

*Jose Urquia v.
Deegan 135 Realty, LLC, et al*

*Dr. Vicki Seidenberg
May 16, 2025*

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1 SUPREME COURT OF THE STATE OF NEW YORK.
 2 COUNTY OF BRONX: CIVIL TERM: PART 1A-21

3 JOSE LUIS URQUIA,

4 Plaintiff,

5 -against-

Index No: 22340/2019E

6 DEEGAN 135 REALTY LLC, CHESS
 7 PROPERTIES LLC, CGS BUILDERS, INC., and
 8 CHESS BUILDERS LLC,

TRIAL

9 Defendants.

10 DEEGAN 135 REALTY LLC and
 11 CHESS BUILDERS LLC,

12 Third-Party Plaintiffs,

13 -against-

14 CAPITAL CONCRETE NY INC.,

15 Third-Party Defendant.

16 CAPITAL CONCRETE NY INC.,

17 Second Third-Party Plaintiff,

18 -against-

19 DUNN CO. SAFETY,

20 Second Third-Party Defendant.

21 Bronx Supreme Court
 22 851 Grand Concourse
 23 Bronx, New York 10451
 24 May 16, 2025

25 B E F O R E:

HONORABLE MATTHEW PARKER-RASO,
 Justice of the Supreme Court

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

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24 AMANDA ALVAREZ
25 Senior Court Reporter

(Whereupon, photographs were marked as Defendant's Exhibit B for Identification.)

THE COURT: We're we are on. Jury is out of the room.

My understanding is that defense counsels have an application?

MR. GILROY: Yes, Your Honor.

I understand that Dr. Seidenberg is being called this morning.

Dr. Seidenberg was the subject of a 3101(d) that was exchanged by the plaintiff's.

There were a couple of corrections and the most recent one was NYSCEF number 366. It was e-filed on March 11th of 2025.

I have a copy I'd like to mark for identification. It is titled, Plaintiff's Supplemental Expert Witness Disclosure. It contains information but no report regarding Dr. Seidenberg.

Today, at seven a.m. we received a report of Dr. Seidenberg. The report contains information outside of the four corners of the 3101(d) that was exchanged.

In particular, information concerning a meeting between Dr. Seidenberg and the plaintiff in which she recites, among other things, his present physical complaints, his activity level, various other data regarding

1 Mr. Urquia.

2 Now, this was not previously exchanged and I move
3 to preclude or limit Dr. Seidenberg's testimony to the four
4 corners of her 3101(d) that was exchanged prior to trial.

5 I don't think it's appropriate to exchange an
6 expert's report with new informing during the trial.

7 THE COURT: What NYSCEF document number did you
8 refer to?

9 MR. GILROY: Sure. I was referring to number 366.

10 MR. SHOWERS: I join in that motion to preclude,
11 Your Honor.

12 THE COURT: Okay. Are you calling that doctor
13 today?

14 MR. BRENNAN: Yes. She's right outside.

15 THE COURT: Okay. For some reason, I thought --

16 MR. BRENNAN: She's a life care planner as well,
17 Judge; so, she has a medical degree. She's an expert in
18 both physical medicine and rehabilitation and she is
19 separately certified as a life care planner.

20 I have physical copy of the disclosures and I can
21 hand a courtesy copy to the Court.

22 THE COURT: Well, let's talk about --

23 MR. BRENNAN: I'm very happy to respond to this.

24 THE COURT: Let me wrap my head around the NYSCEF
25 document that we were discussing.

1 MR. BRENNAN: I actually think it's important to
2 also consider the original disclosure for Dr. Seidenberg
3 back in 2021.

4 THE COURT: We'll go backwards and then I'll hear
5 from you, Mr. Brennan.

6 So, that March 11, 2025 supplemental expert witness
7 disclosure, the subject matter was going to be plaintiff's
8 future costs of medical care, plaintiff will require life
9 expectancy, and will testify with a reasonable degree of
10 life care planning and physical medicine and rehabilitation
11 certain that the necessity and nature of the plaintiff's
12 future medical care and the costs of the same are
13 supplemented as follows.

14 And then there's quite a few charge listed there.

15 So, Mr. Brennan, what was the initial disclosure
16 and when was it made?

17 MR. BRENNAN: The initial disclosure of Dr.
18 Seidenberg was made back on April 6, 2021.

19 THE COURT: Do you have a NYSCEF --

20 MR. BRENNAN: It was not e-filed.

21 THE COURT: Kyle, can I get a copy of that.

22 MR. BRENNAN: I can just hand it to Your Honor.
23 (Hanging).

24 COURT OFFICER: (Hanging).

25 MR. BRENNAN: But first of all, I would just point

1 the Court's attention to the requirements of CPLR 3101(d).

2 It's often common practice to disclose the reports.
3 All that's required of an exchange is to provide sufficient
4 enough detail about the nature of the opinion, the basis of
5 the opinion, essentially what's expected to be testified to.

6 It's noted way back in -- the disclosure of 2021,
7 that Dr. Seidenberg's opinions would be based on a review of
8 the medical records, relevant documents in the case, as well
9 as her evaluation of Mr. Urquia.

10 That's reiterated in the supplemental corrected
11 disclosure from March this year.

12 You'll notice in the language of the original
13 disclosures --

14 THE COURT: What exhibit is that in the packet you
15 just handed me?

16 MR. BRENNAN: A and B. Dr. Seidenberg is the very
17 first.

18 THE COURT: Okay. I'm there.

19 MR. BRENNAN: Then you will notice throughout the
20 document, or the separate section of what Dr. Seidenberg is
21 going to testify to in terms of what she considers medically
22 necessary or recommended, you will see repeated language of
23 Mr. Urquia states, said, active voice stuff, reflective of
24 an obvious discussion with Mr. Urquia.

25 What I did this morning, just out of a courtesy,

1 because I've complied with the necessary requirements of
2 3101, which is send the full report. Majority of which is
3 exactly what's included in disclosure, as well as -- the
4 report is otherwise essentially medical timeline of all
5 medical records, all of which have been entered in to
6 evidence on stipulation, and then a reflexion of just a
7 summary of the interview Dr. Seidenberg had with Mr. Urquia.

8 First of all, I think the application should be
9 denied outright --

10 THE COURT: Based upon the previsions of 3101(d)?

11 MR. BRENNAN: Absolutely. There's nothing -- there
12 really isn't anything that is in the report, except as to
13 what Mr. Gilroy has deemed as information from an updated
14 interview that hasn't been previously disclosed but it was
15 disclosed back --

16 THE COURT: When was that interview?

17 MR. BRENNAN: It's directly in the report but it's
18 like March 7th of this year, and then the report is dated
19 March 11th, and that is the date of the exchange.

20 The disclosure in its body, in the 3101, noted that
21 her opinion would be based on an evaluation of the
22 plaintiff.

23 I don't --

24 THE COURT: I just want to go over 3101(d)1, all
25 right?

1 Dealing with experts, and that statute provides
2 that each party shall identify each person whom the party
3 expects to call with an expert witness at trial.

4 And shall disclose in reasonable detail, the
5 subject matter on which expert is expected to testify, the
6 substance of the facts and opinions on which expert is
7 expected to testify, the qualifications of each expert
8 witness, and the summary of the grounds for each expert's
9 opinions. Okay?

10 The next line is, however, where a party for good
11 cause shown retains an expert an insufficient period of time
12 before the commencement of the trial to give appropriate
13 notice thereof -- that's not applicable to this case right
14 now.

15 Mr. Gilroy, Mr. Showers, is there any contention
16 about the disclosure that was initially made about this
17 doctor back in April of 2021?

18 And it looks like there was corrected one dated
19 March 11th of '25. That looks like it's just Exhibit A to
20 this packet.

21 B, your next exhibit here that you're giving me is
22 --

23 MR. BRENNAN: Is that economist?

24 THE COURT: Yeah.

25 MR. BRENNAN: So, all of Dr. Seidenberg --

1 THE COURT: It's in A.

2 Did you get them back in April of 2021 and March of
3 this year? Because we started this trial just this week.

4 MR. GILROY: Yes, Your Honor.

5 Just to be clear. We had received plaintiff's --
6 certainly plaintiff's corrected supplemental expert witness
7 disclosure. The document that was e-filed on March 11th.

8 The report, which was e-mailed at seven a.m.,
9 indicates that Dr. Seidenberg interviewed the plaintiff on
10 March 3, 2025, and that she issued her report on March 7,
11 2025.

12 THE COURT: But are they required to submit reports
13 pursuant to 3101(d)?

14 MR. GILROY: They are required to disclose the
15 information in the parameters that Your Honor just read from
16 the statute.

17 THE COURT: Right.

18 MR. GILROY: What my point is here is that the
19 disclosure given to us this morning goes way beyond what was
20 disclosed in any of the pretrial 3101(d) exchanges.

21 THE COURT: How so?

22 MR. GILROY: Well, just as I mentioned, there is a
23 description and a discussion of a meeting held with Mr.
24 Urquia.

25 THE COURT: This was in March of '25?

1 MR. GILROY: Mr. Brennan referred to as courtesy.
2 I would refer to it in other term. It appears to be ambush.

3 We had no --

4 THE COURT: Let me ask this.

5 Is there anything that comes up in the meeting of
6 March of 2025 that would be outside of the scope?

7 Because as Mr. Brennan said, it does look like the
8 initial disclosure said that the expert's opinion would be
9 based upon conversation with the plaintiff.

10 MR. GILROY: Your Honor, I wish I could give you a
11 complete and correct answer to that.

12 As I said, I got this in the e-mail at -- I didn't
13 open my e-mail at seven, but I got this in an e-mail on the
14 way to Court.

15 THE COURT: Let me ask you, Mr. Brennan.

16 What -- is there anything new that's going to
17 sandbag the defendants with the presentation?

18 MR. BRENNAN: Right. The only thing that's in the
19 report that was not previously disclosed is Dr. Seidenberg's
20 recitation of a medical timeline, which is all the
21 information, all records, all doctors, all treatments,
22 that's previously been disclosed and has been stipulated in
23 evidence.

24 What the doctor does in her practices, is
25 sympathize it into a timeline and order of things.

1 There's no treatment referenced in there that has
2 not been disclosed, discussed, and is also reviewed and
3 relied on by their own experts. It notes a date of an
4 interview.

5 And the doctor, I anticipate is going to rely on
6 her report, so I gave them a copy of the full report just so
7 they have, which she might be looking at, but there's
8 nothing substantive, other than the acknowledgement of the
9 date of the interview that's different --

10 THE COURT: And your representation to the Court
11 now is that the only thing potentially being added is
12 timeline of treatment to the plaintiff?

13 MR. BRENNAN: Correct, and the date of the
14 interview that she conducted Mr. Urquia and the date that
15 she prepared that document.

16 THE COURT: Right, but at that interview, was there
17 anything that's going to come out of blue during the
18 presentation during this witness's testimony?

19 MR. BRENNAN: I cannot fathom what that would be.
20 He continues to have active complaints. That's part of what
21 the case is about, what still bothers him.

22 There's nothing new or different there, but it is
23 updated.

24 THE COURT: Right. Before this meeting, when was
25 the last time that expert met with the plaintiff?

1 MR. BRENNAN: Before she prepared the disclosure in
2 2021.

3 THE COURT: Okay. So, she hasn't seen the
4 plaintiff in --

5 MR. BRENNAN: She's not a treating doctor.

6 THE COURT: I know, but she hasn't meet with the
7 plaintiff in over four years?

8 MR. BRENNAN: Correct.

9 MR. SHOWERS: I missed that, Your Honor.
10 Was there a meeting in 2021?

11 MR. BRENNAN: I believe so.

12 MR. SHOWERS: Okay, that's not referenced in this
13 narrative.

14 THE COURT: There's references to conversations
15 with the plaintiff, I believe.

16 MR. SHOWERS: I only see --

17 MR. BRENNAN: In order to prepare the disclosure
18 from 2021, Dr. Seidenberg -- that's the substance of the
19 2021 disclosure.

20 MR. SHOWERS: It lists one interview date.

21 We should probably mark the 20201, Your Honor, if
22 we could and what was exchanged today.

23 But there's only one interview date in what was
24 exchanged today on 3/3/25.

25 THE COURT: You want to point me anything in the

1 prior disclosure, Mr. Brennan?

2 MR. BRENNAN: About when that original interview
3 took place?

4 I don't think the date is located there.

5 THE COURT: Or anything in there as to that
6 interview was taking place?

7 MR. BRENNAN: Sure. It's in the body of the 3101,
8 that her opinion -- it's the paragraph labeled, basis of
9 opinion.

10 And it says that Dr. Seidenberg's opinion, in part,
11 will be based on evaluation of the plaintiff.

12 THE COURT: An evaluation?

13 MR. BRENNAN: Right.

14 THE COURT: It says, results of her evaluation of
15 the plaintiff and her review of medical records. Also based
16 upon any discussions with the plaintiff's physicians,
17 pleadings, results, testimony at trial, economic financial
18 vocational data, and medical and care data generally
19 accepted in the fields.

20 Do we have a standalone printout of this that we
21 can mark, since Mr. Showers requested that?

22 MR. SHOWERS: Can we also mark the 2021, Your
23 Honor? I can share with the Court.

24 THE COURT: Yes. We will do this supplemental one
25 -- well, I have the March 11th one right here. And I just

1 need the original one from April 2021, if anyone has it.

2 MR. SHOWERS: I will e-mail that to the Court.

3 THE COURT: While we're e-mailing, Mr. Gilroy, when
4 you first made your application, you said either it preclude
5 it or limit it.

6 What would a limited scope look like to you?

7 MR. GILROY: To the contents of the 3101(d). What
8 we were given notice and an opportunity to read and review
9 and analyze and prepare for trial.

10 This morning's report -- Your Honor, I'm just
11 reading it now.

12 This morning's report discusses a right knee
13 surgery in January of 2025. That is not part of this --

14 MR. BRENNAN: It's not part of the case.

15 MR. GILROY: And it continues. Due to torn
16 ligaments from his accident. That's what she says in her --

17 THE COURT: But the torn ligament -- I'm just
18 saying the torn ligament has been an injury that's been pled
19 and discussed throughout this trial.

20 MR. BRENNAN: But not to the right knee and the
21 right knee is not part of the this case.

22 She will not talk about the right knee.

23 And if you look at the disclosure that's been with
24 them since both April of '21 and March of this year, there
25 is a no right knee claim, no right knee forecasted medical

1 treatment.

2 THE COURT: Okay. So, I am going to rule that she
3 can't reference anything about the knee in relation to
4 anything going forward.

5 MR. BRENNAN: The left knee has always been --

6 THE COURT: Hold on.

7 MR. GILROY: The fact that he gave an interview and
8 that he offered complaints, which she includes and
9 incorporates into her report --

10 THE COURT: But if the complaints are continuing
11 complaints to the areas that have been pled and are noticed,
12 I don't think that that's an issue. It's just --

13 MR. GILROY: Well, yeah.

14 Just in terms of -- I mean, that's just an example.
15 I just started --

16 THE COURT: I understand. I think Mr. Brennan
17 couching it as a courtesy, and I understand your, I got this
18 at seven a.m. this morning so I haven't had an opportunity.

19 What if I made a ruling to the extent that the
20 witness cannot testify about any injuries or complaints that
21 have not been pled in the BP or testified to already at
22 trial?

23 MR. GILROY: Your Honor, I think the witness -- the
24 ruling should be broader than that.

25 I don't think the witness should be permitted to

1 testify to an interview, which we were surprised with at
2 seven this morning.

3 In other words, there was no indication in any
4 those reports that an actual interview took place, and no
5 contents of such an interview were reported to us.

6 THE COURT: But is that required?

7 MR. GILROY: I would say it is. That is the
8 essence of what a life care planner does, is they interview
9 a claimant or a plaintiff, and then provide -- create a life
10 care plan presumably placed upon that interview.

11 THE COURT: Right, but what I'm saying is the
12 initial disclosure references that there are conversations
13 with the plaintiff, which would form the basis of the
14 opinion.

15 MR. GILROY: My understanding is that it indicates,
16 in very broad terms, her evaluation.

17 I believe that is --

18 THE COURT: That is the word.

19 MR. GILROY: -- the term that was used. It doesn't
20 say interview. It doesn't indicate the contents or the data
21 that the doctor used to formulate her opinion.

22 It's apparently a major basis of her opinion. She
23 devotes paragraphs to it starting on page ten of today's
24 report.

25 THE COURT: Mr. Brennan?

1 MR. BRENNAN: I don't really have anything to say
2 behind what I've already said to the Court.

3 To fame surprise that there's an interview that
4 took place, the supplemental report was provided because
5 four years had passed and we were approaching a new trial.

6 So, the treatment start reflects the starting date
7 of 2025 for the recommended modalities moving forward.

8 I will note this and invite the Court to examine,
9 even though it's taking time out of the day.

10 THE COURT: It's okay.

11 MR. BRENNAN: Every single body part that Dr.
12 Seidenberg made recommendations for in 2021 is consistent in
13 2025.

14 Every single recommended treatment is still there.

15 All the modalities are still there.

16 This includes injections, the physical therapy.

17 The only thing that I think is of substance that
18 Mr. Gilroy is pointing to is an updated interview.

19 But to preclude when the patient himself, Mr.
20 Urquia himself, is going to testify to about his current
21 complaints, is -- I think is a particularly silly argument
22 to make, because there's no surprise about that.

23 We've argued from the moment we filed a Bill of
24 Particulars in this case that these injuries are permanent
25 in nature and will last the rest of his life expectancy.

1 There's nothing new here, Judge.

2 An interview took place in March of this year.

3 THE COURT: I' looking at page 10 of the report,
4 which Mr. Gilroy directs my attention to, and it does a
5 reference a January 2025 right knee surgery.

6 Would that be woven into her --

7 MR. BRENNAN: Not at all. It's not in this case.

8 I will agree and consent under no circumstances
9 because we never pled a right knee. It's not a part of this
10 case. It's never been put in the Bill of Particulars. It's
11 never been treated for in this particular case.

12 I assure the Court the right knee will not be
13 addressed on Dr. Seidenberg's testimony.

14 THE COURT: I'm looking through dates on the report
15 so far, and it looks like all the medical interventions go
16 from 2019, on page two, to --

17 MR. BRENNAN: To 2022, Judge.

18 THE COURT: Yeah, hold on.

19 I have until August 2023 for cervical steroid
20 injections.

21 MR. SHOWERS: One of my concerns is where did the
22 numbers in 2021 come from if Dr. Seidenberg did meet with
23 the plaintiff until 2025?

24 THE COURT: You didn't get a report in 2020, you
25 got a disclosure.

1 So the basis of the disclosure was, you know, in
2 line with 3101(d) --

3 MR. SHOWERS: But if there was no interview in
4 2021, what was the disclosure based upon?

5 THE COURT: You can ask her that. If you're trying
6 to challenge what her basis of opinion is, then ask her on
7 cross-examination.

8 MR. SHOWERS: We've asked repeatedly for
9 plaintiff's counsel for a narrative, and as recently as two
10 days ago, he didn't give us one.

11 THE COURT: Were there any motions before this, for
12 a narrative, or a report, or during discovery?

13 MR. GILROY: There was a motion to preclude to Dr.
14 Seidenberg. This was filed at NYSCEF 351.

15 THE COURT: When?

16 MR. BRENNAN: It was motion in limine.

17 MR. GILROY: Yeah, it was motion in limine.

18 THE COURT: I didn't get that motion in limine when
19 I was ruling on all of the other motions in limine before
20 the start of the trial.

21 MR. BRENNAN: You did.

22 MR. GILROY: I believe we discussed it, Your Honor.
23 The basis of that was before a narrative was received.

24 THE COURT: All right, let me look at my notes.

25 Are you planning to have a rebuttal on this expert

1 topic?

2 MR. GILROY: Your Honor, I haven't had a chance to
3 completely read this and analyze what we got this morning.

4 We have a vocational rehab expert witness who has
5 been scheduled to testify.

6 How would we defend against this, I really -- in
7 the minutes we've had to review this report, I haven't come
8 up with an absolute plan.

9 THE COURT: Where is the expert referenced in the
10 most recent visit interview in the report?

11 MR. BRENNAN: At the very beginning, Judge. Page
12 one, I think.

13 THE COURT: I see it. Interview date 3/3/25.

14 MR. BRENNAN: Can I make a note of something?

15 THE COURT: Hold on one second, please.

16 Go ahead, Mr. Brennan.

17 MR. BRENNAN: So, I just pull the Court's attention
18 to page one. If you look at this substantively, we have
19 essentially a restitution of every relevant doctors visit,
20 facilities that my client treated at, diagnostic test taken,
21 all of which are stipulated into evidence, already reviewed
22 upon, reviewed by the defendant doctors, commented on their
23 reports.

24 Defendants' have had Dr. Seidenberg's opinion since
25 March 11th, and had each one of their own experts comment on

1 Dr. Seidenberg's most recent opinions.

2 Which is why it's actually relevant to mark that
3 entire document that I handed to Court, because it has every
4 doctor's -- every 3101(d) exchanged in this case.

5 If they want to ask about any of the substance of
6 the most recent interview, the basis -- the opinions are
7 formulated from that interview already have been in
8 defendants' position since March 11 of this year.

9 So, again, there's substantively --

10 THE COURT: It's the same.

11 MR. BRENNAN: It's the same.

12 There's nothing that's going to be offered here
13 that's not an opinion. They've already been made aware of.

14 I would note their vocational rehabilitation
15 Mr. Pessalano does not comment beyond -- does not comment
16 substantively on any recommendation for future medical care,
17 because the defendants' doctor say my client doesn't need
18 it.

19 So again, talking about digesting and strategizing
20 a response to this, they said he doesn't need it. There's
21 no change in that position. They said flat out, he is fine.
22 He either didn't injure these body parts in this accident or
23 he's -- it's completely resolved.

24 And so the answer is if Dr. Seidenberg recommends a
25 test, he doesn't need. If she recommends a surgery, he

1 doesn't need it. If he recommends physical therapy, he
2 doesn't need.

3 It's an impossibility to say this substantively
4 changes any defense strategy an iota.

5 MR. GILROY: Your Honor, we disagree with that --
6 that that's the description of, he doesn't need it.

7 It's a little more detailed than that.

8 THE COURT: Well, I mean, is that part of it?

9 All right, let me just throw it out here.

10 I'm just reading through the report right now. The
11 first pages, it is, other than this surgery in 2025,
12 everything in here is part and parcel of what's been on
13 notice for quite some time.

14 So, I don't think precluding her all together is
15 the right thing to do here because the plan -- she was
16 initially disclosed in '21. The basis of her opinion and
17 the sum and substance of what she's expected to testify to
18 were set forth earlier in 2021.

19 I think there is something to say about nothing --
20 I mean that's the one glaring thing that stands out to me
21 and you've already conceded that that's not part of her
22 opinion, correct? That 2025 --

23 MR. BRENNAN: Correct, Judge.

24 MR. SHOWERS: Your Honor? In the March 11, 2025,
25 disclosure, the only basis for her testimony is --

1 THE COURT: What page?

2 MR. SHOWERS: On page two of the disclosure.

3 There's no reference to any review of any medical reports
4 and no reference to any discussion with the plaintiff.

5 MR. BRENNAN: Well, she was originally noticed --

6 MR. SHOWERS: My position and it's Mr. Gilroy's
7 position as well is, she should be limited to what is in the
8 four corners of the 3101 dated March 11, 2025.

9 If you do it that way, as an attorney you're
10 strictly limited to what you put in here as an attorney.
11 And your witness cannot come in at trial and testify as to
12 things that are outside the bounds of this document.

13 THE COURT: So, are you saying that by serving this
14 one in 2025, they essentially thrown this earlier one out?

15 MR. SHOWERS: Yes. They called it corrected and
16 amended.

17 THE COURT: What do you say to that, Mr. Brennan?

18 MR. BRENNAN: It was corrected because there was a
19 misfiling of the document earlier that day. That's where
20 the correction comes from.

21 But she's -- the 3101(d), the statute itself,
22 requires -- we put them on notice about this witness and the
23 basis of her opinion since 2021.

24 THE COURT: Yeah, I see that. I see that.

25 MR. BRENNAN: Yeah.

1 Again, the recommendations for future medical care
2 all pertain to the same exact body parts since 2021, all
3 reference the same types of treatment, all reference the
4 same recommended procedures. They are updated for the
5 calender year 2025, because she anticipated she was would be
6 testifying in 2025, and would be important to have it from
7 2025 moving forward, not a basis from 2021 moving forward.

8 So, again, there's -- it's -- we're talking about
9 the substance of the opinion here, all of which has been on
10 notice.

11 Every single record referenced in the report I
12 disclosed this morning is in evidence. It's been reviewed
13 and re-referenced by every one of their own experts.

14 There's nothing substantive that they haven't had a
15 chance to look at.

16 THE COURT: Yeah. I agree with you, Mr. Brennan,
17 okay?

18 However, I want to be very specific in this -- Mr.
19 Gilroy's right to point out this surgery not pled. So,
20 there'll be no questioning on that.

21 She's subject to cross on any type of interview,
22 but I find that the earlier disclosure did comply with
23 3101(d).

24 MR. GILROY: Your Honor, what our specific request
25 is, is that the Court limit reference to the fact that Dr.

1 Seidenberg apparently interviewed Mr. Urquia two months ago
2 and we weren't notified about this interview or given her
3 report of the substance of this interview until hours ago.

4 THE COURT: So, what would that look like? The
5 complaints?

6 MR. GILROY: Well, the fact that an expert witness
7 did or did not examine or, in this case of a planner,
8 interview the plaintiff, clearly goes to the weight of that
9 person's testimony.

10 If somebody -- it was our impression walking in,
11 until we saw that -- walking into the trial --

12 THE COURT: That she just reviewed records?

13 MR. GILROY: That she reviewed records and was
14 going to give us her opinion as to the costs of what various
15 treatments are.

16 MR. BRENNAN: Judge, play this out logically --

17 THE COURT: Hold on. Hold on.

18 MR. GILROY: I will point out that there's no
19 testimony other than part of Dr. Simela's testimony about a
20 10 or 15% chance of a need for future surgery.

21 There is a no testimony regarding a need for
22 further treatment for any of Mr. Urquia's injuries. I
23 assume that with taking --

24 THE COURT: The doctor yesterday --

25 MR. GILROY: I'm sorry.

1 THE COURT: The doctor testified yesterday that
2 there was a likelihood for future surgery.

3 MR. GILROY: I do recall the doctor testifying. He
4 should come for medical visits on a regular basis.

5 THE COURT: My recollection is that there might be,
6 because of the non permanency of the surgery that's done, he
7 would not only go for future visits and scans stuff, but
8 there may be a future surgery necessary.

9 MR. GILROY: Yes. He put a 10 or 15% chance --

10 MR. BRENNAN: That's actually an incorrect
11 statement of the testimony. It was within the first ten
12 years. He has over three decades of life expectancy.

13 Dr. Simela's testimony was within -- the statistics
14 say within the first ten years, there's that percentage
15 likelihood of the prevision; that increases the longer you
16 live.

17 We have a patient here who is currently 41. We put
18 the like expectancy on notice throughout both disclosures of
19 Dr. Seidenberg.

20 MR. GILROY: Your Honor --

21 MR. BRENNAN: But also, Judge, let me play this out
22 logically for a second.

23 THE COURT: No. I'm ruling. I am done. Okay?

24 I am going to mark the initial disclosure. So
25 April 7, 2021 response for demand for witness disclosure,

1 that will be marked as -- who wants to do it?

2 MR. GILROY: Defendant.

3 THE COURT: -- third party or direct? It's a
4 joint application.

5 MR. SHOWERS: Defendant is fine.

6 THE COURT: Okay. So, we'll do them together.

7 So, the initial response from 2021 and the updated
8 response of March 11, 2025, will be marked as Direct
9 Defendant's Exhibit C.

10 MR. GILROY: Shouldn't they be Court Exhibits?

11 THE COURT: That's fine.

12 (Whereupon, the initial response was marked as
13 Court Exhibit III by the Reporter.)

14 THE COURT: Mr. Brennan, you want your entire
15 disclosure packet as Court Exhibit IV?

16 MR. BRENNAN: Yeah. It's just a reference point
17 for Your Honor. Just for the record, I think it doesn't
18 include the radiologist -- the disclosures. But I can
19 supplement that -- the defendants' radiologist disclosures,
20 Dr. Learner.

21 THE COURT: Okay.

22 (Whereupon, the expert disclosures was marked as
23 Court Exhibit IV by the Reporter.)

24 MR. BRENNAN: I wanted to explicitly -- I want to
25 follow the Court's ruling. I have no intention of asking

1 Dr. Seidenberg but I want to make sure she never mentions
2 the right knee under any circumstances. I'd like the
3 opportunity to say, don't say that body part at all, just so
4 we are not confusing issues here.

5 THE COURT: Yeah, that's fine.

6 Mr. Showers, I'll hear from you.

7 MR. GILROY: Many of the future treatments that are
8 alluded to and discussed in Dr. Seidenberg's reports, all of
9 them are for things that have not been -- there's no
10 testimony that there's a need, for example, chiropractor
11 massage therapy. There's a \$45,000 projection in the
12 3101(d) for future massage therapy from chiropractors.

13 Dr. Simela did not testify that there is a need for
14 -- or a causal relationship of chiropractic treatments in
15 the future.

16 So I am asking, is this being offered subject to
17 connection by competent medical testimony? In other words,
18 the need for future treatments in the nature of
19 chiropractors, visits to hand doctor, occupational therapy,
20 and physical therapy -- a number of different items and
21 treatments into the future that Dr. Seidenberg will testify
22 to her projections of the costs. But we don't have the
23 foundation that that particular treatment is needed.

24 THE COURT: I think that's a fair point.

25 MR. BRENNAN: You would think so except she's a

1 medical doctor who's also being offered as an expert in the
2 field of physical medicine and rehabilitation. So, her CV's
3 long been exchanged and that was exchanged -- so when you're
4 talking about the competent medical evidence, we're going to
5 have it in the form of Dr. Seidenberg.

6 Part of her foundation is that -- she's separately
7 certified in life care planning, but she's a licensed
8 medical physician who has worked for decades in the field of
9 physical medicine and rehabilitation.

10 Which is exactly the type of doctor that determines
11 the -- like Dr. Abramov for the actual treating physician
12 here, you know, started him on a course of certain types of
13 physical therapy, sent him for certain types of tests.

14 That's the kind of doctor that kind of
15 quarterbacks.

16 THE COURT: Slow down.

17 MR. BRENNAN: I'm sorry. I'm a little heated.

18 MR. GILROY: Your Honor, if the need was if doctors
19 -- the doctor's opinion was there's a need was formed on the
20 basis of her March 2025 interview, which was disclosed to us
21 today, we would object.

22 MR. SHOWERS: Your Honor, there's also no testimony
23 for the need for which is found EMG and NCV tests. There's
24 no testimony for the need for further epidural injections.
25 There's no testimony for the need for ultrasound.

1 THE COURT: Wouldn't she -- isn't it fair to say
2 that the disclosure included her, other than the life
3 planning stuff, medical qualifications?

4 MR. SHOWERS: May I just say there's no testimony
5 also for occupational therapy. There's no testimony
6 regarding the need for future medicine. There's no -- in
7 fact, Dr. Simela yesterday testified that plaintiff is using
8 over-the-counter medicine currently. There's no testimony
9 for the need for left shoulder arthroscopy, right wrist
10 arthroscopy, the lumbar and anterior cervical revisions or
11 surgeries in the first place. Those were not to a
12 reasonable degree of medical certainty.

13 So, Dr. Seidenberg is wildly outside of her field.
14 She can't testify to all this medical treatment, because it
15 has nothing to do with the field of medicine that she's
16 licensed in.

17 THE COURT: What do you say to that?

18 MR. BRENNAN: First of all, listen to her
19 testimony. Let's see if I lay the proper foundation.

20 Mr. Urquia has undergone injections. He's already
21 undergone EMG testing. He has been recommended for a right
22 wrist surgery. He has been on the path and recommended for
23 a left shoulder surgery.

24 When you say there's been no testimony, there are
25 other witnesses to come. Treating physicians are still to

1 come.

2 I assure you that Dr. Seidenberg's qualifications
3 and basis for this opinion, which was already disclosed,
4 will be noted in her direct examination. That could go to
5 the weight.

6 I made it clear to the jury both in jury selection
7 and in the opening, you can accept or reject. That's what
8 the fact finders are here for.

9 She's got the qualifications to do this and she'll
10 explain why.

11 THE COURT: No. You'll lay her qualifications to
12 do this, if you're going to try to do that.

13 MR. BRENNAN: Exactly.

14 THE COURT: I want to see what the doctor says, all
15 right? And I think it's fair enough for the jury,
16 especially with the charges, that there's conflicting
17 versions of recommendations or whatever, they have to fit it
18 together.

19 I think an interview is par for the course in
20 preparing for trial. And just my initial kind of review of
21 the report, it does center on things that have been already
22 set forth either in the BP or testimony so far. All right?

23 So, I'm going to deny the application.

24 I will note your exceptions, without you having to
25 say it. Okay? But I am going to permit the expert to

1 testify and we'll go from there. Okay?

2 MR. SHOWERS: Yeah. Your Honor, I want to note for
3 the record that I don't see these claims in the Bills of
4 Particulars. I just don't see them there.

5 THE COURT: Future care?

6 MR. SHOWERS: No, Your Honor. Just these specific
7 claims that Dr. Seidenberg is making are not in the Bill of
8 Particulars.

9 These future surgeries not in the Bill of
10 Particulars that I could see.

11 THE COURT: Is future surgery not pled -- future
12 treatment?

13 MR. BRENNAN: It's pled as a matter of course, that
14 all this is permanent in nature and is ongoing and will
15 require additional treatment. So, yes. All this is --

16 THE COURT: I am to allow the testimony, okay?
17 Are we reedy to proceed?

18 MR. BRENNAN: Yes, Judge.

19 THE COURT: Let's get the jury down here, please.

20 COURT OFFICER: All rise. Jury entering.

21 (Whereupon, the sworn jurors enter the courtroom
22 and take their respective seat.)

23 THE COURT: Good morning, members of the jury.

24 We can be seated. Happy Friday.

25 Sorry. I know that you all were here. We had a

1 little bit more business to take care of before we could
2 call you down. I appreciate your patience as always.

3 We will continue today with plaintiff's
4 presentation of his case.

5 Counsel, if you want to call your next witness
6 please.

7 MR. BRENNAN: Thank you, Your Honor.

8 Plaintiff calls to the stand Dr. Vicki Seidenberg.

9 V I C K I S E I D E N B E R G, called as a witness by and on
10 behalf of the Plaintiff, after having been first duly sworn, was
11 examined and testified as follows:

12 COURT OFFICER: Please, raise your right hand.

13 Do you swear or affirm the testimony you are about
14 to give is the truth under penalty of perjury?

15 THE WITNESS: Yes.

16 COURT OFFICER: In a loud clear voice, please state
17 your name and address for the record.

18 THE WITNESS: Vicki Seidenberg, 30 Primrose Lane,
19 Roslyn Heights, New York 11577.

20 THE COURT: Thank you. Witness is sworn.

21 Counsel, you may inquire.

22 MR. BRENNAN: Thank you, Your Honer.

23 DIRECT EXAMINATION

24 BY MR. BRENNAN:

25 Q If you can, introduce yourself to the jury.

1 A Hi. I'm Dr. Vicki Seidenberg. Nice to meet you.

2 Q Are you duly licensed physician in the State of New
3 York?

4 A Yes, I am. I'm board certificated in the field of
5 physical medicine and rehabilitation.

6 Q We'll take about that in a moment.

7 Can you give the jury a sense of your educational
8 background?

9 A I completed my, after doing undergraduate, at State
10 University of Stony Brook. I completed my medical education and
11 I got my degree from a state university at Buffalo School Of
12 Medicine.

13 From there, I went on to do my training, my residency
14 in Chicago, where I specialized in physical medicine and
15 rehabilitation.

16 Q Can you tell us what comprises the field of physical
17 medicine and rehabilitation?

18 A So, PM&R, physical medicine and rehabilitation is also
19 known as physiatry. And it's quite a big field of medicine and
20 unfortunately many people don't even know what I do.

21 I specialize in the evaluation, diagnoses, and
22 treatment of patients with neuromuscular skeletal diseases. So,
23 I take care of patients with nerve muscle and bone problems.

24 It's quite a large field. My training encompasses
25 treating spinal cord injury patients, traumatic brain injury

1 patients, amputees, multi-trauma orthopedics, stroke
2 rehabilitation, cardiac rehabilitation, and pediatric
3 rehabilitation, as well as sports medicine, outpatient, muscular
4 skeletal and pain management.

5 So, a physiatrist is the team leader in the care of
6 patients with disabilities. And I like to say that we treat
7 them in a holistic fashion.

8 How do we do that? The goal of treating a patient with
9 a disability is not only decreasing pain, but maintaining
10 function, whatever functional level that patient might be able
11 to have.

12 Q When was it that you actually started practicing in
13 that particular field?

14 A Since 1995. So, I've been in practice for over almost
15 30 years.

16 Q So, when you were saying you want to help maintain --
17 not just improve, but help maintain, what do you mean by that,
18 Doctor?

19 A So we take multi-disciplinary approach. So, I'm the
20 doctor in charge of their care. It's my job to diagnose, treat
21 their pain, prevent secondary complications related to their
22 disability. And then we treat with modalities, different kinds
23 of therapies.

24 I prescribe -- I don't do the actual therapy. I
25 prescribe physical therapy which works on strength, balance,

1 walking, maintaining joint range of motion. I may prescribe
2 occupational therapy, also known as OT.

3 OT focuses more on the upper extremities, fine motor
4 skills, and also what we call activities of daily living. Can
5 that patient get to the bathroom by themselves, in and out of
6 tub, to the toilet, things like that.

7 In a case of the patients with brain injury and stroke,
8 they might need speech, swallow evaluations, what kind of diet
9 can that person eat, do they have swallowing difficulties, do
10 they need a feeding tube?

11 Q In addition to some of those therapies you may
12 prescribe, do you also play a role in what kind of specialist a
13 patient under your care might need?

14 A Yes. Yes, I'm the gatekeeper. I oversee the medical
15 care. One of the goals is to prevent secondary complications
16 and with each disability, there are multiple complications that
17 can occur. So it is the goal to prevent and -- hopefully
18 postpone and prevent some medical complications.

19 Q What are some the professional experiences you've had
20 since you started practicing in that field back in -- I missed
21 the year.

22 A In 1995.

23 Q Okay.

24 A After my training, I returned to New York. I worked in
25 outpatient muscular skeletal orthopedic practice, doing pain

1 manage, doing something called electrodiagnostic testing,
2 injections.

3 So, the goal of the physiatrist is to treat that
4 patient and prevent, hopefully, or postpone surgery for many --
5 particularly in orthopedic practice. That's the goal.

6 You have neck pain, you have back pain.

7 Not every person with neck pain or back pain needs a
8 surgeon. They need a physiatrist.

9 So, I worked in an outpatient muscular skeletal
10 practice for many years and then relocated my family to Long
11 Island, where I maintained not only an out-patient muscular
12 skeletal practice but then I started working in the hospital. I
13 was working in an acute rehab facility, Northshore, now
14 Northwell in Glen Cove.

15 We had an acute inpatient rehabilitation center, where
16 people go immediately after multi-trauma. Immediately after an
17 accident, you've had surgery, you've had trauma, you're not
18 ready to go home, you're not safe to go home, and you have
19 ongoing medical issues. You then go to inpatient
20 rehabilitation, where I oversee the care.

21 From acute rehab, I also worked in a subacute facility.
22 So, sometimes particularly nowadays, they -- insurance companies
23 don't allow patients to stay in acute rehab for very long. But
24 a patient not be safe to go home, so there are subacute
25 facilities, of which the patient is then transferred and they

1 get continued therapy.

2 And again, I'm the medical doctor overseeing their
3 wounds, their bowel and bladder care, infections. And I'm
4 prescribing different therapies, different braces.

5 I'm educated in -- so, some patients have amputees and
6 they need prosthesis. So, I know about the different kinds of
7 prosthesis.

8 Q You touched upon a couple of things I want to explore a
9 little more deeply. Specifically, your role and your experience
10 with pain management of those types of orthopedic patients.

11 A Yes. Again, you want to attack pain from multiple
12 areas. You don't want to look at pain through a microscope.
13 It's not just the twisted ankle, because the twisted ankle --
14 the knee bone is connected to hip bone and it translates up and
15 now the back -- the pelvis is irritated and can cause back pain.

16 So medications, I do multiple injections into joints,
17 into tendons. I might brace patient might need a brace. I
18 would prescribe therapy.

19 Q We've heard some testimony about a couple of different
20 kinds of injections. Can you help us distinguish the difference
21 between an epidural and a trigger point injection?

22 A Okay. So, there's -- now, we're going into really back
23 pain and neck pain treatment.

24 So, trigger point injections are injections into the
25 muscle, okay? So, everybody has gotten those knots in their

1 neck, in their back, and it hurts when you push on them.

2 A trigger point injection is actually an injection into
3 the muscle; and what we found is that the muscle has developed
4 adhesions and it's not functioning properly.

5 So, you inject the muscle with some numbing medicine
6 and some sterile saline to flush the area and try to break up
7 adhesions.

8 An epidural injection is an injection directly into the
9 spinal cord. We're bathing the spinal cord with cortisone.
10 Cortisone is an antiinflammatory medication. You've heard of
11 NSAID, non-steroidal anti-inflammatory drug?

12 That's Motrin, that's Advil, that's Aleve.

13 Cortisone and prednisone are steroidal
14 anti-inflammatories. So, they are injected directly into the
15 spinal column to bathe an inflamed nerve.

16 Q Would you ever perform that kind of procedure yourself?

17 A I actually was not performing epidurals myself. One of
18 my associate's was.

19 I was performing something called facet and sacroiliac
20 joint injections. So, this is a third type of injection that we
21 use for pain management for people with neck and back pain.

22 Basically what that is, is an injection into the
23 joints. So, your spinal column has vertebra that are lined up.

24 You have your cervical, which is the neck, the
25 thoracic, which is the midback, and then the lumbar.

1 In between the bones are something called the discs.
2 You've heard of the discs. The discs are like jelly donuts that
3 sit between the bones.

4 But the bones have little wings, and the wings come out
5 and they're connected. So, they have joints. Wherever two
6 bones come together, there's a joint. Those are called facet
7 joints. When there's trauma to the disc or the discs start to
8 dry up, the bones get closer together and bones get inflamed.

9 So, one of the injections we do for back pain are facet
10 joint injections.

11 Q You mentioned electrodiagnostic testing. Do you have
12 any particular training in that area?

13 A Yes. Part of my training as a physiatrist is in
14 electrodiagnostic testing. That's a two-part test.

15 The first part is a nerve conduction study, where you
16 measure the impulses with electrodes from the spinal cord into a
17 specific muscle to determine if there's any blockage.

18 The second part of the test involves a needle electrode
19 that is actually inserted into muscles. It takes recordings
20 from the muscle and determines if there's what we call
21 denervation, or nerve damage to that muscle.

22 So, electrodiagnostic studies are used to determine if
23 there's current or previous denervation or nerve damage and how
24 that muscle is functioning.

25 Q Aside from your medical degree and your years

1 practicing in the field of physical medicine and rehabilitation,
2 do you have other areas of expertise?

3 A Yes. I am a certified life care planner.

4 Q What does it mean to be a certified life care planner?

5 A A life care plan is a comprehensive report that -- the
6 purpose of a life care plan is to help determine current and
7 future medical needs and costs for people who have had injuries.

8 I had to get certified as a life care planner. I took
9 a course, many months. I went down to North Carolina, took
10 class down there. I had to take an exam. I received my
11 certification as a life care planner.

12 Now, the only physicians that can become certified as
13 life care planners are physiatrists.

14 Why is that? Because my medical training encompasses
15 function, future care, and people with disabilities.

16 Q So, can I ask you how you'd become involved in a case
17 like this with Mr. Urquia?

18 A Yes. I was asked to make a report for this compliant.

19 Q And did you do so in this matter?

20 A Yes.

21 Q And broadly speaking, what does a life care plan
22 entail?

23 A It's quite an extensive report. I review all of the
24 medical records from the time of the accident through current
25 date. All the operative reports, all the diagnostic studies I

1 do a consultation with the client. And then, there's a lot of
2 research because I have to research what future care would be
3 required for that particular injury, what are the standards of
4 care, and what are the costs for that particular treatment.

5 Q Have you ever testified in court before?

6 A Yes.

7 Q Approximately how many times?

8 A Over my 30 years, maybe about a dozen, give or take.

9 Q Have you ever testified on behalf of a plaintiff in a
10 case like this, an injured party?

11 A Yes.

12 Q Have you ever testified on behalf of a client of firm?

13 A Yes, I have.

14 Q Have you ever testified on behalf of a defendant in a
15 case?

16 A Yes.

17 Q Are you being compensated both for your time here today
18 and for the time you spent preparing the life care plan?

19 A Yes.

20 Q What is that compensation?

21 A \$8,500.

22 Q I want to go into the substance of your plan in a
23 moment, but I just had a couple of broader questions for you.

24 You talked about records that you reviewed to prepare
25 your plan?

1 A Yes.

2 Q Does that include the Lincoln Hospital records from Mr.
3 Urquia's both initial ER visit, as well as a couple of
4 subsequent clinical visits?

5 THE WITNESS: May I refer to my report?

6 MR. BRENNAN: With the Court's permission, if she
7 can't independently recall, can she refer to what she
8 prepared?

9 THE COURT: Yeah.

10 MR. BRENNAN: Thanks.

11 A Yes, I did review the Lincoln hospital records.

12 Q That's in evidence as Plaintiff's Exhibit 5.

13 Did you also review Dr. Abramov's records from
14 Interventional Physical Medicine and Rehabilitation?

15 A Yes, I did.

16 MR. BRENNAN: That's is in evidence as Plaintiff's
17 Exhibit 6.

18 Q Did you also review Dr. Nigel's records, the orthopedic
19 doctor, over at University Orthopedics of New York?

20 A Yes, I did.

21 MR. BRENNAN: That's in evidence as Plaintiff's
22 Exhibit 7.

23 Q Did you review Dr. Caligiuri, the hand specialist from
24 the University Orthopedics of New York?

25 A Yes, I did.

1 MR. BRENNAN: That's in evidence as Plaintiff's
2 Exhibit 8.

3 Q How about Dr. Kwan, the neurologist?

4 A Which neurologist?

5 Q Dr. Kwan.

6 A I have Dr. Hauskknecht.

7 Q Okay.

8 MR. BRENNAN: That's in evidence as Plaintiff's
9 Exhibit 10. That's from Complete Care.

10 Q How about Dr. Perez, Dr. Colon, and Dr. Simela?

11 A Yes.

12 Q Okay. Did you have a chance to look also at the
13 surgical records from Surgicore, New Horizon and Hudson
14 Hospital?

15 A Yes.

16 MR. BRENNAN: Those are in evidence as 13, 14 and
17 15.

18 MR. SHOWERS: Can we just have the page numbers in
19 the doctor's reports where those records were reviewed?

20 MR. BRENNAN: And 16.

21 THE WITNESS: Page eight and nine have the list of
22 the records reviewed.

23 MR. SHOWERS: Thank you.

24 Q Did you have an opportunity to review surgical reports
25 -- withdrawn. I think you just said that.

1 Imaging studies -- or rather reports -- radiology
2 reports of other film studies?

3 A Yes.

4 Q Now, are you familiar with the phrase life expectancy?

5 A Yes.

6 Q How is such a thing determined?

7 A Part of the report is for me to determine the life
8 expectancy of the patient. There are studies and tables from
9 the National Statistics of Vital Statistics, I believe. United
10 States Life Tables Center for disease control and prevention,
11 National Center for Health Statistics and National Vital
12 Statistic reports that determine life expectancy based upon
13 race, based upon age, gender. So that's what I use.

14 Q Now, you say that -- you told us earlier rather that in
15 addition to the review of records, you spoke with Mr. Urquia?

16 A Yes.

17 Q By the way, were you asked to update an original report
18 in this particular matter?

19 A Yes, because the original report, I believe, was a few
20 years ago.

21 Q Would you have interviewed Mr. Urquia on both
22 occasions?

23 A Yes.

24 Q When you say a few years ago, if I represent to you
25 sometime in 2021, does that sound about right?

1 A That sounds about right.

2 Q All right. When did you most recently interview Mr.
3 Urquia?

4 A In March of 2025.

5 Q What did you learn, both in the review of the records
6 and that initial interview of Mr. Urquia that you -- in order to
7 prepare your life care plan?

8 A The consultation entails reviewing his medical history.
9 I had already reviewed his medical records and had written a
10 medical timeline of the history, so I knew quite a bit about
11 him, but I like to review it with the patient.

12 Then we talked about his current symptoms, current
13 treatment, current medications, his psychosocial history. So,
14 is he married, does he have children, his previous employment,
15 his previous education, and then we discussed his ongoing
16 symptoms and functional limitations.

17 Q In both your consultation and review of the records,
18 what did you learn about the inciting incident that gave rise to
19 any medical treatment he needed? What happened to him?

20 A He was on a ladder and he was struck by metal beams
21 while working construction.

22 Q Okay. After your consultation and review of the
23 medical records, just to put a fine point on it, you prepared a
24 life care plan?

25 A Yes, I did.

1 Q When we spoke a moment ago about life expectancy, what
2 did you determine the life expectancy for Mr. Urquia to be?

3 A 35.7 years, so it's rounded up to 36 years.

4 Q And that would be from present day 2025 into the
5 future?

6 A Yes.

7 Q Did you also, in addition, come up with not just
8 recommendations for future medical care, but those particular
9 costs?

10 A Yes.

11 MR. BRENNAN: Your Honor, with permission just for
12 illustrated purposes, I would like to project on to the
13 screen the different modalities to assist Dr. Seidenberg's
14 testimony as she goes through the contents of her findings.

15 THE COURT: Mr. Showers?

16 MR. SHOWERS: Objection, Your Honor. I am not
17 quite sure what counsel is referring to.

18 THE COURT: Why don't we have a sidebar?

19 MR. SHOWERS: Sure.

20 (Whereupon, an off-the-record discussion was held
21 at the bench.)

22 THE COURT: I'm going to excuse the jury for a few
23 more minutes while we take care of some other business down
24 here. We will have the court officer come bring you back
25 when we're ready to continue the testimony, okay.

1 Jury is excused.

2 COURT OFFICER: All rise. Jury exiting.

3 (Whereupon, the sworn jurors exit the courtroom.)

4 THE COURT: Okay. You may be seated. The juror
5 has been excused from the room. There's been an application
6 to engage in some voir dire of the witness by defendants.

7 Who wants to start?

8 MR. SHOWERS: Can we both go?

9 THE COURT: Since you are the direct defendant --
10 it seems like it's joint application.

11 MR. SHOWERS: I just want you to give us both the
12 opportunity.

13 THE COURT: You will both get the opportunity.

14 I will start with Dr. Showers.

15 VOIR DIRE EXAMINATION

16 BY MR. SHOWERS:

17 Q Good morning, Doctor.

18 A Good morning.

19 Q My name is Andrew Showers. I represent the defense in
20 this case.

21 How many narrative reports -- or it's called a plan
22 report, what was exchanged to us today, how many of those have
23 you drafted in this case?

24 A The life care plan?

25 Q What I have in front of me is life care plan dated

1 3/7/25.

2 A Correct.

3 Q How many of those types of reports have you drafted in
4 connection Mr. Urquia?

5 A I did one several years ago and then I updated it in
6 March of this year.

7 Q Do you have the one that you did several years ago here
8 today in court?

9 A No.

10 Q Where is that report?

11 A On my computer.

12 Q How many drafts did you make of your life care plan
13 report?

14 A One.

15 Q One draft? What's the date of the first report?

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

17 Q You don't have your file with you here?

18 A No, I do not.

19 Q Did you have a meeting with Mr. Urquia back in 2021?

20 A Yes.

21 Q How was that meeting conducted?

22 A Via Zoom.

23 Q Was that one meeting?

24 A Yes.

25 Q Who was in attendance of that meeting?

1 A Myself, and the translator.

2 Q Who was the translator employed by?

3 A I don't recall.

4 Q The draft that you did back in 2021 -- was it dated
5 2021?

6 A If that's when it was written, yes, it was dated 2021.

7 Q Did you send that draft to plaintiff's attorney for any
8 comments or edits?

9 A No.

10 Q Did you ever examine Mr. Urquia in person?

11 A No.

12 Q Is that true up until today?

13 A Correct.

14 Q Did you ever speak to any of Mr. Urquia's doctors?

15 A Personally, no.

16 Q I just want to clarify. Did you ever speak to them at
17 all?

18 A No. I just reviewed their medical records.

19 Q And that's true for both reports?

20 A Yes.

21 Q When was the first time you reviewed Mr. Urquia's
22 medical records?

23 A If the report was written in 2021, it had to be
24 sometime that year.

25 Q How did you get those records?

1 A I received them from the attorney.

2 Q When you say the attorney, you are referring to the
3 Wingate Firm provided them?

4 A Correct.

5 Q How long was your first report that you drafted in
6 2021?

7 A It was the same exact report. The update was really a
8 second consultation with the client and a revision of the dates
9 and the charts, because now it was two years later.

10 So, his life expectancy was a little shorter, I had to
11 make some adjustments. But the body of the chart was
12 essentially unchanged.

13 Q When you write a life care plan, do you typically do it
14 via Zoom interview?

15 A Yes.

16 Q You mentioned your credentials. The credentialing
17 agencies, did they require in-person interviews of the
18 respective life care plan?

19 A No.

20 Q Where did you get the costs from that you came up with?

21 A I use several different sources based upon CPT codes.
22 Then I do extensive research cost for in network, and out of
23 network, and Medicare and then what you do is come up with a
24 median cost. So, it's not the highest, it's not the lowest.
25 It's an average of what the cost is for that particular --

1 Q Are any of those sources listed in your narrative
2 report?

3 A Yes.

4 Q Where?

5 A Number two, number three under the resources. And then
6 there are certain websites list on the last page, Healthcare
7 Bluebook, FairHealthConsumer.org, GoodRx. Multiple listings of
8 websites that I used for my sources.

9 MR. SHOWERS: Your Honor, for the record, I would
10 just note that the -- that neither of the expert disclosures
11 for Dr. Seidenberg contained any of the cost sources that
12 the doctor apparently relied upon.

13 MR. BRENNAN: Right, the disclosure said --

14 MR. SHOWERS: I'm not done. That would be a
15 further bases to preclude the doctor's testimony with
16 respect to cost.

17 THE COURT: Mr. Brennan?

18 MR. SHOWERS: Costs were exchanged today for the
19 first time.

20 MR. BRENNAN: That's incorrect. The costs have
21 been exchanged for years and months.

22 MR. SHOWERS: Where -- the basis for the cost?

23 MR. BRENNAN: Sure. The disclosure said, as far
24 back as 2021, that Dr. Seidenberg would be relying on
25 accepted sources within her field for those costs --

1 generally accepted sources.

2 There is no life care planner on other side, by the
3 way. Mr. Pessalano is a rehabilitation specialists.

4 The defendants have chosen in the defense of this
5 case not to designate a life care planner.

6 MR. SHOWERS: Based upon a 3101(d) --

7 THE COURT: But you knew a life care planner was
8 testifying, Counsel, correct.

9 MR. SHOWERS: Yes, but it's easily rebuttable
10 because it doesn't reference any medical records and it
11 doesn't reference any costs or the basis for the costs.

12 Now, today, it's been supplemented for the first
13 time.

14 THE COURT: Again, the initial disclosure again
15 sets forth experts witness will be based upon the medical
16 records, the hospital records, discussion with plaintiff's
17 physicians, pleadings, results, testimony pertinent economic
18 financial and vocational data and medical and care data
19 generally accepted in the field.

20 MR. SHOWERS: None of which is identified, Your
21 Honor, in the record. Therefore, the doctor is limited to
22 just what is in the 3101(d). She can't go beyond that.
23 That's our position.

24 THE COURT: I don't think that there's prejudice.

25 I'll note your exception.

1 MR. SHOWERS: I just have a continuing objection
2 and move to strike the testimony of Dr. --

3 THE COURT: Okay. Overruled.

4 Mr. Gilroy?

5 MR. GILROY: I join in that objection, Your Honor.

6 THE COURT: Okay. Overruled.

7 Are we ready to proceed?

8 MR. SHOWERS: Yes.

9 THE COURT: Let's get the jury back in here,
10 please.

11 COURT OFFICER: All rise. Jury entering.

12 (Whereupon, the sworn jurors enter the courtroom
13 and take their respective seat.)

14 THE COURT: Okay, we can continue.

15 MR. BRENNAN: Thank you, Your Honor.

16 CONTINUED DIRECT EXAMINATION

17 BY MR. BRENNAN:

18 Q Dr. Seidenberg, before we broke, I think we were about
19 to discuss the substance of your life care plan and the findings
20 thereof, all right? We will continue there.

21 A Yes.

22 Q What I'm doing is projecting some of your findings on
23 to the screen here just to help with your testimony -- more for
24 the juries sake.

25 But in preparing your life care plan, did you break the

1 report down into particular sections?

2 A Yes. So, after I review all the medical records,
3 review the recommendations from the treating physicians, review
4 the diagnostic studies, the operative reports, do my research as
5 well as my 30 plus years of treating patients with this kind of
6 disability, I come up with charts to determine what current and
7 future medical needs and costs would be related to his accident.

8 Q By the way, in preparing that, are you taking into
9 consideration exactly what treatment he's undergoing now, or are
10 you considering what you would recommend he have into future?

11 A It's a recommendation of what would be usually and
12 customary with a patient with this kind of accident, or this
13 kind of surgery, or this kind of disability.

14 Q I am going to start with the section you prepared
15 entitled Medical Care.

16 Broadly speaking, what did you mean by that?

17 A So, the charts are broken into seven different charts.
18 The first one is, as Mr. Brennan said, medical care. So, each
19 doctor visit is broken down individually. The line -- the first
20 line indicates what kind of doctor that is. The second line,
21 the indication for that visit. The duration is his life
22 expectancy based upon the calculation we talked about earlier.
23 The frequency of those visits over his lifetime. Cost per
24 visit, then some math is involved calculating the number of
25 visits times the cost. And at the end, you have the total for

1 that particular treatment.

2 Q So, Doctor, let's start with the left-hand column
3 there, in the particular type of physician. We see the first
4 there is listed as physiatrist or pain management. Why is that
5 particular specialist you recommend?

6 A Mr. Urquia has undergone several surgeries and has
7 ongoing functional limitations and ongoing pain. He has
8 received pain management in the past and has undergone several
9 injections in the past to help alleviate some of his pain.

10 So, that treatment is with a physiatrist and a pain
11 management specialist. That doctor also evaluates for future
12 physical therapy and would prescribe therapy, braces, things
13 like that.

14 I've allotted for a visit two to three times per year,
15 for medications, for injections, for possible physical therapy.
16 The average cost is \$250 per visit. Over his lifetime, that
17 would 80 visits, for a total of \$20,000.

18 Q The next specialist you have listed there is a spine
19 surgeon. Why are you recommending that he continue to see a
20 spine surgeon?

21 A He had spinal fusion surgery, which involved putting
22 hardware in the spine. He's at risk for secondary
23 complications.

24 After you fuse the spine, the tension above and below
25 where you fuse the spine increases leading to the risk of what

1 we call subsequent level disease.

2 In addition, he's at risk for loosening of the
3 hardware, which could cause a shift in the spinal cord and
4 further nerve problems.

5 So, I have recommended that over his lifetime, he
6 periodically follows up with the spine surgeon so he can have
7 X-rays and MRI studies. And I've allotted 20 visits over his
8 almost 40-year lifetime. Cost is \$350 per visit for a total
9 cost to have \$7,000 over his lifetime.

10 Q You have a separate orthopedic recommendation there for
11 joint specialists. Why that?

12 A He had sustained injuries to his shoulders and knee.
13 He did undergo, I believe, shoulder surgery. He continued to
14 complain of limitations, pain. He had mechanical symptoms in
15 his right shoulder of clicking sensations when he raised his
16 arm. I've allotted for him to follow-up with an orthopedist, 10
17 visits over his lifetime for a total of \$2,500.

18 Q And the individual cost per visit of what?

19 A It's \$250 per visit.

20 Q How about the next item there? The separate hand
21 specialist?

22 A Orthopedists tend to focus on specific body parts. He
23 had sustained significant trauma to his right hand. He also had
24 sustained a tear of the cartilage in the wrist and referred for
25 hand surgery. I've allotted 10 visits with a hand specialist

1 over his lifetime at \$250 per visit, \$2,500 in total.

2 Q Finally on this particular page here, the chiropractor.

3 Now, I just want you to assume, and I think you
4 probably know this from reviewing the medical records. Today he
5 hasn't actually had any chiropractic treatments, so why would
6 you recommend something like that?

7 A He's still reporting ongoing pain in both his neck and
8 his back. Chiropractic treatment is form -- one modality that
9 we use to help relieve muscle tension, improve range of motion.
10 It's a therapeutic modality. So I recommended that he be
11 allotted 200 visits over his lifetime for ongoing symptomatic
12 management. The total cost is \$45,000 over his lifetime.

13 MR. GILROY: Objection. Motion to strike on the
14 basis previously stated.

15 THE COURT: I'd like to sidebar with counselors.

16 (Whereupon, an off-the-record discussion was held
17 at the bench.)

18 THE COURT: Members of the jury, we are going to
19 break a little bit early for lunch today. I am going to ask
20 that you report back to the jury room by two fifteen, okay?

21 We'll continue with the testimony and presentation
22 of plaintiff. Jurors excused.

23 COURT OFFICER: All rise. Jury exiting.

24 (Whereupon, the sworn jurors exit the courtroom.)

25 (Whereupon, a lunch recess was taken.)

1 ** A F T E R N O O N S E S S I O N **

2 (Whereupon, the proceedings resumed at 2:08 p.m.)

3 THE COURT: All right. So we're back on. I hope
4 everyone had a nice lunch. The jury is not in the room.
5 But I just want to tie a bow around some continuing
6 conversations that were going on this morning, particularly
7 with the testimony of the witness who's on the stand, but
8 not in the room right now, okay, but is currently being
9 questioned.

10 So there's been some back and forth. And I had
11 orally ruled that I was going to permit the testimony of
12 the expert witness. And I'm holding to that ruling. And I
13 just want to clarify for the record, we put into as Court
14 Exhibit III, the two disclosures that were served by the
15 plaintiff in connection with this particular witness.
16 Again, the initial one was served some time back in 2021,
17 and then the subsequent, couched as corrected, disclosure
18 was served in 2025.

19 After reviewing both of those disclosures, you
20 know, the Court really hasn't seen a disclosure like this
21 in the past. It's quite -- both of them are quite
22 detailed. They set forth charts which goes into the
23 recommendations for treatment; the average frequency per
24 year; costs. And all of the particulars of the
25 recommendations that are being testified to were set forth

1 in these disclosures.

2 What's a little different about this witness, and
3 this disclosure, is that I find that the disclosure set
4 forth that this expert is testifying not only as an expert
5 in life planning, but is also an expert in physical
6 medicine and rehabilitation, and that those specialties are
7 the basis for the opinions that are being set forth on the
8 stand and as well as being detailed in the disclosures that
9 were set forth. Of course, the report will never come in.
10 It doesn't go to the jury. But I believe that the
11 disclosures that were served, again, four years ago, and
12 more recently, sufficiently put the defendants on notice as
13 to what this witness would be testifying to.

14 Everything is subject to connection. All right.
15 And I think that some of the concerns raised by the
16 defendants -- in fact, I believe right before we broke for
17 lunch, there was an objection as to the witness who's on
18 the stand talking about chiropractic treatment, and I
19 understand the objection but I believe that the basis of it
20 could be resolved on cross if this witness didn't do
21 certain things that might not give her a fully informed
22 opinion that would be a topic that's, you know, properly
23 raised on cross examination.

24 But again, I think that the disclosures that were
25 made, the 3101(d)'s in relation to the witness, Vicki

1 Seidenberg, was sufficient enough to avoid any prejudice
2 that the defendants are alleging at trial.

3 So that's my ruling. I will note, for the
4 record, that the defendants take exception to my ruling on
5 this. Correct?

6 MR. SHOWERS: Yes, Your Honor.

7 MR. GILROY: Yes.

8 THE COURT: And I think that we could move
9 forward onto that the ruling has been made and we're going
10 to go on with direct and cross on this one. Okay.

11 MR. GILROY: Understood, Your Honor.

12 THE COURT: Okay. Anything else before we bring
13 the jury back down or am I opening a door by asking
14 anything else?

15 MR. BRENNAN: Not from plaintiff, Your Honor.

16 MR. GILROY: Your Honor's comment that you're
17 accepting testimony subject to connection.

18 THE COURT: Yes.

19 MR. GILROY: Implies to me that we're to expect
20 additional medical testimony to the effect that the future
21 treatment, 41 different categories, is all indicated,
22 necessary and will more likely than not be needed by the
23 plaintiff in the future.

24 THE COURT: That's what I would expect. I mean,
25 you know, especially if there's not -- if there's items in

1 here that are not within the medical expertise of this
2 witness, they would have to be subject to connection by
3 some other doctor or some other medical report. Okay.

4 MR. BRENNAN: Yes, Judge.

5 THE COURT: Okay. Mr. Gilroy?

6 MR. GILROY: Thank you.

7 THE COURT: Mr. Showers?

8 MR. SHOWERS: I just echo what Mr. Gilroy said,
9 Your Honor. As we discussed in your chambers, you know,
10 several of the items in this report, there's been no
11 testimony that it's happened, and there's been no physical
12 exam by Dr. Seidenberg and so my contention is that
13 Dr. Seidenberg can't opine that it will be needed in the
14 future.

15 THE COURT: I understand the objection. Okay.
16 And I am looking forward to hearing the continued
17 testimony. Because, again, I think that there's been some
18 testimony as to this witness' expertise, which in physical
19 medicine and rehabilitation I think is particularly germane
20 to whatever treatment she may be trying to say the
21 plaintiff is -- might need in the future. So I look
22 forward to seeing that flushed out on continued
23 examination. Okay.

24 MR. BRENNAN: Yes, Judge.

25 THE COURT: All right. Let's get the jury down.

1 Please and thank you.

2 And we can call the witness back in. Can we
3 please have Dr. Seidenberg in.

4 (Whereupon, the witness enters the courtroom.)

5 COURT OFFICER: All rise; jury entering.

6 (Whereupon, the jury enters the courtroom.)

7 THE COURT: Welcome back everybody. We can be
8 seated. And we'll continue with the examination of the
9 witness.

10 Counsel, you may inquire.

11 MR. BRENNAN: Yes. Judge, before I ask another
12 question, I neglected to do something earlier that I'd like
13 to correct now.

14 THE COURT: Okay.

15 MR. BRENNAN: Which is to offer Dr. Seidenberg as
16 an expert in the field of physical medicine and
17 rehabilitation as well as an expert in the field of life
18 care planning.

19 THE COURT: Is there any objection on the
20 offering in those three categories of expert testimony?

21 MR. GILROY: Is doctor -- I believe I heard that
22 Dr. Seidenberg is a licensed physician in New York, is
23 that --

24 MR. BRENNAN: That was the testimony.

25 MR. GILROY: Do I recall correctly?

1 THE COURT: Yes.

2 MR. GILROY: Thank you. I have no objection
3 then.

4 THE COURT: Mr. Showers?

5 MR. SHOWERS: No objection, Your Honor.

6 THE COURT: Okay. Thank you, counselors.

7 So the witness is qualified as an expert in those
8 three fields. Thank you, counsel.

9 MR. BRENNAN: Thank you, Your Honor.

10 CONTINUED DIRECT-EXAMINATION

11 BY MR. BRENNAN:

12 Q. And while we've already started to go into some of the
13 details of your report, Dr. Seidenberg, I do want to ask you
14 this: The conclusions that you've drawn in this life care plan,
15 have you reached them to a reasonable degree of medical
16 certainty specifically in the field of physical medicine and
17 rehabilitation?

18 A. Yes.

19 Q. Have you also reached those conclusions within a
20 reasonable degree of life care planning certainty?

21 A. Yes.

22 Q. Okay. Thank you very much.

23 What I am going to do is move on to what I saw labeled
24 as diagnostic studies and lab work as part of your plan.

25 A. So, as we previously discussed, the report is divided

1 into several different charts to make it easier and more
2 understandable.

3 The next chart involves diagnostic studies that would
4 be required over his lifetime. When he does see the spine
5 surgeon and the orthopedist, the physiatrist, they do need
6 certain tests to determine if the fusion is healing, if there's
7 any further secondary compilations, further degenerative changes
8 or any compilations.

9 So I have allotted for x-rays of the cervical spine
10 over his lifetime, ten x-rays at a cost of \$605 per x-ray for a
11 total cost of \$6,150. X-rays look at bone.

12 The next thing is an MRI. MRI looks at a -- more at
13 the spinal cord, at the nerves that come off the spinal cord at
14 the little holes where the nerves come off. Essentially the
15 spinal cord is like a tree trunk and at every level there is a
16 nerve that comes off. Every nerve goes very specifically to a
17 muscle either in your arm or your leg. And we know, based upon
18 where somebody's symptoms are or where their weaknesses, we have
19 a good idea what level of the spinal cord is involved. So an
20 MRI scan will look at the spinal cord in the nerves. I have
21 allotted for five over almost 40 years --

22 Q. Quick question, Dr. Seidenberg.

23 What would be the need for additional MRIs if there's
24 already been an MRI performed, you know, in the past?

25 A. Again, there is risk for degeneration above and below

1 the level of the fusion. And if you think of the spinal cord
2 like a rubber band, and you pull the band tight, physics tells
3 us that the most tension is at the top and the bottom. When you
4 then pinch the rubber band in the middle, the physics changes.
5 And the stress and the tension is then increased right above and
6 below the level of the pinch. And that's what happens when
7 you -- when you immobilize and you fuse the spinal cord. So
8 he's at risk to develop disease above and below. In addition,
9 there is scar tissue that forms, new bone that can form as a
10 result of the surgery and the trauma. So different tests look
11 for different things. And it is important, particularly in
12 somebody who remains symptomatic, to monitor these things.

13 Q. Moving on. I see x-rays called for a different body
14 part?

15 A. Yes. The lumbar spine is just the lower back. I've
16 allotted for ten x-rays of the lumbar spine over his lifetime.
17 The cost is \$450 per x-ray for a total cost of \$4,500. And then
18 the MRI of the lumbar spine for the same reason to assist the
19 spinal cord, the nerves, five over his lifetime.

20 Q. Now, Dr. Seidenberg, we know that Mr. Urquia has had a
21 fusion surgery to his cervical spine but has had no surgical
22 intervention to his lumbar spine. Why are you calling for that
23 kind of monitoring for his lumbar spine?

24 A. He remains symptomatic in the low back with nerve
25 impingement symptoms in his leg. He was recommended to undergo

1 lumbar surgery and, therefore, it needs to be continued to be
2 monitored.

3 Q. I think we're now next looking at similar studies but
4 for a different body part?

5 A. Exactly. The studies then move on for the other areas
6 of his body that were injured. His shoulder, again, x-rays look
7 at bone. MRIs look at the joint capsule, look at the rotator
8 cuff, look at something called the labrum which is the capsule
9 of the shoulder, the wrist. Same thing, x-rays look at the
10 bone, look for arthritis, look for bone formation spurs; and
11 MRIs look at the cartilage and the ligaments.

12 Q. What are the costs and frequencies of those modalities
13 that you've called for?

14 A. X-rays of the shoulder, ten over his lifetime. Total
15 cost is \$2,800. MRI of his shoulder, three over his lifetime.
16 Total cost \$5,370. X-ray of his wrist, three over his lifetime.
17 \$1,065. MRI of his wrist, two over his lifetime. \$5,280.

18 And then I also recommended for his knee, he had
19 injuries to his knee. Five x-rays of his knee at a cost of \$280
20 per x-ray. A total cost of \$1,400 over his lifetime. MRI of
21 his knee, two over his lifetime for a total cost of \$3,580.

22 Q. That's specifically the left knee; correct?

23 A. Correct.

24 Q. Can you tell us what's the next recommendation for
25 these kind of monitoring studies are?

1 A. So this is the -- it's called an EMG/NCV nerve
2 conduction studies and electronic diagnostic testing. I briefly
3 discussed it earlier. It's a two-part test that studies how the
4 nerve transmits its impulses from the spinal cord into the limb.
5 It can tell if there's any blockage. Any what we call
6 denervation, all loss of nerve impulses to the muscles. It is a
7 two-part test.

8 One -- the first part is done with electrodes to
9 measure the actual speed and there's a wave form that measures
10 other things like axonal. It can test for a lot of different
11 things. But it does basically test the speed of the nerve, how
12 the nerve is transmitting from the spinal cord to the limb.

13 Second part of the test, electrodiagnostic studies
14 uses a needle electrode which is inserted into the muscle and
15 actually takes recordings from the muscle to assess for
16 denervation or nerve damage.

17 Q. What would the importance of that kind of future
18 diagnostic testing be for an individual like Mr. Urquia who's
19 been involved in an accident like this?

20 A. Nerve conduction studies help to localize the level of
21 the lesion, it also helps to determine the extent of the nerve
22 damage.

23 Q. Now, I see invasive procedures is the next category.
24 Can you tell us what you're considering for invasive procedures
25 for Mr. Urquia?

1 A. He continues to remain symptomatic and has had some
2 pain management in the past. Pain management, as we discussed
3 earlier, involves a series of injections to different parts
4 because you want to attack the pain from all areas. It's not
5 just nerve pain. It's not just joint pain. It's not just
6 muscle pain. You can't isolate a body part. It is a
7 combination of different areas that contribute to somebody's
8 pain. So the cervical epidural injects anti-inflammatory
9 medicine cortisone directly into the nerve and bathes the nerve
10 with medication to try to calm down the inflammation.

11 I've allotted for three injections over his lifetime.
12 The cost is \$15,525. The all these injections are done under
13 fluoroscopy which is x-ray guidance so you know exactly where
14 you're injecting and you're not damaging the spinal cord and
15 causing further problems.

16 Facet joint injections those are the little joints we
17 discussed earlier in the spinal column. Those injections I have
18 allotted for three series of injections. The total cost is
19 \$22,410.

20 Q. That's specifically to the cervical spine those
21 facet --

22 A. Correct.

23 Q. -- injections?

24 And just because it's been a little bit of time since
25 we've heard it, I just wanted to ask you, what was the

1 contemplated life expectancy that you considered in this life
2 care plan?

3 A. I believe -- let me just double check. I think it was
4 37 years -- thirty-six years.

5 Q. Okay. So that's three for over the course of 36
6 years?

7 A. Yes. One of the goals of injections is to try to make
8 somebody more comfortable, more functional and hopefully
9 postpone future surgery.

10 Q. Looks like there's some recommendations for the lumbar
11 spine?

12 A. Same issues. He remains symptomatic with ongoing
13 nerve pain and chronic back pain. There are injections, three,
14 allotted for an epidural into the lumbar spine to try to calm
15 down the nerve irritation. And the facet joint injections focus
16 more on what we call axial back pain, the physical pain that's
17 localized to the back. Facet joint injections, three series,
18 \$29,310. And the --

19 Q. For a total of \$29,000?

20 A. A total, yes.

21 And the three epidurals over his lifetime for a total
22 of \$15,525.

23 Q. Moving a little further down. What else are you
24 recommending to other parts of his body injection wise?

25 A. So for joint pain we frequently do cortisone

1 injections into the joints. He sustained trauma to his right
2 wrist, has ongoing pain and weakness in his right hand. I
3 recommended two injections into his wrist for pain management.
4 The cost of the wrist injections, total cost is \$3,900.
5 Additionally, some injections into his shoulder, three
6 injections into the shoulder, \$7,125 total cost. And some
7 injections for his knee, three injections over his lifetime,
8 \$3,300.

9 Q. That would be his left knee?

10 A. Yes.

11 Q. Okay. What category are we considering now?

12 A. The next is labeled projected evaluations and
13 therapeutic modalities. This is physical therapy and
14 occupational therapy. Physical therapy, working on his
15 mobility, his muscle strength, his joint range of motion. And
16 occupational therapy working on his hand, his fine motor skills,
17 his grip strength, his dexterity, 18 visits for his hand over
18 his lifetime for a total of \$4,050. And for symptomatic
19 treatment periodically over 37 years I believe I've allotted for
20 100 treatments over his lifetime. So every few years he can
21 receive some treatment to help alleviate his pain and actually
22 also prevent secondary problems. Muscle atrophy, wasting away
23 of the muscles, maintain strength, maintain joint range of
24 motion. Things like that.

25 Q. Can I just clarify, when you talk about specifically

1 physical therapy, you talked about symptomatic physical therapy.
2 And just really more for me here, when you're talking about 100
3 visits, are we spacing that out equally out over the course of
4 36 years or is that distributed -- are you contemplating that
5 it's distributed in a different way?

6 A. You average when you go in for physical therapy, you
7 know, two to three times a week for approximately six to eight
8 weeks at time. So over his lifetime I've allotted for 100
9 visits. Sometimes he might need two consecutive years of
10 therapy, he might not go for a year or two. He might have a
11 flair up where his back or his neck or his shoulder is really
12 bad and might need some additional treatment.

13 Q. Thank you very much.

14 How about the following category?

15 A. These are just medications that are typically used for
16 pain management.

17 The first one is just over the counter. I've allotted
18 him for some Tylenol and Motrin. Eight bottles per year to take
19 as needed for symptomatic treatment. The total cost is \$4,032.
20 Flexeril is a muscle relaxant. It would be prescribed by one of
21 the doctors, the physiatrist most likely, that's for muscle
22 spasms when you can't turn your neck or you have that crick in
23 your back and your back gets locked up or your neck gets locked
24 up. It also helps with sleep. I've allotted for four bottles
25 per year for symptomatic treatment for a total of \$2,592.

1 Tramadol is a little bit of stronger pain medication.
2 It's a prescription. I've allotted for four bottles for severe
3 pain and it also helps with sleep. The total cost of that is
4 \$4,032 over his lifetime. And then post surgical medications,
5 this will pertain to the next chart, he's recommended to have
6 surgeries in the future. Two bottles for after post surgical
7 care. The total cost would be \$360.

8 Q. Why there is a particular medication contemplated
9 immediately following surgery?

10 A. Post surgical pain is -- can be quite severe. And
11 frequently patients need something stronger than just Tylenol.

12 Q. So that brings us to that category you just alluded
13 to.

14 A. So the patient has been recommended to undergo a
15 surgeries and the money has been allotted for those future
16 surgeries. So the chart is broken down before any surgery,
17 before --

18 MR. SHOWERS: Objection, Your Honor. There's no
19 question pending.

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

21 (Whereupon, the requested portion of the record
22 was read by the reporter.)

23 THE COURT: Yup. Sustained.

24 Q. Can you tell us what about you contemplated for the
25 surgical intervention portions of your life care plan?

1 A. Based upon the medical records and the recommendations
2 from his surgeons, as well as his ongoing symptoms, and his
3 history of surgery to his neck, this is for future surgical
4 intervention.

5 Q. Okay. So did that first category, I see a reflexion
6 of preoperative physician consultation. How would that differ
7 from just the spine orthopedic visits you discussed earlier?

8 A. Any time anybody goes -- undergoes anesthesia, they
9 have to see their primary care physician. They have to get a
10 series of tests, EKGs, chest x-rays, blood work to make sure
11 that they're healthy enough to go under anesthesia.

12 So prior to each procedure he needs to be seen by his
13 doctor. And then have some what's called preoperative testing.
14 This would be the cost for these three visits, the doctors
15 visit. \$350 per visit a total of \$1,050. The preoperative
16 testing, the EKG, the chest x-ray, the urine analysis, the CBC,
17 blood work, chemistries things like that, make sure his liver
18 and kidneys are working properly so can he tolerate the
19 anesthesia. \$525 for that testing. Total cost of \$1,575.

20 Q. All right. So the next category there listed as
21 revision anterior cervical discectomy and fusion. And I want
22 you to assume yesterday we heard some testimony from Mr. Simela
23 about particular increased risks about Mr. Urquia's need for
24 that kind of procedure in the future. I think you talked a
25 little bit about it yourself today. What are we looking at

1 there?

2 A. So the studies have shown that after 15 years that
3 greater than 50 percent of patients will require revision
4 surgery. And that pertains to the stresses that I discussed
5 just earlier above and below the level of the fusion, that there
6 areas that can develop increased degenerative changes, scar
7 tissue, weakness of the disc, and nerve impingement requiring
8 what we call revision surgery. Also there is a possibility for
9 loosening of the hardware, that the hardware needs to be
10 replaced.

11 Q. Okay. So what is the cost of that procedure?

12 A. Including the surgeon, the anesthesia and the hospital
13 care, the hospital facility, the total cost \$105,345.

14 Q. Why are you recommending or contemplating a
15 decompressive lumbar laminectomy discectomy, facetectomy and
16 fusion?

17 A. He was recommended for lumbar surgery. This would be
18 the cost.

19 Q. What is the cost of that procedure?

20 A. \$104,850.

21 Q. What about the next category you've contemplated?

22 A. Left shoulder arthroscopy which is a scope to repair
23 the torn slat tear in his left shoulder. The cost is \$22,250.

24 Q. And the next category?

25 A. Right wrist arthroscopy to repair the torn cartilage

1 in his right wrist \$16,750.

2 Q. Here we're looking at visits with particular doctors.
3 Some specialists we've already talked about here. Why does this
4 appear at this point of your report?

5 A. This allots for the visits immediately after surgery.
6 The other one is more for what I would call routine follow up
7 maintenance care. But after surgery he has to go in to get the
8 wound checked, to get the sutures removed, to get follow up
9 x-rays, things like that. So I've allotted six per and
10 postoperative visits with the spine doctor, the joint
11 orthopedist and the hand specialist.

12 Q. And what would the cost be for those postoperative
13 visits with the spine doctor?

14 A. \$3,000.

15 Q. How about for the joint specialist?

16 A. \$1,500.

17 Q. And finally, the hand specialist?

18 A. \$1,500.

19 Q. Again, continuing along with your plan here, we're
20 looking at categories that you've already discussed. Again, why
21 are we seeing them here?

22 A. Therapy immediately after surgery is different than
23 therapy for symptomatic care. And patients will go to therapy
24 for a short time immediately after surgery. They're usually in
25 some kind of brace. They have significant restrictive movement.

So this is for postoperative immediate care after his surgery.

Q. What specific type of care?

A. Occupational therapy again will work on his hand, fine motor skills after the wrist surgery. I've allotted for 18 sessions after his surgery. Total cost is \$4,050.

Physical therapy after the spine surgery and shoulder surgery the total cost is \$41,040.

Q. What does DME stand for?

A. Durable medical equipment. So these are things like braces, equipment that he can use in the house to help him if he's immobilized, he might need -- you know, he's going to be in a brace. After surgery he might need a walker or a cane so that he can safely walk. So he can transfer safely in the bathroom, shower chair, those kinds of things, that's durable medical equipment. And in addition, something called a cryocuff which is kind of like an electronic icepack, for lack of a better term.

Yes, so that's what that one-time allowance of \$2,500 for all those things after each surgery.

Q. Is that in total?

A. In total, uh-huh.

Q. So, Dr. Seidenberg, I think that brings us to sort of the end of this examination here and your total lifetime cost projection.

MR. GILROY: Pardon, sorry to object and

1 interrupt your question. But, Your Honor, I do have an
2 objection with regard to these totals.

3 THE COURT: Okay.

4 MR. GILROY: Can I state it here?

5 THE COURT: Yeah, sure.

6 MR. GILROY: Yeah, not all the categories in the
7 report have been discussed or testified to. And these are
8 totals of all the categories. There were some services
9 included in the report that were not discussed or testified
10 to and we're looking at totals that incorporate everything.

11 THE COURT: Mr. Brennan, is that a fair
12 assessment?

13 MR. BRENNAN: I was caught offguard by that.

14 THE COURT: So if it's not --

15 MR. BRENNAN: Sure. I'll take it down. Can we
16 do a quick sidebar on this?

17 THE COURT: Sure.

18 MR. BRENNAN: Thank you.

19 (Whereupon, a discussion was held off the
20 record.)

21 THE COURT: All right. So before we had a
22 sidebar, we were just making sure that all of the
23 categories had been testified to in order to get to this
24 total number. And we've made sure that between this
25 morning's testimony and this afternoon's, it looks like all

1 of the items testified to by the doctor are included.

2 Okay.

3 MR. BRENNAN: Thank you, Your Honor.

4 Q. Dr. Seidenberg, I'll just ask you this because we have
5 been dealing quite extensively with a lot of numbers. I am
6 looking for the following: Do you have an opinion, within a
7 reasonable degree of medical certainty in the field of physical
8 medicine and rehabilitation, as well as life care planning, as
9 to the total recommended lifetime cost of everything we've
10 discussed for Mr. Jose Urquia for the injuries he sustained in
11 the December 27, 2018 accident?

12 A. Yes.

13 Q. What is that total?

14 A. The total lifetime care cost is \$590,626.

15 MR. BRENNAN: Thank you. I have no further
16 questions for this witness.

17 THE COURT: Okay. Are you going to be using
18 anything on the screen, Mr. Showers?

19 MR. SHOWERS: No, thank you.

20 THE COURT: Okay. Mr. Gilroy, on yours, are you
21 going to be using anything on the screen?

22 MR. GILROY: I don't anticipate it.

23 THE COURT: Okay. I'm going to have this moved.

24 Before you start, just if you put that microphone
25 either closer to you or the stand so that way we can ensure

1 that everything is being recorded on the record.

2 MR. SHOWERS: Yes.

3 THE COURT: Thank you, sir.

4 CROSS-EXAMINATION

5 BY MR. SHOWERS:

6 Q. My name is Andrew Showers and I represent the
7 defendants in this case.

8 You were retained by the Wingate firm that represents
9 Mr. Urquia; correct?

10 A. Yes.

11 Q. Okay. And you mentioned \$8,500 for court today. Have
12 you been paid any other monies by this firm?

13 A. Yes. I received \$5,000 for the report.

14 Q. Now, that's not your only report; correct?

15 A. That's my only report. Yes.

16 Q. Well, my understanding was that you drafted a report
17 in 2021.

18 A. Oh, I'm sorry, yes. I amended my initial report.
19 Yes.

20 Q. So what were you compensated for for that report?

21 A. Don't recall exactly because it wasn't a lot of work
22 when I had to amend it. I would say probably \$1,000.

23 Q. Well, can you give us a range? Because you would have
24 reviewed medical records for several years; correct?

25 A. Yes.

1 Q. In order to make the 2021 report; correct?

2 A. That was -- the initial fee was \$5,000.

3 Q. Okay. So can you sum it up for me just how much you
4 have been paid by the Wingate firm?

5 A. I don't know the exact number for the amended but
6 probably about \$1,000 because I did several more hours of work
7 to revise the charts. So total for the report would have been
8 \$6,000.

9 Q. For two reports?

10 A. For the two reports, yes.

11 Q. And then today's testimony is \$8,500?

12 A. Correct.

13 Q. Okay. And how many times have you testified for the
14 Wingate firm?

15 A. I don't have an exact number. Probably testified over
16 my lifetime, or about a dozen times, so a handful of times I
17 have testified for Wingate, Russotti maybe four or five times.

18 Q. At trials?

19 A. Yes.

20 Q. And how many reports have you written for the firm?

21 A. I don't know.

22 Q. Well, somewhere between five and 20, 20 and 50,
23 something else?

24 A. I do a considerable -- a considerable amount of work
25 for many different law firms. I write on average -- my reports

1 can sometimes take me a month or so to complete. Maybe two to
2 three reports a month I would say on average.

3 Q. For the Wingate firm?

4 A. Yes.

5 Q. So they're a good customer of yours; correct?

6 A. I have many customers so to speak, yes.

7 Q. Well, what percentage of your income is for writing
8 reports for plaintiff's firms?

9 A. I write reports for plaintiffs and defendants.

10 Q. My question is for plaintiffs' firms, Doctor?

11 A. The majority are for plaintiff, yes.

12 Q. What percentage of your income comes from them?

13 A. Probably most of my income comes from that because I'm
14 not currently treating patients.

15 Q. Okay. So 100 percent, 95 percent?

16 A. Yes, 95 percent -- 90 percent, yes.

17 Q. And you don't -- those hospitals you told us about
18 previously in your testimony, you don't work at those hospitals
19 any more; correct?

20 A. I'm still on staff but I'm not currently seeing
21 patients in the hospital; that's correct.

22 Q. When is the last time you saw a patient in a hospital?

23 A. I have to just double check my CV on the date. I
24 worked in the hospitals until 2015.

25 Q. And the last time you gave someone an injection?

1 A. When did COVID start? 2020 I would say. 2020 was the
2 beginning of COVID? Yeah, around 2020.

3 Q. You interviewed Mr. Urquia via zoom; correct?

4 A. Yes.

5 Q. You never examined him physically in your presence in
6 a room like an ordinary doctor would do; correct?

7 A. I like to think I'm an ordinary doctor. But no, I did
8 not physically touch him.

9 Q. Ever?

10 A. Ever.

11 Q. Today would have been the first time you saw him in
12 person; correct?

13 A. I believe so, yes.

14 Q. And when you saw him on zoom, did you see him from his
15 chest to his head or something else?

16 A. I don't recall.

17 Q. Okay. So there was no -- you had a -- you were
18 sitting down, he was sitting down the entire time during the
19 conversation that you had?

20 A. I don't recall.

21 Q. He's not a patient of yours; correct?

22 A. I'm not a treating physician; that's correct.

23 Q. The accreditation that you have, are you familiar with
24 International Commission on Healthcare Certification?

25 A. Yes.

1 Q. Is that one of your accrediting entities?

2 A. Yes.

3 Q. Okay. Is one of the rules of professional conduct
4 that you shall function within the limits of the medical area
5 which they are professionally qualified and competent?

6 A. Yes.

7 Q. And are you professionally qualified and competent in
8 any type of surgery?

9 A. I'm not a surgeon, no.

10 Q. And is there a requirement for one-to-one in-person
11 contact with the injured person with respect to the practice
12 standards and guidelines?

13 A. I'm not aware of that specific point that you're
14 referring to but a lot of things have changed since COVID.

15 Q. Well, this is revised the spring of 2023, Doctor.

16 MR. BRENNAN: Judge, you know, it's not in
17 evidence. It's in the --

18 THE COURT: I mean, if you'd like to refresh her
19 recollection.

20 MR. SHOWERS: Sure.

21 Would you like to mark it, Your Honor, or
22 just hand it --

23 THE COURT: We'll mark it as -- what are we up to
24 with defendants for ID? I think C?

25 THE CLERK: Yes.

1 THE COURT: We'll mark it as Defendant's C for
2 identification. You can hand it to the court reporter.
3 Thank you.

4 (Whereupon, a document entitled ICHCC Practice
5 and Standards and Guidelines was marked as Defendant's
6 Exhibit C for identification.)

7 MR. BRENNAN: Can I see what he's showing the
8 witness?

9 THE COURT: He's got a copy right there.

10 MR. BRENNAN: I have.

11 THE COURT: We'll give you a copy of what's been
12 handed to the witness, of course.

13 Q. Did you have an opportunity to flip through that,
14 Doctor?

15 A. Yes.

16 Q. Okay. Now, I was looking at page four, the last
17 paragraph.

18 A. Okay.

19 Q. And there's reference to an in-person interview with
20 the --

21 THE COURT: Counselor, why don't you just ask if
22 it refreshes her recollection as to the question that was
23 asked earlier.

24 MR. SHOWERS: Okay. Thank you, Your Honor.

25 Q. Doctor, having read that paragraph on page four, does

1 that refresh your recollection as to whether a life care plan is
2 based on an in-person interview with the injured or ill
3 individual?

4 A. Yes.

5 Q. And that didn't happen here; correct?

6 A. No.

7 Q. Just --

8 A. No.

9 Q. Doctor, it's a yes or no.

10 A. No, it did not happen.

11 Q. Okay. Thank you.

12 And you live in New York State in this area; correct?

13 A. I live in New York State, yes.

14 Q. Long Island I think you said?

15 A. Yes.

16 Q. And you've lived there since 2023 -- this year?

17 A. Yes.

18 Q. Okay. Did you see the video of Mr. Urquia playing
19 soccer? Did counsel show that to you?

20 A. Yes.

21 Q. When did you see that video?

22 A. Yesterday.

23 Q. So you drafted your report before you saw that video;
24 is that correct?

25 A. Yes.

1 Q. As you sit here today, you don't plan to make any
2 changes to your report after having seen that video?

3 A. No.

4 Q. I want you to assume that the plaintiff will testify
5 that he has an intention to return to Peru at some point, did
6 you investigate any of the prices for medical care in Peru?

7 A. No.

8 Q. Do you have access to that type of information?

9 A. No.

10 Q. Do you know anything about the Peru medical system
11 whether you get universal health coverage?

12 A. No.

13 THE COURT: Counsel, just be careful with any
14 type of reference to things that should not be spoken about
15 at trial.

16 Q. Would you agree that since you have been retained by
17 the Wingate firm on behalf of the plaintiff, part of your role
18 is to support their position?

19 A. My role is to write a life care plan.

20 Q. It's a yes or no.

21 A. No, it's not to support anybody's position. It's to
22 write a report based upon the patient's injuries, surgeries,
23 functional limitations, and my knowledge and medical experience
24 as a physician treating these patients and as a certified life
25 care planner.

1 Q. Admittedly, 90 percent or more of your business comes
2 from plaintiffs' attorneys; correct?

3 A. Yes, that's correct.

4 Q. But you don't see yourself as an advocate on behalf of
5 the plaintiffs' bar; is that correct?

6 A. I'm an advocate on behalf of the patient.

7 Q. The patient that you see via zoom, that patient?

8 A. Yes.

9 Q. You mentioned various costs on the projection that we
10 saw. Okay. Those costs how are they obtained?

11 A. There are codes, CPT codes, that doctors use to bill
12 for certain procedures. And the costs are obtained from various
13 resources. And what I do is I get resources and costs from
14 insurance, from Medicare, and from if a patient had no insurance
15 and I come up with what's called a median, the middle cost. So
16 the average cost based upon all those numbers.

17 Q. That is done on a spreadsheet or how is that
18 performed?

19 A. With a calculator.

20 Q. Okay. But where is that -- those -- where are those
21 calculations today?

22 A. The final calculations are on my report.

23 Q. Well, if we wanted to investigate that, where would we
24 go?

25 A. You'd have to look up all that information and get the

1 numbers and do the math.

2 Q. Okay. So let's just take an example. Orthopedist
3 hand specialist, cost \$250, that's in your report. Where did
4 that come from?

5 A. Exactly what I just said.

6 Q. I mean, specifically that number. Where did you
7 obtain that number?

8 A. It's an average cost based upon non-insurance,
9 insurance, Medicare, and the costs are averaged.

10 Q. Doctor, where did it come from?

11 A. I use multiple sources that are listed in my resources
12 on the back of the report.

13 Q. So, just for the sake of knowing where -- point me to
14 the resource that you used to get \$250.

15 A. Healthcarebluebook.com. Fairhealthconsumer.org.
16 Optimum National Fee Analyzer. Jasmin Wasserman Fee Physicians
17 Analyzer.

18 Q. And you mentioned a range. So is \$250 the lowest part
19 of the range that you found or the highest part of the range
20 that you found?

21 A. It's the median, the middle value. So you take the
22 highest cost, the lowest cost, and you add them up and you take
23 the middle.

24 Q. Why wouldn't you take the lowest cost?

25 A. Somebody might not have any insurance or coverage and

1 somebody might choose to go to a doctor who's not in network who
2 doesn't take the insurance. So you have to -- that's the
3 standards of how you come up with the cost for the life care
4 plans. That's how we're trained.

5 Q. Did you give us a range in your report of the lowest
6 that you found and the highest that you found?

7 A. I gave you the median value.

8 Q. I understand that.

9 A. Which is the average.

10 Q. I'm asking if you gave us a range.

11 A. I did not give you the range.

12 Q. So we don't know the lowest number that you found for
13 a hand orthopedist; correct?

14 A. That's correct.

15 Q. And is that true going through all of these figures on
16 this table that we just looked at? We don't know the lowest
17 number that you found for any of those procedures, operations,
18 surgery; correct?

19 A. You also don't know the highest.

20 THE COURT: Doctor, you just have to answer the
21 question that's asked. Okay.

22 A. Sorry. Yes, you do not know the lowest; correct.

23 Q. So that was omitted from your report? You could have
24 put it there but you didn't; correct?

25 A. Correct.

1 Q. Okay. You didn't talk to any of the doctors that
2 treated Mr. Urquia; correct?

3 A. I reviewed all the medical records --

4 THE COURT: Doctor, again, just answer the
5 question as it's asked, please.

6 THE WITNESS: Sorry.

7 A. No, I didn't speak to any of them.

8 Q. You didn't bring your file to court; correct?

9 A. No.

10 Q. You didn't review any of Mr. Urquia's billing records;
11 correct?

12 A. I don't recall if there were bills submitted in the
13 records.

14 Q. You don't know the last time that he treated with a
15 doctor for the injuries you're claiming in this case; correct?

16 A. No.

17 Q. You don't know if he has any future medical
18 appointments scheduled as we are standing here today; correct?

19 A. No, I don't know.

20 Q. You never administered him any medical care
21 whatsoever; correct?

22 A. That's correct.

23 Q. You're not a chiropractor; correct?

24 A. No, I'm not.

25 Q. You've never spoken with any chiropractor about

1 Mr. Urquia; correct?

2 A. Correct.

3 Q. Are you familiar with the American Academy of
4 Physician Life Care Planners?

5 A. Yes.

6 Q. Let me come back to this.

7 You never reviewed any billing records for a
8 chiropractor; correct?

9 A. Reviewed records?

10 Q. Billing records for any chiropractor; is that correct?

11 A. Ever?

12 Q. For this particular individual Mr. Urquia?

13 A. No.

14 Q. Is that because he hadn't had any chiropractic care?

15 A. He's had some physical therapy which involved
16 myofascial release which is a modality that's usually performed
17 by a chiropractor.

18 Q. Can you point me to a record that you reviewed where
19 he had chiropractic care?

20 A. I don't have any records from a chiropractor.

21 Q. So if you don't have any records from a chiropractor,
22 safe to assume he didn't see a chiropractor?

23 A. Yes.

24 Q. Okay. You saw gaps in his treatment; correct?

25 A. Yes.

1 Q. Okay. Can you give us those gaps, please?

2 A. I'd have to go through my whole medical timeline.

3 Q. Okay.

4 THE COURT: You can go through it, Doctor.

5 A. The accident was on December 27, 2018, he went to the
6 hospital. He began treatment in January --

7 Q. I just want you to point out the gaps. That's all.

8 A. I don't really -- gaps are in between visits. I
9 don't --

10 Q. Yeah. I mean, a good amount of time in between a
11 visit, I would call that a gap.

12 A. A gap is a month, a week, three months?

13 Q. Yeah, let's say three months.

14 A. So from the time of the accident until middle of 2021
15 he was very consistent with his treatment and medical follow
16 ups. And then I have visits at the end of 2021, the beginning
17 of 2022. And then there would be, I guess, you would consider a
18 gap. From my records the next visit was pain management in
19 August of 2023.

20 Q. Okay. So since 2021 he hasn't had consistent medical
21 treatment; is that a fair statement?

22 A. No, he was seen in 2022. And then again in 2023.

23 Q. And there are no three-month gaps in that time period?

24 A. That's usually when a doctor schedules a follow up,
25 six to eight-week follow up.

1 Q. Okay.

2 A. So I don't consider that a gap.

3 Q. In your timeline, I have a gap from April of 2021 to
4 August of 2021; is that correct? I'm on page four now.

5 A. After the visit in February of 2021, he was referred
6 for additional pain management and additional injections.

7 Q. I said April of 2021 to August of 2021.

8 A. August, April. Yes, in April he was recommended to
9 continue --

10 Q. Doctor, I just want to know, is there a four-month gap
11 between April of 2021 and August of 2021?

12 MR. BRENNAN: Just to be clear --

13 MR. SHOWERS: Your Honor, it's -- is there an
14 objection?

15 MR. BRENNAN: Yeah, there is an objection
16 because --

17 MR. SHOWERS: Hold on. State your objection and
18 we can have a --

19 MR. BRENNAN: Objection. It's --

20 MR. SHOWERS: Without any --

21 THE COURT: Counsel, with all due respect, I'll
22 drive.

23 MR. SHOWERS: Thank you.

24 THE COURT: What's the basis of your objection?

25 MR. BRENNAN: There is -- it's misleading

1 because --

2 THE COURT: You can cure it on recross.

3 MR. SHOWERS: Yeah.

4 MR. BRENNAN: But he's saying medical timeline.

5 This is what the doctor recorded not what the records
6 reflect. So I just want that to be clear.

7 THE COURT: I understand. This is in accordance
8 with the records the witness has reviewed but you can cure
9 anything on recross.

10 Can you read back the question, please? I think
11 it was the gap between August of --

12 MR. SHOWERS: April to August.

13 THE COURT: April and August of 2021, was there
14 any treatment according to your records, Doctor?

15 THE WITNESS: According to my records he was
16 recommended to attend therapy and pain management in
17 between that time.

18 Q. Did you record any treatment during that time?

19 A. I recorded the next visit was with the surgeon. So I
20 do not know whether he went to pain management and physical
21 therapy on those specific dates in between those two months.

22 Q. Here's my question: I just want to know what is in
23 your narrative report that we received today, do you see a gap
24 from April 2021 to August 2021? It's a yes or no.

25 A. I don't know that I would consider it a gap. It's a

1 follow-up appointment with his surgeon. And I don't know if he
2 was attending therapy in between. So you're trying to say
3 that --

4 Q. I'm not trying to say anything. If you don't know,
5 you don't know.

6 A. I don't know if he was receiving treatment between
7 those two visits.

8 Q. Let me ask you, did you review all his medical
9 records?

10 A. Yes, I did.

11 Q. So if there was treatment, you would have it in your
12 narrative report; isn't that correct?

13 A. It's a summary of treatment.

14 Q. Okay.

15 A. So not --

16 Q. So it's not a narrative?

17 A. It's not every single date that he attended therapy
18 and -- correct.

19 Q. So you didn't review all the medical records?

20 A. I did, but it's not all documented. There are
21 thousands of pages of records. I cannot document every single
22 date of every single visit.

23 Q. Isn't that what you were paid for?

24 A. It's a medical summary.

25 Q. So you never met with Mr. Urquia in person; correct?

1 A. Correct.

2 Q. And your summary is incomplete; correct?

3 A. I don't believe it's incomplete but...

4 Q. You just heard counsel's objection that it doesn't
5 contain all his medical treatments, so wouldn't you call that
6 incomplete?

7 A. Yes, I guess so.

8 Q. But we should understand that you did review
9 everything; right, Doctor?

10 A. I did, yes.

11 Q. You have a last treatment here August of 2023.

12 A. Correct.

13 Q. Is that the last time he sought medical treatment?

14 A. According to his consultation, he continued to follow
15 up periodically for treatment. So I don't know how many times
16 he went after that.

17 Q. You don't know?

18 A. I don't know.

19 Q. Okay. For someone who's recommending future medical
20 treatment, based upon a review of records, wouldn't it be
21 important to know and document every single appointment that
22 Mr. Urquia had?

23 A. No.

24 Q. When was the last time Mr. Urquia had an x-ray to his
25 cervical spine?

1 A. The last x-ray that I have documented was 2021.

2 Q. And does he have any x-rays to his cervical spine
3 scheduled, as we are standing here today, in the future?

4 A. Not that I'm aware of.

5 Q. By the way, did you ask him if he agreed to your plan
6 that you drafted? Did you ask him Mr. Urquia do you agree to
7 this plan?

8 A. No.

9 Q. So you have no idea if he intends to do any of this;
10 correct, Doctor? It's a yes or no.

11 A. No.

12 Q. When was the last time he had an MRI to his cervical
13 spine?

14 A. According to my records in 2021.

15 Q. And does he have any cervical spine MRIs scheduled in
16 the future?

17 A. Not that I'm aware of.

18 Q. Have you ever seen a billing record for his prior
19 MRIs?

20 A. I may have, I don't recall.

21 Q. It's not noted anywhere of what he was charged
22 previously; correct?

23 A. Correct.

24 Q. The last time that he had an MRI to his lumbar spine,
25 when was that doctor?

1 A. The last one I have documented was September of 2022.

2 Q. And do you know if he ever has one scheduled in the
3 future?

4 A. Not that I'm aware of.

5 Q. By the way, did you ever mail this plan to Mr. Urquia?

6 A. No.

7 Q. Okay. So this plan is developed for litigation
8 purposes; is that fair, Doctor?

9 A. That's what life care plans are usually used for, yes.

10 Q. They're not actually useful to the actual patient.
11 It's just to bring it to court; correct?

12 A. I guess so, yes.

13 Q. Same questions for the right wrist, you don't know
14 when he last had that examined; correct?

15 A. Correct.

16 Q. And you don't know if he intends to have it examined
17 in the future; correct?

18 A. Correct.

19 Q. Left knee, you don't know when it was last examined?

20 A. My medical history ends in 2023. I have no records
21 after that.

22 Q. So it's fair to say you don't know if he's got an
23 appointment scheduled in the future for the left knee; correct?

24 A. That's correct.

25 Q. Same question for EMGs, NCVs, do you know when the

1 last one was?

2 A. 2023.

3 Q. And do you know if he has one scheduled in the future?

4 A. I don't know.

5 Q. Have you ever seen any billing records of Mr. Urquia's
6 for the EMGs/NCVs?

7 A. I don't recall.

8 Q. Can you recall seeing any bills from Mr. Urquia's
9 doctors?

10 A. I don't recall exactly every page of every record.

11 Q. I'm just asking about bills for this moment.

12 A. I don't recall seeing bills.

13 Q. So you don't know what he was charged for cervical
14 epidural steroid injection; correct?

15 A. Correct.

16 Q. And you don't know what he paid for that?

17 A. Correct.

18 Q. Okay. You don't know if he'll need cervical epidural
19 steroid injections in the future; correct?

20 A. He remains symptomatic so it's recommended treatment
21 for somebody with that condition.

22 Q. Well, that's not from your personal knowledge;
23 correct, Doctor?

24 A. It's my personal knowledge as a physiatrist.

25 Q. You can make a prediction about what somebody will

1 need in the future without ever examining them in person?

2 A. Yes.

3 Q. Even though the book I showed you before requires an
4 in-person exam?

5 A. It requires an in-person interview not an examination.
6 You do not have to be a physician to be a life care planner. In
7 fact, many life care planners are not physicians and they never
8 examine the patients.

9 Q. I thought we established before, and you agreed with
10 me, that an in-person examination is required on page four. It
11 says in person --

12 MR. BRENNAN: Objection.

13 THE COURT: Just let her look at it first.

14 MR. BRENNAN: Again, it's reading from a document
15 not in evidence.

16 THE COURT: It's refreshing her recollection.

17 MR. BRENNAN: Okay.

18 A. It says specifically an in-person interview.

19 Q. Right. My understanding of in person is in the same
20 room?

21 A. Correct.

22 Q. And that didn't happen here?

23 A. No, it didn't.

24 Q. And Doctor, doctors as general practice, now that
25 we're outside of COVID, examine patients in their office in

1 order to make medical conclusions; is that a fair statement?

2 A. There are doctors who still do telemedicine visits
3 post COVID.

4 Q. I'm talking about in the majority, Doctor, I'm not
5 talking about on the fringes.

6 In the majority, doctors have patients into their
7 office and examine them to make a medical conclusion; do you
8 agree or disagree with that statement?

9 A. They're still many doctors who do telemedicine visits
10 and make many conclusions based upon that.

11 Q. So you disagree with that?

12 A. I disagree with that.

13 Q. Okay. You have to disagree with me because otherwise
14 that would break up your whole practice that you have here;
15 correct?

16 A. No.

17 Q. Well, you don't have any -- do you have any one-on-one
18 contact when you do these reports?

19 A. I do do a consultation with the clients, yes. But I
20 don't do a physical examination, no.

21 Q. Okay. So why was Mr. Urquia's different? Why didn't
22 you do an in-person exam with him?

23 A. I'm not a treating physician. I'm not acting as the
24 treating physician. I'm acting as a life care planner. A life
25 care plan does not entail a physical examination.

1 Q. But you just said you do it sometimes. You have an
2 in-person with them sometimes; correct?

3 A. I didn't say that.

4 Q. You never -- for all the reports that you write for
5 the Wingate firm, you never actually meet with the client in the
6 same room?

7 A. Sometimes I do.

8 Q. Okay. And here's my question: Why didn't you do that
9 here?

10 A. Well, I believe it was COVID when the first report was
11 done. And the second time I called him for a follow up.

12 Q. You called him on the phone?

13 A. Yes.

14 Q. Okay. So the -- okay.

15 So I'm -- did you see him on video?

16 A. I believe so, yes.

17 Q. When was the last time Mr. Urquia had a cervical facet
18 injection to his neck?

19 A. Sorry, my pages got all scrambled. I apologize.

20 He had an epidural in 2023.

21 Q. And does he have any scheduled in the future?

22 A. I'm not aware.

23 Q. And did you see any billing record for that?

24 A. I don't recall.

25 Q. Do you know how much he paid for that?

1 A. I don't know.

2 Q. Did you ever send this report that you did to any of
3 Mr. Urquia's treating doctors to see if they agreed with it?

4 A. No.

5 Q. So the only person who really got this report was the
6 lawyer; right?

7 A. Yes.

8 Q. When was the last time Mr. Urquia had a lumbar facet
9 injection to his neck?

10 A. He did not have a facet injection.

11 Q. Is that recommended in your report?

12 A. Yes.

13 Q. So he hasn't had it ever; correct?

14 A. Correct.

15 Q. And did any orthopedist or surgeon say that he would
16 need it?

17 A. He's followed with pain management who recommended
18 additional spinal injections.

19 Q. Did they recommend a lumbar facet injection?

20 A. Those are just one of the spinal injections that are
21 used for chronic pain.

22 Q. Which doctor recommended that?

23 A. Dr. Villarreal, I believe, he's seeing for pain
24 management.

25 Q. And do you know how much Dr. Villarreal will charge

1 for that?

2 A. No, I do not.

3 Q. Same questions I'm just going to list them. Lumbar
4 epidural steroid injection; ultrasound guided injection to the
5 wrist; ultrasound guided injection to the shoulder; ultrasound
6 guided injection to the left knee. Do you know if Mr. Urquia
7 has any of those procedures scheduled currently?

8 A. I'm not aware.

9 Q. When was the last time Mr. Urquia had occupational
10 therapy?

11 A. I don't recall.

12 Q. It's possible that he never had it?

13 A. It is possible. I don't have all his therapy notes in
14 front of me.

15 Q. Does he have any occupational therapy scheduled in the
16 future?

17 A. Not that I'm aware.

18 Q. You have a figure in there of \$380 for physical
19 therapy; is that correct?

20 A. Yes.

21 Q. Okay. That's the median; correct?

22 A. Yes.

23 Q. That's not the lowest; correct?

24 A. No.

25 Q. Is physical therapy -- how long -- how long of a

1 duration did you recommend? 20 minutes or how long a duration?

2 A. Usually therapy is about an hour.

3 Q. Okay. So physical therapist will be paid \$380 for an
4 hour worth of therapy?

5 A. There's modalities that are used. Ultrasound,
6 electrical stimulation. Each modality is billed separate.

7 Q. So \$380 you found that somewhere as a midpoint?

8 A. Yes.

9 Q. That's not the low end of the scale?

10 A. No.

11 Q. Could it be as low as \$100?

12 A. Yes, probably not \$100, but...

13 Q. I'm talking about in the area where Mr. Urquia might
14 go.

15 A. Yeah, probably not \$100.

16 Q. Well, did you do this in -- your cost, did you do it
17 in a certain geographic area?

18 A. Yes.

19 Q. Did you do it in Roslyn or did you do it where
20 Mr. Urquia lives or what?

21 A. The New York Tristate area.

22 Q. Well, that's a big area. Did you do it near his home
23 address in New Rochelle?

24 A. I used multiple sources.

25 Q. You don't know?

1 A. No.

2 Q. Okay. I mean, if he's going to go to physical therapy
3 somewhere, he's probably going to go somewhere close to his
4 house; correct?

5 A. You would assume yes.

6 Q. So he's not going to go to a physical therapist in
7 Short Hills, New Jersey; Greenwich, Connecticut; somewhere like
8 that, Doctor?

9 A. Well, he can move there tomorrow.

10 Q. Doctor, what makes sense? That's what I'm asking,
11 Doctor. He's going to go where he lives near; right?

12 A. Yes.

13 Q. But you don't know where you got that \$380 from?

14 A. I do know where I got the number from.

15 Q. Geographically you don't know.

16 A. I used multiple sources for costs in the New York
17 area.

18 Q. None of those sources you can tell us today; correct?

19 A. I told you them earlier.

20 Q. Same sources that you read us earlier?

21 A. Yes.

22 Q. So if we go to those sources and we add them up and
23 take a medium, we're going to get \$380; is that correct?

24 A. Yes.

25 Q. Your medical --

1 MR. SHOWERS: Withdrawn.

2 Q. Your medications summary. Did you look at
3 Dr. Simela's records about medication?

4 A. I reviewed Dr. Simela's records.

5 Q. Did you see in the most recent record where Mr. Urquia
6 was using over-the-counter Advil?

7 A. I don't recall exactly the most recent record
8 medication, less -- I'm not sure what you're referring to.

9 Q. You've recommended some prescription pain pills that
10 Mr. Urquia is currently not using. Do you see that in your
11 report, Doctor?

12 MR. BRENNAN: Objection.

13 THE COURT: What's the basis?

14 MR. BRENNAN: That's basically testifying from
15 through the question. How can he say what he's currently
16 not using. We haven't even gotten to that portion of the
17 client's testimony.

18 THE COURT: We had someone testify yesterday as
19 to the recent pain medications.

20 MR. BRENNAN: Okay.

21 THE COURT: And they're in the records. I mean,
22 aren't these in the records? Simela's isn't it in evidence
23 already?

24 MR. BRENNAN: Right. Simela's testimony was
25 that -- when he visited with the patient, he had reported

1 he had take ibuprofen. He didn't cover testimony about
2 what medication, if any, he has continued to take. That's
3 all I'm saying.

4 MR. SHOWERS: I was talking about the last record
5 of Dr. Simela.

6 THE COURT: I'm going to overrule it.

7 You can answer, Doctor.

8 A. I got the list of medications from the client.

9 Q. Where is that?

10 A. When I did the consultation with him, I asked him what
11 medications and he would read to me the medications that he had
12 been taking.

13 Q. Okay. And these are -- so he's taking Oxycodone
14 currently?

15 A. That's for postoperative care. I only allotted for
16 the Oxycodone after the surgery.

17 Q. So he's not taking that currently; correct, Doctor?

18 A. He's not taking --

19 Q. Tramadol. Is he taking that currently?

20 A. He listed that, yes.

21 Q. Okay. So if he didn't mention that to Dr. Simela,
22 that's just an inconsistency?

23 A. I guess yes.

24 Q. Do you know who's prescribing Tramadol?

25 A. I don't know.

1 Q. Flexeril. Do you know who is prescribing that or do
2 you know if he's taking it?

3 A. I don't know.

4 Q. The surgery costs, where did you get those costs from?

5 A. Same place as I got the other cost from.

6 Q. Can you tell me specifically please?

7 A. Healthcarebluebook.com.

8 Q. Just one second.

9 Okay. You have -- are you looking at your resources?

10 A. Yes.

11 Q. Can you refer to the number, Doctor, just so I can
12 have it?

13 A. Number two, number three, and some of the websites
14 listed on the last page.

15 Q. Two, three and which website?

16 A. Healthcarebluebook.com.

17 Q. Where is that? Give me the number if you could?

18 A. It's not a number. It's after the numbers.

19 Q. Oh, okay.

20 A. And FairHealthConsumer.org.

21 Q. Okay. Is that all the sources that you used for the
22 cost of the surgeries that you've listed?

23 A. Yes.

24 Q. So that's two -- four sources?

25 A. Yes.

1 Q. Thank you.

2 MR. SHOWERS: I don't have any --

3 Q. Just one second, Doctor, please.

4 MR. SHOWERS: I don't have any more questions for
5 you at this time. Thank you.

6 MR. GILROY: Your Honor, can we take a
7 five-minute break?

8 THE COURT: Yes, I agree. Let's take a quick
9 bathroom break. We'll come back in about five minutes and
10 we'll continue with the cross examination. Okay.

11 COURT OFFICER: All rise; jury exiting.

12 (Whereupon, the jury exits the courtroom.)

13 THE COURT: We'll take a quick five everybody.

14 (Whereupon, there was a recess taken.)

15 COURT OFFICER: All rise; jury entering.

16 (Whereupon, the jury enters the courtroom.)

17 THE COURT: Okay. Welcome back again.

18 Mr. Gilroy?

19 MR. GILROY: Thank you, Your Honor.

20 THE COURT: You're welcome.

21 CROSS-EXAMINATION

22 BY MR. GILROY:

23 Q. Good afternoon, Doctor.

24 A. Good afternoon.

25 Q. You told us earlier today that you were expressing

1 your opinions, the opinions you gave us today, to a reasonable
2 degree of medical certainty; do you remember that?

3 A. Yes.

4 Q. And I would just like to understand a little better
5 what you mean by -- you know, medical certainty sounds pretty
6 certain. And how much is a reasonable degree of medical
7 certainty to you as you use it and as you employed it in your
8 own testimony today?

9 MR. BRENNAN: Objection.

10 THE COURT: Overruled.

11 A. I have almost 30 years of treating patients with this
12 exact diagnosis. And it is my job, as a physiatrist and pain
13 management specialist, to help control patient's pain, prevent
14 complications, assess for secondary issues and prescribe
15 medications, injections, and therapy. So I am very comfortable
16 and very medically certain that my recommendations are what
17 would be indicated for a patient with -- who's had this kind of
18 injury.

19 Q. Okay, Doctor.

20 Now, you say very medically certain. Is that more
21 than a reasonable degree of medical certainty?

22 A. I think it's a reasonable degree of medical certainty.

23 Q. Would you agree, Doctor, that a reasonable degree of
24 certainty would mean something is more likely to happen in the
25 future than not?

1 A. Yes.

2 Q. Okay. And Mr. Urquia, I believe, the testimony has
3 been, that he has had three of these pain management injections
4 in his spine, I believe that was his testimony.

5 A. He's actually had four into his spine and a series of
6 trigger-point injections.

7 Q. Okay. And you predict that it is more likely than not
8 that he will require something like over 20 such injections
9 going forward?

10 A. The injections treat different areas of the spine.
11 And these -- the recommendations in a life care are based upon
12 standards of care for patients with this kind of injury.

13 Q. Well, what I'm trying to do now is focus on
14 Mr. Urquia. And in particular, in the seven-and-a-half years
15 since he had an accident, he has had four of these injections.
16 You believe he will continue to, it's more likely than not, that
17 he will continue to get injections, trigger points, pain
18 management injections in his spine going into the future; is
19 that what you're here to tell us?

20 A. The purpose is to allot for treatment for patients
21 with this kind of injury. There are many reasons why patients
22 do not go for care, do not go for follow up, do not go for
23 treatment. Sometimes it's psychological, sometimes it's fear,
24 sometimes it's financial. There are many people, I'm sure that
25 everybody knows who should go to the doctor, who don't. The

1 purpose of the report is to allot for future treatment in a
2 patient with his diagnosis and his functional disability and
3 ongoing symptoms. Whether he chooses, that's not my role here.

4 Q. So Doctor, would it be fair to say that this is what
5 you projected as a worst case scenario?

6 A. No, I wouldn't say it's the worst case scenario.

7 Q. Okay. Speaking, Doctor, about the patient's
8 motivations, is that something that you consider when you
9 interview a patient who's having a life care plan prepared for
10 them?

11 A. Sometimes. I would say -- their motivation for what?
12 To get better?

13 Q. Well, when Mr. Urquia met you and you interviewed him
14 back in 2021, he told you that prior to his injuries, he was
15 very active and he enjoyed playing soccer and spending time
16 playing with his son; do you recall him saying that?

17 A. Yes.

18 Q. Okay. And did he tell you that again in -- when you
19 saw him on the more recent occasion?

20 A. Yes.

21 Q. Okay. And did he tell you that he no longer does
22 those things?

23 A. Yes.

24 Q. Okay. And did you consider what his motivation might
25 have been in telling you that he no longer plays soccer and that

1 he no longer plays with his son?

2 A. I would assume it has to do with his ongoing pain.

3 Q. Did it occur to you, Doctor, that his motivation in
4 telling you these things may have been to increase the chances
5 of him being awarded a large verdict?

6 A. No, that didn't occur to me.

7 Q. Okay. You treat patients who are involved in
8 litigation fairly frequently?

9 A. Sometimes.

10 Q. Well, you indicated a lot of your work is with law
11 firms?

12 A. My current work is with life care planning; yes.

13 Q. Okay. So a lot of your life care planning. Do you
14 do -- do you consider what the motivation of a person for gain
15 might be?

16 A. No.

17 Q. Okay. And Doctor, you testified for us this morning
18 that Mr. Urquia was recommended for a lumbar laminectomy; do you
19 recall that?

20 A. Yes.

21 Q. Now, a lumbar laminectomy sometimes referred to as a
22 spinal fusion?

23 A. Yes.

24 Q. That's what you indicated.

25 Now, that was one of items in the budget - the medical

1 budget - that you prepared for us. I think one of the largest
2 items, in fact; is that fair?

3 A. Yes.

4 Q. And are you aware of or familiar with a medical
5 procedure called an endoscopic discectomy?

6 A. Yes.

7 Q. Sometimes called a needle discectomy?

8 A. I wouldn't call it that but okay.

9 Q. Would you agree that an endoscopic discectomy is
10 largely a pain management procedure where if a herniation is
11 small enough, they're able to remove it by a needle?

12 A. It's not exactly by a needle but okay.

13 Q. That's not exactly correct?

14 A. Not exactly but okay.

15 Q. Okay. Would it surprise you, Doctor, if another
16 physician, Mr. Urquia's treating surgeon, testified to those --
17 testified about the procedure in that exact way less than 24
18 hours ago?

19 A. If you say so.

20 Q. Okay. And in terms of medical cost projecting, which
21 is what you did, is an endoscopic discectomy -- excuse me, I'm
22 having trouble pronouncing it, an endoscopic discectomy a less
23 invasive procedure than a spinal fusion?

24 A. Yes.

25 Q. Is it less costly?

1 A. Yes.

2 Q. And if, in fact, Mr. Urquia has never been recommended
3 for a lumbar laminectomy but has been recommended for an
4 endoscopic discectomy, then wouldn't it be more appropriate to
5 include that lower cost in your medical life care plan?

6 A. Possible.

7 Q. And if that was -- if you budgeted for the larger
8 procedure, the spinal fusion, instead of an endoscopic
9 discectomy, which is what he has been recommended for, wouldn't
10 you say your report is not accurate?

11 A. Yes, I guess if that's the case, yes.

12 MR. GILROY: Thank you, Doctor. Okay. Nothing
13 further.

14 THE COURT: Any redirect?

15 MR. BRENNAN: No, Your Honor.

16 THE COURT: Okay. Doctor, you may step down.
17 Okay. Thank you.

18 THE WITNESS: Thank you.

19 (Whereupon, the witness exits the courtroom.)

20 THE COURT: Counsels, you want to come up real
21 quick? Thank you so much.

22 (Whereupon, a discussion was held off the
23 record.)

24 THE COURT: All right. Members of the jury, so
25 we are going to conclude for the day. It's 4:00. It's

1 Friday. All right. I just want to go over some scheduling
2 for next week so that way you're aware. We are not going
3 to be on trial on Monday. Okay. So there's no need for
4 you to report here on Monday morning. We will resume on
5 Tuesday at 9:30, okay, and we'll continue with further
6 witnesses of the plaintiff. Okay. So I wish you all a
7 wonderful weekend, to rest up and come back on Tuesday.
8 And, of course, remember the rules that were read to you in
9 the beginning of the trial. All right. Have a wonderful
10 weekend we'll see you Tuesday. The jury is excused.

11 COURT OFFICER: All rise; jury exiting.

12 (Whereupon, the jury exits the courtroom.)

13 (Whereupon, Court is recessed and the case
14 adjourned to Tuesday, May 20, 2025.)

15 * * * *

16 I, Amanda Alvarez, certify that the within
17 proceedings are a true and accurate transcript of the
18 original stenographic record.

19
20 _____
21 Amanda Alvarez
22 Senior Court Reporter
23
24
25

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Min-U-Script® Amanda Alvarez (14) reasons - reviewed

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