

In The Matter Of:

Nereyda Benitez v.

BrettA. Andeson and HB Architectural Lighting, Inc.

Chirag Shah

December 4, 2024

Michelle Cox - Senior Court Reporter

851 Grand Concourse - Room 804

Bronx Civil Supreme

Bronx, NY 10451

macox@nycourts.gov

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX: CIVIL TERM: PART IA-30

3 NEREYDA BENITEZ,

4 Plaintiff,

Index No.
BRETT A.

- against -

5 ANDERSON and HB ARCHITECTURAL LIGHTING,
6 INC.,

7 Defendants.

8 851 Grand Concourse
9 Bronx, New York 10451
December 4, 2024

10 B E F O R E:

11 HONORABLE ERIK L. GRAY,
12 Justice of the Supreme Court

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

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15 Attorneys for Plaintiff
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17 New York, New York 10006

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24 Michelle Cox
25 Official Court Reporter

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1 THE COURT: Good morning, Counselors.

2 MR. RYBAK: Good morning, Your Honor.

3 MR. LEITER: Good morning.

4 THE COURT: Before we bring the jury in, we have
5 the issue of the defendants' last pending motion in limine
6 regarding precluding certain testimony from Dr. Shah, who's
7 plaintiff's life care planner.

8 MR. RYBAK: Your Honor, if I may say something.

9 I mean, the defendants have been filing motions
10 in limine like the day before a witness is heard, the night
11 before at 2:00 a.m. I mean, our witness list has been
12 known, except for Dr. Benatar, which was last second
13 because of Dr. Lerman.

14 I mean, these motions should have been made
15 before trial, after jury selection. The defense were well
16 aware that Dr. Shah was one of our expert witness because
17 we exchanged the 3101(d).

18 The motions that are being made at this late
19 stage, I mean, I don't think these motions should even be
20 entertained by the Court because they're made at such late
21 stage where we have to scramble to majardigo [phonetic] out
22 this motion at 4:00 a.m. this morning, because we were up
23 against the wall.

24 THE COURT: I understand. A better practice
25 would have been to file all motions in limine before we

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1 began the trial. Be that as it may, I am going to
2 entertain the motion.

3 Mr. Leiter, if you'd like to make your argument,
4 please proceed.

5 MR. LEITER: Thank you, Your Honor.

6 So this motion in limine is the last one we have
7 pending before Your Honor. It in part asks the Court to
8 revisit, or allow us to renew a portion of our motion in
9 limine that was made before trial. The motion in limine
10 that was made before trial that pertains to Dr. Shah and
11 what he intended to testify to and what other doctors were
12 going to testify to, because we were told at that time, the
13 Court was told at that time that Dr. Kosharsky would be
14 one of the witnesses here, and we only learned last week
15 that he would not be.

16 And so when the information we had changed, we
17 then needed to address that, those new facts, and
18 Dr. Lerman wasn't here. And we made the motion even before
19 we heard Dr. Benatar's testimony yesterday, though I would
20 submit that much of the testimony he gave yesterday
21 furthers the motion that we already made regarding
22 Dr. Shah.

23 And the issue is Dr. Shah put together a life
24 care plan that is premised upon an assumption of certain
25 facts being in evidence through testimony through

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1 Dr. Kosharskyy, through Dr. Lerman that simply is not here
2 and is not going to be here. And if he doesn't have the
3 foundation that he was assuming would be here, for him to
4 then, later, on top of that, the testimony he would give
5 solely as an expert witness regarding a life care plan,
6 then that can't still be put before this jury. The
7 underlying foundation is no longer there.

8 And the case, I saw that they did file opposition
9 this morning. There's only one case they cite to there.
10 The case that's more directly on point is actually
11 Hotaling, H-o-t-a-l-i-n-g, versus CSX Transportation. It's
12 5 A.D. 3d 764, Third Department 2004, and it's Pages 969
13 through 970. They are addressing specifically a life care
14 planner and reliance on material not in evidence.

15 And what they detail there, beyond just what
16 could be found even in the case they cited about how a life
17 care planner may consider certain materials that are not in
18 evidence, as part of his evaluation, it cannot be the sole
19 basis or principle basis. And here they go through that in
20 more detail in Hotaling.

21 And there they say that where the material that
22 was not in evidence was merely, you know, a second opinion,
23 confirming what was already in evidence, where three of the
24 treating physicians had already testified, and all of the
25 medical records were in evidence, that the opinion was not

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1 going to be disqualified because he had also reviewed
2 material that was not in evidence.

3 The situation that we have here is very
4 distinguishable from that. What we have is in evidence at
5 this time, only the possible records from where she went
6 the day of the accident, which do not indicate any injury
7 to the spine, to the neck, to the back. And then we have
8 the reports from Total Orthopedics and Dr. Lerman, which do
9 not give any direction of what her future care would be,
10 what the cost would be, all of that that Dr. Shah would be
11 relying on, would be from narrative reports that are not in
12 evidence.

13 And he acknowledges as much in his life care
14 plan. He said specifically in the footnotes that he's
15 taking the care, the frequency of it and the cost directly
16 from Dr. Lerman, from Dr. Kosharsky, and Dr. Persich.

17 THE COURT: Why is that improper?

18 MR. LEITER: Because it's not in evidence and we
19 can't cross-examine Dr. Lerman about the need, the
20 frequency or the cost if he's not here, and no report that
21 he's written that states the cost, the frequency or the
22 need is in evidence.

23 THE COURT: You would agree, but for defendants'
24 request for an adjournment --

25 MR. RYBAK: Dr. Persich.

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1 THE COURT: -- regarding Dr. Persich's testimony,
2 which I believe was on November 27th, he would have
3 testified already?

4 MR. LEITER: We have no objection at all to any
5 testimony that Dr. Shah intends to give premised on
6 Dr. Persich's testimony.

7 As we indicated previously, it can all be
8 introduced subject to connection, and then Dr. Persich
9 comes in. If Dr. Persich gives the testimony that Dr. Shah
10 was expecting and assuming to be there, it's delivered,
11 there's no issue at all.

12 The issue is with doctors who we know are not
13 testifying and records that are not in evidence and are not
14 going to be in evidence.

15 THE COURT: But you said yourself that the case
16 law that you cited states that the doctor can review
17 hearsay evidence as long as it's not the only evidence.

18 MR. LEITER: Yes. So we have to go sort of item
19 by item, because Dr. Persich is only a podiatrist. By
20 virtue of being a podiatrist, he can only testify about
21 injuries and conditions below the knee.

22 THE COURT: Dr. Shah is a medical doctor who
23 performed a physical examination of patient himself.

24 MR. RYBAK: Yes.

25 MR. LEITER: He did. And but he's only a pain

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1 management -- he's a physiatrist. And a physiatrist can't
2 perform a surgery. A physiatrist can't determine that
3 someone needs surgery. The only thing a physiatrist can do
4 is refer a patient to see an orthopedic surgeon. The
5 orthopedic surgeon is the one who has to make the
6 determination as to whether or not surgery is warranted or
7 not, and that would be the person who would perform the
8 surgery.

9 THE COURT: Well, it sounds like part of your
10 argument is Dr. Shah is not qualified to give testimony
11 outside his practice area.

12 MR. LEITER: That is part of our argument, that's
13 certainly the case law that holds that. Just as a
14 physiatrist can't talk about the spine, a pain management
15 doctor -- he can -- and there are parts, just to be clear.
16 There are parts of his life care plan he can talk about
17 when his life care plan includes the plaintiff going to see
18 a pain management doctor. That's certainly in his
19 wheelhouse. He's a pain management doctor, he can say,
20 I've assessed this patient and I determined she should be
21 seeing a pain management doctor and this is how often she
22 should be going to see that doctor.

23 THE COURT: But doesn't the information that's
24 outside Dr. Shah's specialty area just go to the weight
25 that the jury gives that evidence rather than to its

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1 admissibility?

2 MR. LEITER: It doesn't because he -- he's, first
3 of all, acknowledged in his report -- this is maybe one of
4 the reasons.

5 Just to start, if he had said in his report, as a
6 pain management doctor I believe she needs this item at
7 this frequency and I've independently determined this is
8 what it costs. If that's what the life care plan had for a
9 particular item -- let's suppose it's fusion surgery --
10 that would be one thing. But that's not what this life
11 care plan is.

12 This life care plan is saying, the only basis
13 which I'm including this item in this life care plan, and
14 the only reason I'm putting this cost to it, and the only
15 reason I'm putting this frequency is because this is what
16 Dr. Lerman said in a narrative report, this is what
17 Dr. Kosharsky said in a narrative report.

18 So once he's identified himself that the
19 principle basis is out-of-court material, that's where the
20 case law is clear that's not permissible. He's not saying
21 I looked at five things together, three or four being in
22 evidence, one of them not, and my opinion is unchanged by
23 the thing that's not in evidence.

24 THE COURT: But Dr. Shah comes up with an entire
25 life care plan, and that life care plan is based, in part,

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1 on his review of other doctors' records, and his personal
2 physical examination of the plaintiff and other items.

3 So it doesn't sound like here we have only his
4 information being based upon hearsay.

5 MR. LEITER: So I think the issue is you're
6 asking the question as if we look at the life care plan in
7 its totality. But the issue as the case law holds, and the
8 way the courts address it there is, if you imagine if the
9 witnesses is on the stand and he wants to testify to a
10 specific item in the life care plan, and that's when the
11 objection is made. The determination has to be on that
12 item-by-item basis. It can't be -- he doesn't get to --
13 it's not just deciding whether he gets to testify at all or
14 not; we're agreeing he gets to testify.

15 But when he wants to testify specifically, let's
16 say a future lumbar surgery, the question is, does he have
17 a foundation and evidence upon which to give that
18 testimony. And if he doesn't, then the objection would
19 have to be sustained.

20 When he then moves on, when that objection is
21 sustained and he says, we're now going to talk about an
22 ankle fusion, and we say, well, sure, subject to
23 connection, Dr. Persich will talk about that, that's
24 allowed. If he then tries to come back and say, as to this
25 neck condition, but again we don't have that foundation

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1 evidence, that objection would be sustained. If he then
2 returns to pain management, how many times did she see a
3 pain management doctor like himself, that's allowed.

4 So we can't have just one ruling on the entirety
5 of a life care plan when he's identified in his plan that
6 he does not have the same source for everything, and he's
7 not using the same source collectively for everything.

8 So he's not using Dr. Kosharskyy at all when
9 thinking about the ankle and putting the ankle plan, that's
10 entirely Dr. Persich. And by the same token he's relying
11 entirely on Dr. Kosharskyy and Dr. Lerman when it comes to
12 the spine for the items that he identifies he's relying.
13 And those are the items that we say cannot come in.

14 And related to that, all of the testimony that
15 he's given for it to have any probative value or relevance
16 in this trial, has to pertain to what the jury is being
17 asked to consider, which is what is it that's reasonably
18 certain to be received by the plaintiff as future care, and
19 what is reasonably certain to be the cost of that care.

20 THE COURT: Your papers seem to indicate that you
21 believe there are two different standards of burden of
22 proof in this case, one for future medical expenses and one
23 for the general trial.

24 MR. LEITER: So --

25 THE COURT: Which I respectfully disagree with.

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1 MR. LEITER: So and I think what you're going to
2 tell me is you read the case law. I'm going to agree that
3 that's what the case law is, which is that the jury is
4 instructed by the PJI about the preponderance of the
5 evidence being the standard.

6 THE COURT: Correct.

7 MR. LEITER: At the same time, all of the case
8 law from the appellate division is clear that, when they
9 review the award, the award that a jury makes, they vacate
10 or sustain it based on whether or not it was established
11 with reasonable certainty. And that's where I agree with
12 you. That's a disconnect there.

13 THE COURT: I agree with you inasmuch as the
14 appellate papers seem to indicate that reasonable certainty
15 is the standard when dealing with past or future medical
16 expenses.

17 But in doing a lot of research on this last
18 night, I note that the words, "reasonable certainty," comes
19 from CPLR 4545, which is the admissibility of collateral
20 source of payment. So it's the collateral source statute.

21 And if you look closer at what the appellate
22 divisions have said, when they're talking about reasonable
23 certainty being synonymous with clear and convincing proof,
24 and most of the case law really refer to CPLR 4545, not the
25 standard of proof in the trial.

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1 MR. LEITER: I would say -- so reasonable
2 certainty is certainly the standard incorporated into CPLR
3 4545. But I don't think it could be said that the
4 reference to reasonable certainty is because 4545 has a
5 reasonable certainty standard. Because when the Court is
6 discussing most of -- almost all of the cases, in fact,
7 that appellate courts are looking at the award, they're not
8 saying it's an issue that the Court should have reduced it
9 out of collateral source here. Often there was no
10 collateral source here.

11 THE COURT: You cite as one of your examples,
12 Kihl, K-i-h-l v. Pfeffer, P-f-e-f-f-e-r, which is the
13 Second Department case from 2007 before it went up to the
14 Court of Appeals. And they talk about the standard of
15 proof of the collateral source herein being reasonable
16 certainty. So that was one of the cases that you cited.
17 It's specifically talking about CPLR 4545 and the standard
18 at a collateral source hearing.

19 MR. LEITER: Sure. Again, that definitely is the
20 standard at a collateral source hearing. But what I'm just
21 trying to emphasize is, when you also look at cases where
22 appellate courts are making reductions to the jury's award
23 of future medicals or future lost earnings claims, and they
24 make the reduction, and they say it's because it wasn't
25 established with reasonable certainty.

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1 THE COURT: I agree with you on that, although I
2 think the origination of that term comes from discussions
3 regarding collateral source hearings in CPLR 4545. I don't
4 think the appellate division intended, and I don't read it
5 that way, as requiring two different standards during a
6 trial, one for the general trial and one for past and
7 future medical expenses.

8 MR. LEITER: Just take that for a moment. Let's
9 assume that the standard is just preponderance of the
10 evidence, that's all they would need to show for any kind
11 of economic loss. And putting aside the cases I talk
12 about, let's say for loss of earnings, how you actually
13 have to have your tax records or other equivalent documents
14 in evidence to support loss earning claims. You just can't
15 get on the stand and say, these are my losses, this is what
16 I used to earn. Even though the jury might say, I
17 credit -- after hearing the judge's charges, I credit that
18 testimony, I think it's credible, I think it's
19 preponderance of the evidence, and I'm making the award, we
20 all know that award would be vacated.

21 So even if we assume, though, for the moment,
22 that the preponderance of the evidence standard is the only
23 standard we're going to consider when we're looking at this
24 life care plan and what Dr. Shah as testified to, we still
25 have the fact that he acknowledges in his life care plan

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1 that he's including items that he's not saying are more
2 likely than not to be received by the plaintiff. And that
3 he's not even claiming on the broader items, the ones that
4 I think they would they try to argue are most likely to be
5 admissible, that he's saying she's going to actually
6 receive them. Because, again, the key issue here is not
7 what does a doctor think would be helpful, what would a
8 doctor recommend. It's for them to determine what issue --
9 let's just go with preponderance of the evidence. What is
10 she more likely than not actually going to receive, and
11 what is she more likely than not going to -- is he going to
12 do the actual cost of that.

13 THE COURT: Was this a jury question?

14 MR. LEITER: At this point I would say it's not a
15 jury question because we had Dr. Benatar acknowledge that
16 there's no item that he's identified or that he believes or
17 that he said with a reasonable degree of medical certainty,
18 or by any other standard, that she's actually going to
19 receive.

20 So if Dr. Shah is going to testify to any item,
21 there has to be a basis to believe she's going to receive
22 it. And we know she's gone four years without receiving
23 any of the care. We have Dr. Shah's plan including -- his
24 plan was issued in March of 2024. He first has a plan that
25 carries her from ages 39.9 to 40, so March to April.

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1 THE COURT: May I ask if you have a life care
2 planner coming to testify?

3 MR. LEITER: We do have a life care planner.
4 He's been retained. And that life care planner's opinion
5 is that none of the medical care is necessary, and so it's
6 a zero.

7 THE COURT: And if that wasn't his opinion, we
8 wouldn't be at trial, right?

9 MR. LEITER: I think there's a disagreement.

10 THE COURT: Yes.

11 MR. RYBAK: That's the whole point.

12 THE COURT: The point being that Dr. Shah has
13 certain opinions, and your life care planner has certain
14 opinions. They are diametrically opposed in their
15 opinions, and isn't it a jury question for a jury to decide
16 during deliberations, who, if any one of the two they
17 believe?

18 MR. LEITER: It isn't until Dr. Shah has a
19 foundation for what he wants to testify to. Because
20 Provder is not coming in to testify to anything that Shah
21 doesn't first have a basis to put in for him to address.

22 THE COURT: Right.

23 But isn't the foundation going to be laid or not
24 laid, as the case may be, by plaintiff's attorney on direct
25 examination?

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1 MR. LEITER: Well, the issue here is his report
2 already shows that he doesn't have that foundation. When
3 he says this is an item that's possible, or let's take as
4 one of the examples the notion of a spinal stimulator. So
5 a spinal stimulator permanently implanted would only be
6 done after the person has first had a trial of spinal
7 stimulator. And they don't because the frequency with
8 witnesses has proven not to be effective. So they don't
9 put a permanent one in at that cost until they first find
10 out how the first one would be effective. They don't even
11 do the trial spinal stimulator until they first determine
12 that medications aren't working that's to treat pain that
13 can't be resolved by medication.

14 And here we know she's on no medications, and we
15 know that Dr. Shah's plan had her taking a trial of various
16 medications from March to April of this year, this
17 three-month trial. And then only after it's determined
18 whether or not it works, would they even consider doing the
19 trial of spinal stimulator.

20 So we know that that didn't happen. We know
21 she's not even taking any sort of ordinary prescription
22 pain medication, that no doctor has prescribed any to her,
23 that it has been more than four years, that she would have
24 all of the care that Dr. Shah has put in his life care plan
25 in terms of surgeries, medications, all of it, available to

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1 her at no out-of-pocket cost because of her health
2 insurance, and it has no deductibles, it has co-insurance
3 requirements. So all of that when it's available to her
4 for free, she's not getting any of it. She's choosing to
5 get none of it. And she didn't testify that she has any
6 intention of receiving any of this. There's not even a
7 representation by Dr. Shah that he's ever even told her
8 about this plan.

9 So if there's no indication whatsoever that this
10 plaintiff has any intention of receiving even, let's pull
11 up the Tier 1 level of treatment, then speaking about what
12 the costs and care would be at Tiers 2, 3 and 4 if one
13 fails and then two fails is just speculative.

14 And he's acknowledging that this is not something
15 he's claiming is more likely than not. He's not claiming
16 that there's a high degree of probability. He's not saying
17 there's a preponderance. He's not even saying it's a
18 50 percent chance.

19 And if we know from the beginning before he's
20 even testified that, by his own report, these are
21 speculative -- and the case that I cited where he
22 previously testified in the case in the Court of Claims,
23 and the judge recognized these are all speculative -- to
24 think that we're going to talk about implanting a permanent
25 spinal stimulator when we're not even at a trial stimulator

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1 level in this case, not even at prescription medications,
2 is too speculative.

3 And that's the reason that -- again, we're not
4 saying he doesn't testify at all. But on items where he's
5 labeled on himself as "possible," or "contingent," or
6 "available," those are not items that he should be allowed
7 to testify to. It serves no valid purpose since the jury
8 clearly couldn't award them, even under a preponderance of
9 the evidence standard.

10 The only purpose is to suggest to this jury that,
11 hey, she may have only proved this number, but there might
12 be this whole other world of cost, so why don' you give her
13 a little extra just to cover them just in case. And that's
14 defeating what the burden of proof is, what the legal
15 standard is, and what the defendants are entitled to how
16 this jury bases its decision on is prejudicial to us and it
17 has no probative value.

18 THE COURT: All right. Is there anything else?

19 MR. LEITER: I think we've also noted that they
20 never actually plugged the amounts that they're looking to
21 have him testify to. And because -- you assume they would
22 make that application here if they can't set forth why that
23 should be allowed now that there's an actual basis to
24 believe that a jury could conclude that by preponderance of
25 the evidence that these are the items and these are the

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1 costs, it should not be allowed.

2 The number that they pled, around 350,000 -- and
3 I get that by adding them from the first bill of
4 particulars, first supplemental bill of particulars,
5 cumulative, rather than assuming anything you have to
6 substitute or replace.

7 THE COURT: The number that you used from your
8 paper was \$367,000?

9 MR. LEITER: Yes.

10 THE COURT: That is correct that that is the
11 number in the bill of particulars or any of the
12 supplemental bill of particulars?

13 MR. RYBAK: More or less, but that includes
14 future cost that hasn't been established yet. And that's
15 the whole point of having a life care planner.

16 I mean, Mr. Leiter's argument, no life care
17 planner would be able to testify because the whole point is
18 the future is uncertain. It is speculation whether she's
19 going to have these procedures, this treatment. And the
20 whole point of a life care planner is that he's an expert
21 in this field, and he reviewed 26 different documents in
22 her file, her medical records, and he's basing his whole
23 life care plan based on his exam of the plaintiff and his
24 expertise in life care planning.

25 THE COURT: Let's say the jury returns a verdict

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1 of \$10 million for future medical care, and that's not
2 supported by the evidence. You make a motion to reduce
3 that. And if the jury doesn't award anything for future
4 medical expenses because they didn't believe it was proven
5 by a preponderance of the evidence, then nothing needs to
6 be done.

7 MR. LEITER: I certainly would make a motion if
8 there was a \$10 million award for future medical expenses,
9 no question. And we would all recognize there's no way
10 that would be supported.

11 THE COURT: Right. And it would be my job to
12 reduce that award to what has actually been proven by a
13 preponderance of the evidence during a trial.

14 Would you agree with that?

15 MR. LEITER: Yes.

16 But my primary concern today is that defendant is
17 going to be prejudiced by testimony being presented by
18 Dr. Shah that can't be the basis for an award, has no
19 probative value, and would prompt the jury to make an award
20 that's higher than it would otherwise be intentioned in a
21 way that's not readily discernible when the jury returns a
22 verdict.

23 If the jury believes -- if Dr. Shah could only
24 properly testify to, let's suppose, \$320,000 of future
25 medical expenses, and this jury makes an award of \$600,000,

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1 because they figure there is a lot of contingents, and
2 let's just figure 10 percent of what we think that will
3 cost, we'll kind of balance it out. And that's what they
4 do. And when that number comes in at \$600,000, they're
5 going to say, well, Dr. Shah had a total of over a million
6 and a half, so that fits. And I'm not going to be able to
7 say, this is how they came to 600,000. I'm not going to be
8 able to say, well, this is the amount for actual -- for the
9 physiatrist, that he was competent to testify to. This is
10 the amount for the ankle that he was competent to testify
11 to, but this other \$300,000 is just because he supposed
12 there might be a million dollars of other costs that's not
13 as certain, so they just said, let's throw in an extra
14 \$300,000.

15 And that's the prejudice I'm going to have.

16 MS. KLAUM: And just if I may, Dr. Shah then is
17 improperly trying to testify to the opinions of Dr. Lerman
18 and Dr. Kosharsky who are not here, who are never going to
19 be here. And their opinions are not part of the record in
20 terms of future special damages.

21 And so that is --

22 THE COURT: I agree. I'm just not sure they need
23 to be.

24 MR. LEITER: I guess, Your Honor, lastly, so from
25 the case law as I've cited, since Dr. Shah has to be able

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1 to identify that the principle basis for each of the items
2 in the testimony that he would give is something that is in
3 evidence, I would suggest that the plaintiff, if they're
4 contending that his testimony throughout this report is
5 proper, identify what it is that they believe is in
6 evidence for him to rely on so that it's not just that he
7 had some other things that are tangentially being swept in
8 with it, but that he has some item that he can identify as
9 the principle basis for those numbers that's actually in
10 evidence. Because the only things we have in evidence are
11 the plaintiff's testimony, which I submit is not supported;
12 Dr. Benatar's testimony, which I again submit is not
13 supportive; the hospital records which has no support for
14 this life care plan; and the few reports from Total
15 Orthopedics that are in evidence that also don't support
16 this plan or any of those costs.

17 And if they can't identify that there is a
18 principle basis that's in evidence, I would reiterate,
19 though, under the case law, you cannot testify to that. It
20 doesn't come in as an exception to hearsay.

21 THE COURT: I'm not sure I agree with you.

22 You mentioned that the plaintiffs only cited to
23 one case in their written opposition to your motion in
24 limine, but it's a pretty persuasive case. It's Tornatore,
25 T-o-r-n-a-t-o-r-e, v. Cullen. It's a Fourth Department

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1 case in 2018, and the cite is 162 A.D. 3d 1503. And I'm
2 quoting: "It is well settled that opinion evidence must be
3 based on facts in the record or personally known to the
4 witness. It is equally well settled, however, that an
5 expert is permitted to offer opinion testimony based upon
6 facts not in evidence where the material is of a kind
7 accepted in the profession as reliable in forming a
8 professional opinion. A professional reliability exception
9 to the hearsay rule enables an expert witness to provide
10 opinions evidence based on otherwise inadmissible hearsay,
11 provided it is demonstrated to be the type of material
12 commonly relied on in the profession and provided that it
13 does not constitute the sole or principle basis for the
14 expert's opinion."

15 And this case cites the case of Wagman,
16 W-a-g-m-a-n, v. Bradshaw, which is a Second Department case
17 from 2002, and the cite on that is 292 A.D. 2d 84, which
18 has been followed, as far as I can tell, by every
19 department since then regarding what is now commonly called
20 the professional reliability exception to the hearsay rule.

21 And we know that Dr. Shah's testimony cannot be
22 based only on hearsay because he physically examined the
23 plaintiff. So I'm not seeing how this case and the
24 professional liability exception to the hearsay rule isn't
25 applicable here.

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1 MR. LEITER: Sure. Maybe I can give you an
2 example to illustrate it.

3 So as you quoted in the decision, that last part
4 where it says, "provided it's not the sole or principle
5 basis," and Dr. Shah identifies here that the sole, as well
6 as the principle basis for particular items in his life
7 care plan are the narrative reports from the doctors who
8 are not here. And so that's Footnote 3, per
9 Dr. Kosharsky.

10 And then he continues on from there where he
11 says, "require annual injections to her cervical and lumbar
12 spine as follows: Lumbar facet injections four times a
13 year at \$1,200,000 per injection."

14 So he's not only clearly saying, when he puts in
15 his report, lumbar facet injections, and then putting it at
16 four times a year and listing the costs as \$1,200, he's
17 clearly taking that entirely from an out-of-court report by
18 Dr. Kosharsky that's not in evidence, and without
19 Dr. Kosharsky coming here to say she needs lumbar facet
20 injections, that she needs them four times a year and that
21 they cost \$1200.

22 THE COURT: You want to pick apart the different
23 opinions on the different body parts pursuant to hearsay,
24 when I don't think it works like that. So I hear your
25 argument. I don't think it works like that.

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1 The expert opinions that he's going to testify to
2 are based on an entire life care plan, and part of those
3 opinions are based on entirely hearsay, and part of those
4 opinions are not based on hearsay. And I don't think we go
5 into each answer to decide whether that particular answer
6 is based on hearsay or based on his personal knowledge from
7 the examination or from something else. I just don't think
8 it works that way.

9 MR. LEITER: I understand that's your conclusion,
10 Your Honor. Note my exception, for the record. But I
11 think it's clear from the case law, and just as when
12 plaintiffs asked their questions, they're not just going to
13 ask, I'm expecting: What do you think the total cost of
14 all care will be? They're going to ask him line by line.
15 And when we get to a line that we know that he does not
16 have an admissible foundation for, and an objection is
17 made, I believe that objection is required to be
18 sustained --

19 THE COURT: I know that you believe that.

20 MR. LEITER: -- because he doesn't have a
21 foundation to answer that particular question. Just like
22 for any other question, if a witness doesn't have personal
23 knowledge to give an answer, they can't because they had
24 personal knowledge to answer four questions earlier, answer
25 the question that's being posed to him at that moment.

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1 And so I would say in the same way, the fact that
2 he can give an answer about the ankle because it's subject
3 to connection with Persich, doesn't mean that when a
4 question now comes and says, how many times a year do you
5 suppose she's going to need lumbar facet injections, and he
6 says, per my plan it's going to be four times a year, and
7 it's based entirely not -- it's based entirely on what
8 Dr. Kosharsky said in a document that's not in evidence,
9 it's not that Dr. Shah has determined individually she
10 needs it four times a year, or even that he agrees with
11 Kosharsky.

12 I think maybe that's a point I should have made
13 earlier. Dr. Shah's opinions are not even consistent with
14 the ones he's adopting from Kosharsky. The reason I know
15 that is because I have a prior report that he's prepared,
16 and he doesn't use the cost that he's adopting from
17 Dr. Kosharsky, and he doesn't use the cost that he's
18 adopting from Dr. Lerman or the frequency, and for somebody
19 with the same condition.

20 So what he's done is thrown out his opinion,
21 honed in Kosharsky's opinion. Now Kosharsky's opinion is
22 not in evidence. It can't be the basis for the testimony.
23 And we're not going to hear Dr. Shah's own opinion, we're
24 just still going to hear Dr. Kosharsky's opinion, and
25 that's the hearsay problem that this presents.

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1 THE COURT: So in other words, everything is
2 inadmissible if it doesn't have to do with the potential
3 testimony of Dr. Persich?

4 MR. LEITER: No. Because as I said earlier,
5 there are lots of items. Let's just take this supposition
6 she's going to go to the gym at YMCA in Castle Hill and
7 she's going to work out there and this is how much it cost
8 to join that gym, and this is how much it cost to take the
9 bus there, that's got nothing to do with Kosharsky or
10 Lerman. So be it. He can testify to that as a physiatrist
11 and he says I think she should be exercising, that's part
12 of the plan.

13 THE COURT: And the plaintiff still has to prove
14 that it's more likely than not that she will do that.

15 MR. LEITER: Right. The jury doesn't know. We
16 know from the report that we had from Benatar yesterday
17 that she belonged to a Planet Fitness. That Planet Fitness
18 happened to be located right around the corner from her
19 house. If she's not going there, I don't know how in the
20 world the jury can conclude, by a preponderance of the
21 evidence, that she's going to go to a YMCA in Castle Hill
22 like Dr. Shah supposes, where he admits in his footnotes it
23 would take an hour to travel there by bus and an hour back.

24 THE COURT: That's an argument you'll certainly
25 make.

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1 MR. LEITER: Certainly.

2 But I'm not disputing that he gets to make that
3 on the stand because that's just an issue on
4 cross-examination and credibility.

5 But where there's -- there's no issue of him
6 relying on Kosharskyy for how much does the YMCA cost or
7 how much does the bus cost. But when you want to say, said
8 injections costs \$1200 or \$1400 each, and you're putting
9 that in your report only because Kosharskyy said it, that's
10 where I say he's not permitted to testify about it.

11 THE COURT: So anything else you'd like to add?

12 MS. KLAUM: Your Honor, it's almost like a Frye
13 argument in terms of Dr. Shah not being qualified to
14 testify about future medical damage that were given by
15 Lerman and Kosharskyy.

16 THE COURT: Well, that was my point earlier. It
17 sounds like a weight-of-evidence argument rather than
18 inadmissibility, to me.

19 MR. LEITER: Well, it would be Parker. Because
20 Frye would be, is he really a life care planner. Parker
21 is, did he apply life care planning principles and
22 methodology to come up with his plan.

23 THE COURT: And aren't you going to cross-examine
24 him about that?

25 MR. LEITER: The only thing in Parker is, he

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1 doesn't get to testify until he clears the Parker hearing
2 and it's determined that he did apply the methodology. The
3 methodology is certainly not take what some other doctor
4 said, carry over into your report without scrutinizing it,
5 even when you know that the numbers he gave you are not
6 numbers that you agree with, not numbers you put in your
7 own reports, just carry them over. There's no actual
8 methodology being applied. He's simply adopting what
9 somebody else said. That's hearsay.

10 THE COURT: I mean, some of this is speculative
11 because we don't know what Dr. Shah is going to testify to.
12 And whatever he testifies to, must be within the four
13 corners of his expert witness disclosure. And I think some
14 of this will be determined during his testimony.

15 MR. LEITER: We would ask for a Parker hearing.
16 If he's going -- if he would come in here, and at the
17 hearing, just the voir dire, acknowledge that he carried
18 over numbers, carried over frequency, all of that directly
19 from those reports without any alteration by hand, without
20 any consideration of any other documents, without
21 consideration of the examination -- and I don't even see
22 how the examination can tell him it's \$1400 or it isn't.
23 If that's what he would acknowledge that he did, I don't
24 even see how there could be a question that he doesn't pass
25 the Parker test.

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1 THE COURT: That application is denied. I've
2 reviewed Dr. Shah's expert witness disclosure. And for the
3 reasons previously discussed, the motion in limine is
4 denied. And we'll see how the testimony goes, and you'll
5 make your objections, and I'll make rulings on them during
6 his testimony.

7 MR. LEITER: Thank you, Your Honor.

8 MR. RYBAK: Thank you, Your Honor.

9 THE COURT: Is there anything else plaintiff
10 would like to add?

11 MR. RYBAK: No.

12 THE COURT: Let's bring in the jury and get
13 started.

14 THE COURT OFFICER: All rise. Jury entering.
15 (Whereupon, the jury enters the courtroom.)
16 You may be seated.

17 THE COURT: Good morning, jurors.

18 THE JURY: Good morning.

19 THE COURT: Apologies again for keeping you
20 waiting. There are many legal issues that are in a trial
21 that the attorneys and I need to discuss outside of your
22 presence. I apologize for keeping you waiting, but we are
23 ready to begin.

24 Plaintiff, you may call your next witness.

25 MR. RYBAK: The plaintiff calls Dr. Shah to the

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1 stand.

2 THE COURT OFFICER: Remain standing.

3 Raise your right hand.

4 D A V I D S H A H M.D., a witness called on behalf
5 of the plaintiff after having been first duly
6 sworn and took the witness stand and testified
7 as follows:

8 THE COURT OFFICER: In a loud clear voice, state
9 your name and business address for the record.

10 THE WITNESS: It's Dr. Chirag Shah. Business
11 address is 787 11th Avenue, Seventh floor, New York,
12 New York 10069.

13 THE COURT OFFICER: You may be seated.

14 THE COURT: Counsel, you may inquire.

15 MR. RYBAK: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. RYBAK:

18 Q Good morning, Dr. Shah.

19 A Good morning.

20 Q Can you tell the jury your qualifications, meaning the
21 schooling, what you do, things of that nature.

22 A Sure.

23 So originally I was accepted into a seven-year medical
24 program at the University of Illinois. So I completed an
25 undergraduate degree in biological sciences. After that I went

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1 on to actually go to law school, John Marshal Law School.

2 Completed that and got my master's in patent law.

3 Subsequently, I started my medical training at the
4 University of Illinois as well. After completing my medical
5 degree there, went on to complete a residency of physical
6 medicine and rehabilitation, which was at Rush University in
7 Chicago.

8 After completing that, I then went onto a fellowship
9 at Mount Sinai Hospital here in New York in interventional spine
10 and sports medicine.

11 Q Are you board certified?

12 A I am board certified in physical medicine and
13 rehabilitation.

14 Q What does it mean to be board certified?

15 A Board certification means that you've gone through a
16 residency program that's accepted by the ACGV, the governing
17 board in New York State. And upon completing that, you take a
18 two-part examination. Upon completing that or passing that
19 test, you become board certified. And you have to maintain that
20 certification over the course of ten years by maintaining the
21 medical education.

22 Q Do you have any hospital affiliations?

23 A I currently work at the Mount Sinai Hospital, Mount
24 Sinai West Hospital.

25 Q And can you explain to the jury your specialty?

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1 A So my specialty is physical medicine and
2 rehabilitation, with a focus on interventional spine sports
3 medicine.

4 So psychiatry or physical medicine rehabilitation
5 primarily focuses on restoring function for a patient who is
6 experiencing a disability or an injury or have gone through an
7 accident, trauma, et cetera, that -- you know, restoring that if
8 function might include things that involve physical therapy,
9 home exercising programs, medication management, injections or
10 recommending surgical interventions if those things fit.

11 Q Have you testified in court before?

12 A I have.

13 Q How many times?

14 A Roughly six or seven times.

15 Q And are you being paid for your testimony today?

16 A I am.

17 Q And what's your fee?

18 A My trial testimony fee is \$10,000.

19 Q And to be here today, did you have to cancel any
20 appointment?

21 A I did. I cancelled appointments.

22 Q Usually what does your workday look like at work?

23 A Wednesday, my initial part of the day is seeing
24 patients in the office, in the clinic. And then the afternoon
25 involves doing procedures on joints or the spine.

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1 Q Okay. Do you prepare life care plans for your
2 patients?

3 A Yes, I do.

4 Q Can you explain to the jury what a life care plan is.

5 A Of course.

6 So I underwent a course in life care planning, and
7 then certified as a life care planner. Essentially what it is
8 is, it's an extension of kind of what I do on a regular basis in
9 physiatry. What we do is we outline or identify the injury, the
10 disability, and then outline what kind of -- the therapies,
11 aids, procedures, surgeries, et cetera, that a patient would
12 need throughout their lifetime from the disability to when they
13 might pass away. And then we quantify that with a dollar figure
14 based on current prices what those things cost.

15 Q Were you asked to prepare a life care plan for the
16 plaintiff, Nereyda Benitez?

17 A Yes, sir.

18 Q And what did that entail?

19 Did you first meet with Ms. Benitez?

20 A So it involves several parts and then parts that
21 include initially getting the medical records, and obtaining a
22 medical history, based on what Ms. Benitez has already gone
23 through. And then I have her come into the clinic. So she came
24 into the clinic. I evaluate her by going through the history,
25 all the history that she had from her accident, what she's gone

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1 through afterwards, as well as going through a physical
2 examination.

3 And after that examination and a history, we compile
4 all that information and I create a roadmap, if you will, for
5 things that they made need going forward.

6 Q And did you bring notes in your life care plan with
7 you?

8 A Yes, I did.

9 Q So if you need to refer to that, please do so.

10 When did you first meet with Ms. Benitez?

11 A March 2024.

12 Q And did you -- run us through the exam that you
13 performed.

14 A Sure.

15 Just to clarify, the whole exam or just the physical?

16 Q The physical exam.

17 A After completing the history, I did a physical
18 examination on the injured body parts, that includes her neck,
19 her lower back and her ankle.

20 Essentially, we go through, you know, a multitude of
21 different parts of it. So it will be -- there's palpation,
22 which is touching the different parts to see if there's pain
23 that gets aggravated when we touch it. We go through range of
24 motion exercise, which is essentially going through what they
25 are capable of doing in terms of bending forward, bending

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1 backwards, rotating their neck forward, backward, side to side,
2 seeing if there's any limitations there. We test their
3 sensation to see if there's any numbness in any part of the
4 body. We check the reflexes. We check their strength and their
5 upper and lower extremity. We then do a series of provocative
6 maneuvers, which are special tests to identify whether there are
7 issue with the nerves and signaling from the brain through their
8 muscles. So those are kind of some tests, whether there are
9 certain injuries that are involved with that as well. And that
10 includes for the neck, the low back and the ankle.

11 Q Did you take a history when you first met with
12 Ms. Benitez?

13 A Yes, I did take a history.

14 Q What is your understanding of her complaints and how
15 this accident occurred?

16 A So essentially from her history she was doing well
17 prior to an accident that occurred on September 14, 2018, where
18 she was struck by a motor vehicle. And after that, subsequent
19 to that, she's had injuries or complainants to her neck, her low
20 back and her right ankle, involving pain as well as numbness, as
21 well as some weakness, too.

22 Q And you mentioned before as part of your life care
23 plan, you also reviewed some medical records?

24 A Correct.

25 Q If you can -- if you have to refer to your report, can

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1 you list the medical records that you reviewed in preparation of
2 your life care plan for Ms. Benitez.

3 A Sure.

4 To go through those, I reviewed the MRI images of her
5 neck, her low back and her ankle. We reviewed an EMG, a nerve
6 conduction study as well. I went through her hospital records
7 that were from Lincoln Medical Center emergency room.

8 THE COURT: Doctor, would you mind just slowing
9 down a little.

10 THE WITNESS: Sure, no problem.

11 A I reviewed the physical therapy notes from Tristate
12 multispecialty, her chiropractic notes, her acupuncture therapy
13 notes, her medical records as well, which is the physicians at
14 Tri-State Multispecialty Medical Services.

15 And let's see, medical records from the surgical
16 centers. Medical records from her pain management physician.
17 Medical records from her ankle physician, Dr. Persich. Medical
18 records from Dr. Z. Bartelo [phonetic]. Medical records from
19 Total Orthopedics Sports Medicine in Brooklyn. Medical records
20 from Physical Medicine Rehabilitation of New York, an
21 independent medical examination by Dr. Rosner. Narrative
22 reports by Dr. Kosharsky, as well as Dr. Persich. Narrative
23 reports by Dr. Lerman. A life care plan by Dr. Provder. An
24 operative report by Dr. Kosharsky, including a L5-S1
25 discectomy. An operative report for a right ankle arthroscopy

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1 by Dr. Persich, and an operative report from an ACDF C4-C5,
2 which is a neck surgery by Dr. Lerman.

3 Q You had mentioned a life care plan that you reviewed.
4 That was a life care plan provided by the defendants
5 in this case, correct?

6 A Correct.

7 Q Now, as far as your physical exam of the plaintiff,
8 was that something that's important to you in performing the
9 life care plan?

10 A Yes, it's very important to do a physical examination
11 because that helps, you know, identify what some of the
12 disabilities, some of the injuries that the patient had
13 sustained.

14 Q And can you tell the jury, in performing the physical
15 exam of Ms. Benitez, what were your findings; what was your
16 diagnosis of her condition at the time you performed that exam?

17 A Sure.

18 So on her physical examination we found that she had
19 decreased or limited range of motion in her neck, her low back
20 and her ankle. She did have pain when you pushed on the
21 different various body parts and the muscles that are associated
22 with the neck, low back and ankle.

23 And also when we pushed on her ligaments and tendons
24 in those same areas, we can see some scars that were noted on
25 her skin from the surgery that she had. I did note that she had

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1 some numbness in her lower extremities.

2 Q And, Doctor, before you continue, you mentioned scars.

3 Do you know which body parts?

4 A One neck scar, which was from the cervical spine
5 surgery. A low back scar from the lumbar spine surgery, and
6 four scars from the ankle, from the ankle surgery.

7 Q Go ahead. Continue.

8 A And then there was also some noted kind of weakness in
9 her upper and lower extremities. And we also found that some of
10 those provocative maneuvers that I mentioned before that show
11 that there's been some nerve injury or nerve irritation also in
12 her neck and low back, as well as pain in her ankle.

13 Q And from your physical exam -- withdrawn.

14 Just to be clear, this was done on March 12, 2024,
15 correct?

16 A Correct.

17 Q And from your physical exam of Ms. Benitez, did you
18 have an impression or diagnosis of what her, you know,
19 complainants meant?

20 A Yes.

21 So -- and it's a multitude kind of diagnosis or
22 impressions after the exam and the history. Those include
23 things that involve her neck, her lower back and her ankle. So
24 there was chronic neck pain. There was cervical spine
25 derangement, or damage to the cervical spine. Radiculopathy,

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1 which is pain that stems from the neck down to the arms, as well
2 as low back pain that goes into the lower extremities. Some
3 people are familiar with sciatica. That's kind of the other
4 term for it. There was also diagnosis of a loss of range of
5 motion in both the neck and the back. And she also had
6 undergone certain treatments, including epidural injections and
7 trigger point injections for both the neck and back, and those
8 were all part of the impression, as well as undergoing the
9 surgeries that I mentioned to the neck and lower back. There
10 was also -- had strain of the ligaments of the ankle.

11 Q And this diagnosis and the impression, did you
12 attribute this to the accident of September 14, 2018?

13 A Yes.

14 MS. KLAUM: Objection; leading.

15 THE COURT: Overruled.

16 Q And was that within a reasonable degree of medical
17 certainty?

18 A Yes, it was.

19 Q Okay. Now, after your physical exam of Ms. Benitez
20 and your review of the records, did you begin to formulate a
21 life care plan?

22 A Correct, yes.

23 Q And what were your findings for the life care plan?

24 A So based on the history and the exam and her medical
25 records, we created -- I created a life care plan that outlines

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1 things that she's going to need going forward in the future.
2 Those included seeing a physiatrist or physical medicine
3 rehabilitation doctor to essentially monitor her progress
4 throughout her lifetime and prescribe things like physical
5 therapy, occupational therapy, complimentary therapies, which
6 including acupuncture, massage, that kind of thing. She would
7 also need to see a pain management physician to perform
8 procedures like epidural injections, steroid injections, trigger
9 point injections, as well as to monitor/prescribe pain medicine.
10 So that might include anti-inflammatory medicine, it might
11 include nerve and muscle pain medicine. It might include
12 antidepressants that both affect muscle and pain as well as
13 mood. But those are all things that were gone through with the
14 pain management physician. Also seeing a spine surgeon because
15 she has undergone a neck and low back spine surgery, and is
16 likely to require further surgery as well. So follow up with
17 them on a regular basis, as well as seeing an orthopedic, ankle
18 and foot doctor to monitor her ankle pain, her ankle injuries as
19 well, and potentially requiring injections or surgery going
20 forward.

21 She'll also need physical therapy and occupational
22 therapy periodically at least throughout her lifetime that will
23 treat flareups essentially. Things happen in life, so
24 periodically you're looking to have flareups that will occur,
25 and she'll need physical therapy to help treat those.

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1 She'll also need assistance at home. So those are
2 things that include housekeepers, home health aides, case
3 managers, nursing care kind of periodically throughout her
4 lifetime, which help with basic tasks that she would otherwise
5 normally be able to do.

6 The other thing that are included are aids. That
7 might include ankle braces, a back brace that she might need
8 periodically when she's in a flareup. She'll certainly need a
9 motorized bed for instance so that it can take pressure off the
10 neck and back when there's nerve compression after surgeries and
11 throughout her lifetime.

12 And then also requiring transportation to get to these
13 medical appointments. So that would include, you know, having a
14 potentially motorized scooter so that she can travel in on
15 public transportation, buses, trains. And then, you know, when
16 thing becomes a little too difficult you can use para trains in
17 certain instances which are Assess-a-Ride, which allows patients
18 to get picked up and dropped off to medical appointments.

19 MS. KLAUM: Move to strike the testimony. No
20 foundation.

21 THE COURT: Overruled.

22 Q And Dr. Shah, your life care plan, these are
23 recommendations that would depend on Ms. Benitez, whether she
24 does them or not, based on either her availability to do these
25 things or ability to pay, correct?

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1 A Correct.

2 MS. KLAUM: Objection.

3 THE COURT: Overruled.

4 MS. KLAUM: Leading.

5 THE COURT: Actually, I'm sorry, sustained.

6 Q Dr. Shah, these recommendations would depend on
7 Ms. Benitez, whether she does it or not, correct?

8 A I'm sorry, I couldn't hear you.

9 Q Oh.

10 The recommendations in your life care plan would
11 depend on Ms. Benitez, whether she, you know, does them or not.?

12 A Yeah.

13 Q And based on certain factors that -- withdrawn.

14 Now, in your life care plan, did you attribute future
15 costs of the treatment and/or devices and such that you earlier
16 testified to?

17 A Yes, I do.

18 Q And I know your life care plan is very detailed, as
19 far as the costs are concerned. Can we sort of summarize them
20 so we're not here for an hour talking about different numbers?

21 A Sure, of course.

22 So essentially the life care plan in terms of the
23 numbers are divided into several tables. So I'll kind of go
24 through broadly each table and the costs associated with it.

25 So the first table is -- involves, essentially, their

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1 physicians. So those are the doctor visits that I mentioned
2 with physiatry, pain management and orthopedic surgeon for the
3 spine as well as the ankle, and some of the costs associated
4 with the injections and medication trials when those are
5 performed by those physicians.

6 That total cost over her lifetime is \$296,775 to
7 \$353,828.

8 Q Dr. Shah, before you continue, how do you -- like,
9 what's your basis for those costs and these numbers?

10 A Sure.

11 So essentially what we do is we go through several
12 sources at least two to three sources to identify how much
13 certain things cost out-of-pocket. So that would be for a
14 physician, like a pain management physician, an orthopedic
15 physician, what their average costs are. And we use that
16 average as the cost per visit. And then we identify how often
17 they're going to need to see these physicians.

18 So, for example, a spine surgeon we're expecting that
19 she'll see them once a year. That can sometimes be more of when
20 they are going through a surgery, or it might be a little less
21 when they're doing well.

22 The same thing for an orthopedic ankle surgeon, once a
23 year. Same thing for a physical medicine rehabilitation doctor
24 would be between one and two times a year. By doing that
25 frequency and how often they are being seen, we calculate the

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1 total lifetime cost.

2 Q Okay. Continue with your cart.

3 A And then move on to the second table. The second
4 table essentially involves therapies. So that includes physical
5 therapy, the occupational therapy, the complimentary therapies
6 which are acupuncture, massage therapy, chiropractic care, that
7 kind of thing, as well as an exercise protocol at the gym with a
8 trainer. And then a vocational evaluation, which is to identify
9 a job that she may be able to perform without pain flareups and
10 something that she's capable of doing.

11 That total cost came out to \$169,426 to \$212,836.

12 Q And that's over the course of Ms. Benitez's lifetime,
13 right?

14 A Correct, those are the lifetime costs.

15 Q What's her expected -- life expectancy?

16 A Life expectancy is 82; an age of 82 years old and .48,
17 or the date that that I examined her would be 42 years. 42.6
18 years.

19 Q And how did you figure that for life expectancy?

20 A That comes the CDC chart on the expectancy,
21 essentially for her age. Her age is 39 years old. When I saw
22 her, 39.920 Hispanic female and what their life expectancy would
23 be based on that, correct.

24 Q Can you continue with your table.

25 A So Table 3 is surgeries. And so it's expected or

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1 probably that she will require a neck surgery, a low back
2 surgery and an ankle surgery. All of those have been
3 recommended by her treating physicians. And that total cost for
4 the surgery plus the post-surgery rehabilitation was 284,000 to
5 \$293,000.

6 Q And the surgeries, what do you include in those costs?

7 A So the costs of the surgery is the -- for the actual
8 surgery, is the physician costs, as well as the hospital cost,
9 the anesthesiologist cost, any imaging that is required while
10 they are doing the surgery itself. And then post care costs
11 include physical therapy, physician follow-up visits, those kind
12 of things.

13 Q Continue.

14 A Then we get to Table 4. Table 4 is durable medical
15 equipment or assistive aids. So those include some of the
16 things that I mentioned before, which is, you know, canes,
17 walkers, adjustable bed frames, motorized scooters, and even
18 just ergonomic tables and chairs to sit on on a daily basis.

19 Those costs come to a total of \$25,199 to \$33,904 over
20 the lifetime.

21 Q Are there any additional future costs?

22 A Yes.

23 So the next table goes to home and community-based
24 services. Those include the housekeeping services, home health
25 aides, nursing, visiting nurses and private case manager and

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1 home health aides.

2 And that, over the cost of a lifetime will cost
3 \$720,185 to \$928,628.

4 Q Anything else?

5 A And the last table is for transportation. So that's
6 just the cost that's associated with traveling to her medical
7 appointments and her therapy visits and those things. The cost
8 we use are essentially assuming public transportation for a good
9 chunk of her life, followed by para transit services which is
10 Assess-a-Ride in New York for when she's a little bit older and
11 might not be able to use public transportation on a regular
12 basis.

13 The cost for transportation throughout her lifetime is
14 \$41,317 to \$43,474.

15 Q Now, Dr. Shah, in some of your figures, there is a
16 range.

17 Why is that?

18 A The range is -- as I mentioned before, we use a --
19 multiple sources. So we use multiple sources to accurately
20 depict what the cost of a certain item will be. And so we use
21 the lowest cost to the cheapest possibility and the most
22 expensive possibility, and we use that range.

23 Q Now, Dr. Shah, would you agree with me that the future
24 is uncertain?

25 A Yes.

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1 Q So this life care plan in totality doesn't mean that
2 Ms. Benitez will do everything in the life care that you
3 suggest?

4 A Correct.

5 Q Now, how many life care plans have you prepared in
6 your career?

7 A Several hundred.

8 Q Are the costs in Ms. Benitez's life care plan
9 comparable to other life care plans that you've prepared?

10 A For the types of injuries that she sustained, they
11 are.

12 Q Now, I expect that the defendants will produce their
13 own expert in life care planning. In their report, they claim
14 that Ms. Benitez needs no future care, and that she won't incur
15 no future medical costs.

16 Would you agree or disagree with that?

17 MS. KLAUM: Objection, Your Honor. Form.

18 THE COURT: Sustained.

19 Q Did you review the life care plan that the defense
20 provided?

21 A Yes, I did.

22 Q Do agree or disagree with the opinions in that life
23 care plan?

24 A I agree with what was provided in the life care plan.
25 I think it had similar things that I included in mine as well.

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1 It just was not a comprehensive.

2 MR. RYBAK: Okay. Thank you. I have nothing
3 further.

4 THE COURT: Any cross-examination?

5 MS. KLAUM: Yes, Your Honor.

6 Q Dr. Shah, you like medicine better than law?

7 A I like them both. But, yes, I'm a practicing
8 physician, so I guess I like that a little more.

9 Q But you practiced law out in Illinois, right, it can't
10 be as great as practicing law in New York, right?

11 A New York is great, great place, yes.

12 Q Dr. Shah, okay, so let's be clear then.

13 You're not a treating physician of Ms. Benitez?

14 A Not a treating physician, correct.

15 Q You saw her once, March of this year, correct?

16 A Correct.

17 Q And you also did not meet personally with any doctors
18 that treated her since September 2018, correct?

19 A Correct.

20 Q And, in fact, are you aware that Dr. Lerman did not
21 even testify in this trial and will not be testifying in this
22 trial; are you aware of that?

23 A I am not.

24 Q Are you aware that Dr. Kosharsky did not testify in
25 this trial and will not be testifying in this trial?

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1 A I'm not aware.

2 Q Now, you created this plan -- strike that.

3 By the way, you said I testified a number of times
4 before, but that's only for plaintiff, right?

5 A Correct.

6 Q So you created this life care plan, yes?

7 A Yes.

8 Q Dr. Shah, anyway, you created it as of March 12, 2024.

9 So in other words, that means that what you're
10 proposing those costs started then, right?

11 A Correct.

12 Q Now, were you aware that Nereyda Benitez testified in
13 this trial and admitted she has not had any treatment for about
14 over four years now; were you aware of that?

15 A I know.

16 Q Pardon?

17 A Yes, I'm aware of that.

18 Q Are you aware she doesn't take any medications, maybe
19 the occasional Advil, you're aware of that, too, right?

20 A Correct.

21 Q And so yet if we look at the first page of your life
22 care plan, right, you have expenses for doctors' visits, and you
23 go on to Page 2, pharmaceutical trials. And you have that
24 beginning of March 12th and projected costs.

25 So she hasn't had any of these doctors' visits,

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1 correct?

2 A Correct.

3 Q And she hasn't taken any pharmaceutical trial,
4 medications or any prescription drugs for this matter, correct?

5 A Currently, no.

6 Q Right.

7 So any of these costs that started in March 12, 2024,
8 they should really, as going up to today, they should be zero
9 over here, right?

10 A In terms of projections, you can potentially say that
11 those are costs that should have happened in March 12th. When
12 it didn't happen in March 12th and she eventually starts to
13 undergo appropriate treatment, then those costs could still
14 happen tomorrow.

15 So if you exclude those costs of those trials, then we
16 would be doing a disservice to her if she couldn't accept these
17 trials. Looking at them now in a year, it's still a trial she
18 needs to undergo.

19 Q All right. Well, that's your opinion that it's a
20 disservice or that it's appropriate treatment, but you only saw
21 Ms. Benitez once, right?

22 A Correct.

23 Q And you're not a treating physician?

24 A Correct.

25 Q And you're not a spine surgery, correct?

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1 A Not a spine surgeon.

2 Q So you have no independent opinion, Dr. Shah, as to
3 whether, nor should you, right, as per your board certification
4 as a physiatrist as to whether she's going to need future fusion
5 surgery?

6 A Well, I am an interventional spine fellow -- I'm
7 sorry, fellowship training in interventional spine physician,
8 and I work in an orthopedic company alongside other orthopedic
9 spine surgeons and neurosurgeons. And part of my job is to
10 recommend surgery and also treat patients before they go through
11 surgery as well as after surgery.

12 So having that understanding of what is very likely to
13 be required is still part of that purview.

14 Q But you're not a surgeon?

15 A Correct.

16 Q So you're not in a position to evaluate fully what the
17 surgical necessities might be, right, you could not write a
18 letter of medical necessity for surgery, correct?

19 A Correct.

20 Q And you're not an anesthesiologist, correct?

21 A Correct.

22 Q And so that he means you are not licensed or permitted
23 to do a, say a lumbar percutaneous discectomy, correct?

24 A I could if I decided to get trained in it. It's a
25 type of procedure that falls into an area of what I do, but I

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1 have not myself trained in that specifically.

2 Q So -- and you're not a podiatrist, correct?

3 A No.

4 Q You're not a podiatric surgeon, right; you don't
5 operate on ankles, correct?

6 A Correct.

7 Q And so you would not be a doctor who would write a
8 referral or a prescription or a letter of medical necessity for
9 an ankle surgery, would you?

10 A Not specifically for an ankle surgery, no.

11 Q Or for a discectomy or for a fusion surgery, correct?

12 A Correct.

13 Q And pain is subjective, correct?

14 A Yes.

15 Q And you prescribe a lot of different modalities for
16 pain flareups, et cetera, in this life care plan.

17 But, Doctor, you don't have -- I mean, for the past
18 four years, Ms. Benitez has had no care, right, and you don't
19 have any sort of logbook in terms of what her every day pain
20 complaints were during those four years, do you?

21 A No, I don't.

22 Q Now, are you aware that there's a Planet Fitness gym
23 right near where Ms. Benitez's lives?

24 A I'm not aware there's a Planet Fitness. But I know
25 there's a YMCA next to where she lives.

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1 Q But had you done a little investigation and determined
2 that there is a Planet Fitness literally around the corner from
3 where Ms. Benitez lives; wouldn't that have been a better choice
4 in your life care plan than a YMCA an hour away?

5 A I don't think the YMCA was an hour away. I can double
6 check. I have it in my notes.

7 We often use the YMCA merely because there is a pool
8 that's associated with that gym that they can access. And
9 patients who have had lumbar spine and ankle injuries, when they
10 walk through water, go through water, with water aerobics, there
11 often is kind of that buoyancy from water, so it allows them to
12 be able to walk a little bit easier. And, generally, YMCAs are
13 fairly cheap compared to the other types of gyms that exist like
14 Equinox, for example.

15 Q So this is just a line item you put in all your life
16 care plans, YMCA, pretty much?

17 A No. We look for gyms that have water and a pool. So
18 YMCA is a common one in the New York area. If there was a
19 different place and there was a different place that had a warm
20 water pool, and if it was cheaper, we'd use that.

21 Q And, of course, you're assuming here that plaintiff --
22 I mean, a lot of us have gym memberships and we never go.

23 You're assuming that even if plaintiff had a
24 membership that she was going to go, right?

25 A We would want her to go, correct.

Shah - Direct - Rybak

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1 Q Right.

2 But you're assuming that here, and you're putting in a
3 life charge and you're assuming that she's even going to use
4 this?

5 A Correct.

6 Q You're assuming that she knows how to swim?

7 A Not necessarily. Just walk in water.

8 Q You're assuming that she would avail herself of all of
9 these things that you put in here and yet you cannot state, to
10 today reasonable degree of medical certainty or any certainty
11 that she would avail herself of any of this, correct?

12 A Sure.

13 I cannot predict what she will or will not do. I can
14 only recommend what she should do.

15 Q And that's based upon seeing her once, you have a n
16 opinion about what she should do?

17 A Correct, based off her injuries and the medical
18 history that we've taken and the medical records that span over
19 several years, yes, in that context.

20 Q Now, you put in charges for vocational evaluations.
21 Is it true, Doctor, that there's plenty of free
22 vocational services out there these days?

23 A I think some of the free ones are related to
24 insurances and that kind of thing. There aren't just any free
25 vocational evals.

Shah - Direct - Rybak

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1 Q Now, you met her, right; she doesn't wear any brace?

2 She doesn't have a cane?

3 She doesn't use a walker, any of that, right?

4 A Correct.

5 Q So but your plan includes all of this fancy stuff for
6 the house: Motorized bed frames, ergonomic chairs, antifatigue
7 floor mats.

8 Are these standard things you put in all your life
9 care plans?

10 A In the context -- not standard. It depends on what
11 the injuries are. But for the types of injuries that she
12 sustained, those are things that we would recommend.

13 So a lot of times when you undergo spine surgery, your
14 nerves can be damaged or irritated when you sleep on them in
15 certain positions. They would put compression on it. So
16 whether you sit for a long time or your leg goes numb, you have
17 the realization that your leg is numb, you can move around and
18 you can really readjust to take pressure off of that.

19 When you have these surgeries you may not realize that
20 it's happening or they are causing nerve damage, or you're not
21 capable of making those turns as easily which then can cause
22 pain flareups and worsen your injury, those kinds of things.

23 Same thing with ergonomic setups. People are all
24 prone to those kind of things when we use cell phone, computers,
25 work at a desk or not in a proper positioning, they can cause

Shah - Direct - Rybak

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1 neck pain, low back pain, it can cause these kind of flareups,
2 these things are all kind of related to that.

3 The canes and walkers start later in life. We are
4 projecting something for the next 40 years of our lives. So
5 think of where we are now and think of maybe what our
6 grandparents or parents are undergoing or experiencing, that's
7 what we are recommending, some of those things.

8 Q And, Doctor, you know, there was a doctor that came in
9 and testified yesterday, Dr. Benitez, and I asked him some
10 questions about pain -- I'm sorry, excuse me, Dr. Benatar. I
11 asked him some question about pain and so on. And I include in
12 my question something about poor mattresses. And he went on to
13 say that, no, no, there's a study or something that mattresses
14 have nothing to do with pain or anything else.

15 So I guess you don't agree with him?

16 A I do not.

17 Q Now, Doctor, are you aware of the ACCES-VR Bronx
18 District Office, it's a state government office in the Bronx
19 that provides adult continuing education and vocational
20 services?

21 A Potentially, if you say so, yes.

22 Q So that would be a free opportunity for the plaintiff,
23 a 1215 Zerega Avenue, Bronx, New York 10462.

24 A Okay.

25 Q So we could take that item off of here, right; she

Shah - Direct - Rybak

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1 doesn't need to pay for vocational services.

2 Now, are you aware that she does light housekeeping on
3 her own?

4 In fact, her kids are getting big. And, you know, her
5 son, I guess he's around 15 now. He helps her out a lot. When
6 she goes grocery shopping he carries the bags that are otherwise
7 being delivered.

8 You're aware of that, right?

9 A Yes.

10 Q And she has a daughter, too, and her daughter is
11 getting big. I think her daughter is like nine years old now.
12 So she's got help in the house.

13 But yet your life care plan has got a tremendous
14 number of housekeeping services items: Home health aides,
15 private case managers, visiting nurses. She doesn't even go to
16 the doctor for four years. She needs a visiting nurse is what
17 you're saying, residents' adaptation. She admits she takes 11
18 steps up to her apartment. She does it several times a day.
19 She didn't complain about it.

20 You're aware of all of that, right, Doctor?

21 A I'm aware, yes. And I believe she has more stairs
22 than 11, yes.

23 Q More than 11, and she does them a few times a day,
24 correct?

25 A With difficulty.

Shah - Direct - Rybak

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1 Q Well, she does them.

2 A Mm-hmm.

3 Q And it's important to exercise, right?

4 You can't sit around all the time, correct?

5 A Correct.

6 Q You got to keep moving?

7 A Correct.

8 Q And you're also aware she uses public transportation
9 all the time, subways, buses, right?

10 A Yes.

11 Q You know, that would have been the case either without
12 this accident or with this accident, she would use public
13 transportation, right?

14 A Correct.

15 Q So, I mean, those items in here, I mean, items like
16 public transportation be in here, I mean, that's something she
17 would use anyway?

18 A These are just visits to -- doctor visits, therapy
19 visits that are related to the injury, not going to the mall or
20 something like that.

21 Q I mean, again, you're assuming that she's even going
22 to go for any treatment at all, right?

23 A I would hope she would, yes.

24 Q Right. You're assuming that. So, okay.

25 So the YMCA you mentioned in your plan is in Castle

Shah - Direct - Rybak

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1 Hill, right?

2 A I have to double check here. Castle Hill, yes.

3 Q So, again, that's surfaced transit only goes there,
4 right, Doctor?

5 A I have to double check here. But if that is the case,
6 then, yes.

7 Q So it's a fairly long commute, right?

8 A Maybe.

9 Q Yeah.

10 So I think you used the word "probable" in your plan
11 when you were talking about Table 3, having to do with future
12 surgeries, that probable.

13 That doesn't sound like certainty.

14 A Probable is more likely than not.

15 Q But that's not your personal opinion as we once said
16 before, you're not a surgeon of any type, correct?

17 A Right. These are recommendations by her treating
18 physicians.

19 Q And two of whom are not in court or not coming to
20 court.

21 We made that clear before, right?

22 A Sure.

23 Q So I can't ask you hypotheticals, assume Dr. So-and-so
24 testified that because they're not coming, correct?

25 A Correct.

Shah - Redirect - Rybak

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1 This is based off of what they mentioned in their
2 reports.

3 Q Well, now did you charge a separate fee for the
4 preparation of this life care plan in addition to your testimony
5 fee?

6 A Yes.

7 Q How much did you charge for the preparation of this
8 life care plan?

9 A 4500.

10 Q 4,500?

11 A Yes.

12 MS. KLAUM: Thank you.

13 THE COURT: Any redirect?

14 MR. RYBAK: Just a couple of questions, Your
15 Honor. Thank you.

16 REDI RECT EXAMINATION

17 BY MR. RYBAK:

18 Q Dr. Shah, when you treat the patient, you consult with
19 surgeons, whether or not your patients should get certain
20 surgeries, correct?

21 A Yes, regularly.

22 Q And is that only spine surgeries or other surgeries as
23 well?

24 A Other surgeries as well.

25 So joints, shoulders, knees, hips, as well as the

Shah - Recross - (Klaum)

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1 spine.

2 THE COURT: Okay. Thank you.

3 Is there any recross?

4 MS. KLAUM: Yes.

5 RECROSS- EXAMINATION

6 BY MS. KLAUM:

7 Q Just to be clear, though, Doctor, I mean, in this
8 case, as we went through before, you didn't pick up the phone
9 and call any of the plaintiff's surgeons in this case, right?

10 A No, I did not.

11 MS. KLAUM: Thank you.

12 THE COURT: In re redirect?

13 MR. RYBAK: No, Your Honor. Thank you.

14 THE COURT: Thank you, Doctor. You may step
15 down.

16 We don't have any other witnesses for today,
17 correct?

18 MR. RYBAK: No, Your Honor.

19 THE COURT: Okay. Members of the jury, that's
20 all the testimony we have for today. Tomorrow we will be
21 down and not working due to a scheduling issue. We will be
22 back on Friday morning, that is December 6th at 9:30 a.m.
23 And just remember not to discuss the case with anyone or
24 amongst yourselves.

25 Thank you for your service today, and we'll see

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1 you all on Friday.

2 THE COURT OFFICER: All rise. Jury existing.

3 (Whereupon, the jury exists the courtroom.)

4 THE COURT: Is there anything that anyone needs
5 to place on the record?

6 MS. KLAUM: Your Honor, I'm still working on it.
7 Dr. Rosner, I don't know if he had what I had with that
8 terrible abdominal thing right before Thanksgiving. He
9 wound up being in the hospital for a few days. He's our
10 neurosurgeon. So he's getting out of the hospital today.
11 So we were originally calling him for the 10th. His office
12 has asked if we could put him on the 12th, perhaps, which
13 would work because we don't expect our life care expert
14 who's coming that day in the morning to take very long. It
15 would be very brief. That's the latest on this.

16 THE COURT: So we're down tomorrow. We're back
17 on trial on Friday, December 6th.

18 What's happening Monday, December 9th? Nothing?

19 MS. KLAUM: December 9th we have the FDNY EMT on
20 in the morning, and we have Dr. Katzman, our radiologist.

21 THE COURT: In the afternoon?

22 MS. KLAUM: Right after the EMT, right. I mean,
23 it could take a while, the radiologist, yes.

24 So it was Tuesday, originally. And Dr. Rosner.
25 Dr. Rosner is going to take some time. But given what just

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1 occurred, his office has asked for the 12th instead.

2 THE COURT: Are there any other witnesses you can
3 call on Tuesday, December 10th?

4 MS. KLAUM: Well, Mr. Anderson, we are going to
5 recall him briefly. Mr. Spano is going to do that.

6 THE COURT: All right. So we can do that on
7 December 10th, right?

8 MS. KLAUM: Most likely, yes.

9 THE COURT: And December 11th, plaintiffs are
10 calling Persich, correct?

11 MR. RYBAK: Correct.

12 THE COURT: And this Dr. Rosner can testify on
13 December 12th, correct?

14 MS. KLAUM: Right, Your Honor. After Provder,
15 our life care expert, which will be quite brief.

16 THE COURT: And what are the other witnesses that
17 you're calling.

18 MS. KLAUM: Hold on. Wait.

19 So this is the latest. Dr. Rosner is having his
20 gallbladder removed Monday, but his office still thinks he
21 should be available on Friday the 12?

22 THE COURT: Friday is the 13th.

23 MS. KLAUM: I mean, Thursday. Thursday the 12th.

24 THE COURT: Thursday the 12th. Okay. That's the
25 plan for now.

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1 What about Friday the 13th?

2 MS. KLAUM: I don't think I'll have any other
3 witnesses, Your Honor.

4 THE COURT: That's all the witnesses you're
5 calling?

6 MS. KLAUM: Yes.

7 THE COURT: I'm not suggesting you should be
8 calling anyone else. I'm just trying to get a picture of
9 what's happening here.

10 And this Friday, December 6 is Dr. Gallina?

11 MS. KLAUM: Yes.

12 THE COURT: And then after you call Dr. Persich,
13 do you intend on resting?

14 MR. RYBAK: Yes.

15 THE COURT: So it sounds like if everything goes
16 perfectly, we should be done on December 12th.

17 MR. RYBAK: With witnesses.

18 THE COURT: With witnesses, right?

19 MS. KLAUM: Hopefully, yes.

20 THE COURT: Okay. So I would think by either
21 Monday or Tuesday next week, you should be giving me some
22 proposed jury charges and proposed verdict sheet.

23 And then we'll have a charge conference next
24 week, and then maybe even -- we'll see how it goes, but
25 possibly giving this to the jury on Friday the 13th or

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1 Monday the 16th, depending on how everything goes.

2 Are there any medical records that we can work on
3 now that could be stiped into evidence?

4 MR. RYBAK: Judge, I would -- but I just got a
5 text and I have a family emergency I have to attend to. So
6 I mean, this can be done at any point. You know, it's
7 going to take us a half an hour.

8 THE COURT: What I'm trying to avoid, as I'm sure
9 you could tell by the tone of my e-mail to everyone
10 yesterday afternoon, I can't have the jury just sitting
11 around as much as they've been sitting around so far.

12 So whatever needs to be done, redactions or
13 things on consent that can be admitted into evidence needs
14 to be done when the jury is not just sitting here waiting.

15 MR. LEITER: May I ask, Your Honor, since we have
16 this afternoon and tomorrow, we're back on Friday, is it --
17 they just send me -- if they identify what items from the
18 subpoenaed records they're looking to put in, we have
19 scanned copies that I can then work off of the version that
20 was scanned that I know is what actually came in, and then
21 I can respond to you and say, of that document either I
22 have an issue with the entirety of it, or these are the
23 pages that I think come in and these are the pages from
24 somebody else that don't come in.

25 THE COURT: I'll let you all work on scheduling

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1 on that. And you'll bring whatever issues there are to my
2 attention. But you can either do it this afternoon, or the
3 courtroom will be available tomorrow.

4 But it sounds like it may take more than an half
5 hour.

6 MR. LEITER: Yeah. And we have scanned copies.
7 We don't have to be in person.

8 THE COURT: So figure out when you want to meet,
9 work that out, and then you'll bring whatever issues you
10 have to my attention.

11 By the time we return on Friday, December 6th,
12 I'd like whatever is in agreement to be agreed upon so we
13 can mark them, admit them in evidence. If there's issues
14 with other records, we can address that at that time.

15 MR. LEITER: Yes.

16 THE COURT: Is there anything else anyone would
17 like to address on the record?

18 Any questions?

19 MS. KLAUM: Your Honor, if we were to come in
20 person tomorrow, is the courtroom available?

21 THE COURT: There courtroom is available.
22 There's nothing on the calendar tomorrow.

23 MR. RYBAK: Teresa, what time?

24 MS. KLAUM: You tell me.

25 MR. RYBAK: Ten.

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1 MS. KLAUM: Okay.

2 THE COURT: The courtroom's available. Work out
3 amongst yourself whatever time is amenable to everybody.
4 And then we'll return on Friday, December 6 at 9:30 a.m.

5 I'm compelled to ask this, although I probably
6 know the answer. Has there been any further settlement
7 negotiations or additional offer or reduced demand,
8 anything that I can be made aware of that I might be able
9 to facilitate the life settlement?

10 MR. RYBAK: I received a call from Mr. Leiter
11 yesterday. They offered, I guess, a firm and final offer
12 of 500,000, which was rejected by my client for now.

13 THE COURT: All right. That's the final offer?

14 MR. LEITER: That's what I'm told.

15 THE COURT: Okay. See everybody on Friday at
16 9:30 a.m.

17 MR. RYBAK: Thank you.

18 THE JURY: Thank you.

19 (Whereupon, Court is recessed and the case is
20 adjourned to Friday, December 6, 2024.)

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Nereyda Benitez v.

Chirag Shah

Brett A. Anderson and HB Architectural Lighting, Inc.

December 4, 2024

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