

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX: CIVIL TERM: PART IA-26

-----X
DELIS VASQUEZ CARRANZA,

Plaintiff,

-against-

Index No: 300322/2017E

MEMORIAL HOSPITAL FOR CANCER AND ALLIED DISEASES
& TURNER CONSTRUCTION, **TRIAL**

Defendants.
-----X

TESTIMONY

JODI GELFAND

Bronx Supreme Court
851 Grand Concourse
Bronx, New York 10451
July 1, 2025

B E F O R E:

HONORABLE PAUL ALPERT,
Justice of the Supreme Court

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

GORAYEB & ASSOCIATES, PC
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BY: FRANK KELLY, ESQ.

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BY: ZACHARY LYON, ESQ.

SIOBHAN LYONS
Senior Court Reporter

1 COURT OFFICER: All rise. Come to order.

2 THE COURT: Be seated. Let's get the jury, please.

3 COURT OFFICER: All rise. Jury entering.

4 THE COURT: Okay. You may be seated. Good
5 morning, members of our jury.

6 Mr. Kelly, your next witness.

7 MR. KELLY: I'm sorry?

8 THE COURT: Your next witness.

9 MR. KELLY: Oh, thank you.

10 The Plaintiff calls Jodi Gelfand to the stand.

11 THE CLERK: Just remain standing. Raise your right
12 hand, please. Do you swear or affirm the testimony you are
13 about to give this court is the truth?

14 THE WITNESS: Yes.

15 J O D I G E L F A N D, called as a witness by
16 and on behalf of the Plaintiff, after having been first duly
17 sworn, was examined and testified as follows:

18 THE CLERK: Thank you. You can have a seat.

19 For the record, could you please state your name,
20 spell your name and county of residence?

21 THE WITNESS: Jodi Gelfand, J-O-D-I, G-E-L-F-A-N-D,
22 Nassau County.

23 THE CLERK: The witness is sworn.

24 THE COURT: Counsel, you may inquire.

25 MR. KELLY: Thank you, Your Honor.

1 DIRECT EXAMINATION

2 BY MR. KELLY:

3 Q Good morning, Ms. Gelfand?

4 A Good morning, sir.

5 Q How we doing today?

6 A Good, thanks.

7 Q Tell the jury, please, what is your profession?

8 A I'm a certified life care planner.

9 Q Tell us a little bit about your professional education,
10 please?

11 A Okay. Well, a certified life care planner is someone
12 who -- I'm a certified life care planner and I'm also a
13 physician assistant and a certified case manager. So, those are
14 my credentials. I have an undergraduate degree in music and
15 that's my education, basically.

16 Q All right. Tell us, do you hold any professional
17 licenses?

18 A Yes. I'm a certified life care planner, I'm a
19 certified case manager and I'm a physician assistant and I have
20 a New York State and a Maryland medical license, a physician
21 assistant, not a doctor.

22 Q Have you been previously qualified in New York State
23 courts as an expert life care planner?

24 A Yes.

25 Q In our case, Mr. Vasquez Carranza was injured when a

1 concrete form fell on him and he ended up with, so far, four
2 surgeries; two to his lower back and one to each knee. Do you
3 have experience applying your professional skills to problems of
4 Mr. Vasquez Carranza's kind?

5 A Yes.

6 Q Can you tell the --

7 MR. KELLY: I move Ms. Gelfand as an expert in life
8 care planning.

9 THE COURT: Any objection?

10 MR. LYON: No, Your Honor.

11 THE COURT: The jury will recognize the witness as
12 an expert in life care planning.

13 Q Tell the jury, kindly, what is a life care plan?

14 A So, a life care planner is someone who takes into
15 account the needs of a patient who is seriously injured or
16 chronically ill from the time of the injury, current to -- for
17 -- planned out through their life expectancy.

18 Q All right. And do you -- do you look at certain kinds
19 of materials in order to create your life care plan?

20 A Well, I get medical records from the doctors and what I
21 do is I do a sort of -- I review all the medical records and
22 that is the medical review section and, in the beginning, I do a
23 narrative section, which explains, basically, chronologically,
24 what happened and how the patient was treated, and then there
25 are a series of charts which price out the needs of -- the

1 future needs, current and future needs.

2 Q Okay. Did there come a time when were you retained to
3 perform a life care plan analysis in this case?

4 A Yes, sir.

5 Q Can you tell us what materials you may have been given
6 with respect to your retention to create a life care plan?

7 A I was given medical records from Dr. Kaplan, from Dr.
8 Grimm and Dr. Merola. Let me see.

9 Q You can look through your records.

10 A Okay, thank you. Yeah, Dr. Grimm, Dr. Merola and Dr.
11 Kaplan.

12 Q Okay.

13 A And then I price everything out at various -- from
14 various sources.

15 Q Okay. So, tell the jury, how is it that you price
16 things out from various sources? Tell the jury what it is, the
17 operations you undertake to do that.

18 A Okay. So, it's different for different categories.
19 So, I'll take you through it. For instance, the physician gives
20 a cost of, say, an x-ray or an epidural injection or an office
21 visit and I'll use the physician's prices, because the
22 physicians price them, and then I'll do backup research and I'll
23 price everything elsewhere and it depends, as I said, on the
24 item. Like, if it's a diagnostic study, an x-ray or MRI, I'll
25 call local facilities. If its, like, an epidural, there's a

1 website I can go to and -- and price it that way. It gets a
2 little more complicated, because there are things, like a test,
3 like a nerve conduction study test, wherein you really don't
4 know the codes that the -- the exact codes that are going to be
5 used when they do the test. So, I do my best to give an
6 accurate understanding of what the prices are.

7 Q And do you perform an interview with the patient?

8 A Oh, yeah. I go to the patient's home and I interview
9 the patient, with a translator in this case, and I look around
10 and I see -- I see what's what in the home. I see, does he have
11 trouble? Is there trouble getting on and off the toilet seat?
12 Are there grab bars in the shower, for instance? That sort of
13 thing.

14 Q Just tell the jury a little bit about your interview
15 with Mr. Vasquez Carranza. What were your findings and so on?

16 A Okay. I'm just going to go there, because it's a long
17 report. Give me a second. Okay. So, basically, he had some
18 difficulty with -- at the time, he had some difficulty with
19 activities of daily living. His wife was, at the time,
20 generally responsible for doing the laundry, the cooking, the
21 shopping and the cleaning. He had a -- he had told me that his
22 bed didn't give him enough support, so I took that into account.
23 What else?

24 Q So, well, you can tell me what you -- what you do when
25 you generally interview the patients. Why do you look around

1 the home?

2 A Well, you look around the home to see -- he also had
3 some steps that were difficult for him to navigate. You look at
4 that sort of thing. If it's a patient with knee injuries and a
5 back injury, for instance, you're going to ask them if they have
6 trouble going up and down steps. So, you want to know. I
7 think, in this case, there were six steps, and you want to know,
8 is it an elevator building or are there steps and are they
9 difficult? Is it hard to get off and on the toilet seat? And
10 especially in the older buildings, because they have low sitting
11 toilet seats. So, you would price in an elevated toilet with
12 grab bars, that sort of thing.

13 Q With respect to the materials you were provided, who
14 provided those to you?

15 A The Gorayeb -- the attorney's firm.

16 Q Were there any material findings in any of the doctor's
17 reports that were meaningful to you in terms of the life care
18 plan?

19 A Yes.

20 Q So, if you could share with the jury some of those,
21 that would be helpful to us.

22 A Okay. Sure. Okay. So, the following are priced in
23 and it's a visit with the orthopedic surgeon once every six
24 months, a visit with the pain management physician once every
25 three months, a --

1 Q I think we'll get to the plan.

2 A Oh.

3 Q But I'm basically asking you, with respect to the
4 physician's records that you reviewed, was there anything
5 particularly meaningful with respect to Dr. Kaplan's records
6 that you incorporated into the plan?

7 A Well, there's a recommendation in the future, because
8 he's pretty young now, but, because of progressive arthritis,
9 there's a recommendation for a total knee replacement on the
10 left and a total knee replacement on the right.

11 Q Okay. And do you have to make accommodations in your
12 life care plan for those future surgeries?

13 A Yeah.

14 Q And with respect to the report of Dr. Merola, is there
15 any significant findings with respect to Dr. Merola's records
16 that you incorporated into the plan?

17 A Yes. For Dr. Merola, he said that he would need, at
18 some point, a revision surgery, a revision lumbar surgery.

19 Q Okay.

20 A So, that gets priced in as well.

21 Q Okay. So, the price for the surgery is included in
22 your plan. And what about any future alternative needs that he
23 may have with respect to that future surgery?

24 A Alternative needs with respect to future surgery, did
25 you say?

1 Q Yeah. So, anything else he's going to require after he
2 has the surgery.

3 A Oh. Well, he's going to need -- excuse me one second.
4 He's going to need physical therapy. The physical therapy is
5 priced in at the current time, but, certainly, after surgery he
6 need physical therapy. After the back surgeries he did also
7 have an external bone stimulator. That was not priced in by Dr.
8 Merola, but, I mean, you would assume that would be priced in,
9 because there's a high risk for something called
10 pseudoarthrosis. So, they use a bone stimulator afterwards.

11 Q Just tell us, what is pseudoarthrosis?

12 A Pseudoarthrosis is when the bone doesn't fuse, doesn't
13 -- doesn't fuse.

14 Q Okay. With respect to Dr. Grimm's medical records, is
15 there anything significant that you relied on with respect to
16 Dr. Grimm?

17 A The procedures that he recommended.

18 Q Okay. All right. So, did there -- did there come a
19 time, then, when you actually constructed a life care plan for
20 Mr. Vasquez Carranza?

21 A Yeah, yes. Sorry.

22 Q Okay. And you can refer to it, but with respect to
23 your life care plan, did you determine future needs for
24 orthopedic surgery?

25 A Yes. Well, yes. I priced them out, yes.

1 Q All right. And what was the determination for
2 orthopedic surgeons care?

3 A The orthopedic surgeon visits are priced at \$300.00 per
4 visit.

5 Q Okay. And what's the frequency with which those visits
6 are recommended?

7 A Once every six months.

8 Q Is that over the course of his lifetime?

9 A Yes, that's lifetime duration.

10 Q Okay. And is there a recommendation with respect to
11 pain management physicians?

12 A Yes. That's once every three months. They're priced
13 at \$250.00 for a lifetime duration.

14 Q All right. And what about a visit with an orthopedic
15 spine surgeon, like Dr. Merola?

16 A Yes. Those are priced -- the frequency is one to two
17 times a year, at a cost of \$275.00 per visit.

18 Q All right. And was there a recommendation with respect
19 to lumbar or lower back steroid injections?

20 A Yes. Those are recommended three injections every two
21 years.

22 Q All right. Now, what is cost affiliated with those
23 injections?

24 A The cost is \$1,200.00 per injection, plus \$2,000.00
25 facility cost. That's for the fluoroscopic guidance for a total

1 cost of \$3,200.00 per injection.

2 Q Okay. Just tell the jury, when you say facility, that
3 not a doctor's office?

4 A It can be a doctor's office. You use something called
5 a C-Arm for that. It's a special fluoroscopic device that
6 allows you to see. With that injection, for instance, you
7 obviously have to be very careful to exactly go into the
8 epidural space. It's just a space right over the spine and, so,
9 you want to get right into that space and, obviously, not touch
10 the spinal cord. So, you need this giant C-Arm.

11 Q Was there a recommendation for a lumbar facet block
12 injections?

13 A Yes. Those were recommended up to four injections per
14 year, pending the patient's response.

15 Q Okay. And is there a cost affiliated with that?

16 A \$1,500.00 per injection, plus \$2,000.00 hospital cost
17 for fluoroscopic guidance.

18 Q Was there a recommendation with respect to trigger
19 point injections for the lumbar spine?

20 A Up to one set of injections every three months, priced
21 at \$300.00 per set of injections.

22 Q All right. Was there ultrasound guided joint
23 lubrication injections for Euflexxa for the left knee
24 recommended?

25 A Yes. Those are a series of three injections every six

1 months. Those are priced, for the total of the three
2 injections, at \$3,830.00.

3 Q And just before we get too far into it, these
4 recommendations are made by whom?

5 A These recommendations are made by Dr. Grimm, the pain
6 management physician.

7 Q Okay. With respect to -- I'm sorry, the first series I
8 asked you about with respect to the orthopedic surgeons visits
9 and the pain management physician visits, those are by the
10 respective doctors as well?

11 A Yes. The orthopedic surgeon visits are recommended by
12 Dr. Kaplan, the pain management by Dr. Grimm and the spine
13 surgery by Dr. Merola.

14 Q Okay. And is there ultrasound guided joint lubrication
15 injections of Euflexxa for the right knee recommended?

16 A Yes. So, again, those are these gel injections, these
17 joint lubrication injections. You need ultrasound to make sure
18 you're in the right place before you put the medicine in. Those
19 are the series of three injections every six months.

20 Q Is there a cost affiliated with that?

21 A Those are -- let me just find them again. \$3,830.00
22 per set of three injections.

23 Q Okay. And was there a recommendation for a revision to
24 Delis' lumbar spine surgery?

25 A Yes. So, there is a recommendation for revision lumbar

1 spine surgery. Dr. Merola priced that at \$150,000.00.

2 Q Okay. And is that a one-time cost?

3 A That's a one-time cost, yes.

4 Q And is Mr. Vasquez Carranza a candidate for a left
5 total knee replacement?

6 A Yes.

7 Q What is the frequency for that kind of thing?

8 A That's a one-time procedure as well, and that's priced
9 at \$26,108.00, including facility cost, anesthesia and equipment
10 cost.

11 Q And that's anticipated within the next -- how -- how --
12 how soon?

13 A Ten to fifteen years.

14 Q All right. And that is recommended by whom?

15 A That's by the pain management physician.

16 Q And is Mr. Vasquez Carranza also a candidate for left
17 total knee replacement?

18 A Yes.

19 Q And is that a one-time or recurring --

20 A That's one time.

21 Q All right. And what is the cost for that?

22 A \$26,108.00.

23 Q All right. And did you do a life care plan analysis
24 with respect to physical therapy recommended for Mr. Vasquez
25 Carranza?

1 A Yes.

2 Q Tell us about it, please.

3 A Physical therapy was recommended, this is per Dr.
4 Merola, the spine surgeon, approximately four times a month.

5 Q Okay. And is there certain options, cost analysis
6 options that you --

7 A Yes. So, that's one of the items that you price
8 locally, and option one is \$125.00 for the initial visit and
9 \$100.00 for followup visits, and option two is \$150.00 per
10 visit.

11 Q Okay. Was there a recommendation made by you after
12 home visit analysis for purposes of equipment and ease of living
13 for Mr. Vasquez Carranza?

14 A Yes.

15 Q So, tell us a little bit about that. We'll start off
16 with the safer grip bath and shower handle?

17 A Okay. So, a shower handle is just a grab bar that
18 attaches to the wall. It's \$14.80. These are all priced at
19 Walmart and Walmart.com and, so, I added the tax for all of the
20 items into the price of the grab bar.

21 Q Now, why something like this?

22 A Well, with a knee injury most especially -- well, with
23 knee injuries and back injuries, there's an issue with strength
24 and balance in the lower extremities, especially when you're
25 standing in wet water. So, to get into the shower, it's to grab

1 onto, in case you lose your footing and to get out of the
2 shower.

3 Q All right. And did you make a recommendation with
4 respect to a bathtub safety rail?

5 A Yeah.

6 Q Tell us about that.

7 A A bathtub safety rail goes on the side of the bathtub
8 and that is an additional aid to get in and out of the bathtub
9 that costs \$39.99, one time.

10 Q All right. And with respect to the toilet seat, you
11 talked about the older buildings having the lower toilet seats.
12 Did you make a recommendation with respect to that?

13 A Yes.

14 Q Tell the jury what the recommendation was.

15 A This is a raised toilet seat with handles and padded
16 arms and it adds five inches to the toilet. That costs \$42.61.

17 Q All right. Did you make a recommendation with respect
18 to a heating pad?

19 A Yes. So, I priced in a heating pad for a cost of
20 \$21.76.

21 Q And why would you price that in for Mr. Vasquez
22 Carranza?

23 A Well, obviously, there's some spasm. Well, to me,
24 being a PA, there's some spasm, some soreness that happens with
25 either the knee injuries, but more specifically with the back

1 injury. So, a heating pad is soothing.

2 Q Did you make any recommendations with respect to ice
3 packs?

4 A Yes.

5 Q Tell us about those, please.

6 A Ten by five by fourteen by five ice packs, one-time
7 purchase, \$16.99. So, ice is used in the case of inflammation.
8 There's inflammatory pain and there's muscular spasm pain. When
9 there's inflammatory pain, for instance, when it's cold or rainy
10 and the air pressure changes, there's more pressure on the joint
11 and you would ice or something like ice instead of heat.

12 Q Okay. And I forgot to ask you the cost of the heating
13 pad.

14 A The heating pad costs \$21.76.

15 Q All right. Was there a recommendation with respect to
16 a TENS or EMS unit?

17 A Yes. So, a TENS unit was priced in. The TENS unit is
18 what you see in physical therapy, and I believe Dr. Merola had
19 mentioned that he would benefit from a TENS unit. It's the
20 little machine, or sometimes it's a big machine, with the little
21 pads that go onto your skin and they generate electric current
22 and pulse through the muscles and relax them.

23 Q Is there a cost affiliated with that?

24 A \$94.95, including tax and shipping.

25 Q And you talked about your analysis at the home visit

1 with respect to a mattress and so on?

2 A Yes.

3 Q Why would Mr. Vasquez Carranza need a special mattress
4 because of his physical condition?

5 A Because he said that he had difficulty sleeping,
6 because of lack of support of the mattress. So, I priced in the
7 same mattress I always price in, because it's a lifetime
8 warrantee, so you don't have to worry about replacing the
9 mattress, and it's a queen foam mattress and costs \$949.00, plus
10 \$199.00 for the base, and it's free shipping.

11 Q Is that a one-time, lifetime cost?

12 A Yes.

13 Q All right. And would -- does your life care plan
14 include prescription medications?

15 A Yes, it does.

16 Q All right. And does the life care plan include
17 medications like Celebrex?

18 A Yes.

19 Q Tell us about the Celebrex medication.

20 A Celebrex is called a Cox-2 inhibitor. It's really
21 simple. There are two pathways of inflammation that cause pain,
22 pathway one and pathway two, this blocks pathway two, which is
23 less efficient than if you take Advil or Aleve, but it causes
24 less stomach upset. So, it's a Cox-2 inhibitor, it's like a
25 modified Advil or Aleve, and that costs, at the time, \$305.65.

1 Q Is that per month?

2 A Per month.

3 Q And is that over the course of his lifetime?

4 A Yes, sir.

5 Q And is there a prescription -- withdrawn. Is there a
6 plan made for Diclofenac for Mr. Vasquez Carranza?

7 A Yeah. So, Diclofenac is an antiinflammatory medication
8 that is both Cox-1 and Cox-2, so it's stronger. It's in a gel
9 form, in this case, and the Diclofenac gel was priced at
10 \$214.30.

11 Q Is that per month as well?

12 A That's per five tubes and, yes, that's per month.

13 Q And is that over the course of his lifetime?

14 A Yes, sir.

15 Q All right. And is Tylenol 500 milligrams planned in
16 your life care plan?

17 A Yes, it is. That's one to two every eight hours, as
18 needed. It's priced at \$11.19.

19 Q Okay. And, of course, that is lifetime as well, right?

20 A Yes, sir.

21 Q And that's \$11.19 per month over his life?

22 A Yes.

23 Q Was there any recommendations made that you
24 incorporated into your plan concerning radiology studies?

25 A Yes.

1 Q Tell us if there's a plan in there for the lumbar spine
2 x-rays.

3 A Yes. Lumbar spine x-rays were recommended once every
4 six months at a cost of \$400.00 and that is for lifetime
5 duration as well.

6 Q All right. And what about right knee x-rays?

7 A Right knee x-rays were recommended once every six
8 months at a cost of \$400.00 as well.

9 Q All right. What about left knee x-rays?

10 A Left knee x-rays are recommended once every six months
11 at a cost of \$400.00.

12 Q Were any MRIs of the lumbar spine recommended?

13 A Yes.

14 Q All right.

15 A MRI of the lumbar spine was recommended once every two
16 years and that's at a cost of \$1,500.00.

17 Q All right. And that's, of course, over his lifetime?

18 A Yes, it's over the course of the lifetime.

19 Q Was an MRI of the left knee incorporated into your
20 plan?

21 A Yes. MRI of the left knee is recommended once every
22 five years and that's at a cost of \$1,300.00 for a lifetime
23 duration.

24 Q And what about an MRI of the right knee?

25 A MRI of the right knee is recommended once every five

1 years at a cost of \$300.00 and that's for a lifetime duration.

2 Q Okay. And, in your plan, is there a cost programmed
3 for EMG or NCV studies --

4 A Yes.

5 Q -- of the lower extremities?

6 A Yes. Those are those tests when you go in the doctor's
7 office and they stick the needles into you and they measure the
8 electrical current that goes along your nerves and that is
9 priced -- and that's once every five years at an approximate
10 cost of \$2,000.00.

11 Q For his lifetime, of course?

12 A For a lifetime duration.

13 Q All right. With respect to Delis' maintaining his
14 health and strength, did you make accommodations in your plan
15 for that?

16 A Yes.

17 Q Now, why would you include something like that?

18 A Because, if he's not doing physical therapy, it's
19 important, for instance, especially in the case of a lumbar
20 injury with two surgeries, to maintain your core strength. So,
21 I priced in TheraBand, the flexible bands. Those cost \$6.99,
22 plus tax, for one time. Then I priced in a yoga ball or core
23 ball. You know the big blowup core balls? That is priced at
24 \$15.99. Tax included, shipping included in the TheraBand price.

25 Q Okay. Did you price in a stationary bike as well?

1 A Yes. I included a stationary bike, which is important
2 for two reasons, because, with a back injury that's had two
3 surgeries, you need to maintain lower extremity strength.
4 Again, you need to worry about core strength and obviously the
5 knee injuries you want to worry about strength and flexibility.
6 So, I priced in an indoor stationary bike for home exercises and
7 it costs \$254.80, free shipping, tax included.

8 Q Did you also program in a back brace?

9 A Yes, because Dr. Merola used a back brace and
10 recommended it at times and, again, there's a future surgery
11 recommended. So, I priced in a back brace and lumbar support
12 brace at \$34.99, tax included, and it does not include shipping.

13 Q All right. Do you have an opinion, to a reasonable
14 degree of life care planning certainty, that all of the costs
15 and entries in your life care plan were caused by the accident
16 to Mr. Vasquez Carranza?

17 MR. LYON: Objection.

18 THE COURT: Objection is sustained.

19 Q Do you have an opinion, to a reasonable degree of
20 professional certainty, that all of the costs programmed into
21 your life care plan will be incurred by Mr. Vasquez Carranza
22 over his lifetime?

23 A Yes.

24 Q And that opinion is?

25 A Yes.

1 Q And all of those entries are for -- unless they're
2 stated as a one-time event, they're all to occur over the course
3 of his lifetime?

4 A That's correct.

5 Q And that's through the end of his projected life, which
6 --

7 A Yes.

8 Q Okay. As far as you know, do you have any reason to
9 believe that Mr. Vasquez Carranza does not have a normal life
10 expectancy?

11 A No, I don't.

12 Q And the materials that you relied upon and the prices
13 that you gave us, including the plan, those were all developed
14 from his treating physicians, is that correct?

15 A Yes.

16 Q All right. And at any time -- you didn't -- you didn't
17 look at any of the Defendant's doctor's reports for litigation,
18 did you?

19 A No, I didn't.

20 Q Okay. And those -- would those reports be meaningful
21 to you in any way?

22 A They would not be meaningful, because you want to look
23 at the treating physician's recommendations.

24 Q You and I have worked together in the past fifteen
25 years probably about five times?

1 A I would -- I have a list. I think it's six or seven.

2 Q Oh, six? All right. And are you being compensated for
3 your time here today?

4 A I'm being compensated for my time, yes.

5 Q Tell the jury, if you would, what is that compensation?

6 A \$4,500.00.

7 Q And did you render reports in this case?

8 A Yes.

9 Q All right. And was there a cost affiliated with those
10 reports?

11 A Yes.

12 Q Tell the jury about that.

13 A That's \$7,000.00, including the home visit.

14 Q Okay. Ms. Gelfand, I have no further questions for
15 you. Thank you very much.

16 THE COURT: Okay.

17 Counsel, do you need a moment before
18 cross-examination?

19 MR. LYON: Thank you, Your Honor, I do not.

20 THE COURT: Okay. Thank you. Cross-examination.

21 MR. LYON: Permission to use my board?

22 THE COURT: Permission is granted.

23 THE WITNESS: Excuse me, I have to switch glasses.

24 THE COURT: Can you just give her a moment?

25 MR. LYON: Good?

1 THE WITNESS: Good?

2 CROSS-EXAMINATION

3 BY MR. LYON:

4 Q Good morning, Ms. Gelfand.

5 A Good morning.

6 Q Ms. Gelfand, have you ever heard of life care planners
7 being referred to as pumpers, because they pump the numbers up?

8 MR. KELLY: Objection.

9 THE COURT: Objection is sustained.

10 Q Now, you testified that you are physician assistant,
11 but you're not just any physician assistant, you are Dr.
12 Kaplan's physician assistant for fourteen years, isn't that
13 true?

14 A That's correct.

15 Q Okay. And during -- in 2016, were you Dr. Kaplan's
16 physician assistant, correct?

17 A That's correct.

18 Q All right. So, you're being compensated a total of
19 \$11,500.00, is that correct?

20 A Correct.

21 Q Okay. Now, when you worked for Dr. Kaplan, were you an
22 employee of New York Ortho?

23 A Yes, I was.

24 Q And Dr. Kaplan was your boss, correct?

25 A That's correct.

1 Q Are you aware that Mr. Vasquez was sent to New York
2 Ortho by the Gorayeb firm?

3 MR. KELLY: Objection.

4 THE COURT: Objection is sustained.

5 You can rephrase.

6 Q In your fourteen years at New York Ortho, was it pretty
7 routine to get Plaintiffs in lawsuits from the Gorayeb firm?

8 MR. KELLY: Objection.

9 THE COURT: I'll allow it.

10 THE WITNESS: Do I answer that now?

11 THE COURT: You can answer it.

12 A I don't know what you mean by pretty routine.

13 Q Sure. In the fourteen years that you worked there, how
14 many patients did you get from the Gorayeb firm? Was it in the
15 hundreds?

16 A In fourteen years, I would say so.

17 Q Hundreds?

18 A I'm guessing, yes.

19 Q Okay. Ms. Gelfand, how many times this year have you
20 testified for the Gorayeb firm?

21 A I have to look it up. Give me one second.

22 Q Sure.

23 A I have seven.

24 Q Seven this year?

25 A Yes.

1 Q For the Gorayeb firm?

2 MR. KELLY: Objection. How many times is he gonna
3 say it?

4 THE COURT: Counsel, let's move on.

5 Q In fact, less than a month ago, you testified in a case
6 in Brooklyn for the Gorayeb firm in a case called Paulino. Do
7 you remember that?

8 A I do.

9 Q And Dr. Kaplan testified in that case, didn't he?

10 A I wasn't there for the testimony, but, yes.

11 Q Dr. Grimm testified in that case, didn't he?

12 A Yes.

13 Q Dr. Kolb testified in that case, didn't he?

14 A Yeah.

15 Q In May of last year you testified in a case called
16 Castillo. Do you remember that?

17 A I don't.

18 Q Okay. How many cases last year did you testify for the
19 Gorayeb firm?

20 A I have six. No, no, I have five. Sorry.

21 MR. LYON: May I see what the witness is looking
22 at?

23 THE COURT: Yes.

24 MR. LYON: May I approach?

25 THE COURT: You may approach.

1 MR. LYON: I think I need some time to look at her
2 file, Your Honor.

3 THE COURT: Okay. We'll take a five minute break
4 to peruse it.

5 Let's take a brief break. Five minutes. Please
6 don't discuss the case amongst yourselves.

7 COURT OFFICER: All rise. Jury exiting.

8 (Whereupon, the jury exits the courtroom)

9 (Whereupon, a short recess was taken)

10 COURT OFFICER: All rise. Come to order.

11 THE COURT: Let's get the jury, please.

12 COURT OFFICER: All rise. Jury entering.

13 (Whereupon, the jury entered the courtroom)

14 THE COURT: You may be seated.

15 Counsel, you may continue with your
16 cross-examination.

17 MR. LYON: Thank you, Your Honor, and thank you,
18 Ms. Gelfand, for letting me do that.

19 Q How many life care plans do you think you've done for
20 the Gorayeb firm over the years?

21 A I have no idea, but I did make a mistake before. That
22 was the number of -- seven was the number of life care plans in
23 2025. According to my count, it's four testimonies.

24 Q Okay. That's okay. You've done hundreds of life care
25 plans, correct?

1 A I said I don't know.

2 Q Do you recall giving a deposition in a case called
3 Maxwell V Preston?

4 A No.

5 Q In Florida?

6 A No.

7 Q Let's see if I can refresh your recollection. Page 20,
8 line 18:

9 Question, and, so, if you had to guess, and I
10 understand you're going to provide us a list, but if you had to
11 guess how many times you think you've been retained as an
12 expert, either for consulting or testimony as a life care
13 planner, what would it be?

14 Your answer, 150.

15 That was in 2023, so I assume it's more than 150
16 now, correct?

17 A If that's correct, then, yes, that's correct.

18 Q Okay. And the vast majority -- the vast majority of
19 life care plans that you do are for the Gorayeb firm, correct?

20 A Just a moment, because things have changed. Let me
21 look at my current -- I would not say the vast majority, no.

22 Q Okay. I'm going to read from page 22, line 24.

23 Question, Got it --

24 MR. KELLY: Objection. She said things changed.

25 That doesn't impune her credibility, to read something from

1 two years ago.

2 THE COURT: Overruled. I'll allow it.

3 Q Question, got it. And, so, out of the 150 cases, you
4 think the majority are -- did you say three or four law firms
5 you listed off?

6 Your answer, Gretski, Solano, Gorayeb. There must be a
7 couple more in there, but the vast majority is Gorayeb.

8 So, at least as of 2023, the vast majority of that 150
9 were for Gorayeb, correct?

10 A Those are two different questions, clearly, because you
11 asked me if the vast majority --

12 Q Correct? Yes or no.

13 MR. KELLY: He didn't phrase it yes or no.

14 THE COURT: Hold on. Don't talk over each other.

15 If the witness doesn't understand the question, say
16 I don't understand the question.

17 Counsel, if you'd let her finish her answer, that
18 would be helpful.

19 Continue your answer, please.

20 THE WITNESS: Thank you, sir.

21 A So, now, the vast majority of the work I do is not for
22 the Gorayeb firm, it is split up. As of, what was it, 2022?

23 Q 2023.

24 A 2023? Then that is correct, if that's what I said.

25 Q Okay. So, the vast majority of 150, so, that would be

1 over 100, correct?

2 A I don't know the number, sir. I really don't. I'm not
3 trying to -- you know, I don't know. I did the best preparation
4 I could --

5 Q Okay.

6 A -- to come up with --

7 Q On page 70, line 22, you were asked:

8 Question, and what is the name of the law firm you do
9 the majority of you work for?

10 Your answer, Gorayeb and Associates.

11 That was true in 2023, we can agree to that?

12 A We agree.

13 Q Okay. Can we agree that, if that is true, you've done
14 over 100 cases with the Gorayeb firm and the Gorayeb firm has
15 paid you likely over a million dollars over the years, correct?

16 A I don't see how that's -- okay, I --

17 Q Is that correct or not?

18 A I don't know.

19 Q Okay. That's fine.

20 A It doesn't sound correct.

21 Q If you don't know, that's okay.

22 A It doesn't sound correct at all.

23 Q So, today --

24 A No, that's not correct.

25 THE COURT: There's no question.

1 The jury will disregard.

2 Q Would you agree that life care plans are litigation
3 tools, not medical tools? Do you agree, yes or no?

4 A There are different purposes for life care plans.

5 Q Yes or no?

6 A It's not a yes or no question.

7 Q Okay. So, just tell me this, did you prepare this life
8 care plan for this lawsuit?

9 A Yes, I did.

10 Q Who requested that you prepare it?

11 A The Gorayeb firm.

12 Q Okay. A law firm, correct?

13 A They are a law firm.

14 Q They are. And who paid you to prepare it?

15 A The Gorayeb firm.

16 Q All right. And you have a certificate in life care
17 planning, correct?

18 A I do.

19 Q Did you get that certificate at a law school or a
20 medical school?

21 A At a law school.

22 Q It's true that you don't know if the Plaintiff is going
23 to get any of this treatment. That's true, correct?

24 A That's up to the doctors and the -- and the Plaintiff.
25 I don't know.

1 Q Right. You don't know. He has no obligation
2 whatsoever to use any money he gets from this lawsuit on things
3 in your plan. He has no obligation, true?

4 MR. KELLY: Objection. Objection. How --

5 THE COURT: Argumentive.

6 Q Do you know what a bill of particulars is?

7 A Yes.

8 Q What is a bill of particular?

9 A A bill of particulars --

10 MR. KELLY: Objection.

11 THE COURT: I'll allow it. Overruled.

12 A A bill of particulars is what I go through to get the
13 specific injuries that are pertinent to the accident.

14 Q It's fair to say it's a document filed in a lawsuit
15 that lists the claims by the Plaintiff?

16 MR. KELLY: Objection. She gave an answer. He's
17 asking something else.

18 THE COURT: Objection is sustained.

19 Q Ms. Gelfand, in this binder there are 48 different
20 bills of particulars from 48 different Plaintiffs that the
21 Gorayeb firm listed New York Ortho as the treating doctor in the
22 year 2019, just one year --

23 MR. KELLY: Judge, I move to strike and ask for an
24 instruction. Who cares?

25 THE COURT: I'm not quite sure where you're going

1 with this here. What's the relevance here?

2 Q Does that surprise you?

3 MR. KELLY: Objection.

4 THE COURT: Objection is sustained.

5 MR. KELLY: I ask for an instruction.

6 THE COURT: Yes. The jury will disregard. This
7 witness is not competent to testify as to those issues.

8 MR. KELLY: Judge, we already had a motion on this.

9 MR. LYON: No, we didn't.

10 MR. KELLY: We did have a motion on it.

11 THE COURT: It's different than the collateral
12 matters we discussed, but --

13 MR. LYON: Judge, may I?

14 THE COURT: You may, subject to Counsel's objection
15 but --

16 MR. LYON: She testified she was the physician
17 assistant at this company in 2019, so she should have an
18 understanding as to how many patients were being treated
19 from the Gorayeb firm --

20 MR. KELLY: Objection.

21 MR. LYON: -- in that single year.

22 MR. KELLY: Objection.

23 THE COURT: That's not the purpose of what she's
24 here to testify for. It's beyond the scope.

25 Q Would you agree that the Gorayeb firm, in 2019, was

1 sending New York Ortho well over 48 patients?

2 MR. KELLY: Objection. It's the same question as
3 before.

4 THE COURT: The objection is sustained.

5 MR. LYON: No further. Thank you.

6 THE COURT: Thank you.

7 Redirect?

8 REDIRECT EXAMINATION

9 BY MR. KELLY:

10 Q Does any of that have anything to do with your life
11 care plan?

12 A Nothing.

13 Q Does any of that have anything to do with Mr. Vasquez
14 Carranza's future medical treatment?

15 A Nothing.

16 Q Okay. Does any of that spookiness he put up here on
17 the board have anything to do with the professional exercise of
18 your judgment?

19 A Not even with my other glasses.

20 Q No further questions.

21 THE COURT: Thank you.

22 Thank you. You may step down.

23 MR. LYON: Thank you, Your Honor.

24 THE WITNESS: I just need a second. Thank you.

25 (Whereupon, the witness steps down from the stand)

1 THE COURT: Okay, members of our jury, that
2 concludes today's session. As I explained, we only have the
3 one witness today, so we had a short day.

4 We'll pick up tomorrow morning. The jurors are to
5 arrive at 9:30 and we'll have a full day of testimony. We
6 have two witnesses tomorrow.

7 MR. KELLY: One in the morning, one in the
8 afternoon.

9 THE COURT: Okay.

10 Enjoy your evening. Please don't discuss the case
11 amongst yourselves or with others.

12 COURT OFFICER: All rise. Jurors exiting.

13 (Whereupon, the jury exits the courtroom)

14 THE COURT: Everyone may be seated.

15 (Whereupon, an off-the-record discussion was held)

16 (Whereupon, the records of Dr. Merola were marked
17 as Plaintiff's Exhibit One in evidence, by the Reporter)

18 (Whereupon, the records of Manhattan Surgery Center
19 were marked as Plaintiff's Exhibit Two in evidence, by the
20 Reporter)

21 (Whereupon, the Employment Records were marked as
22 Plaintiff's Exhibit Three in evidence, by the Reporter)

23 (Whereupon, the records of Titan Pharmacy were
24 marked as Plaintiff's Exhibit Four in evidence, by the
25 Reporter)

1 (Whereupon, the records of Kolb Radiology, with
2 attached CD, were marked as Plaintiff's Exhibit Five in
3 evidence, by the Reporter)

4 (Whereupon, the records of Mt. Sinai West were
5 marked as Plaintiff's Exhibit Six in evidence, by the
6 Reporter)

7 (Whereupon, the records of New York Ortho Sports
8 Medicine were marked as Plaintiff's Exhibit Seven in
9 evidence, by the Reporter)

10 (Whereupon, the records of Dr. Kaplan were marked
11 as Plaintiff's Exhibit Eight in evidence, by the Reporter)

12 (Whereupon, the records of Mt. Sinai West
13 Radiology, with attached CD, were marked as Plaintiff's
14 Exhibit Nine in evidence, by the Reporter)

15 (Whereupon, the records of Distinguished
16 Diagnostics, with attached CD, were marked as Plaintiff's
17 Exhibit 10 in evidence, by the Reporter)

18 (Whereupon, Dr. Kolb's Bills, with attached CD,
19 were marked as Plaintiff's Exhibit 11 in evidence, by the
20 Reporter)

21 (Whereupon, the Physical Therapy records were
22 marked as Plaintiff's Exhibit 12 in evidence, by the
23 Reporter)

24 (Whereupon, the Turner Company Incident Report was
25 marked as Plaintiff's Exhibit 13 in evidence, by the

1 Reporter)

2 (Whereupon, the records of CityMD were marked as
3 Defendant's Exhibit A for identification, by the Reporter)

4 (Whereupon, the trial was adjourned to July 2, 2025
5 at 9:30 a.m.)

6

7 * * * * *

8 **Court Reporter's Certification**

9 I hereby certify that the foregoing transcript is a
10 true and accurate record of the stenographic proceedings in the
above matter.

11 Siobhan Lyons
12 Siobhan Lyons
13 Senior Court Reporter
14 Bronx County
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