 108:21 109:14,21,22 109:24 110:3 111:15 112:23 114:12 117:22 119:2 120:11 120:17,25 121:14 122:3,7 123:11 126:5 127:23 129:12 132:20 135:14 135:16 140:23 141:8 142:11 145:18,23 147:6,7,17,21 151:7 154:2,6 159:4,7,14 160:5 162:3,25
draw 70:14
driver 4:3 125:25
duly 6:4 161:10

E

E 2:2,2 3:2,2 6:3 6:3 160:2,8 161:2,2
e-mail 26:9 30:3 119:12
e-mails 119:8
earlier 60:3 83:12 86:24 89:22 117:3,22 126:14 141:12 146:7,10 147:16 149:5 150:12 151:20 152:22 154:7
EASTERN 1:2
ECF 49:6
edema 62:16 63:21,22
effect 3:10,12
effective 76:21
eight-minute 114:7
either 44:16 45:11 61:24 107:17 135:22 138:22 143:14
electrodiagnos... 91:9,11,14,19 92:5
electronic 116:4 116:10,13,17 116:18 117:2
EMG 86:13 91:11
EMGs 22:5 35:4 89:23,25
employed 34:14
employees 122:7 122:9,11,12 144:10 145:6,9
English 17:6,9 124:7
enlarge 28:5 99:18 121:3
enlarged 27:25
ensure 125:9
ENTER 162:2
entire 12:18 29:13 30:11,16 30:22 32:2 36:24 44:4 49:17 52:2 53:12 59:13 155:8
entirely 47:8 49:21,25
equal 131:11
equipment 144:11
ERRATA 162:2
error 157:2
errors 152:19
ESQ 2:5,10,10 2:14,14
established 53:11
etcetera 19:21
everybody 5:22
evidence 35:3 62:16 63:18 64:13 65:9,15 65:24 66:4 148:23
evident 71:8
exact 136:9 141:4
exactly 15:17 145:24
exaggerate 56:23
exaggerating 56:20 57:5,11
exam 128:7
examination 6:6 21:12,14 58:19 61:4,5 76:16 76:18 77:6 85:14,16 127:24 128:3 129:10 132:22 144:8 159:11 160:9 161:9,11
examined 6:5
examining 19:4 76:24
example 130:25
Excel 112:13,15 112:17
exception 130:24 145:15
excess 132:9
excuse 41:21
exhibit 16:4,5 25:3,5,8 26:3,8 26:10,13,18 27:8,13,18 28:10,19 29:7 29:13 30:11,22 31:9 33:22 34:6 57:15,24 59:18 60:17 63:5 68:9 69:15,18 70:7 70:16 81:19,21 84:4 99:13,14 102:12,24 104:11 111:14 114:13 120:13 120:18,21 121:6,14,23 123:11 126:3 142:24,24 143:16 160:4,4
exhibits 155:21 156:12 160:3
exist 20:10
expect 72:2,12
experience 141:18
experts 141:20 142:6
explain 130:22
explanation 101:9
extent 38:20 145:8

F

F 3:2 161:2
F-O-R-D-E 4:22
facilities 93:11 93:12,22,24
facility 93:18
fact 37:17 47:24 48:18 100:25 126:21 133:8 155:14
factor 152:2 154:11,16,19
factors 38:19 57:11 72:9 151:21,25 152:23
facts 162:21
failed 40:13 139:24
fair 48:24 141:13,15
faked 68:5
false 91:14
familiar 68:24 78:14 90:18
family 11:16 87:22 108:5
far 30:13 109:9 131:13 133:6,6 133:9 134:3 135:17 138:13 138:16 149:12 151:9
faster 69:25
fault 45:18
fax 26:10,11 27:19 28:17,20 29:2,7 31:4 32:9 160:5
faxes 28:22
February 18:20 25:17 27:23 29:13 30:12,14 30:23 31:5,8 31:17,22 32:2 32:15 33:2,8 34:11 127:10 127:25 128:6,9 128:15,18,21
federal 56:15
fee 100:9,14 144:17
fees 107:23 144:16,24
Fidelis 113:5,11 113:11,16,25 115:6,17,22
figure 54:15 156:19
file 27:14,21

29:13 30:11,16 30:23 57:18 61:4 83:13,16 111:20 116:4 116:11,12,14 116:16 117:2 123:8
filed 49:3,9 69:16
files 24:16 116:25 156:21
filing 3:6
filled 84:14
film 35:6,14 75:23 120:3,5
films 15:24,25 22:5 35:9,12 71:9 119:23,24 120:2,7,10 152:14,17
financial 108:9
find 62:14 63:6 65:19 158:2
finding 20:9,10 62:19 63:21,24 64:2,11 65:5 65:22 66:10,13 66:18
findings 20:18 20:20 21:2 35:2 65:13 68:11 91:20 92:6 109:18 129:23 130:13 131:23,25 132:8 133:4,9 134:2
fine 56:14 59:25
finish 61:21 155:24
firms 23:6,12
first 6:4 8:23 13:10 28:19 34:16 36:11 43:3,5 57:17 62:5,22 65:18 85:16 94:19,21 110:21 129:21 133:3 134:11 134:18,20 136:3 138:4 157:22
five 11:21 55:23 66:22,23 67:4 98:5
five-minute 127:12
flashing 27:2 29:17
Floor 2:9,13
fluid 63:8,14
focus 102:20
focusing 48:6
Fodeman 2:14 4:25 5:7,7 8:4 12:9 13:18 18:4,25 19:16 20:6,11,22 23:7,14,23 24:2,20 25:20 26:23 27:6,11 27:15 29:15 30:17,24 31:11 31:15 32:4 33:15 41:20 42:21 43:22 45:3,17 46:19 47:5,20 48:16 48:24 49:2,7 49:10 50:20 51:24 52:9 53:9 54:20,25 55:21,25 56:10 56:17 59:19 60:12 61:16,18 61:23 66:23,25 67:6 69:11 71:10 72:4,14 72:22 73:5 74:3,6,24 76:17 77:8 83:6 85:21 88:13,24 91:23 92:21 93:13,16 94:10,18 95:15 99:5 101:4 105:9,16 106:11 108:8 113:18 118:10 119:13 121:6,9 121:11,17 122:18 124:10 124:18 125:6 126:18 127:14 129:5 132:20 132:23 135:9 137:15,23 140:16 141:22 144:3 145:12 145:14 146:15 146:18 148:14 148:25 149:11 150:6 154:23 155:5,11 156:2 156:14,17,22 157:6,18,25 158:7,19 159:3 159:3 160:11
folks 140:18 144:14
follow 100:24 129:13
follow-up 144:6
followed 128:17
following 4:6 45:10
follows 6:5 101:13
followup 128:5
force 3:12
Forde 2:5 4:20 4:22 6:11,15 9:11 119:8 129:4,8,11,13 132:12,18 157:10 158:9 158:24,25 160:10
foregoing 162:21
forgot 157:22
form 3:17 7:7 18:25 19:16 20:6,11,22 23:7,14 24:20 25:20 29:15 33:15 39:8,10 45:3 46:19 47:5,20 49:23 49:24 50:20 51:24 54:20 55:21,25 73:6 74:3,6 76:17 77:9 84:11,16 88:24 91:23 92:22 99:5 105:16 106:11 113:18 121:17 124:10,18 135:5 140:5,11 145:14,19 148:15,25 149:11
formal 49:19
formed 89:23
forming 61:8 124:25
forth 161:10
forward 6:18 42:9,15 100:22
found 64:4 118:8
four 102:13 113:6 121:2
four-page 102:14 120:18 160:6
fracture 62:17
fraud 139:7,24 140:22
fraudulent 91:20
fraudulently 77:24 91:14
Friedman 2:8 5:2,5 158:21
front 8:9,21 16:12,18 24:5 27:2 29:17 42:18 48:17 50:12 52:2,18 81:9 94:13 101:21 116:16 146:19 151:4
fronted 42:3
full 6:8 7:10 101:3
fully 125:10
function 35:17 36:3
fund 85:8
funding 80:10 80:12,14 84:17 84:21 85:2,3,4 85:5 86:18 87:5,11,15,20 87:23 88:2,5
further 3:16 7:3 109:19 129:3 144:3 155:9 161:13
fusion 70:13 71:13
future 128:7,8

G

Gary 2:3 4:24 9:14 33:7 54:8 54:11,13 55:17 126:13 127:3 158:25
gather 113:22
general 40:15 63:19 73:16 74:18 76:6,10 77:11 112:11 116:22 143:24
generally 104:24 143:11 144:24
generate 144:12
generated 25:13 25:15 121:19 122:17 144:13 144:15
generating 143:17
German 78:13 148:4,7
getting 42:9 138:24 142:4
Gil 2:17 4:14
give 5:17 46:22 101:8 140:7 150:10
given 7:25 9:4

21:4 29:16 161:11
gives 77:2
Glenn 2:10 5:4 158:14
go 6:18 11:2 12:12 23:8 39:25 42:9,15 45:4 54:21 61:11 69:7,25 71:11 75:2 80:15 87:7 101:6 102:14 107:13 108:19 109:3 113:19 120:25 121:3 123:2 124:19 127:13 129:6 130:9 131:14 146:20 150:8 152:23 154:22 155:6,7 158:19
goes 100:22 157:12
going 6:24 8:12 12:25 16:3 25:2,3 26:8 27:15 29:3,4 38:21 41:25 42:15,16,19 45:11 50:3 52:25 53:12 56:11 57:15 59:21 61:20,25 67:2,9,10 68:8 69:9,24 78:4 81:18 83:22 99:16 101:10 102:13,14 108:20 110:8 112:18 114:5,6 120:25 123:12 125:4 127:7,16 129:13,25 130:7 132:9 144:6,18 146:24 155:20 155:21 156:4 156:12 157:9 157:11 158:16
gold 130:6
gonna 9:4,5
good 4:8 5:22,23 45:17 57:22 61:19 66:25 129:12
Goodrich 2:12 5:8
Gorayeb 43:4,6 43:9,19 44:10 48:23 49:13 50:16 52:14 54:2,5 87:18 88:10,20 89:3 94:11,17 95:5 96:17,20 97:3 133:17 134:11 135:20 136:19 151:12,15 155:3
Gorayeb-Tra... 51:20
Gorelick 2:8 5:2 5:5 158:21
gotten 29:9 153:13,23
governmental 41:9
gradual 110:24
gradually 110:14
great 27:11 31:15 142:3
guess 10:19,19 42:11 80:19,25 116:7 156:18 156:18 157:12
guys 46:25 66:22 117:15 127:11 155:13 156:3 157:4

H

H 160:2
H-A-R-S-A-N... 79:2
half 94:19 135:2
hand 5:14,22 161:18
hand-filled 84:12
handles 143:11
handwriting 82:21 86:14,19 124:2,4
happened 19:19 31:19 139:10
happy 30:2 156:22
harassment 140:11
harmed 140:5
Harsanyi 79:2
head 11:12 105:5,25 136:8
heal 108:13
hear 36:24 74:4
heard 9:6 80:12
hearings 41:6 148:23
height 62:14
help 99:18
helps 106:4
hereinbefore 161:10
hereunto 161:17
herniation 65:9 108:13
Hi 132:20
hidden 130:2
high-interest 87:19
highlight 34:2
highlighted 34:5 70:15 86:10
Hill 93:22
hire 142:6
history 40:10 112:5 128:6
hold 4:7,7 15:25 33:20 77:8 146:21,21
home 93:20 128:13
honest 49:3
honestly 9:5
hospital 79:24 106:10 113:13 113:20
host 93:24
hour 59:21
hours 154:18
housekeeping 45:8
hydrated 64:10
hydration 63:23 63:25 64:4

I

ideal 29:25
identification 4:4
identified 16:5 26:13 69:18 120:21
identity 4:18
image 131:8
images 70:25 71:4,12 72:3 72:17 131:4
imagine 101:11
imaging 72:7,13 72:16,23 73:10 73:12,14,16,17 73:19,22 74:2 74:11,12,15,19 74:20,22 75:3 75:11,14 76:4 76:6
impact 47:3,19 47:21 49:23 131:15
implant 106:16
important 38:7 40:6,8,12 91:21
impossible 32:9
impression 40:22
impression/plan 19:21
improved 76:11
in-house 144:15
inaudible 67:6 78:20 114:20
include 10:13,16 27:3 52:24
included 22:16 29:2 109:10
including 14:20 34:25 37:17 43:15 93:22 123:8 128:13
inclusion 95:11
inclusive 22:12
incomplete 125:5
increase 46:17 48:14 49:14 50:9 51:22 89:6 102:15 110:14
increased 50:16
increasing 89:19
independent 12:5 17:13 18:9 21:18 31:16,18 32:8 32:17,19,24 33:6,11,13 35:11 50:10 53:17,24 55:8 57:8 78:23 79:4,7,11 82:18 87:12 101:19
indicate 25:6 27:24 36:12 39:20,23 59:12 69:14 99:13 112:19
indicated 77:2
indicates 21:25 31:21 59:14 62:12
indicating 92:25
indication 59:2 62:21 129:22 129:24
indications 54:12 129:21
indirectly 52:21
indiscernible 81:22
influenced 38:9

information 19:13,25 20:4 73:23 124:13 126:9,23 150:10
informed 113:6
initial 4:22 7:13 21:12,13 38:14 40:20 61:4,5 84:11
injections 39:7,9 39:13,23 40:4 41:2
injuries 56:20 56:23 57:5 141:14,16
injury 38:25 46:18 47:3,19 48:15 50:9,17 59:5 66:14 99:3 111:11 127:2
inquired 86:21
inquiries 145:25
instance 147:7
instructed 13:6
instruction 45:12,14
instructions 29:21
instruments 106:7,9
insurance 41:18 41:24 42:24 79:22,23,25 80:4,7 85:19 100:12 104:12 104:16,19,22 134:8,8,19
intake 10:18 123:19,19,20 123:21,24 125:25
intend 137:21 139:15
intensity 62:15
intention 41:23 137:16
Interactive 1:7 4:12
interest 11:14,17 87:15,23 108:2 108:5,9
interested 161:15
interfere 130:16
interject 12:9 41:21
interpretation 62:5 63:4 72:25 75:4,4 76:5 130:20 131:8
interpreter 75:7 75:9 86:25
interpreting 72:9,17
interrupt 77:9
intervertebral 63:9
investigation 41:9
invoice 145:5
invoices 13:25 79:15 88:10 144:12,13
involve 133:21
involved 71:17 78:16 89:4,8 111:4,7 141:14 141:16 143:17 145:4,10
involves 133:21
involving 59:13
Island 11:11,17 11:19 14:8 15:11
issue 42:20 48:10 77:14 146:2
issues 38:10 152:3,12 157:20

J

Jacobson 2:8,10 5:2,4,4,5 155:12,15,18 158:3,8,21
Jaguar 4:16
James 2:5 4:21 9:11 42:12,16 129:13 155:12 155:15 157:11 158:10,14,25
January 22:13 22:23
jforde@omra... 2:6
Ji 4:12
JIN 1:3
judge 3:10 7:3,4 42:3 138:2 140:8
June 18:19 21:12 23:2 34:17 36:14,22 37:5,13,22 39:4,11,17,24 40:5 41:2 57:5 58:7,11 60:24 61:5,9 68:12 85:11,18 108:17 109:2,8 109:12 111:23 114:16,17,24 124:25 125:18 126:17,25

K

keep 48:22 61:25 81:3
kept 81:11 115:25,25 117:17 119:5
Kim 140:23 141:8 142:11 147:7,17,21
Kim's 145:18,23
kind 36:2 48:9 57:20 66:14 85:5 100:4 101:10 125:21 141:24
knew 56:11
know 8:17 9:3 10:10 11:11 12:25 13:3,5 15:9,10,12 16:11 17:5,8 17:10 18:11 23:9 24:12 28:4 29:25 30:13 32:13,16 32:18 33:3,5 34:4 36:9,9 38:2 41:21 42:11 44:9,12 47:24 48:18,20 49:2 51:6 55:9 55:10,12,15,18 55:24 56:5,7,9 56:22 57:4,12 58:6,8,9,12,14 60:4 62:8,10 62:24 67:4 70:2,25 75:10 75:14 76:3 77:22,23 78:2 78:3,5,6,8,11 78:12,15,16,20 78:21,25 79:5 79:9,13,16,21 80:8,10,13,15 81:15 82:14,16 82:19,21 83:9 84:15 85:23,25 86:2,25 87:9 87:21 88:25 89:7,25 90:11 90:11,25 91:4 91:6,7,13,16 91:22,24 92:2 92:24 94:16,22 95:4,8,10,20 95:24 96:8,21 96:22,24,25 97:4,16 98:4,6 98:11 99:19 101:7,18 102:2 102:4,16 104:15 105:10 105:21,25 107:3,14,18 108:24 109:9 110:21 111:4,7 111:10,12,24 112:3,5 114:19 114:23,25 115:7,8,18 116:8 117:21 118:12,13,18 119:2,3,11 120:2,3,4,6,7,9 120:10 121:4 121:22,24 122:21 123:25 124:5 125:21 127:4 128:14 128:16,17,19 128:20,23,24 133:7,9 134:4 134:13,15,17 134:18 135:3 135:10,10 136:7,9,12,18 136:22 137:8 137:16,18,24 138:2,4,5,13 138:16 139:11 141:2 143:13 143:19 144:20 145:6,13,21,25 147:15,21 148:3 149:12 149:20,21,23 150:3,18,25 151:5,9,11,13 151:14,16,17 151:19 152:11 155:4 156:24 157:13,14,15
knowledge 8:14 14:6 18:21,23 36:15 50:14,14 54:16 88:7 104:20 133:11 136:20 137:2 147:20 148:19 153:13
known 10:17
knows 129:8
Kuntz 7:3

L

L 2:5 3:2,2 4:22 6:3
L3-L4 63:9 64:5 64:6
L5 103:9,13,14 103:19,22,22 103:25 104:6
L5-S1 35:7 66:5 66:14,19 86:5 103:10
laminectomy 78:19 100:7 102:7 103:2,5 103:11,19,20 104:5,17 105:2 105:7,15,22
landlord 97:12
larger 34:3
Laura 1:15 5:11 67:15 74:9 161:7,21
Law 2:3 4:23
lawsuit 46:7 133:24 134:3
lawsuits 41:12 41:16 111:11
lawyer 48:5
lawyers 67:5 133:21
layman's 64:25
LCC 4:13
learn 8:23 13:12 68:5 150:16
leave 46:24 156:7
left 49:17
left-hand 16:21
legal 4:14 46:24 48:6 49:23 150:6
lend 73:22
lengthy 42:19
Lenox 93:22
let's 12:16 18:8 66:21 114:3,3 119:15 127:11 146:20,20 156:10 157:25 158:11,13
letter 117:16,19 118:2,3,8 144:16 160:4
letterhead 143:21
letters 23:12
letting 18:5
level 35:17 36:3 54:15 62:17 64:3 65:8 104:2,6,7
levels 103:7,11 104:2,4
liar 145:18
license 4:3 91:2
life 130:16
lifting 110:13,17
Lilo 78:22
limited 48:3
Line 162:4
list 22:2 37:24 38:7,14,16 39:3
listed 38:11 39:18 96:2
listen 155:13 157:21
litigate 47:25
litigation 23:5 47:14 80:10,12 80:14 84:21 85:3,4 87:15 87:19,23 88:2 88:5 141:14,17 142:5
little 21:22 59:21 112:16
live 93:19 94:3,5 94:7
LLC 1:7
LLP 2:8
loans 87:15,20
located 11:19 157:17
location 4:17
lodging 107:12 107:23
Logistic 4:13
LOGISTICS 1:7
long 14:11 108:23 110:16 113:7,12
long-winded 50:24 101:9,10
longer 99:9
look 16:13 18:5 18:6,6,14 21:25 26:17 33:21 58:13 62:5 63:2,3 64:15 65:7,17 69:22 72:8 73:18,20 74:16 75:13 80:16,17 80:20,22 81:14 84:6 87:7 100:18 105:3 105:11 107:13 109:3 121:2 145:24 148:17 149:25 157:23
looked 22:4,5,8 22:21 35:5 78:9 125:24 152:17
looking 16:16,19 18:10 25:21 26:5 27:20,21 28:6 33:18 36:12 72:16 73:10,16 74:18 74:20 77:13 102:5 116:18 118:6 120:5 131:5,7,9 143:4 152:14
looks 27:23 86:13 112:25 121:19 128:4
lose 156:4
loss 63:8,14,23 63:25 64:3
lost 22:9
low 59:5
lower 34:25
luck 5:22
Luhring 2:14 5:8 12:11
lumbar 35:3 58:20,23 59:3 59:9 60:24 62:15 64:9 65:8 100:5,7 102:6 154:8
lumbosacral 35:5
lunch 107:17

M

M 6:3
M-E-R-O-L-A 7:12
machine 131:15
Madison 2:4
magistrate 6:17 6:17,21
magnet 131:2,3
main 4:21 7:23 11:22 97:13 129:21
maintain 15:23 19:15 31:9 121:16
maintained 15:20 123:4
maintains 83:13
manage 81:12
management 37:19 38:3 98:14,15 153:16,17,20
manager 11:13 14:20 15:17 81:12 117:12 123:2 143:14 145:3
Manhattan 96:3 118:19,20,21
manner 124:12
manufacturer 107:16
manufacturers 106:24 107:9 107:12,21,24
MARICOPA 161:5
mark 16:3 26:8 113:3
marked 16:6 25:3 26:14 60:16 69:19 120:17,22 156:13
marriage 161:15
marrow 62:16
mass 73:3
matter 4:11 42:4 48:18 56:16 83:17 119:9 135:12 161:16
McGill 68:25 69:3,6,16,16 70:9,23 71:2 77:24 78:3,6 78:10 120:20 138:7,24 140:18 147:7 147:25 149:6
McGill's 75:10 138:11
meals 107:11
mean 13:20 14:18 20:9 22:18 23:16 24:6,7,12,15 24:22 25:21 27:6 28:6,21 28:22 29:16 36:8 44:6 47:23 48:2,5 51:8 64:20 80:19 82:9,23 86:8 89:12 90:21 92:2 97:8 101:2,8 108:8 113:11 113:15 115:7 116:6 117:21 121:19 122:21 123:6 126:19 135:19 136:15 141:18 145:12 146:9 149:2 150:9 156:23
meaning 79:18

79:18 81:4
means 37:10 67:4 118:9 153:22,24
meant 130:22
medical 10:4,14 10:15 13:21 19:22 20:2 21:14 22:2,2,7 22:10,11,19,21 23:2,13,17,21 25:16 31:4,10 32:2,14,25 33:4,8,11,13 33:18 37:17 38:2,7 46:16 48:4 50:2 58:2 58:4,6,9 68:2 68:15,18 91:2 95:6 108:3,6 116:18 119:5 128:15,20,24 147:9,14,18
medication 38:6 38:23
medications 38:9 39:4,17 59:12 108:13 108:16
medium 116:14
meeting 156:7,8 156:9
Melinda 34:9,12 34:14
member 11:16 87:22 108:5
memorialized 18:24
memorized 151:4
mentioned 114:15 130:18 141:12
mere 100:25
merits 149:10
Merola 1:13 2:12 4:11 5:9 6:10 7:12,16 7:18 16:4 25:9 27:13 28:3 29:10,23 30:10 33:21 34:16 41:23 44:3 45:9 46:15 47:11 50:6 57:17 60:2,18 62:4 67:3,17 69:22 81:20 99:16 102:12 111:15 112:21 112:23 114:12 120:17,25 121:14 122:7 123:11 126:5 127:23 129:12 132:20 147:6 159:4,8,14 160:5 162:3,25
Merola' 26:12
Merola's 109:21 122:3
method 86:22
middle 4:22 7:13 34:6 84:16
mild 63:8,13
million 56:8
Milton 77:17 146:12 147:24
minimize 99:18
minutes 61:14 61:21 66:22 67:4 114:15
Mischaracteri... 146:16
missing 28:8
mix 147:22
modification 128:13
Moe 2:14 5:7 8:4 27:9 29:19 53:10 60:9 61:13 156:11 157:12 159:3
moment 36:24
Monday 78:7
money 87:5 107:8
month 9:7 97:7 97:21
monthly 97:8
morning 4:8 139:13
motion 94:23 138:3
motor 111:5,8 126:22
move 51:19 52:10,10,11,11 137:17,21
moved 11:20,22
MRI 22:5 35:5,8 35:12,14,15 60:22,23,23 61:3,7 75:23 75:25 76:6 92:11,25 93:11 93:23,24 109:5 109:14,18,21 109:24 110:3,5 129:15,21,24 130:5,5,24,25 131:4,10,14,16 131:19,22 132:3,7,10,14 152:4,8,12,20
MRI's 151:21
MRIs 75:24 76:3 92:14 129:17 130:19
multilevel 100:6 102:6 103:2,4 104:17 105:2,7 105:15,22
multiple 38:19 43:6,14 72:8 74:12
musculoskeletal 59:14
Museum 69:16

N

N 2:2 3:2 6:3 160:8
name 4:14 6:8 7:11 11:8,12 34:9 68:25 77:16 78:12,14 78:21,24 79:2 79:4,5,8,9,12 80:24 90:7,10 90:18 129:12 134:20 138:7 148:3 158:17
named 43:7 113:3 135:2,16 135:21,24
narrative 82:5 82:10,10,23 83:2,3,17,20
narrowed 64:16
narrowing 64:21 65:2,10
natural 59:22
nature 139:5
necessarily 20:19 40:7 77:7 85:4 102:22 125:12 152:6,10 154:13,17,20
necessary 30:5 46:23 73:23
neck 59:16
need 8:2,15,15 30:4 34:3 60:3 70:5 102:15,15 112:6 121:3 123:13 132:2 155:15,24,25
needed 61:8
neither 46:12
nerve 103:14,17
nerves 106:20
network 89:4,8 89:13
neuroforaminal 65:10
never 148:19
new 1:2 2:5,5,9 2:9,13,13 4:3 7:19 93:20,21 94:3,5,7,19 96:2 99:2 132:10
NFI 1:7 4:12
night 112:14
no-fault 47:16 68:21 88:6,11 88:22,23 104:25 105:3,6 105:12 126:9 126:17,23
non-party 1:12
nonparticipati... 80:5 113:24,25
nonparty 2:12 6:3
nonresponsive 51:3
nonspecific 59:11 116:9
nonsteroidal 108:22
normal 62:14,19 64:11 65:13,20 65:22 110:24
normally 64:9
Notary 5:13,16 5:21 6:4 159:20 161:7
notation 58:22 84:25
notations 59:6,8
note 19:11 21:17 21:21,25 22:25 34:19 35:25 36:12,17 39:19 42:5 83:22 86:4 98:20 112:11 113:15 113:23 127:13 132:4 137:11 137:22 140:14 141:21
noted 7:8 66:18 109:18 152:5
notes 18:24 19:5 19:15,19 20:2 20:8,17 82:6 84:17 108:18 113:17
notice 9:4 82:4 84:16 86:3 125:13 126:10
notified 99:8

number 4:13 14:19 24:7 28:16,17,18 52:22 57:15,24 59:18 60:16 63:5 68:9 73:17 81:19 84:4 93:21 102:12,23 104:10 111:14 113:2 114:13 121:7 123:11 126:3 134:22 134:23 135:8 136:9 138:6 141:4 142:20 144:23
numbers 16:15 28:14,23 29:2
numerous 152:23
NYSCEF 120:19

O

O 3:2 6:3
oath 3:9
object 6:19 42:7 50:3 53:13 56:11 73:4 74:3
objecting 7:5,6
objection 18:25 19:16 20:6,11 20:22 23:7,14 24:20 25:20 27:10 29:15 30:17,24 32:4 33:15 42:5,17 42:19 45:3,10 45:13 46:19 47:5,20 50:20 51:24 53:9,12 54:20 55:21,25 69:12 71:10 72:4,14,22 73:5 74:24 76:17 77:9 83:6 85:21 88:13,24 91:23 92:21 99:5 101:4 105:9,16 106:11 113:18 113:19 118:10 121:17 124:10 124:18 132:4 135:5 137:11 137:22 140:14 141:21 145:14 145:19 146:15 148:14,25 149:11
objections 3:17 29:20 56:15
objects 45:9
obtain 14:8 35:8 124:12 132:10
obtained 116:13
obviously 26:24 27:2 37:8
occasion 153:5
occult 130:2
occur 32:20,22
occurred 109:8
offer 146:3
offhand 134:23
office 7:24 11:13 11:22 14:15,18 14:20,20 15:10 15:13,17,20,23 16:16 19:20 23:21 24:8 25:13,15,16 26:12 28:17,20 28:25 30:15 31:4,5,9,25 34:12 81:12 82:3,17 83:12 84:13 95:20,24 96:3,4 97:7,15 101:12 113:17 117:10,12 118:16,21,25 121:16,20 122:3,8,11 123:2,4 143:12 143:14,22 144:11,25 145:3,7 158:24
office's 100:20 100:23
offices 2:3 4:22 4:23 95:22
Oh 6:14 36:25
okay 5:21 7:25 8:18 10:9 12:22 13:12,16 16:2,19,24 17:16 18:8 24:2,17,25 30:6,8 36:4 37:22 39:3,7 39:15 42:22 43:12 44:7 45:15 48:21 49:7 50:25 56:17 57:25 58:16,19 59:17 60:7 62:8,10 63:3,15 67:20 70:3 74:9 78:25 80:13,22 82:4 85:10 86:3,14 87:4 89:18 92:16 95:3,8,23 96:14 99:20 102:17 103:7 104:20 107:5 108:16 113:8 113:14,22 114:12,21 125:7 127:14 130:4 133:8 135:10,16,25 141:8 147:24 148:4,7 149:5 149:15,23 150:12 152:16 152:22 154:23 155:18 156:2 156:10 157:4 157:21,25 158:8,11,12,15 159:5,6
Omrani 4:23
once 9:8 24:15 32:16 33:16 46:12 49:16,19 52:17 54:5 55:7 56:4 72:15,23 73:21 75:3 76:4 77:10 79:3 90:10 94:13 97:21 101:17 104:13 124:21 150:2,5 156:5
open 21:22 24:15 60:5
operated 137:3
operative 22:3 69:15 106:4 110:8 160:6
opinion 61:8 146:5 151:8
opinions 115:12 124:25 145:23
opportunity 35:13 75:15 115:14 138:3
opposite 54:14
order 40:21 49:23 51:12 52:3 77:5 104:4 109:5 129:5 158:16 159:2
ordering 158:22 158:22 159:4
ordinarily 83:19
original 3:7,13 134:14 136:4 136:19
originally 11:21 135:2
orthopedic 112:11
Orthopedics 111:18 112:9
Oswestry 36:2
outcome 47:23 76:19 161:16
outpatient 113:7 113:8,12 144:14
outsourced 10:8 11:3,4,6 117:14 122:11 122:22
outsourcing 145:16
overall 48:2 76:19 110:15
overlooked 157:14
ownership 11:14 11:17 87:23
owns 97:19

P

P 2:2,2 3:2
P-A-U-C-A-Y 78:13
P.C 2:3
p.m 1:11 159:10
page 26:19 27:17,18 28:10 28:19 33:22 34:6 70:15 102:19 142:25 160:4,9 162:4
pages 24:4,10,13 24:14,19 26:11 26:25 27:3 29:4,8,17 99:17 102:13 121:2 136:4,7 156:20
paid 79:17 80:8 80:13,20 81:5 82:5,20,24 83:2,3,8 87:19 88:6 100:11,17 101:3,11,12,16 104:11
pain 37:19 38:3 38:5,23 59:2,3 59:6,12 98:14 98:15 112:10 153:15,17,20
paper 16:18 116:2,6,11,11 116:17,21,25 116:25

paperless 116:23
papers 116:23
paragraph 64:9 65:18
pardon 21:23 133:6
parenthesis 83:2
Park 2:3,9 4:24 9:14 33:7 54:8 54:11,13 55:17 119:8,12,20 120:8 126:13 127:3 158:25
Park's 82:17
part 11:23 35:24 40:20 41:22 64:23 82:25 86:16 106:22 125:3
partial 70:20 139:7,19 141:3 141:10 142:11
participants 4:17
participate 104:21
participating 104:19
particular 15:13 94:24 95:23 100:14 102:19 130:14 131:6 134:3
particularly 28:7 30:22
parties 1:14 3:5 150:22 151:2,3 161:14
party 41:11 94:9 94:17 95:5 96:16,19 129:6 151:7,9
patient 10:4,22 13:22 19:7,9 19:21 31:20 34:24 35:11 40:9,16,21,23 46:24 47:22 48:4 50:2,2 68:24 76:14,18 77:4,5,16,19 78:12,17,21,25 79:5,9,20,21 82:2,12 84:12 84:21,23 85:2 85:7 86:22 87:25 90:16,22 90:23,24 92:25 99:10,25 104:13 109:16 110:12 123:20 124:9,16,17,20 125:11 129:18 130:4,6,10 131:2,20 135:13 138:7 144:22 147:24
patient's 38:18 47:25 64:23 76:11,21 80:5 80:6 81:5 92:6 106:16 128:5 129:23 130:12 131:23
patients 46:23 47:11,13,15 49:14 50:9 53:22 54:3,4,6 54:8,10,12,17 55:4,13,16 68:5 87:5 89:11,14,16,18 90:12,14,20 91:9 93:4,6,8 93:17,19 94:2 94:4,5,6 110:20 115:11 115:13 118:19 136:13,17,18 136:22,23 137:2,9 138:20 141:13,16,19 142:8,14
Paucay 78:13 148:4,8
paying 85:2
payment 80:16 80:21 81:2 83:8 85:8 86:22 87:10 88:4 100:21 101:13
payments 80:23 83:24
PC 2:12 5:8
PDF 24:16
penalties 162:20
pending 46:6 111:11 132:25 141:17
people 135:8
percent 70:21 72:11,20 73:3 73:7 74:23 76:7 77:2,6
percutaneous 22:4,12,22 37:18 109:11
Peretz 2:17 4:14
perfect 60:12,13 76:7
perform 49:14 51:22 64:6 67:23 68:2,19 68:22 69:5 70:11,22 77:21 78:18 79:15 91:19 102:6 103:4,7 106:15 106:19 109:13 122:13 139:8 139:20 141:10 142:12 146:9 146:14 147:9 147:14,19 148:12
performed 21:6 48:14 50:8 60:24 68:14 70:9 72:12 74:17 89:25 102:21,25 103:19,20 104:6 110:7 113:15 115:21 136:23 141:3
performing 125:22
perjury 162:20
persistent 40:24
person 97:19 131:4,7
personal 8:2,14 9:17 12:21 44:6 46:18 47:3,19 48:15 50:9,13,14,17 99:3 111:11 127:2
personally 90:11
persons 134:22
pertinent 38:8 46:8
Pesiri 93:23
phonetic 77:17
physical 35:2 59:15 108:14 108:25 109:18 128:7 129:23 130:13 132:8
physician 23:11 37:19 38:4 58:16 89:10 95:14 98:14 114:2 149:21 153:16,18,20
physicians 89:11 89:15,17,19
picture 48:2
piece 16:18
place 6:13 59:22 110:10 145:22
placed 116:12 116:14
plaintiff 1:4 2:4 4:21 6:19 153:4
plaintiffs 47:12 51:22
plaintiffs' 99:2
plan 79:23 80:6 115:6,17,22
Plaza 2:9
please 4:18 5:12 5:13 6:8 7:10 13:2 25:6 28:4 28:24 29:25 34:3 35:22 38:22 69:13 74:8 99:13,19 102:16 112:19 121:4 155:22 155:23,24 158:16
point 6:23 8:16 19:23,25 21:5 28:3 29:5,23 30:2 42:13,16 48:16 60:3 66:22 69:25 99:17 132:11 132:15
poor 152:8
portion 70:15 100:11,16 103:15
portions 50:4
posed 6:24
position 131:2
positive 20:18 35:4 132:8
possible 75:19 131:19 156:23
possibly 75:17 155:2
posterior 65:9
postoperative 70:25 71:4 72:9,13,19,23 75:11,13 76:9 76:16,24 110:21
postsurgical 72:3
potential 38:10
practice 40:16 95:12 100:20 100:23 115:11 116:22 124:8 124:15
pre-COVID 118:18
predominantly 35:4
preparation

9:10,13,16,21 10:13
prepared 143:8 143:9
prescription 92:24
present 2:17 121:25
presented 34:25 84:12 112:8 132:7
presenting 40:10
preserve 42:13 56:15
pretty 10:9 53:11 56:14
preventing 76:13
previous 125:24
previously 51:2 127:23 130:2 136:24
printout 123:3 143:16,19
prior 21:10 26:25 137:5 141:8 142:10 142:11
privy 148:22 149:2
probably 142:2
problem 7:17 42:17 47:25 48:17 67:7 76:21 154:8,24
procedure 47:21 68:2,15,18,22 70:8,11,19 71:6,9 72:24 76:12,20 79:15 85:20 88:5 100:22 101:2 102:3,20 106:15,19 113:12,15 144:21 146:9 146:11,13 147:9,14,18 148:11
procedures 46:17 47:3,19 69:5 74:21 106:2 110:23
proceed 5:25 110:5,23
proceeding 4:16 41:22 49:24
proceedings 4:6 148:18
process 23:6 137:4 145:10
produce 12:8 13:13,17,24 14:4 156:19 157:2
produced 4:3 13:21 14:7 15:20 16:10 24:18,23 25:10 131:4
production 16:3 16:9 156:16 160:5
professional 1:15
proficient 17:5
prohibited 91:8
proper 129:5
protrusion 35:6
provide 16:4 89:5,9 130:5 142:18
provided 26:24 82:2 112:15 126:22
providers 89:5,9 95:6
providing 25:15 89:11
prudent 132:10
Public 6:4 159:20 161:7
pull 92:15 106:3
pulled 16:17
purpose 89:19 98:12,16 128:2
purposes 16:2 112:18
pursuant 1:14 6:16 24:17
put 5:21 8:12 14:15 40:6 57:16 64:25 116:3,10

Q

quality 130:16 131:3,15 151:21 152:4,9 152:12,20
question 6:12 10:9 12:13,17 19:7 20:25 30:10,20,21 32:10 35:19 36:4,24 37:12 40:3,19 41:23 42:2,6 45:11 46:14 47:7,9 51:9,13 52:3 52:17,19 54:14 54:15,24 57:17 60:5,6 63:19 66:12 71:22 74:7 84:24,25 88:17 92:3 106:13,21 109:22 114:21 138:15 140:25 141:23 153:9 155:2
questioned 130:19
questionnaire 36:2,7 124:9 124:11,16,24 125:4
questionnaires 125:10
questions 6:24 8:13,14 12:25 13:3 31:13 42:3 44:21 45:25 69:12 129:14 132:21 138:6 142:20 144:6 148:20 151:20
quick 156:11
quite 134:22

R

R 2:2 3:2 6:3,3,3 161:2
radiating 35:2
radiculopathy 35:3,5 57:10
radiological 57:2
radiologist 62:11,13
Radiology 68:10 92:12 93:7,9 93:22,23 94:2 94:5,7 129:16
raise 5:14
rate 105:4,7,11 105:17,19,21
rates 87:15
reach 14:8
reached 15:11
read 17:8 29:16 35:14 52:2 112:4,7 124:7 162:21
reading 131:4 131:16
ready 67:15,18
real 156:11
really 48:3 51:8 51:12 92:2 129:24
reask 88:17
reason 30:15 31:25 32:12 51:5 75:25 101:16 111:25 149:19 150:4 162:4
recall 8:25 9:6,9 12:2,3 14:2,10 14:23 15:5,22 17:7,11 22:18 23:22 26:22 41:3 77:18 86:23 87:3 117:24 119:10 133:15,20 134:23 136:5 136:10,11 138:8 142:21 144:23 147:11 148:4,7,19 149:8 150:14 150:18 151:22 154:4
receivable 81:4 81:7,13,16 83:4,24 100:19 101:18,20,24 121:15 122:23
receivables 83:13
receive 23:12,16 23:20 114:18
received 16:7 25:2 26:15 32:14 37:25 69:20 80:16,21 80:23 83:8,23 87:5,10 88:4 98:19 100:21 107:8,11,22 109:21 112:13 120:23 122:2 128:21
receiving 33:11 33:13 84:23 85:7
recess 67:11 114:7 127:18 147:2
recognize 25:10 26:19,19 28:13 60:18 81:20 84:8 90:7,10 99:22 111:15 112:23 123:16 126:4
recollection 12:6 13:20 15:8 17:2,14,21 18:10,15 21:19 22:25 31:17,19

33:7,10,11,12 33:13,17 35:12 50:11 53:24 54:6 55:8 57:8 70:8 78:24 79:4,8,12 82:19 87:13 101:19 102:25 107:15,25 125:17 152:16
recollections 53:18
recommend 152:24
recommendati... 34:18,23 152:7
recommendati... 128:7,8,11,18
recommended 40:14 58:10 108:17 153:4
record 4:4,8 6:9 6:13 7:11 10:19,20 25:6 26:24 27:24 28:24 29:6 56:10 57:9,23 58:2,4,7,9 67:10,14 69:13 81:24 83:23 99:13 112:12 112:19 114:6 114:10 115:19 116:19,21 127:17,21 146:3,18,25 147:4 158:4,16 159:9 161:11
records 10:3,4,5 10:7,14,15,16 10:21,24 13:21 13:25 14:5,8,9 14:13,16,22 15:15,19 19:22 20:2 21:14 22:2,3,7,10,11 22:15,19,21 23:2,13,17,21 24:8 25:16 31:5,10 32:14 33:2,4,8,11,14 33:18 37:8,10 37:17 38:2 39:15,20,22 40:2 57:8 78:10 81:3 109:4 115:25 116:10,25 117:3,6,8,11 120:19 122:8 122:14,16,18 122:19,20 123:3,7 157:13
Redtree 68:10 119:23 129:16 152:4,12,20
refer 7:15 8:15 8:15 21:16,16 21:21 25:4 28:9 34:19 35:22 43:8,16 89:14,18 90:14 90:15 92:8,10 92:13,16 94:2 94:6 98:7,12 98:15,17 102:9 103:13,16 123:10 132:6
reference 17:19 22:7 37:14,16 39:12,16 48:22 69:7 85:6 86:4 90:2,3 92:15 113:10 125:6 133:13 154:7
referenced 134:7 136:19
references 22:10
referencing 140:10
referral 93:2 95:12 98:19 117:16,19 118:2,8 153:15 153:21,22
referrals 52:22 53:19
referred 10:20 37:19 52:21 53:4,7,15,20 53:25 54:2,7,8 54:13,18 55:6 55:11,13,14 56:25 89:16 92:14 93:4 94:4 98:3,10 117:23 132:3 135:13
referring 8:17 23:24 25:22 26:2 27:18 58:16 91:8 95:14 104:9 133:17
refers 103:14
reflect 83:16 84:20 85:2
reflected 83:4
reflecting 83:24
reflects 84:22,25
refresh 17:21 70:7 102:24 125:17
refreshes 18:14
refused 139:14
regarding 10:4 13:21 19:21 22:3 31:20 32:8 33:4,18 36:18 41:22,24 73:23 90:17 119:13 121:20 126:8
region 35:3
regularly 23:11 44:24 107:19
reimbursement 105:4,7,11
relabeled 156:13
related 31:11,12 31:13 88:12,23 161:13
relating 122:14 129:15
relationships 106:23 107:20
released 149:3
relevance 42:6 42:12,13 53:9 53:11 69:12
relevant 38:13 38:15 45:25 46:8
reliability 77:2
reliance 140:19
relied 58:10 61:8 124:25
rely 76:8,23
relying 76:10
remember 9:3 11:12 15:2,17 22:18 142:25 143:4 152:25
remitted 81:2
remote 1:12 4:17
removal 71:15 71:19,23
remove 73:3
removed 81:5
removing 71:17 73:7,8
rendered 87:10
rent 96:10 97:5 97:7,9,10,12
renting 97:17
rents 96:11
repeat 36:25 66:11 74:8
reply 76:15
report 22:3,6,9 22:10,16,22 35:14,16 37:13 38:7,14 39:3 39:11,14 40:6 58:24 59:10,11 60:22,23 61:3 61:7,12 64:24 66:3,15,20 68:10 69:15 102:10 106:3,4 107:5 108:21 109:15,21,24 110:3,8 111:16 111:17,19,22 112:2 121:19 121:22 131:14 152:5,8,18,20 154:6 160:6
reported 107:18
reporter 1:16 5:11,12 26:9 67:16 96:12,14 120:15
Reporting 4:16
reports 121:18 131:11
represent 4:19 30:11
representatives 107:16
represented 53:23 54:5,11 55:17 78:17 127:3
represents 30:13 31:3
request 23:20 82:11
requested 123:8
requesting 23:12
requests 23:17 23:18
require 113:6 130:7
required 12:8 13:13,24
resection 70:21
reserved 3:17 7:2
residence 7:21
respect 15:24 66:18 134:3,11
respectfully 45:24 46:7,13 146:4
respective 1:13 3:5
response 12:24 38:18 46:13 50:24
restriction 110:11
restrictions

58:23 110:12
result 151:18
results 131:10
retained 141:20
reveal 13:19
revealing 12:10
review 9:20,23 17:20 18:18 19:14 21:15 22:12 37:7,8 37:10 38:2 39:25 75:14 94:12 111:22 112:2 142:7 155:7
reviewed 10:13 19:20,23 22:15 22:21,25 37:17 119:23
reviewing 22:19 57:7 59:20 102:23 120:3,3
Richard 68:25 69:3,15 70:9 70:22 120:20 147:25
RICO 41:12,25 44:19,22 45:22 46:4 49:17 94:9,10 132:25 133:4,14,18 135:16,19 136:2,19 137:17,17 138:4,17 140:10
riding 158:25
right 5:14 7:15 8:2 19:6 31:13 45:19 49:10 51:5 55:2 60:10,11 67:8 82:5 94:24 101:24 102:5 108:9 132:18 143:15 144:2 146:22 156:25 157:15
right-hand 16:14,22
Rigney 62:8,10 62:14 63:6 64:4,5 65:19 66:14
Rigney's 66:3 68:11
root 103:14,17 103:22,23
Rosati 2:12 5:8
rule 12:18 45:9 138:3
rules 56:15
rush 159:5
Russotti 43:13 77:20

S

S 2:2,3 3:2,2 160:2
S1 103:9,16,20 103:22,23,25 104:6
Sacks 53:20,20 53:23,23 54:17 54:18,18,19 55:4,4,6,6
safe 76:20
saw 17:11,14,21 108:21 109:14 109:24 110:3 126:16 127:5 147:25 152:17 153:7,12,19 154:6
saying 48:17 142:11
says 16:21,22 34:7 82:4,5,13 82:20 83:2 86:13 112:25 113:4,5 125:13
scanned 116:3,5 116:12
scheduled 78:7
Schwitzer 78:18
screen 16:17,20 25:7 26:18 27:25 57:16 69:10
script 92:15
scroll 29:4 57:20 69:24 99:16 102:13 123:12
scrutinize 142:7
scrutinized 141:19
se 116:24
sealing 3:6
search 116:20 119:7 122:14 157:12,16
second 12:16 33:20 43:12 63:4 69:24 106:22 109:5 115:12 117:15 127:20 140:7 146:19
secondary 76:4 77:3
seconds 154:21
secretaries 14:19 15:16
section 33:23 34:6 35:25 81:13 86:11 112:5 128:6
sections 24:7 86:4
see 19:6,8 22:3 26:5 27:22 28:7,11,23 29:24 30:4 33:24 34:5,9 56:10 57:19 58:21,22 62:6 64:18 65:11 70:5,17 82:7 84:18 86:6 97:21,24 113:4 114:16 115:5 118:16,17,19 119:22 125:11 125:15 147:25 150:19 153:3 157:25
seeing 12:3 26:25 55:5,17
seek 115:3,12,16 153:25
seen 26:21 29:12 49:4 53:22 54:4,10 109:8 109:12 119:2 136:16 153:5
segment 103:22
send 93:8 156:20
sending 32:25
sense 47:23 48:9 51:3 90:24 115:13 122:24 145:7
sent 10:7 30:14 30:16,21 31:5 31:10,21,22 32:2 33:7 79:20 92:19 93:6 100:13 109:25 132:14 143:8 145:5,7 157:17
sentence 62:5,22 63:4 64:8,16 65:8,18
separate 106:20 117:5
separately 10:8
September 1:10 4:10 18:19 161:18
served 48:19 133:23 134:12 134:13 135:20 150:13
service 3:13 117:13,13 142:18 143:14 145:3
services 57:2 87:10
set 144:16 161:10,17
sets 144:24
settled 96:22 151:15
settlement 46:17 151:17
severe 130:15
shape 49:23,24 140:5
share 69:9 90:24 97:15
shared 25:7 90:11,14,19
Shaw 113:3
sheet 27:19 28:20 29:2 81:23,25 123:19,20,21 123:24 125:25 126:8 162:2
sheets 10:18
Shereck 4:15
short 144:6 147:2
shorthand 1:15
show 27:15 29:3 30:2 57:14 59:17 68:8 71:5,6,9 72:20 72:24 73:12 74:13,22 75:12 75:17,20,22,23 76:2,8 81:18 99:12 136:11
showed 35:2
showing 25:7 26:7 59:20 60:15 69:14 84:3 99:14 102:11 111:13 112:20 114:12 120:17 126:2
shown 142:21 142:23 143:15
shows 107:14 115:20
shredded 116:24
side 8:13 157:3,3
signal 62:15 151:24
signed 3:8,10,12
significant 40:23 130:15 132:7

136:6 153:25 154:11
signs 57:10
silent 20:9
similar 121:23
simple 50:18 51:19 52:25
single 130:5 131:19 148:23
Sir 5:13,16,21 7:10 8:6,9 26:17 36:20 49:12 84:6
sit 22:24 31:24 32:13 36:8 46:15 52:6 57:4,7 68:4 79:13 87:9 94:16 101:15 104:9,15 113:14 119:11 149:18 150:3 152:11
situation 98:25
six-minute 127:18
six-page 69:23 123:12
slow 69:25 102:14 123:13
slower 121:3
slowly 29:4 69:24 99:16 125:5
sluggish 45:18
small 28:4
smaller 72:3,13 72:21 73:4
sold 106:8,9
Sonsini 2:12 5:8
sorry 15:9 18:4 23:23 32:21 36:23,25 54:25 66:10,11 74:4 77:8 86:10 92:9 95:15 108:19,19 113:19 117:18 145:12
sort 42:15 45:8 129:9
sought 128:14
sound 24:19 78:14
sources 20:3 52:23,23 54:18
space 96:10,11 97:5,7,15,18 97:19
speak 9:11,14,17 149:13
speaking 29:20 42:17 104:24 107:23 136:17
specific 42:3 53:18 54:6,6 54:12 59:15 63:20 74:14 76:25 92:25 106:6 107:15 124:20 125:7
specifically 37:24 53:25 55:13 64:22 74:15,19 92:17 101:18 103:15 115:16 123:7 144:22 145:24 147:10
specifics 90:17 149:25
speculate 38:21
speculation 20:12 24:21 30:17 32:5 38:20 71:10 72:5,22 73:5 83:7 85:22 101:5 113:19 118:11 150:23
speculative 72:14 82:25
speed 102:14,16 123:14
Spencer 90:4
spinal 39:7,9,13 39:23 40:4 41:2 65:20 70:12 71:13 104:21 109:23 115:5 153:10 153:23
spine 22:13,22 58:20,23 59:3 59:9 60:24 62:15 106:17 128:25 136:14 154:8
spoke 15:18
spondylosis 63:8 63:12
spreadsheet 112:13,15,17
SS 161:4
stabilization 74:21
stabilizing 76:13
staff 14:19,21 15:10 143:9,10
stamp 16:10 25:4,8 26:2 49:6 57:15,24 59:18 60:16 63:5 68:8 81:19,21 84:3 99:15 102:12 102:23 104:10 111:13 114:13 123:10 126:2
stamped 112:14 112:15,16,19 112:20
Stand 93:23
standard 46:13 105:17,18,21 130:6
standing 53:12 69:11
start 119:15
state 4:3,19 6:8 7:10 55:5 93:19 140:8 158:16,17 161:4,8
stated 162:21
statement 6:13 108:12
statements 146:3
states 1:2 52:7
status 36:13 43:19 44:9,12 90:25 92:4 94:24 125:14 128:5 132:17
stay 79:24 139:14 155:13 155:22,22,23 155:24
Steven 2:10 4:25 6:11,11 18:4 23:23 25:23 26:24 41:20 45:17 48:16 52:9 59:19 108:8 157:6 158:18,19,20
STIPULATED 3:4,16
stop 12:16 29:5 29:20 30:2 57:21 69:25 99:18 102:15 123:14 146:22 156:7
store 116:25
stored 122:17
straight 53:2
straightforward 10:10 53:3
Street 7:19 96:5 96:9 97:6,21 97:23 118:22
strength 131:2 151:25
strictly 49:24
studies 72:16,23 73:12,14,16,17 73:19,22 74:2 74:11,13,19,20 74:22 75:3,11 75:14 76:4 91:9,15 131:14 132:3
study 72:8 73:10 74:15 75:5,5 76:6 91:11,20 92:5 130:5 131:16,19
Subin 99:8
subject 41:5,8 42:4 72:25 75:3 76:4,5 130:20,20
subjected 131:6
subjective 36:3 109:17 131:8
sublet 97:17
subletting 97:11 97:13
submit 80:3 88:10,21
submitted 77:24 79:14 99:25 100:6 104:16 104:18
submitting 80:6 91:14,18
subpoena 1:14 8:3,3 12:3 14:14 24:18 122:5
subpoenaed 11:25
Subscribed 159:16
substance 12:10 43:24 49:21 73:8
successful 76:13
suggested 141:9 142:13,17
suit 94:9,10
Suite 96:6,9,10 96:11 118:23
summarize 82:12
summary 19:19
Sunshine 107:3 107:5
supposed 136:2 140:20,20
supreme 140:8
sure 6:14 8:5 9:8 10:20 12:14

18:16 20:25 24:16 28:6 35:19,20 47:8 54:21 66:13 89:12 100:21 107:7 117:21 120:16 122:15 129:24 153:8 153:10
surgeon 115:5 115:17,21 136:14
surgeons 104:21
surgeries 48:14 50:8,16 51:22 106:25
surgery 21:6,8 34:18 35:18,21 36:5 40:14 49:14 58:10 61:9 64:6 100:3,4 108:17 109:14,20,24 110:2,5,7,10 111:2,8 113:8 113:12 115:21 129:19 130:7 131:21 132:2 132:15 136:23 137:5 144:18 152:8,24 153:4 154:12
surgical 47:19 47:21 48:4 70:8 71:6,9 76:20 79:15 98:18 100:14 100:21,25 102:10 106:15 106:19 110:23 130:11 153:25
surgical-related 38:10
suspect 129:22
swear 5:12,16
sweet 144:7
sworn 3:8 6:4 159:16 161:10
symptoms 34:25 35:2 40:10,11 40:22,23 57:10 110:15,25 129:23 130:13 132:8,16
system 59:14 122:17

T

T 3:2,2 160:2 161:2,2
take 5:22 18:13 24:13 26:17 33:21 42:6 48:8 58:13 59:22 60:3,6 60:10 61:13,21 62:4 64:15 65:7,17 66:21 66:22 69:22 84:6 105:11 114:3,3 127:11 131:19
taken 1:13 67:12 71:2 114:8 127:19 147:2 162:3
talk 155:24
talking 88:14,16 94:18 126:18
Taub 4:23
telephone 28:13 28:16,23
tell 8:16 12:19 13:4,5 29:4 30:4 49:20 50:19 57:21 110:20 115:9 115:10,11,15 123:6,13 129:17 149:22 154:2
ten 61:14,21 67:5
tenant 97:14
term 66:16 84:22 97:17
terms 21:2 22:19 48:2 50:13 52:16 64:25 73:15 97:2 102:20 128:25 156:15
territory 129:9
test 67:23 76:15 77:5,12 93:12 130:24
testified 6:5 22:14 44:15,18 83:12 89:22 92:19 114:15 117:22 127:23 146:7 147:16 149:5 150:12 150:21 152:22
testify 8:24 44:24 45:21
testifying 148:5
testimony 5:17 9:5 134:7 142:10 146:16 148:13,18 161:11
testing 77:3,11
tests 76:23 77:3
thank 5:10,24 6:2 42:22 45:17 57:22,25 112:7 121:9,11 132:18 155:10 157:6 159:6
Thanks 56:17 127:15 144:4
therapy 59:15 108:14,25 109:4 128:13
they'd 115:12
thing 25:21 29:17 60:4 156:19
things 13:4 143:24 147:23
think 11:10,10 11:20 14:2 22:17 30:5 31:24 42:7 48:17 50:22 53:10 81:6 97:16 114:19 127:12 129:6 130:18 133:13 134:6 136:20 141:12 142:24 145:18 149:13 154:21 157:10
third 64:16 65:8
third-party 5:9 139:2 140:19
Thomas 79:10
thought 157:19 158:7
thousand 56:6
thousands 136:17 142:13
three 15:6 16:15 17:25 18:17,18 24:8 110:22
throw 99:17
Tian 1:3 4:12,21 6:19 12:4 15:24 17:3,5,8 17:12,22 18:24 19:4,14 21:6 34:17 35:17,20 36:5,15,21 37:2,5,14 38:5 38:12 39:4,12 39:16,21,23 40:4,19,25 57:5,12 61:8 79:19 80:14 83:17 87:2 91:20 92:8,10 92:11,19,23 95:16,17,25 102:3 108:16 108:25 109:6 109:14,23 110:11 111:4,7 111:10 112:8 113:16 115:2,4 117:17,23 118:16 119:2 119:22 121:23 122:14 123:4 123:22 124:6 125:18 126:19 127:2,6,24 128:9,21 131:25 138:10 138:18,22 143:2,8 154:3 154:11
Tian's 25:16 58:20,23 59:3 59:9 68:12 98:20 104:21 106:2 115:24 116:16,21 120:7 124:4 128:24 135:12 153:10,23 154:10
Tian-Merola 16:14,22
time 3:17 4:2,8 7:7 8:6 13:10 19:23 21:5,22 23:2 24:13 32:10 36:11 38:20 51:18 56:11 61:5 67:10,14 78:9 90:13 93:13 101:8 107:16 108:13 114:6 114:10 122:2 127:5,17,21 130:23 143:2 146:25 147:4 147:11 157:22 159:8
times 17:11,14 17:21,24 33:3 101:11,12 141:2 153:3
today 5:11,17 8:7,24 11:23 11:25 22:24 31:24 32:13 36:9 46:15 57:4,7 68:4 79:13 87:9 94:16 101:15 104:9,15 113:14 119:11

128:15,18,22 149:18 150:3 152:11 154:7
Today's 4:9
told 13:5 24:17 56:19,22 109:16 124:6 135:11,12
tolerate 130:14
tool 129:18
top 11:12 28:23 49:6 105:4,25 136:8 158:25
total 24:11 29:7 102:2
Touliopoulos 96:11,13,16,19 96:22,25 97:9 97:21
Towns 11:21
track 55:8 82:2
Tradesman 41:19 42:25 43:3,13 95:5 95:11 96:23 137:8 138:21
Tradesman-G... 48:13 50:7
Tradesman-... 48:13
transcribe 152:19
transcribed 152:18
transcript 6:20 7:6 158:17,22 159:2,5 162:2
transpired 32:8
trauma 62:22 63:18 64:13 65:15,24 66:9 66:14,19
traumatic 63:11 63:15,24,25 65:5 66:4,15 66:16
treat 46:24 47:11,13,15 77:16 87:4
treated 69:3 77:20 90:22,23 95:24 136:13
treating 17:2 46:23 76:21 89:10,14,17,19 148:7
treatment 10:3 36:20 37:2,4,9 37:14,23 38:8 38:17,24 39:8 39:10 40:13,17 48:4 49:25 59:9 82:12 88:11,22 89:5 89:9,11 117:6 128:12,15,20 141:19 142:7
treatments 109:10
trial 2:5 3:18 4:23 6:20,25 7:7 8:3 78:4,7 139:14 148:5
trips 107:22
true 44:3 161:11 162:21
truth 5:18,18,19
try 51:18 116:23 144:6
trying 47:25 156:19
turn 21:11
twisting 110:13 110:18
two 15:3 20:3 41:15 42:13 103:10 104:2 129:21 133:13 136:21,22,23 138:20 154:21
two-minute 114:4
two-page 99:15
type 77:12
types 20:20
typical 121:15
typically 11:13 28:21 63:12 81:15 82:11 93:19 101:12 110:20,22 118:19 121:18 129:20 143:13 143:13,17 144:21 145:3

U

U 3:2
Ultimately 130:12
unable 52:18
unaware 91:25 94:23
uncharted 129:9
uncomplicated 110:23
undated 132:7
understand 20:25 29:24 35:19 42:2,10 42:12 47:6,9 51:17 89:12 106:12,13,21 141:23 153:8
understanding 13:17 46:16 47:2,18,24 48:3,10 49:12 51:10,11,15,20 52:6,13 87:14 147:6
understood 142:10
unfamiliar 148:2
unfortunately 32:18
UNITED 1:2
unnecessary 57:2 68:14
unproven 41:24 140:10
unresponsive 50:4
unsigned 3:11
update 109:11
updated 92:14 109:18
usage 97:12,18
use 6:20 7:6 11:7 73:19 93:12 106:3,7,20,24 112:18
usual 115:10 144:21
usually 67:4 124:8
utilize 66:16
utilized 72:8
utilizing 140:9

V

vacations 107:23
value 46:17 48:7 48:14 49:15 50:9,17 51:23 89:6,20
variable 73:14 73:17 110:21
variables 131:13
variety 73:21,24 77:10
various 99:3
vehicle 111:5,8
vehicular 126:22
verify 94:12
version 112:16 112:19 134:20
versus 4:12
vertebra 103:15
vertebrae 62:15 71:24 72:3,12 72:21 103:13 103:16
vertebral 63:7 63:12 70:20,21 72:20 73:8,9 104:4
video 4:10,10,15 146:22 158:17 158:23 159:2,5 159:7
videoconference 2:2
videographer 2:17 4:7,15 5:10,24 67:2,9 67:13 114:5,9 127:16,20 146:21,24 147:3 155:22 156:6 158:5,12 158:15 159:6
view 99:18
virtual 1:9,14
visit 19:20 34:16 36:11 79:24 82:3
visits 18:3,11,15 24:8
visually 131:5
voluntarily 134:24
vs 69:16

W

W 6:3
wait 43:22,22 45:10,12,13 155:12
waive 156:22
waived 3:7 42:12
want 6:12,18 12:19 27:7 29:5,23 44:4 61:13,25 69:25 74:13 99:17 101:9 114:14 115:24 125:6 146:2,19,22 147:19 156:3 156:23
wanted 109:11 132:6 146:22
wants 29:21
warning 13:19 43:23
wasn't 142:3
waste 143:2
way 18:8 42:9 49:22,24 54:15 61:24 76:5 77:4 140:5

156:20 161:15
WAYNE 1:7
ways 73:17 76:19
we'll 16:24,24 42:14 61:21 83:25
we're 25:2 47:24 47:25 73:16 74:18,20 97:11 97:17 102:5 120:13 129:9 135:11 154:21 158:3,6 159:4
we've 24:23,25 25:2,2 49:4 53:11 59:21
website 107:14
week 9:2 14:25 97:8
weekend 5:23
weeks 15:4,7
weighed 131:22
welcome 157:8
went 62:22
weren't 41:22
West 96:5,9 97:5 97:20,23 118:22
whatsoever 83:25
WHEREOF 161:17
Whitney 69:16
William 78:17
Wilson 2:12 5:8
Wingate 43:13 43:14,16 44:12 48:19 49:3 77:20 133:22 150:13,16,19 150:22 151:2
withdraw 12:17 19:2 32:23,23 54:23 71:22 88:17 106:22 109:22 116:8
withdrawing 99:3
withdrawn 11:15,24 14:12 17:17 18:22 20:14,14,15 21:4,10 30:19 32:12 37:3,11 37:11 39:21 41:4 57:13,13 66:8 74:11 80:9 86:17,24 88:8 91:18 98:24 100:16 103:12 104:24 115:3 124:7 140:6,20 146:11 154:5
witness 1:13 2:12 3:8,13,14 4:3 5:9,12,15 5:20 6:3,12,24 25:4 26:7 27:20 29:21 30:7 42:19 57:14 59:18 60:8,15 62:2 66:24 67:19 69:14 74:4,8 81:18 84:3 96:13 99:14 102:11 111:13 112:20 122:4 126:2 149:12 149:16 155:10 159:4,11 161:9 161:12,17 162:3
word 84:17 86:18 140:22
words 131:6
work 16:24 34:12 35:20 36:5,6,10,13 36:16 46:24 96:8 97:20,23 122:7 125:13 125:21 154:10 154:14 157:19
worked 90:5,8 154:18
Worker's 88:23
Workers' 44:24 45:21,23 46:3 46:11 47:15 68:17 88:6,11 88:21 105:14 105:22 136:24 137:3
working 36:19 95:24 125:18 136:16
works 82:16 89:10 95:21,22
worries 21:24
worry 156:9
worse 153:11,13 153:23
worst 110:22
would've 143:7
wouldn't 56:4
write 17:9 124:6 162:2
writing 28:4
written 19:11,15 19:19 140:9
wrong 92:20

X

X 1:3,8 160:2,8
X-rays 72:19 75:17,20,21,22

Y

yeah 28:6 32:7 49:8 54:23 55:12 61:17,20 61:23 66:23,24 72:7,15 95:17 100:15 101:7 105:10 108:10 118:12 121:11 126:8 129:8,8 130:23 142:2 145:15 150:9 154:24 155:7 156:14,17 157:18 158:24
year 132:9
years 136:16 141:6
yes-no 53:2
Yester 79:6
York 1:2 2:5,5,9 2:9,13,13 4:3 7:19 93:20,21 94:3,5,7 96:2 99:2

Z

Zai 1:3 4:12
Zoom 1:15 4:17 156:4
Zwanger 93:23

0

000 16:14
09/13/2024 162:3

1

1 1:1 3:13 4:10 26:19 27:17,18 28:10 33:22 34:6
1:32 1:11 159:10
10 10:1 128:6,21
10:09 1:11 4:6,9
100 24:11,11 56:3 76:7 77:2 100:1 136:4
10004 2:9
10019 2:13
10022 2:5
101 101:1
102 102:1
103 103:1
104 104:1
105 105:1
106 106:1
107 107:1
108 108:1
109 109:1
10th 18:20 127:10,25 128:9,15,18
11 11:1
11:20 67:7,10
11:34 67:14
110 110:1
111 111:1
112 112:1
11215 7:20
113 113:1
114 57:24 114:1
115 57:24 115:1
116 116:1
117 117:1
118 118:1
119 119:1
12 12:1
12:26 114:6
12:34 114:10
12:50 127:17
12:56 127:21
120 111:14 114:13 120:1 160:6
121 121:1
122 122:1
123 123:1
124 124:1
125 125:1
126 126:1
127 127:1
128 128:1
129 81:19,21 129:1 160:10
13 1:10 4:10 13:1
130 84:4 130:1
1301 2:13
131 131:1
1317 146:25
132 132:1 160:11
1320 147:4
133 133:1
1332 159:8
134 134:1
135 135:1
136 136:1
137 137:1
138 138:1
139 139:1
14 14:1
14-minute 67:11
140 140:1
141 96:5,9 97:5 97:20,23

118:22 141:1
142 142:1
143 143:1
144 57:15 144:1 160:10
145 145:1
146 146:1
147 147:1
148 148:1
149 149:1
15 15:1
150 150:1
151 151:1
152 152:1
153 153:1
154 154:1
155 155:1
156 156:1
157 123:11 157:1
158 158:1
159 159:1
16 16:1 160:5
160 160:1
161 161:1
162 162:1
16th 18:19 34:17 112:9 114:16 161:18
17 17:1
170 126:3
172 25:4,8 26:2
174 102:12,23
17th 18:19 21:12 23:2 36:14,22 37:5,13,22 39:4,11,17,24 40:5 41:2 57:5 58:7,11 61:5,9 68:12 85:11,19 108:17 109:2 111:23 114:17 114:24 124:25 125:18 126:17 126:25
18 18:1
18-CV-7119 1:6 4:13
189 99:13,15
104:10 142:25 144:17
19 19:1
19,000 105:8
19,750 100:10 100:17 102:3 105:24 143:3 144:19
190 99:15
191 112:21
192 156:20
193 24:18
1st 7:19

2

2 2:1
20 20:1 60:16 159:18
2018 35:6 40:10 40:24 59:4,10 60:25 109:8 112:9
2019 18:19,19 21:9,12 22:13 22:23 23:2 34:17 36:14,22 37:6,13,23 39:5,11,17,24 40:5 41:2 57:6 58:7,11 61:5,9 68:12 85:11,19 109:2,9 110:9 111:23 114:17 114:24 118:17 125:2,19 126:17,25
2020 18:20 25:17 27:23 29:14 30:12,14 30:23 31:6,8 31:17,19,22 32:3,15 33:2,9 34:11 127:10 127:25 128:6,9 128:15,18,21
2024 1:10 4:10 161:18
21 21:1
212 2:6
22 22:1
23 23:1
23rd 59:4,10
24 24:1
25 25:1
25th 60:24
26 26:1 59:18 60:16 63:5 68:9 160:5
27 27:1
28 28:1
28th 96:5,9 97:5 97:20,23 118:22
29 29:1
29th 25:17 27:23 29:13 30:12,14 30:23 31:5,8 31:17,22 32:2 32:15 33:2,8

3

3 3:1 70:15
30 3:13 30:1 136:16 141:6
31 31:1
32 32:1
33 33:1
34 27:3 34:1
35 26:11 29:7 35:1
35-page 160:5
36 24:14 36:1
37 37:1
38 38:1
39 39:1

4

4 4:1
40 40:1
40th 2:13
41 41:1
42 42:1
43 43:1
44 44:1
45 45:1
46 46:1
47 47:1
48 48:1
488 2:4
49 49:1
4th 2:9

5

5 5:1
50 50:1 70:21 72:11,20 73:3 73:7 74:23 77:6
500 96:6,9,10,11 118:23
51 51:1
52 52:1
53 53:1
54 54:1
55 55:1
56 56:1
567 7:19
57 57:1
58 58:1
59 59:1

6

6 6:1 160:10
60 60:1
61 61:1
62 62:1
63 63:1
64 64:1
65 65:1
66 66:1
67 67:1
68 68:1
69 69:1 160:6

7

7 7:1
70 70:1
71 71:1
714-1515 2:6
72 72:1
73 73:1
74 74:1
75 75:1
76 76:1
77 77:1
78 78:1
79 79:1

8

8 8:1
80 80:1
81 81:1
82 82:1
83 83:1
84 84:1
85 85:1
86 86:1
87 87:1
88 88:1
89 89:1
8th 21:9 110:9

9

9 9:1 22:23
90 90:1
91 91:1
92 92:1
93 93:1
94 94:1
95 95:1
96 96:1
97 97:1
98 98:1
99 99:1
9th 22:13