SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:UNION COUNTY
DOCKET NO: UNN-L-1873-23

MAHMOUD ABURADWAN, :
Plaintiff, :
vs. :
:
PROGRESSIVE INSURANCE COMPANY, :
et al, :
Defendants. :
- - - - - - - - - - - - - - - - -

Remote De Bene Esse Deposition of ALEXIOS APAZIDIS, MD, taken in the above-mentioned matter before Michelle Gruendel, a Certified Court Reporter and Notary Public of the State of New Jersey, taken remotely via Zoom, on January 13, 2026 commencing at 1:15 p.m.

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THE VIDEOGRAPHER: Good afternoon. We are going on the video record. Today's date is January 13th, 2026 and the time is 1:15 p.m. My name is Christopher Kauffmann and I'm the videographer for today's de bene esse deposition of Dr. Alexios Apazidis in the case of plaintiff Aburadwan versus defendant.

We'll begin today's proceedings with the reporter putting the doctor under oath, followed by, Counsel, if you could please enter your appearances onto the record, followed by the direction examination. Thank you.

Michelle.

ALEXIOS APAZIDIS, MD, having been first duly sworn according to law, testified as follows:

MR. PARRA: Thank you.

Ladies and gentlemen of the jury, my name is Harold Parra. I am the attorney for the plaintiff, Mahmoud Aburadwan.

MR. BROOKS: Oliver Brooks on behalf of defendant.

DIRECT EXAMINATION BY MR. PARRA:

Q. Okay. Dr. Apazidis, if you could please just state your name and where you are currently practicing.

A. Yes. My name is Alexios Apazidis. I'm part of Precision Pain & Spine Institute of New Jersey.
Q. And if you could please, for the benefit of the jury, give the jury your educational background.
A. Sure. I graduated from Harvard University in 1994. I was commissioned in the United States Army. After completing my Army service I went to medical school at Boston University School of Medicine. I graduated in 2004. After getting my MD I went on to do an orthopaedic residency program, which is approximately five years. After that, I went on to do my fellowship in spine surgery at the Hospital for Joint Diseases at NYU School of Medicine. When I graduated from that, I then went on to start in private practice working for a hospital and get my board certification by the American Board of Orthopaedic Surgeons.
Q. What does it mean to be board certified?
A. The board certification process involves -- first, you must complete the -- a qualified residency program, which I did, and then for the first two years of practice you collect all of your work, all of your patients, all of your cases. These are presented to the American Board of

Orthopaedic Surgery in Chicago. They review all of your files and cases, and then you do take a written exam, which I passed, and then once they review all the cases, you -- I was -- you have to go to Chicago and present yourself in front of a board of orthopaedic surgeon specialists and defend everything that you've done, answer all their questions, and if they deem that everything has been done and answered appropriately, you're then given board certification, and then you enter into the maintenance of certification process, which involves yearly answering questions, yearly submitting again all of your work, all of your cases, and it follows a 10 year cycle. I was recertified a couple of years ago, and I'm in my second cycle of recertification now, which extends to 2032.
Q. Thank you, Doctor.
And are you currently licensed to practice medicine here in the State of New Jersey?
A. Yes. I have a license in the State of New Jersey. License has always been in good standing the entire time. I also have licenses in Florida, where, again, it's always been in good standing, and I have a license in New York, which has been,

again, continuously active and unrestricted the entire time.
Q. Okay. Has your license ever been on a probationary status?
A. Yes. In New York, from 2015 to 2018, I did serve a 36-month probation due to earlier -- back in 2010, 2011, a loss of medical records, or failure to maintain proper medical records.
Q. Okay. And was that associated with a particular hospital?
A. Yes. It was my first job out of fellowship. I was working for a hospital-based practice. That was when everyone was converting paper charts to electronic documents and the conversion process had some problems and we lost huge chunks of a lot of charts and the paperwork. So obviously when you don't have the, you know, intake forms and pain diagrams and everything that we normally keep as part of a medical chart, that creates problems for, you know, your treatment protocols and everything you've done for the patient. Although I did create the records, the failure to maintain the records by my employer did ultimately fall on my responsibility, and I elected at that point to leave my employment. I started my own practice,

where I've maintained my own medical records since that time and never had any issues.
Q. Okay. So have you had any problems since then?
A. No. There's been absolutely no -- no actions or issues since that time.
Q. Doctor, can you tell the jury what kind of training you've had regarding orthopaedic surgery?
A. Sure. So I did five years of orthopaedic surgery residency at University Hospital in Newark, where we rotate through all of the specialties of orthopaedics, including sports and pediatrics, spine surgery, trauma, fracture surgery, joint reconstruction and so forth, and after appropriate rotations through those areas lasting five years, I then served a year of subspecialty training only in spine scoliosis and spine reconstruction surgery at the Hospital for Joint Diseases.
Q. And Doctor, what kind of an experience do you have? How many -- for example, how many patients have you treated over the years?
A. Well, I mean, I see an average of, you know, one to 150 patients a week. That's been going on for the last 15 years, you know. Spine surgeries can be anywhere from three to six to seven, you

know, spine surgeries a week, and again, that's been going on for the last 15 years, and it's a combination of, you know, cervical and lumbar spine surgeries, you know, including scoliosis surgeries, both adolescent scoliosis, as well as adult degenerative or adult reconstructive or scoliosis, as well as taking call at several hospitals, including Level I trauma center, where we deal with spine fracture, fracture dislocations, spinal cord injuries. We've, you know, been dealing with a lot of that.

Q. Have you published at all?

A. Yes. So I'm part of an orthopaedic surgery training program. I teach residents and help them with their research. So we have a paper submitted right now on a condition called diffuse idiopathic hyperostosis. We had a paper accepted last year on prevention of spine -- spinal infections after surgery. I published papers on various spinal disorders, including Castellvi syndrome, on reproducing imaging for spine surgery. I think I've published about -- I don't know -- six or seven articles in orthopaedics, including reviewing scoliosis x-rays and standardizing that review, as well as, you know, various other scientific-type

articles and basic science.

Q. Have you ever done any independent medical examinations?

A. Yes. When I was employed by a hospital I did perform what's called independent medical exams for -- for patients.

Q. If you could quantify for purposes of the jury's understanding, what percentage of your income is derived from independent medical examinations versus actually treating patients?

A. Like, I mean, over the last 15 years, less than 1 percent would be based on doing independent medical exams. Most of them -- I mean, 99 above percent of my practice is treating patients.

Q. Now, Doctor, have you ever testified in court before?

A. Yes.

Q. Okay. And approximately how many times over the course of your career?

A. Probably around 15 or 16 times.

Q. Okay. And Doctor, if we weren't here today taking your testimony, what would you be doing on a typical day like today?

A. Today's my day to do surgery at Mercy Hospital.

Q. Okay. And so did you have to take off of that in order to present our testimony here today?

A. Yes. I rescheduled my -- my -- my surgical cases for today.

Q. And Doctor, did our firm compensate you for your time in order to be able to do that?

A. I believe so, yes.

Q. And do you know how much we paid your office in order to take your time here today?

A. I -- I don't know.

Q. Okay. Doctor, I think you indicated earlier what -- when, approximately, you joined the practice of Precision Pain & Spine.

A. I started working there in December of 2023.

Q. Okay. And as a member of Precision Pain & Spine did you at some point begin treating my client, Mahmoud Aburadwan?

A. Yes.

Q. Now --

A. In --

Q. I'm sorry.

MR. BROOKS: Objection. Off the record.

THE VIDEOGRAPHER: Off the video record. The time is 1:26 p.m.

MR. BROOKS: Harry, it sounds like

you're into direct at this point. Do you want to offer him as a --

MR. PARRA: Yeah.

MR. BROOKS: -- as a witness and allow me to cross on --

MR. PARRA: Yeah. I was gonna -- I was just gonna take him -- I was just gonna relate him to our case first and then present him as an expert.

MR. BROOKS: That's fine. That's fine. I just -- sometimes, as you've seen, even on my end --

MR. PARRA: Yup. Yup.

MR. BROOKS: -- you get on a roll.

All right. We can go back on.

THE VIDEOGRAPHER: Back on the video record. The time is 1:27 p.m.

BY MR. PARRA:

Q. Doctor, I think we just asked you, as a member of Precision Pain & Spine did you at some point begin treating our patient, Mahmoud Aburadwan?

A. Yes. In June of 2024.

Q. And did you review medical records in order to treat Mr. Aburadwan?

A. Yes.
Q. And did you use all of your medical training, experience, education and expertise that we just previously discussed in your treatment of Mahmoud Aburadwan?
A. Yes.
Q. Thank you.
MR. PARRA: So then at this point, Doctor, we would move to admit Dr. Apazidis as an expert in orthopaedic surgery at this time.
VOIR DIRE EXAMINATION BY MR. BROOKS:
Q. Doctor, my name is Oliver Brooks, and I have some questions for you about your credentials.
Counsel asked you some questions about some problems you had with your license in New York and you gave us a brief overview of that. I'd like to turn your attention to what we're going to mark as Apazidis-1, which I'll share on my screen here. Just let me know when you can see my screen. Are you able to see my screen, Doctor?
A. Yes.
(Letter dated 6-11-25 to Alexios Apazidis, MD from Katherine A. Hawkins, MD, Executive Secretary, Board of Professional Medical Conduct, 17 pages, was received and marked

Apazidis-1 for identification.)
BY MR. BROOKS:
Q. Okay. And for the record --
MR. PARRA: I'm just gonna -- objection, first of all.
THE VIDEOGRAPHER: Off the video record. The time is 1:28 p.m.
MR. PARRA: Okay. My objection is just to actually showing this to the jury and at this point, you know, we would object to the actual publishing.
MR. BROOKS: Well, I do intend to publish this to the jury. That, I suppose, will be the topic of a motion that the judge will rule on.
MR. PARRA: Right.
MR. BROOKS: But for now, I don't think it changes what we do here.
MR. PARRA: Okay. Yup. No, it does not.
MR. BROOKS: For the record -- yeah. And for the stenographic record, I do intend on publishing this to the jury. We'll address that with the judge, I guess, probably shortly before trial starts.
MR. PARRA: Very good.

MR. BROOKS: Okay. Let's go back on the record, please, the video record, that is.
THE VIDEOGRAPHER: Back on the video record. The time is 1:29 p.m.
BY MR. BROOKS:
Q. Okay. Doctor, I think you initially said that your license in New York was continually unrestricted but that you had some sort of a probationary period. Did I hear that correctly?
A. Yes. Continuously active and unrestricted the entire time.
Q. Okay. Let's take a look at what we see on the screen here as Apazidis-1. Have you ever seen this document before?
A. Yes.
Q. Okay. And this is a letter from the Executive Secretary of the New York Board of Professional Medical Conduct; is that correct?
A. Yes.
Q. Okay. And I'm gonna -- I'm gonna move forward to page 3 of this document. Are you still able to see my screen clearly? I can make it a little bigger if it's too small. Sometimes it's small on the other end.
A. No. I can see it clearly.

Q. Okay. And we can see at the top it's captioned In the Matter of Alexios Apazidis, MD, consent agreement; is that correct?
A. Yes.
Q. Okay. And the very sort of first line of this document indicates that you, Alexios Apazidis, you consent that all of the statements contained in this document are true. Did I get that right?
A. Yes. Yes.
Q. Okay. And the last sentence of the page indicates that you agree not to con -- to contest -- excuse me -- any of the specifications of misconduct that are set forward in this consent agreement. Did I also get that correct?
A. Yes.
Q. Okay. And let's move forward a page here to the top of the next page, which indicates that your license to practice medicine in New York State shall be suspended for 36 months. Do you see that?
A. Yes.
Q. Okay. So, in fact, your license as a doctor to practice medicine in the State of New York was suspended for a period of three years?
MR. PARRA: Objection.
THE VIDEOGRAPHER: Off the video record.

The time is 1:32 p.m.
MR. PARRA: You got to read the whole thing. It says with the entire 39 -- 36 month period stayed.
MR. BROOKS: Okay. It's my line of questioning, Harry. He can -- he can answer the questions as I present them to him. Again, I did say I was gonna -- I intend to publish this to the jury so that they can read what's here.
MR. PARRA: Well, I can't -- I can't allow you to just read a half a sentence on there. He's got to be permitted to read the whole sentence.
MR. BROOKS: I guess we'll let the judge determine that.
MR. PARRA: Well, or we'll let the witness just answer that.
MR. BROOKS: Well, no. It's my -- he answers my questions.
MR. PARRA: Okay.
MR. BROOKS: Let's go back on the video record, please.
THE VIDEOGRAPHER: Back on the video record. The time is 1:33 p.m.
BY MR. BROOKS:

Q. So Doctor, I'm gonna reask you the question. According to this document, which you've already told us you agreed was true and that you would not contest any of the allegations in it, your license to practice medicine in the State of New York was suspended for a period of 36 months, three years, right?
A. My understanding is the term is suspended, stayed with probation.
Q. Okay. And if we scoot down a little bit lower on the page to the third paragraph, you were also fined an amount of $50,000 for the misconduct; is that right?
A. Yes.
Q. Okay. Did you pay that?
A. Yes.
Q. Okay. And in addition to that, if we go down to the next page, you also had to report to what's called the Physician Monitoring Program; is that right?
A. Well, I -- I didn't report to the monitoring program. I had a practice monitor who monitored the medical record system that I maintained.
Q. Okay. You did have to prove that you paid your fine to the Physician Monitoring Program,

though, right?
A. Yes.
Q. Okay. And I'm gonna scroll all the way to the 10th page of this document, and that's -- it's redacted. That's how we got this. I didn't do that, but that's a signature line with -- where your signature would be; is that right?
A. Yes.
Q. Okay. We can kind of see a little bit poking through, but do you recall signing this document?
A. Yes.
Q. Okay. Go down to -- well, first I have a couple questions.
You told the jury a few minutes ago that the suspension was because of records keeping; is that right? Some records were lost in electronic transfer from paper to electronic, something like that?
A. Yes. Failure to maintain proper medical records was the violation.
Q. Okay. There was, in fact, more than that that resulted in this 36-month suspension, too. It also had to do with the improper prescription of scheduled controlled substances, specifically, ketamine and oxycodone; is that right?

A. Well, yes, but everything related back to the lack of the medical records to justify our treatment plans and what we actually treated the patients with.
Q. Okay. I'm gonna draw your attention to what's the 12th page of this same document we've been looking at. It indicates that between July of 2011 and January of 2013 you issued prescriptions to patients numbering one through 28 for a topical ketamine gel; is that right?
A. Yes. This is a topical agent. It's not a pill. It has no abuse potential, and this is for pain, for musculoskeletal pain.
Q. Okay. You do know that the United States Department of Justice has scheduled ketamine as a product that can have a potential for abuse and that its effects are not dissimilar to the street drug PCP; you're aware of that?
A. This is a gel. It's not ingestible. It does not have any of those abuse potentials of other formulations of the same agent.
Q. Okay. According to you, right?
A. Well, it's a gel. It cannot be ingested, and the ketamine is dissolved within the body of the gel and it can only be applied to the skin.

Q. Okay. And if we look down at -- a little bit further, it indicates that your prescription of this controlled substance was done without adequate indication and that you failed to screen these 28 patients for risks associated with prescribing the controlled substance, ketamine; is that right?

A. Well, if you don't have the medical records, then you cannot have the adequate screen and the adequate, you know, reason why you prescribed it, so the problem was we didn't have the medical records of the patient's pain profile, my assessment of the patient, my -- the patient's description of their problem. We didn't have the charts in place to -- to demonstrate why this topical agent was prescribed.

Q. Okay. And do you know what -- what is or who is Optimal Pain Control?

A. Well, I see here on the paper Pain Control Franklin Pharmacy. It's, I guess, the commercial name for Franklin Pharmacy.

Q. Do you know what that is?

A. It's a pharmacy.

Q. Okay. And that's the pharmacy in Alabama that you wrote 264 different prescriptions for this controlled substance, ketamine, which ultimately

contributed to your 36-month suspension from the practice of medicine; is that right?

A. Well, yeah. I guess out of the 150 patients a week that I was seeing during that time, this is the pharmacy that compounded this special topical agent.

Q. Okay. And if we go down, let's skip a little further to the next page. It indicates that you willfully and gross negligently failed to use an official New York State prescription when prescribing that medication, namely, ketamine; is that right?

A. Well, this pharmacy was not within the State of New York. I had a customized prescription pad which -- with the -- the ingredients in this topical agent included, you know, between six and eight different ingredients, so I had a preprinted customized pad, and because the pharmacy was not in the State of New York, New York being one of the few states that has their own state-issued pad, this pharmacy did not require that.

Q. Okay. But to practice medicine in the State of New Jer -- in New York, pardon me, and to issue, specifically issue a prescription for medication in New York, you got to use a New York prescription,

correct?

A. Well, it's a little unclear. To a New York pharmacy, you must use the state-issued pad. To an out of -- out-of-state pharmacies do not require the state-issued pad.

Q. I understand that, Doctor, but that wasn't my question.

To issue a prescription in the State of New York you have to use a New York prescription pad? That's to issue medications to a person in New York using a prescription, you need to use a New York prescription, correct? That's what this New York State Department of Health Regulation 10 NYCRR Section 80.69 refers to, right?

A. Yes. Failure to use a New York State prescription pad, yes.

Q. And beyond the ketamine issue, you were found to have prescribed oxycodone to a man in Florida whom you had neither evaluated, nor treated; is that also correct?

A. Yes. This was a unique situation. I was called by a family physician who I knew and worked with. She informed me that her patient, who she knew for years, was in Florida on business and called her desperately, that he couldn't walk, he

was experiencing severe pain and weakness of the extremities. She asked if I would contact him. I did. We got him transported to Tampa General emergency room. He got an emergency MRI through my people that I knew there, and he was evaluated there. I was in touch with the ER there. They told him that he had a disc herniation, that he needed surgery. He was down there alone. He didn't want to have surgery there alone. I had to arrange for his transportation back to New York. He could not fly. He couldn't even sit up, so he had to be driven. He had a family member basically drive him in the supine position from Florida back to Long Island. Obviously the ER only gives a few -- per their policy, only gives a few tablets for pain control. I arranged for him to have pain medicine so he could have a more comfortable journey back to Long Island. I got him back to Long Island. I took care of him. He's walking now, no problem. This was obviously years ago. And, yes, I did issue him these medications so he could have a more comfortable journey, you know, back so I could take care of him. Although I did not examine him, I was in touch with all the doctors down in Tampa that were taking care of him.

I understand it's not appropriate to issue medication to a patient I haven't personally seen and examined. This was a very extraordinary singular situation. Has never happened to me before and certainly not since.

Q. Okay. You didn't expect that it would take him 30 days to travel from Florida back to see you, though, did you?

A. No. Again, this is 2011. The way we used to write for these prescriptions was in, you know, 30 day, you know, 30 day cycles, and this issue -- this prescription was, you know, was issued under that. Since that time the entire policy of pain medication writing has completely changed. We now prescribe typically five day or seven day cycles, depending on the circumstance, but the prescription practices have completely changed, obviously, since the greater understanding from 2010 till now.

Q. And you told us that this individual whom you had not treated or evaluated was actually at a major hospital, Tampa General Hospital, where he was receiving -- he received an MRI and was under the care of the physicians there when you wrote this prescription; is that correct?

A. Yes.

Q. Okay. At the bottom of this page, again, this document which you previously agreed to the validity of, it indicates that you committed professional negligence on more than one occasion. Do you see that?

A. Yes.

Q. And it also indicates that you admitted to committing -- or being incompetent on more than one occasion. Do you see that, as well?

A. Yes.

Q. Okay. If we go to the next page, it indicates that you admit to willful and gross negligently failing to comply with substantial provisions of a state regulation governing the practice of medicine. You also see that?

A. Yes.

Q. So you told us about having a practice monitor assigned to you as a result of this, this medical disciplinary action here. Is it -- is it correct to call a practice monitor a supervising properly licensed physician?

A. He is a properly licensed physician in good standing. I'm not sure about the supervising part.

Q. Okay. And you had to take a continuing medical education course on how to properly

prescribe controlled substances as part of the medical discipline that we're talking about here today, right?

A. Yes.

Q. This consent order that outlines the issues with your license to practice medicine in the State of New York, this would have been hosted on the Professional Medical Conduct website; is that right?

A. Yeah. I think it's the Department of Health website.

Q. Correct. Correct.

And it also would have been published or posted on the National Practitioner Data Bank, as well --

A. Yes.

Q. -- right?

Okay. And also posted with the Federation of State Medical Boards, as well, right?

A. I don't know. I know it's on the National Provider Data Bank.

Q. Okay. I'm gonna pull up another document for you here. I'm gonna mark this as Apazidis-2. I am -- I do intend to publish this to the jury. I'm gonna share my screen. Just let me know when you

can see my screen.

MR. PARRA: Same objection as previous. We don't need to go off the record.

MR. BROOKS: Okay.

(Subject Number 046-781, Temporary Suspension of Dr. Alexios Apazidis's Authorization to Treat Injured Workers and to Perform Independent Medical Examinations effective 6-24-15, two pages, was received and marked Apazidis-2 for identification.)

BY MR. BROOKS:

Q. Doctor, can you see my screen?

A. Yes.

Q. Okay. Have you ever seen this document before?

A. No. I don't think I've seen this.

Q. Okay. Why don't you take a moment and read -- read it over and see if that refreshes your recollection. I'll represent to you you've been questioned on this in another deposition.

A. I mean, this looks like the notice from the New York State Worker's Compensation Board indicating a temporary suspension of privileges with the -- with the Worker's Compensation Board.

Q. Okay. And that means that as a result of the medical discipline we've just been talking about, that you were precluded from conducting the independent medical examinations of injured workers in the State of New York; is that right?
A. From treating or conducting independent medical exams for any injured worker in the State of New York, however, it actually made sure that I was still responsible to testify and be responsible for any reports or any work that I had done prior to this, yes.
Q. Yeah. And I'll scroll down a little bit, because I think I know where you're -- what you're referring to at the bottom of this page. The reports -- any reports that you wrote in the context of worker's compensation in New York after June 24, 2015, those would be considered invalid. Is that what I read there, the last sentence?
A. Are valid, yes, but is in -- yes, but I did not -- I did not see or treat any patient under the worker's compensation system after this date.
Q. Understood.
So -- so you essentially stopped doing the worker's compensation IMEs and evaluations; is that right?

A. Yes.
Q. I have some questions about your CV. Do you have a copy of your CV in front of you?
A. No. I can -- I can get it.
Q. I can pull it up for you, if that's --
A. Okay. Yeah.
Q. -- helpful.
A. Yeah. Why don't we work with what you have.
Q. Give me -- give me a moment to do that. I'll share my screen here.
MR. BROOKS: And for the record, I do not intend to publish the CV to the jury. Since we are using it, I'll mark it as Apazidis-3.
(Curriculum Vitae of Alexios Apazidis, MD was received and marked Apazidis-3 for identification.)
BY MR. BROOKS:
Q. Can you see my screen?
A. Yes.
Q. Okay. A CV is a curriculum vitae. It's like a professional resume. Can we agree on that?
A. Yes.
Q. Okay. And the copy of the C -- of your CV that we were provided with lists your website as www.nyspine.com. Why is that listed there?

A. Oh, this is a little out of date.
Q. Okay. How out of date is this?
A. At least a year.
Q. Okay. Have you ever worked for nyspine.com, the company that holds that website?
A. Yes.
Q. Okay. And when did you stop working for them?
A. Approximately February, 2024.
Q. Okay. Let's take a look at the work experience portion, sort of the beginning of your CV here. I don't see any reference to Precision Pain & Spine here. Is that because this version that we were provided in discovery is out of date?
A. Yes.
Q. Okay. And when did you start working for Precision Pain & Spine?
A. In December of 2023.
Q. Okay. I noticed that you post -- you posted -- excuse me. I noticed that you included on your work experience working for Beard Research, Inc. Do you see that?
A. Yes.
Q. And that you were a marketing and business planning consultant for five years. What is --

what is that?
A. Well, when I graduated college I was -- I was supposed to go into active duty military, but I was put on Independent Ready Reserve, so I got a job working in basically a consulting area.
Q. Okay. And I looked up Beard Research, Inc. and it appears to be a pharmaceutical company; is that correct?
A. No.
Q. What is it, then?
A. It was a small marketing company back in the '90s. It basically went -- it closed when the, you know, the dot-com bubble burst kind of thing. It was a -- it was a -- just a small 12-15-man consulting company.
Q. And my research shows that they were marketing pharmaceuticals; is that right?
A. No. No. It wasn't -- you know, there might have been some pharmaceutical projects. I actually worked on orthopaedic projects, and that's what got me interested in orthopaedics, and I ended up going, you know, back to medical school to pursue orthopaedics.
Q. I'll scan down. Under Active Research Projects we have -- first thing listed here says

that you were involved in a Phase 2a, Randomized, Double-Blind, Placebo-Controlled Study to Assess the Efficacy and Safety of MT-3921. Do you see that?
A. Yes.
Q. And that's a study to test the efficacy of intravenous infusions that were developed by a pharmaceutical company called Mitsubishi Tanabe Pharma, right?
A. Yes.
Q. Okay. Are you still doing that?
A. No. Our -- our site -- we completed our -- our portion of the -- of the research, our site was closed.
Q. Okay. When did you finish that?
A. I think late '24 or early '25.
Q. Okay. Counsel asked you about your fee for testifying today, and you indicated that you did not know what you were being paid, so I'm gonna pull up a document that shows that. I'm gonna share my screen. I'm gonna mark this as Apazidis-4, and I do not intend to publish to the jury. Can you see my screen?
A. It's coming up now.
Q. Okay. Do you see the -- are you able to see

it now clearly?
A. Yes.
Q. Okay. And do you see it's Precision Pain & Spine letterhead directed to plaintiff's counsel dated 12-15-2025, right?
A. Yes.
Q. Okay. And it indicates that you're being paid for your testimony $1,000 per hour with a minimum of $3,000 -- minimum of three hours to be paid; is that right?
A. Yes.
Q. Okay. And after you see that, does that refresh your memory as to what you're being paid for testifying?
A. I -- this is the first time I'm seeing this, but if this is from the practice, then this would be accurate.
Q. Okay. And this -- this fee of a thousand dollars an hour, that's separate and apart from any fees that you or Precision Pain & Spine would have -- would have charged for treatment or procedures regarding plaintiff; is that correct?
A. Yes.
Q. Okay. That's just the litigation portion of what you're doing here today, just so I understand

that, right?
A. Yes.
Q. Okay. Counsel asked you a few things about your sort of yearly activities, and I'm not sure that I caught this. How many lawsuit-related medical reports do you write in a year?
A. Well, I guess -- I'm not sure what you mean by that. I mean --
Q. What part of that is confusing? I'm just asking how many lawsuit-related medical reports you generate in a given year on average. I don't need a specific -- I don't expect you to have a pinpoint accurate number, but in general.
A. I guess what do you mean by lawsuit-related? I mean, I see about 150 patients a week. I write progress notes for every patient, you know. Again, I do between three to six spine surgeries a week. I do about 25 or 30 arthroscopic procedures a month, and I write reports for all -- you know, for everything that I do.
Q. Okay. Well, my question was how many of those reports that you're writing have to do with lawsuits, not -- can we -- let me -- let me back up.
Can we agree that not everyone you treat is

involved in a lawsuit?
A. Yes.
Q. Okay. So what portion of those reports that you just detailed for us has to do with cases that are in lawsuits?
A. I'm not sure I would have any way of knowing that.
Q. Okay.
MR. PARRA: Can we go off the record?
Q. The answer is you don't know?
A. Yeah. I mean, it's not really part of the medical exam to -- I don't know who has a lawsuit or who doesn't have a lawsuit, or, you know, if somebody has a lawsuit later or -- I don't -- there's not -- it's not really part of, you know, the medical interview if they have a lawsuit or not, so I wouldn't have any way of, like, keeping track of that.
MR. PARRA: Could we go off the record?
Q. Some of the people --
THE VIDEOGRAPHER: Off the video record. The time is 2:01 p.m.
MR. PARRA: This is a question for Chris.
Chris, while the doctor's giving his

testimony is this -- the fee testimony on the screen the entire time?

THE VIDEOGRAPHER: It is, Counsel.

MR. PARRA: So --

MR. BROOKS: I'll take it down.

MR. PARRA: -- we would object. We'd object. First of all, we'd object to that being published to the jury, but certainly for that. I mean, that's -- we're just gonna have a --

MR. BROOKS: Well, here --

(Cross talk. Reporter clarification.)

MR. PARRA: If that is granted, we're just gonna have a blank screen there while the doctor testifies to all that.

MR. BROOKS: Okay. I took it down, and by the way, I did say I did not intend to publish that to the jury, anyway, so I just left it up and --

MR. PARRA: Right. I'm just -- I just wanted to make sure, because, you know, we're gonna have just a big white screen there while the doctor's testifying.

MR. BROOKS: Okay. Well, let's -- give me one second. Okay. We can go back on.

THE VIDEOGRAPHER: Back on the video

record. The time is 2:02 p.m.

BY MR. BROOKS:

Q. Doctor, some of the patients that you treat are involved in lawsuits, I think we can agree to that, and my question is, of those who you know are in lawsuits, how many of them are you generating litigation lawsuit reports for, like what you did in this case?

A. I mean, I wouldn't have any way to keep track of that.

Q. Okay. Have you appeared for any depositions in the year 2026, bearing in mind we're only about two weeks into the year?

A. Yes. I've done four depositions for New York State worker's compensation system.

Q. Okay. Any others?

A. No.

Q. Do you charge the same amount for those New York worker's compensation depositions as you charge here, a thousand dollars an hour?

A. The New York State Worker's Compensation Board has a set fee for their depositions.

Q. Sure. And that's a lot less than a thousand dollars an hour, isn't it?

A. Yeah. I think it's $500 an hour.

Q. Okay. Did you appear for -- to give testimony in a trial, even if that's video-recorded testimony for a trial any time in the year 2025?

A. Yes.

Q. How many times?

A. At least once.

Q. Okay. Apart from the worker's compensation testimony that you just told us about, in the last year have you appeared and given testimony in any civil suit that you were not a defendant in?

A. Yes.

Q. Okay. Was it just that once that you just told us about?

A. I'm sorry. In what period of time?

Q. In the last year.

A. Oh, in the last year. It was at least once that I recall, because it was just this past November. There might have been one other time in 2025.

Q. The work that you do in terms of serving as a witness for civil litigation, do you do that for both plaintiffs and defendants?

A. If I'm asked, yes. I have done -- I have served as both the defense expert and for the patients I've treated, yes.

Q. Okay. When is the last time that you served as an expert for a defendant?

A. I mean, certainly several times before the Corona epidemic and maybe once or twice since the Corona epidemic.

Q. When you say that, what years are you talking about? That can be quite a span of years.

A. Yeah. I -- yeah. It's hard, you know. I don't really keep track of it, but, you know, certainly before 2020, you know, probably five, six, seven times, you know, between 2014 and 2020, you know. It might be a little bit more. Honestly, I don't remember. Since 2020, maybe once or twice as a defense expert, and again, maybe once or twice, maybe three times for, you know, patients I've treated.

Q. Okay.

A. Something of that scale. I don't have the exact number. I'm sorry.

Q. Sure. Let's talk about in the last five years. What percentage of the time were you an expert for defendant versus plaintiff?

A. Again, maybe once or twice as a defense expert and two or three times for patients I've treated.

Q. Can we agree on a few points here? I'm just gonna rattle through them. Can we agree that you are not a biomechanical engineer?
A. Yes.
Q. Can we agree that you are not an engineer of any kind?
A. Yes.
Q. Can we agree that you are not a physicist?
A. Yes.
Q. Can we agree that you are not an accident reconstruction expert?
A. Yes.
Q. Can we agree that you are not an anesthesiologist?
A. Yes.
Q. Can we agree that you hold no degree specific to pharmacology and you are not a pharmacist?
A. Yes.
Q. Okay. I don't have any more questions for you on qualifications for voir dire.
MR. PARRA: Do you have an objection to his being admitted as an expert in the field of orthopaedic medicine?
MR. BROOKS: I'm not making that objection, no.

MR. PARRA: Okay.
CONTINUED DIRECT EXAMINATION BY MR. PARRA:
Q. Doctor, back to the patient, Mahmoud Aburadwan. I think we were discussing that when -- as a member of the Precision Pain & Spine you at some point began treating him, correct?
A. Yes.
Q. And --
A. In June of 2024.
Q. And you were -- as part of your treatment you were able to review the records that Precision Pain & Spine kept on him?
A. Yes.
Q. How do you access those records?
A. I have a login with their electronic medical record system.
Q. And in treating the patient, is it your practice to familiarize -- familiarize yourself with the patient's history?
A. Yes.
Q. Okay. And is the patient's history important to your treatment and diagnosis?
A. Yes.
Q. Can you tell the jury, why is a history important?

A. Well, we have to understand if, you know, there's a causality, if something, you know, caused something, or if a patient had certain symptoms, you know, they have to be corroborated by either a traumatic history, or whether there's something that was an insidious onset, you know, whether something was spontaneous, whether something's been slowly developing and so forth.
Q. And history is a medical term, right?
A. Yes.
Q. And what is a history, for the benefit of the jury?
A. A history is where you ask a patient, you know, when did the symptoms start, what -- was there anything that caused the symptom to start that you can determine, you know, what's the intensity of your pain, for instance, frequency, longevity, duration, what makes it better, what makes it worse, you know, and then along with other things, like what's your medical background, are there any underlying conditions, any family history of conditions, such as cancer or lung, liver issues, any medication history, what they're currently taking, you know, allergy history, so these are all the factors that we include in the

history.
Q. Is how -- is how the injury happened important?
A. Certainly, you know. You know, based on what -- what happened and what did you feel afterwards.
Q. And is that something that in your field is known as the mechanism of injury?
A. Yes.
Q. Okay. And Doctor, when you reviewed Mr. Aburadwan's medical records, did it come to your attention that he had been involved in other accidents besides the December 8th accident that we are here for today?
A. Yes. He had a previous injury in 2021.
Q. Okay. And Doctor, when the patient comes in -- I'm assuming that these medical records are generated based on the treatment that is rendered by colleagues of yours in Precision Pain & Spine.
A. Yes.
Q. And I think you had testified previously you have access to those records?
A. Yes.
Q. Doctor, we're gonna mark Mr. Aburadwan's medical records with Precision Pain & Spine as -- I

think we're up to Apazidis-5 for identification.
(Records of Mahmoud Aburadwan from Precision Pain & Spine Institute were received and marked Apazidis-5 for identification.)
BY MR. PARRA:
Q. Do you remember when it was that you first saw Mr. Aburadwan?
A. Yes. In June of 2024.
Q. Okay. And what was your understanding at that time as to why Mr. Aburadwan was coming to you as an orthopaedic surgeon and as your patient?
A. For worsening mid and lower back pain.
Q. And Doctor, you gave us a report regarding his treatment with you. I'm gonna be asking you questions with respect to your medical opinion. I'm gonna request that you provide those opinions within a reasonable degree of medical certainty, and if you -- if you can't, then just tell us that you can't do so.
Okay?
A. Sure.
Q. Now, you indicated that at the time that you had seen him you had already reviewed his prior medical history, right?
A. Yes.

Q. Did you rely on those records in formulating a diagnosis?
A. They contributed, yes.
Q. And as well as a treatment plan?
A. Yes.
Q. Do you remember when his first treatment date was with Precision?
A. I'll tell ya. I'm just gonna refer to my chart here.
Q. Well, Doctor, I prefer that we resort to the chart that we have already marked. I could share it with you. Let me just -- let me just pull that up.
A. Okay.
MR. BROOKS: I'm gonna enter an objection. Let's go off the record.
MR. PARRA: Okay.
THE VIDEOGRAPHER: Off the video record. The time is 2:13 p.m.
MR. BROOKS: I don't know what you're gonna show him, and there's nothing in your pretrial exchange describing a chart, so --
MR. PARRA: Well, let me show you.
MR. BROOKS: -- if I can take a look at it to make a determination as to whether I need to

object to this.
MR. PARRA: Sure. It's his medical chart. It consists of 452 pages. They're essentially Bates stamped in the sense that -- on page 1 of 452 and there's 452 -- 452 pages. It's just his entire medical chart.
MR. BROOKS: When you said -- when you said chart, I was thinking of an Excel spreadsheet or something like that.
MR. PARRA: No. No. Just his medical chart.
MR. BROOKS: All right. You can -- all right. We're not publishing to the jury his medical records; is that correct?
MR. PARRA: Correct. Correct. No.
MR. BROOKS: I have no objection. Let's --
MR. PARRA: Okay.
THE VIDEOGRAPHER: I'll get us back on. Back on the video record. The time is 2:15 p.m.
BY MR. PARRA:
Q. And Doctor, I'm gonna show you what's been previously marked as Apazidis-5 for identification. I'm gonna show you -- basically, it consists of

approximately, I think we discussed previously, 452 pages. Are you able to see that document?
A. Yes.
Q. Okay. And if you could note that on the bottom of each page there, if you'll look there, is a page number that shows what page we're on; is that right?
A. Yes.
Q. And this particular -- this particular document is on page 356 of 452 that I'm showing you. And can you tell, based on that note, who was the doctor at Precision that he first came to see?
A. This is Dr. Sakr.
Q. Okay. And can you tell based on your review of this document whether this is an initial evaluation?
A. Yes, it is.
Q. And was -- what date -- what was the date of injury that occurred based on your review of this document?
A. This is due to a motor vehicle accident on August 12th of 2021, and this evaluation took place on August 20th of 2021.
Q. And what were the complaints that he had at the time of that evaluation in August of 2021?

A. Yeah. So he came in complaining of neck pain, right shoulder pain, lower back pain, and bilateral knee pain.
Q. Did he have any complaints of mid back pain?
A. No.
Q. Okay. And is it your understanding based on your review of these medical records that he had essentially no treatment for his mid back in -- from the accident of 2021?
A. Yes.
Q. And so is the middle back -- what is the technical term for the spine -- the area of the spine that's affected there?
A. That would be the thoracic spine.
Q. So essentially, was there any treatment for his thoracic spine based on his motor vehicle accident of August 12th, 2021?
A. No.
Q. Okay. Now, directing your attention to page 321 of that same record -- well, fast-forwarding now to November -- excuse me -- November 15th of 2021. Is that accurate with respect to the treatment note you're -- you're reviewing there?
A. Yes.

Q. And what was the name of the doctor that treated him on November 15th, 2021?
A. This is Michael Murray.
Q. Now, November 15th of 2021 is about three months after that first accident happened. What was he treating with Dr. Murray for at that time?
A. Sure. Dr. Murray, who's also an orthopaedic and a spine surgeon, was seeing the patient primarily for shoulder pain, knee pain, and he had developed some heel pain.
Q. Okay. So as far as we could tell from these records, he was having pain in his neck, back, shoulders, knees, and heel; is that accurate?
A. Yes.
Q. Okay. Directing your attention now to page 316 of the same medical record, does that -- well, what is that with that document you're looking at?
A. So this is Dr. Sakr's operative report for a cervical epidural steroid injection.
Q. What is an epidural steroid injection?
A. So that's a procedure where a needle is placed into the spinal canal, close to nerve roots and the disc, and medication called a corticosteroid is injected into that area with the

goal of decreasing inflammation and helping with pain and nerve root irritation.
Q. Excellent.
And directing your attention now to page 303 of the same record, what is the date of the treatment note there?
A. So this is Dr. Murray's note from January 10th of 2022.
Q. And what was he -- what was he treating for at that time?
A. For shoulder pain, knee pain, and right heel pain.
Q. And does it say whether he had improved regarding his injuries at Precision Pain & Spine at that time?
A. Yes. He was reporting 90 percent improvement in -- specifically with the knees. Pain scales had all been reduced, you know, to 5 out of 10 with regard to shoulder pain, so it looked like the treatments have been effective at this point.
Q. And as far as your review of the medical records, is that the last treatment date that he had at Precision Pain & Spine before December 8th of 2022?
A. Yes.

Q. So then just following -- scrolling to the very next page, 302 of 352, does it tell us what treatment date the following note indicates he had?
A. Yeah. So the next time the patient was seen by Dr. Sakr almost a year later, December 9th, 2022.
Q. And on the same medical record, just directing your attention to page 299 of that record, does that depict the treatment note for the visit that he had immediately following his December 8th, 2022 accident?
A. Yes.
Q. Okay. And who is the doctor that treated him on that particular visit?
A. This is Dr. Sakr.
Q. At the time that he went to Dr. Sakr, does this indicate as to whether this is initial -- an initial visit following his December 8th, 2022 accident that we're here for trial today?
A. Yes.
Q. And what were the complaints that he was having at the time that he arrived at Precision Pain & Spine Institute on the very following day from his accident, December 9th, 2022?
A. Sure. So he presented primarily for neck,

mid back, as well as lower back pain. He also complained about shoulder, knee, and ankle pain at this time.

Q. And based on your review of the patient's chart, had he -- prior to December 9th of 2022 had he ever received any treatment for his mid back before?

A. No.

Q. Had he ever complained about his mid back before?

A. No.

Q. Directing your attention to the series of paragraphs under history of the present illness, there's a number of little paragraphs there. One of them describes his mid back pain. Can you tell us what the patient was complaining of at that time?

A. Sharp pain in the area of the mid back, rated it at a 9 out of 10. Pain radiating around to the flanks. Pain interfering with daily activities, as well as sleep.

Q. Now, it says 9 -- 9 out of 10. Is that some sort of a scale?

A. Yes. This is a visual analog scale. We ask patients to rate their pain, with 1 being no pain

at all, 10 being among the worst pain imaginable, and patients give us a number between 1 and 10.

Q. Thank you.

Now, he was also complaining of neck pain?

A. Yes.

Q. And what was his complaint regarding his neck at that time?

A. He also rated the neck pain at 9 out of 10, with pain radiating to the upper extremities, feelings of numbness and weakness in the upper extremities. Pain that was aggravated by any motion of the neck, and again, interfering with daily activities and sleep.

Q. Now, was neck pain something that he had treated for for his previous accident in 2021?

A. Yes.

Q. And how about the bilateral shoulder pain, could you describe for the jury what he was complaining about on December 9th, 2022?

A. He was complaining of bilateral shoulder pain, intermittent, but sharp in nature, also rated it 9 out of 10 on the right side. On the left side rated it 7 out of 10. Aggravated by motions, movement of the extremity, and again, differing with activity and sleep.

Q. That is also pain that he had treated for regarding his 2021 accident; is that correct?

A. Yes.

Q. Okay. Now, Doctor, as a result of the problems that he was having when he arrived at Dr. Sakr's, did he have any diagnostic tests performed?

A. Yes. He -- at this time Dr. Sakr did order imaging of the cervical, thoracic and lumbar spine, as well as of the extremities that had pain complaints.

Q. And when you say imaging, what sort of imaging are you referring to?

A. X-rays and MRIs.

Q. What are MRIs?

A. So MRI is a magnetic resonance imaging. The body is made up of water, and water molecules are polarized. In other words, they have like a positive and a negative poles, so they're basically little tiny molecular magnets, and since every cell in the body has different composition of water in it, in other words, different concentrations of water, the magnet basically spins the little water molecules in our bodies and they emit energy and that energy is picked up by the -- by the machine and it will recreate an image. So if a -- if a

part of the body has a lot of water in it, it may come off, depending on the sequence, as very bright, and then if a part of the body has no water in it, it will come off as pure black, and basically, we have every shade of gray in between depending on, you know, nerve tissue, muscle tissue, vascular tissue, you know, cartilage itself, a disc, you know, intervertebral discs, you know, basically every, you know, every part of your body has a different composition and we use those shades of gray to, based on our knowledge of anatomy, to be able to visualize structures.

Q. Were these MRI studies that were performed on Mr. Aburadwan interpreted by a radiologist?

A. Yes.

Q. And do you know Dr. Losick, the radiologist?

A. I know the name. I don't know the person.

Q. Okay. Is he board certified, do you know?

A. I believe that's what's on the report. Yeah, he's a board certified radiologist.

Q. Do you regularly rely on the opinions of radiology -- of radiologists within your practice?

A. We -- we do take radiology accounts, you know, reports into account. Obviously I look at the images myself, as well.

Q. Okay. And why do you -- why do you rely on the opinions of radiologists in interpreting the films?
A. Well, the same way I --
MR. BROOKS: Objection. Off the record.
THE VIDEOGRAPHER: Off the video record. The time is 2:28 p.m.
MR. BROOKS: The objection is it's not what he just testified to. He said he takes them into consideration, not that he relies upon them.
MR. PARRA: Okay.
MR. BROOKS: Harry, you made a big deal of this with Dr. Dryer, so I'm gonna do the same thing for you.
MR. PARRA: That's fine.
MR. BROOKS: Unless you want to rephrase it.
MR. PARRA: Yeah. I'll rephrase it.
MR. BROOKS: Okay. We can go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 2:29 p.m.
BY MR. PARRA:
Q. Why do you take -- why do you take into consideration the opinions of radiologists when you're reviewing these imaging?

A. Well, the same way I have a specialty in orthopaedic and spine surgery, they have a specialty in, you know, viewing these images. A lot of times they have done fellowships, and particularly musculoskeletal radiology, where they spend extra time looking at, you know, spine images or images of, you know, muscular and joint tissues, so we, you know, we do value what they're able to see on the images. Sometimes, also, their imaging, in terms of the screen that they're using, where they have direct access to the original, you know, pixel study and they have more high definition screens, so they're able to see things a little bit more clarity. We rely on portals or CDs and then those images we view on our, you know, regular computer screens, so it really comes down to, you know, how high definition of an image you have. So of course we, you know, we value their opinion because they -- they may have a sharper image and larger image or more pixelated image and we rely on what they see in addition to what I see.
Q. Now, I think you also testified that you review those images yourself.
A. Yes. Always.
Q. And are you -- were you trained

in interpretation of MRI studies?
A. Yes.
Q. And can you describe for the jury a little bit of what that training consisted of?
A. Sure. So in my residency program we worked very closely with the radiology department. The chief musculoskeletal radiologist attended morning conference every morning, actually, in our orthopaedic rounds. Every image that was presented, we reviewed in her presence and she offered additional training in that. We rotate through the radiology department and worked very -- for five years worked very closely with the radiology department and their attendings and professors, you know, to enhance our learning of interpreting these studies.
Q. Do you review and interpret MRI imaging throughout the course of your -- your practice?
A. Yes.
Q. How frequently would you say you do that?
A. Every day.
Q. Okay. And would you say that's also every time that one of your patients has an MRI done, you personally review those films?
A. Yes.

Q. Okay. When did Mr. Aburadwan have the first studies done following the December 8th, 2022 accident that we're here for?
A. The -- let's see. I saw him -- well, he had those studies done in December, right, shortly after the -- shortly after the accident.
Q. Okay. Doctor, based on your narrative report that you provided to us it appears that he may have had studies done on December 12th, 2022 of the cervical spine; is that correct?
A. Yes. That sounds fair.
MR. BROOKS: Objection.
THE VIDEOGRAPHER: Off the video record. The time is 2:33 p.m.
MR. BROOKS: The nature of the objection is that that is definitely leading. I've given you quite a lot of leeway on that, but that's a leading question.
MR. PARRA: Okay. Let's go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 2:33 p.m.
BY MR. PARRA:
Q. Doctor, what is the date of the first imaging studies that Mr. Aburadwan had following the December 8th, 2022 accident?

A. December 12th of 2022.
Q. And what was the imaging study done?
A. I mean, he had several studies. Can I refer to the record?
Q. Yes. If you wish -- do you have your narrative report?
A. I -- I could access it.
MR. PARRA: Okay. Let's go off the record to give the doctor some time to access that.
THE VIDEOGRAPHER: Off the video record. The time is 2:34 p.m.
(A brief recess was taken.)
THE VIDEOGRAPHER: Back on the video record. The time is 2:44 p.m.
BY MR. PARRA:
Q. Doctor, I believe we left off on Mr. Aburadwan's cervical MRI that he had on December 12th, 2022. Do you have those studies for review with the jury?
A. Yes.
Q. Would you be so kind as to share your screen regarding that?
A. Okay.
MR. PARRA: I believe we are on Apazidis-6.

(Cervical spine MRI, 12-12-22, was received and marked Apazidis-6 for identification.)
BY MR. PARRA:
Q. Can you tell us, Doctor, orient us as to what we're looking at there?
A. Sure. So this is a December 12th, 2022 cervical MRI. This is the patient's neck. At the upper part of the picture is the patient's brain. The lower part of the picture is the patient's, like, shoulders and upper thoracic spine, and then in between is what's called the cervical spine or the neck. The way that it's oriented, we have these gray areas here, our bone, and then this little darker area in between is what's called an intervertebral disc, and then we have bone again, like a block of bone you see and then a disc, and then another square block of bone, which is the C3 -- sorry, C4 vertebra here and a disc, the C5 vertebra and then a disc, the C6 vertebra and then the C6-7 vertebra here.
Q. I'm gonna direct your attention, Doctor, to the C6-7 vertebra. If you could point that out for the jury.
A. Sure. So this is the C6, this is the C7, and

then this is the disc in between those, and that's referred to as the C6-7 disc.
Q. And what did you find with respect to the C6-7 herniation?
A. So what I and the radiologist both noticed was that there appear to be a new herniation here, at the 6-7 level. So what you see is -- so see, like, the disc below it you could see is a flat area here, and this is the posterior longitudinal ligament, okay, and it's this black thing. The ligaments have very little water, so it comes up as black. That's the black line you see there. And then here, at the C6-7 level, you can see that ligament is lifted and part of the disc has been pushed through that area and is entering into what's called the spinal canal. So this dark line that goes up to down, that's the spinal cord, and we see that it's bathed in cerebral spinal fluid and fat, both of which have a lot of water content and you see it come up as bright, and the nerves have much less water content and those come up as dark. That's the dark line. So this is the spinal canal through which the nerves and the spinal cord travel, and then you have this area here that's a new herniation. Again, you can see here at --

like, for instance, C4-5, again, it's flat. Here at C5-6 you have an area that's risen, and then at C6-7 also you have an area that's risen there, as well.
Q. Now, Doctor, when you say new, what are you comparing it to?
A. This is compared to the August, 2021 cervical spine MRI.
Q. Is that an MRI study that you had reviewed?
A. Yes.
Q. And is that an MRI study that you are aware whether Dr. Losick had reviewed?
A. I believe he had, yes.
Q. Okay. And based on your review, you found that that -- did you find that that is new with respect to this particular accident, December 8th, 2022?
A. Yes.
MR. BROOKS: Objection.
THE VIDEOGRAPHER: Off the video record.
MR. BROOKS: I'm sorry.
THE VIDEOGRAPHER: The time is 2:48 p.m.
MR. BROOKS: The nature of the objection is the as to this accident.
MR. PARRA: Okay.

MR. BROOKS: It's completely -- well, I think you know what the --
MR. PARRA: I'll withdraw the question. That's fine. Let's go back on.
MR. BROOKS: Okay. Go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 2:49 p.m.
BY MR. PARRA:
Q. Doctor, when you call that herniation new, what -- what accident are you referring to as new from?
A. The --
MR. BROOKS: Objection. Off the record.
THE VIDEOGRAPHER: Off the video record. The time is 2:49 p.m.
MR. BROOKS: It's the same objection. He can talk about comparisons and timing, but as to problem and accident, that's not appropriate for any doctor to testify as to.
MR. PARRA: That's what his opinion is. His opinion is causation. It's caused by this accident.
MR. BROOKS: Yeah, and it's wrong. I mean --
MR. PARRA: That's your opinion. I'm

gonna ask the question. That could be an objection for the judge to rule on.
MR. BROOKS: Like I said, he can say timing, he can say comparisons, but to say it's from this accident -- he already agreed he's not a biomechanical expert. He's not an accident recon guy. He's just -- he's just a treating physician. That's fine. We can move on and let the judge determine it.
THE VIDEOGRAPHER: Back on the video record. The time is 2:50 p.m.
BY MR. PARRA:
Q. Doctor, this study that you reviewed, it post dates the December 8th, 2022 accident?
A. Yes.
Q. And the August 17th, 2021 motor vehicle accident -- strike that.
The August 17th, 2021 MRI study, that predates this February 8th, 2022 accident?
A. Yes. On that study there -- there is no -- there is no such herniation at the C6-7 level.
Q. Thank you, Doctor.
If you could now take us to the MRI study of the thoracic spine, and I believe we're gonna mark this as Apazidis-7.

(Thoracic spine MRI, 12-13-22, was received and marked Apazidis-7 for identification.)
BY MR. PARRA:
Q. Now, Doctor, what is the date of this study?
A. So this is also December 13, 2022 image of the thoracic spine.
Q. And so this is essentially five days after his December 8th, 2022 motor vehicle accident?
A. Yes.
Q. Can you tell us, Doctor, what you found of significance with respect to the thoracic spine?
A. Sure. So as I explained before in the cervical spine, the vertebral bodies on these images tend to have a square appearance. Okay. They -- you see -- like this is the T8, has a perfectly square. T7, again, has a square. As you get down into T9, there is some kind of asymmetry of the square. You see there's some compression, in other words, the front here of the vertebral spine is shorter than the back of the vertebral body, and then here at T9 -- I'm sorry -- T10 you see that, you know, really well-demonstrated. Again, the front of the vertebral body is much shorter than the back of the vertebral body. T11 -- T10 and 11 are the two worst ones. To a

lesser degree here at T12. You see some collapse here, at the top of it. The bottom is pretty squared off, but the top here has collapsed through this, this area.
Q. So what's the -- what specific --
A. Sorry. It's really the 8-9 -- I'm sorry -- the 9, 10, 11 and 12 vertebral bodies are demonstrating areas of fracture.
Q. So Doctor, how -- is there a way we can zoom in and you can explain to the jury what it is that you see with reference to a fracture?
A. Well, I'm sorry. I can open it up. Not sure how much more I can zoom in there, but what I want to try to demonstrate is that the vertebral bodies should be a block, a square. In other words, the back of the vertebral body should be the same height as the front of the vertebral body, whereas here, you know, here at T11 you see that the back of the vertebral body goes from here to here, which is almost double the height of the front of the vertebral body, which is from here to here. So we described this as approximately a 50 percent collapse through this area. Also, here at T10, again, almost a 50 percent collapse. You see the back of the vertebral body. Here's the bottom.

Here's the top. So you see this length compared to this length here, again, indicates a fracture and collapse of the vertebral bodies. So the same way, if you break your arm, you know, it's a long bone and the bone will snap and it's in two different pieces. One pattern of spine fracture is a compression. So, in other words, it's a lot of force placed on it and the bones compress down, because it's more of a spongy bone in the middle with kind of a thin cortical surface, so the bone will just collapse down on itself, and we call that a compression fracture.

Q. And is the term fracture carry significance in the medical terminology of your field?

A. Yes. So a fracture is an acute event. It's the bone -- the integrity of the structure has been violated.

Q. Doctor, did you see any medical evidence that these fractures existed prior to December 8th, 2022?

A. They did not.

Q. And were there any --

MR. BROOKS: Objection. Objection.

THE VIDEOGRAPHER: Off the video record. Time is 2:55 p.m.

MR. BROOKS: Move to strike the response as not responsive to your question.

MR. PARRA: What do you mean?

MR. BROOKS: It wasn't -- he answered something totally different.

MR. PARRA: I don't know what you mean.

MR. BROOKS: You asked him for -- if he saw evidence of preexisting fractures and he said they did not, not that he didn't observe it. He jumped right to the end conclusion. That is not responsive to your question. The response should be stricken.

MR. PARRA: Okay. Back on the record.

THE VIDEOGRAPHER: Back on the video record. The time is 2:56 p.m.

BY MR. PARRA:

Q. Doctor, did you see any evidence of these fractures that existed prior to December 8, 2022?

A. There is no evidence of these fractures existing prior to the date of this image, December 13, and, you know, presumably after the accident of December 8th, 2022.

Q. Thank you, Doctor.

Direct -- and, Doctor, these -- this MRI study was taken in between his December 8, 2022

accident and his December 23rd, '22 accident, correct?

A. Yes.

Q. Okay. I think we discussed this previously, but when you reviewed his records from his August, 2021 accident, what complaints did he make, if any, regarding his mid back or thoracic spine during that course of treatment?

A. None.

Q. Thank you, Doctor.

Doctor, if you could take us now to his lumbar MRI, which I believe we were marking as T8 -- sorry -- Apazidis-8.

(Lumbar spine MRI, 12-12-22, was received and marked Apazidis-8 for identification.)

BY MR. PARRA:

Q. Doctor, what is the date of that study?

A. This is December 12th of 2022.

Q. And Doctor, based on that MRI were you able to see anything with respect to his lumbar spine?

A. Yes. So again, this is the lumbar spine. This is numbered number one, two, three, four and five of the lumbar spine. This area here starts the sacral area, S1, and we can see the discs here on the lumbar spine. You can appreciate, for

instance, the disc at L3-4, L4-5 -- I'm sorry -- L2-3, L3-4 and L4-5 have a good bright signal, and here at L5-S1 we see the signal is slightly darker, indicating there's some injury to this disc. And the -- there is a herniation here at the L5-S1. As you can see, it's jetting out into the area again of the spinal canal. You don't see any spinal cord here at this level because the spinal cord ends higher up at the level of T11-12 usually, or a little slightly lower, but here what you do see is some of the nerve roots. You see this dark signal here, that's a nerve root. This is a nerve root. And so you can see this herniation here is coming out in the area most likely of the S1 nerve root.

Q. Now, Doctor, is it possible to see part of the thoracic spine in this study?

A. This study is oriented for the lumbar spine.

Q. Okay. And are you -- is there -- is there an image that shows part of the thoracic spine?

A. I mean, at the -- at the extreme of the image we captured just the T12 vertebral body, but again, this -- the lumbar image is more oriented for the lumbar spine. We tend not to use areas of the image that are, you know, at the edges, because again, it's -- the test is -- when they -- when

they capture these images, the technician focuses the MRI magnet towards an area of the spine to bring out better detail in that area, so you -- every image is used to capture that specific, you know, part of the body that it's intended for.

Q. Thank you, Doctor. You could take those studies down.

A. Okay. Should I stop sharing?

Q. Yes. Stop sharing.

Now, Doctor, we know that those studies were done in between the February 8th and his December 23rd motor vehicle accident. What significance does that have to you?

A. So this was done after the December 8th accident, so the fractures of T10-11 primarily, but also 9 and 12 were presumably due to the accident of December 8th. Patient did not have any prior complaints of that area, did not have the deformity in terms of the clinical presentation of being -- you know, having pain and having -- you know, being flexed forward prior to that accident.

Q. Now, Doctor, I'll represent to you that the radiologist, Dr. Losick, was gonna be giving his own testimony and interpretation on this case, but based on your review of his reports, do you agree

or disagree with Dr. Losick's interpretation of those studies?

A. I do agree.

MR. BROOKS: Objection. Off the record.

THE VIDEOGRAPHER: Off the video record. Time is 3:02 p.m.

MR. BROOKS: You can't just ask him does he agree with an opinion without going through that opinion. That's an improper foundation. There's lack of foundation. It's an improperly formed question. I mean, you got to -- you got to ask him what the opinions are.

MR. PARRA: Well, I already -- I already asked him --

MR. BROOKS: If he knows.

MR. PARRA: I already asked him if he considered Dr. Losick's interpretation, so I'm gonna let the judge rule on that one.

MR. BROOKS: Again, you can't just say do you agree with somebody without going through what you ask him to agree with. That's kind of foundational trial questioning. I mean, I'm only arguing with you, Harry, so that it can be fixed and we don't have to bicker in front of the judge.

MR. PARRA: Well, I mean, it's not --

MR. BROOKS: I'm sure you can fix it.

MR. PARRA: It's not really important enough of a question for me to take him through all of Dr. -- Dr. Losick's gonna be giving his own opinion. It's gonna be very similar, if not exactly like Dr. Apazidis's, so I'm gonna ask him that question. By that time the judge will have both and he'll decide whether this is a proper question or not.

MR. BROOKS: All right. Let's go back on.

THE VIDEOGRAPHER: Back on the video record. The time is 3:03 p.m.

BY MR. PARRA:

Q. Dr. Apazidis, again, the radiologist will be giving his own testimony, Dr. Losick, and his testimony as to the interpretation of these studies, and you reviewed his reports regarding those studies and considered them in formulating your own opinion. Do you agree or disagree with Dr. Losick's interpretation of those conditions?

A. Again, I did review his report and looked at the images myself. I -- I agree with everything that he observed. I observed the same thing.

Q. Okay. And Doctor, my understanding is that

you also reviewed some MRIs regarding the patient's shoulders?

A. Yes.

Q. Okay. And if you need to reference your report, please go ahead and do so to refresh your recollection. However, what findings did you see in terms of his right shoulder?

A. I do need to refer to my report. The right shoulder MRI dated from December 15th, 2022 was positive for a subscapularis partial tear, partial tear or tendonitis of the biceps tendon, as well as for an effusion and bursitis.

Q. Well, let me ask you, Doctor, did you compare that study with the previous study, as well?

A. I would have to -- I don't remember if I compared that to the pre -- to the 2021 MRIs.

Q. Okay. Well, let's go off the record and give you an opportunity to look at those records.

THE VIDEOGRAPHER: Off the video record. The time is 3:05 p.m.

MR. PARRA: So Doctor, if you could just turn your attention to the page -- looks like -- oh, they're not numbered. It's the fifth page of your report. You render an opinion on that.

MR. BROOKS: And since we're already off

the record, I'm gonna enter an objection. I mean, he doesn't have any prior commentary about shoulder MRIs in this report.
MR. PARRA: It's on page 5.
MR. BROOKS: What's that?
MR. PARRA: It's on page 5.
MR. BROOKS: Yeah. There's no comparison, though.
MR. PARRA: Sure, it is.
MR. BROOKS: That's from the report.
MR. PARRA: Unchanged -- so it says certain things are unchanged from the prior study. Some things are without significance and some things are --
MR. BROOKS: No. No. I hear you. I hear you, Harry, but there's no discussion of prior studies as there is with everything else. It's just not here. It's outside of the bounds of this report.
MR. PARRA: I disagree. He's referring to the prior study.
MR. BROOKS: But he doesn't talk about the prior study. That's my point. You can't just say I looked at a prior study and then don't talk about it. It's just like with his spinal MRIs,

he's referring back and forth to prior and current studies, as he likes to refer to them, but you can't just say no change from prior study without ever mentioning a prior study, when that was, what the findings were. It's -- it's objectionable in terms of testimony in front of a judge -- the jury.
MR. PARRA: I'll take him back to the prior study, then.
MR. BROOKS: My point is if it's not in his report, it's outside of his -- of what he's gonna be testifying here. You brought him in as a trial witness, as a testifying expert, and had him create a report and it doesn't reference the prior shoulder MRIs.
MR. PARRA: But it does, and it says -- it refers to the -- not only does it refer to the prior study, but also in his actual diagnosis he indicates that --
MR. BROOKS: Wait. I'm not that smart, Harry. You met me a bunch of times. Just show me in the report where he talks about the prior -- the prior shoulder -- where he discusses either prior shoulder MRI. Apart from saying no change from prior study, where is the discussion of the prior study?

MR. PARRA: But that -- but that is the -- in other words, he wouldn't -- he wouldn't say that without having reviewed the prior study.
MR. BROOKS: Well, that's -- that's what you would hope, but I don't believe that to be true. I want to know where the discussion of prior study is, because I don't see it in this report, so, you know, to --
THE WITNESS: I finished --
MR. BROOKS: You want to have him testify -- you want to have him testify, my motion -- excuse me -- my objection is as to the propriety of the line of questioning as being outside of the bounds of the -- of the report, and I'm gonna move to strike any comparison of older MRIs to prior studies because it's just not in this report.
MR. PARRA: I don't understand what your -- what your objection is. He's referring to the prior -- the prior studies. I mean, that's what he's -- what he's referring to. He's about to -- he's about to explain that.
MR. BROOKS: But I think you do understand what I'm saying, really. Harry --
MR. PARRA: I really don't.

MR. BROOKS: -- there's nothing in this -- there's nothing in this report where he discusses the prior MRI of either shoulder. All it says is no significant change from prior study. Compare that to --
MR. PARRA: How -- in other words --
MR. BROOKS: Compare it --
MR. PARRA: -- how could he know that? How could he know that without -- without having reviewed the prior study?
MR. BROOKS: See, now you and me are on the same page. It's a statement without meaning because there's no comparison in the -- there's no discussion of the prior MRIs of either shoulder in this report. If he wants to compare findings, he needs to discuss those findings.
MR. PARRA: I'm just gonna -- I'm just gonna ask him -- I'm just gonna ask him the question, if he reviewed the prior studies.
MR. BROOKS: Well, it's the same objection. It's not in his report. He's got to put it in his report if he wants to testify to it. I don't think it's something --
(Cross talk. Reporter clarification.)
MR. PARRA: It's an opinion that he's

given, that he has reviewed all the medical records from the prior study, and he references the prior study on these MRIs in this report. That's within the bounds -- within the bounds of his report. You can make your objection, but I mean, you know, that's -- we're gonna have to let the judge make that call.

MR. BROOKS: Sure. And that's what I was about to say. We were talking over each other. I've made objections that I think you could rephrase and cure. I don't think this is a curable one, because my point here is -- my argument is the discussion of the prior shoulder MRIs is absent from this report and he can't talk about them if they're absent from this report. He can't just do an ipse dixit, you know, without significant change from prior study without discussing the prior study. We'll see what the judge says.

MR. PARRA: Fine.

MR. BROOKS: I'm not gonna continue to object on this line of questioning. It's a standing objection as to the comparison of prior MRIs of the shoulders.

MR. PARRA: I understand.

MR. BROOKS: Is that okay?

MR. PARRA: Yeah.

MR. BROOKS: I think we can go back on.

THE VIDEOGRAPHER: Back on the video record. The time is 3:12 p.m.

BY MR. PARRA:

Q. Dr. Apazidis, I believe you testified earlier, when we were discussing the prior treatment records from 2021 -- did you review MRI studies from those treatment records?

A. Yes.

Q. And as a result of your review of those MRI studies did you compare the MRI studies that post dated the February 22nd, 2022 accident -- I'm sorry -- the February 8th, 2022 accident?

A. I'm sorry. Could you --

Q. Sure. Let me --

A. I lost track of the question there. I'm sorry.

Q. Let me rephrase the question.

Did you -- you reviewed MRI studies dating from his 2021 accident, correct?

A. Yes.

Q. And did you also review MRI studies of his shoulders dated February 15th, 2022?

A. I -- I reviewed all of the previous studies.

I just -- I don't have an exact recollection of the specific findings of the shoulder from 2021, but obviously when a patient presents, we review everything, or I review, you know, everything in the chart, you know, particularly previous studies. I just, as I sit here, I cannot honestly remember the findings on the 2021 shoulder MRIs. The knees had surgery. I'm more familiar with that. I reviewed the operative reports and he did have -- he did have meniscal tear and undergo arthroscopic surgery of the knee.

Q. Thank you, Doctor.

Doctor, as a result of your review of his MRI studies, at some point you saw those at the time that you first saw him, correct?

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

Q. Sure.

The first time that you saw him was after these MRI studies we're here for today, correct?

A. Yes.

Q. Okay. And you indicated that the first time that you saw him was when?

A. June of 2024.

Q. And do you remember the exact date?

A. I'm just gonna refer to the encounters here.

Q. Well, Doctor, again, we have already marked as P-5 his treatment notes. Can I direct you --

A. Yeah. I believe it was June 10th of 2024.

Q. Okay. Well, let me show you, Doctor, what's page 119 --

A. Oh, sorry. June --

Q. -- treatment notes.

A. Sure. That's June 3rd.

MR. BROOKS: Is this Apazidis-5, Harry?

MR. PARRA: It's Apazidis-5 and it is page 119.

Q. Does that refresh your recollection as to when the first time that you saw the patient is?

A. Yes. June 3rd of 2024.

Q. Okay. And at that time could you describe what condition you found the patient in?

A. The patient was in severe mid pain -- mid back -- mid and lower back pain. The -- let's see here. The patient described 9 out of 10 pain with radiating pain again to his flank areas. The patient had pain with sitting, standing, walking, could not, you know, bend without pain, pain with laying on his sides. He had difficulty with driving, and he had been the driver, you know, prior to this, to December 9th accident. He

described the pain as sharp, again, radiating to the sides. He also had lower back pain with some radiation down the legs, worse on the right side.
Q. Doctor, what kind of treatment had he received for the injuries he had sustained in the February 8th -- I'm sorry -- in the December 8, 2022 accident up until the time that he saw you?
A. He had been cared for by --
MR. BROOKS: I'm gonna -- I'm gonna object. If we can go off the record.
THE VIDEOGRAPHER: Off the video record. The time is 3:18 p.m.
MR. BROOKS: So Harry, the nature of the objection is your question was what kind of treatment had he, plaintiff, received between the 12-8-2022 accident and when plaintiff first saw Dr. Apazidis on 6-3-2024, but then you -- you asked him as it relates to this accident, and Dr. Apazidis did not see, by his own admission, this patient until after he had been hit in the second accident, which is the third.
MR. PARRA: I understand that, but, you know, he's already testified that it's -- that he's reviewed all of the medical records predating this accident and predating when he saw -- he has access

to all his medical records and he relied on these medical records in formulating his diagnosis, formulating his treatment plan, and so he is aware and knows what treatment he has had up until this point. That's all I'm asking.
MR. BROOKS: Yeah. Yeah, but if that's how you ask it, that would have been fine, but you added at the end or this accident. That's where the objection lies, because Dr. Apazidis did not see him until -- didn't see anything about him until after he was in another accident.
MR. PARRA: Oh, I see what you're saying. Okay. Yeah. I'll rephrase the question. Yeah.
MR. BROOKS: This is one I think you can fix, as well. It's a good thing we get along.
We can go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 3:19 p.m.
BY MR. PARRA:
Q. Dr. Apazidis, following his December 8th, 2022 accident he was involved in another motor vehicle accident on December 23rd, 2022, correct?
A. Yes.
Q. And that was all prior to his first visit

with you, correct?
A. Yes.
Q. What sort of treatment did he have from February 8, 20 -- I'm sorry -- December 8th, 2022 until the time that he saw you?
A. The patient had been treated by other doctors in the practice for -- or using pain management modalities. He had been placed on strong pain medications, including narcotics, antiinflammatories, muscle relaxers and neuroleptic agents, like gabapentin. He had had a lumbar discectomy procedure at the L5-S1 level. He had also had epidural injections, both in the cervical and lumbar spine.
Q. Did he have any chiropractic treatment, as well?
A. Yeah. He had other non-interventional care, including, you know, chiropractic and physical therapy, in addition to the medications.
Q. Had he responded to those types of more conservative treatments?
A. I mean, to some degree. I mean, some of the neck pain improved. Really, the mid back pain never got better, was only getting worse, and the -- some of the radicular symptoms I think were

helped by the injections and the discectomy, but when I saw him he still had pain going down his leg, again, worse on the right than on the left.
Q. As a result of his continued complaints that you describe here in your June 3rd, 2024 note, what -- what did you ultimately prescribe?
A. At that point I -- I wanted to get updated imaging studies. I was -- on clinical exam the patient had a severe thoracic kyphotic deformity and I needed standing x-rays to assess the posture of the spine and get updated MRIs, as well, because again, he had had, you know, previous -- he had had previous procedures and at this point those images were also more than a year old.
Q. As a result of your review of those images did you prescribe anything further? What was your recommendation?
A. You mean after I got the new images?
Q. Yes.
A. Oh, the situation was a surgical -- it was -- it became a surgical situation.
Q. And did you have a conversation with Mr. Aburadwan about the surgical situation?
A. Yes.
Q. What was your recommendation?

A. The patient required a reconstruction of the spine at that point. He had -- you know, the fractures had collapsed into a severe kyphotic deformity, and obviously that at this point, you know, could not be remedied other than except through surgery. I needed to, you know, essentially break up the spine in order to correct the posture of the spine and then maintain that utilizing orthopaedic hardware, including, you know, pedicle screws and rods, as well as perform further decompression, because he continued to have radicular symptoms, so perform further laminectomy and discectomy at the lower areas of the spine.

Q. Now, Doctor, we've heard -- well, first of all, did you go over the risks with the patient associated with that surgery?

A. Yes.

Q. Can you tell the jury what some of those risks are?

A. So these are among the biggest procedures that we do in spine surgery, so those risks do include death. Every surgery includes risks of bleeding and infection. This -- this particular surgery has increased risks of neurologic damage, permanent or temporary; risks of hardware failure;

risk of the hardware just either breaking or failing due to the large reconstructive area; the risk of revision, need for additional surgery, and that could really be at any time; risk for ongoing disability, dysfunction and pain; risk of, you know, permanent nerve damage, but that he may -- he may already have, because at the point that I saw him he had been, you know, going through this for a long period of time, a year and a half, and, you know, some of the nerve damage or problems may have already been, you know, permanent even at that point, whether we do the surgery or not, so some of that was part of the warning.

Q. Doctor, I'm gonna represent to you that defense doctor by the name of Dr. Dryer talked about the patient's condition as something known as Scheuermann's kyphosis. Have you ever heard of that?

A. Yes. Of course.

Q. And can you tell the jury what Scheuermann's kyphosis is?

A. Sure. So Scheuermann's kyphosis is a genetic or developmental condition. We typically see it in adolescence. Few people make it out of adolescence, you know, with a -- with a

Scheuermann's kyphosis without having the need for surgery. It's a -- it's a condition that gets worse with the, particularly the late adolescent growth spurt, so I -- you know, first of all, it's very rare. I've operated on it three times, which I think is, you know, maybe not as much as some but more than most. And again, it's a genetic developmental type of condition. Every time I've seen it it's in adolescence or late adolescence, and that's when the surgeries usually take place, because -- and it's usually a more wide area of deformity. In other words, it will not be just, you know, three or four vertebral bodies. Many times it's almost -- it can involve almost all the vertebral segments to some degree, and you usually see some kind of uniformity in the wedges throughout the thoracic spine.

Q. Thank you, Doctor.

Now, Doctor, I'm gonna show you some photos which have -- are gonna be marked Apazidis-9 through 11. I'm gonna represent to you that the testimony will be that these photos were taken before December 8th, 2022. Do you see that image?

A. Yes.

Q. Okay. And Dr. --

MR. BROOKS: I'm gonna enter an objection, please. Off the record.

THE VIDEOGRAPHER: Off the video record. The time is 3:28 p.m.

MR. BROOKS: Okay. It's the same objection that he answered previously on Dr. Marks's deposition, that none of these photographs have been authenticated as to time, date, location. We just don't know where they came from or when they came from. To the extent that they are authenticated, understanding that we're doing things somewhat out of order as they would if it were the old days and we did everything live and in order, the objection would be withdrawn, but I'm gonna object to any of these prior photos of plaintiff based on lack of authentication at this time.

MR. PARRA: I understand. Okay. You know, obviously the plaintiff's gonna go over his photos and he'll authenticate them probably prior to us playing Dr. Apazidis's testimony and so that I'm anticipating --

MR. BROOKS: More than likely.

MR. PARRA: -- the objection will be cured.

Okay. Fair enough. Just going back on the record.
(Photograph was received and marked Apazidis-9 for identification.)
(Photograph was received and marked Apazidis-10 for identification.)
(Photograph was received and marked Apazidis-11 for identification.)
THE VIDEOGRAPHER: Back on the video record. The time is 3:29 p.m.
BY MR. PARRA:
Q. Doctor, does this appear to be a photo of someone who had been suffering from Scheuermann's kyphosis from early adolescence?
A. No. I mean, you can see, you know, he's, you know, he's particularly upright, obviously has a lot of coordination, able to stand on those moss-covered wet rocks, and does not appear to be in a hunched over position.
Q. How about Apazidis-9?
A. You know, again, you know, clearly patient has full strength and coordination of the lower extremities. You know, that's a sloped, wet, snowy surface and, you know, again, someone with Scheuermann's kyphosis, you know, wouldn't -- it's

difficult for them to stand, let alone climb on top of a truck like that. I don't even know how he climbed on that.
MR. PARRA: I'm sorry. I believe for the record this is Apazidis-10.
Q. And how about Apazidis-11?
A. This is a little bit more, like, in profile view, so you can see that -- and actually, you know, he has this straight, you know, box or -- I don't know what that is, some kind of straight object. So you have to kind of judge his back and you can see his, you know, his chest is at the same -- in other words, front to back level as his abdomen. A lot of times with Scheuermann's kyphosis, again, you know, you're bent forward so your chest is forward of your abdomen. His seem to be at least at the same level, if not, you know, back from the belly, so again, this is an upright spine without any evidence of deformity.
Q. Thank you, Doctor.
And we've also heard a lot from the defense doctors that he had degeneration that preexisted December 8th, 2022 accident. Do you know how old Mr. Aburadwan was at the time that you saw him?
A. I mean, even now he's not 30. He's like 27

or 28 years old. So the time of this, which would be three years ago, so he'd be probably like 25 or younger.
Q. Okay. And Doctor, just to perhaps refresh your recollection, I believe your records indicate that at the time of his examination of you in June 3rd, 2024 you list his date of birth as being 1995. That would make him 29 years old at the time that you examined him; is that right?
A. Yes. Okay. I'm sorry. On June 3rd he was 28 years old. Sorry. On June 3rd of 2024 he was 28 years old.
Q. Okay. Thank you, Doctor.
And would you -- would you tend to see this level of degeneration that the defense doctors are talking about at this time?
A. Well, I -- I'm not sure what you mean by degeneration. I don't see any evidence of degeneration. I see the discs, most of his discs are in very good health, you know. He has some collapse at the C5-6 level. The C6-7 disc actually looks healthy, except for the -- there's an acute rupture posteriorly. If you see overall the disc health is relatively good, and when you see a combination of a good signal in the middle of the

disc with a posterior herniation, that's more a sign of an acute disc herniation or rupture. There's really no evidence of any degeneration anywhere else in the cervical, thoracic or lumbar spine, other than the L5-S1 disc herniation, which, again, you know, you still see some white signal in the middle, there's just less of it, which indicates, again, more of an acute injury, and the other discs look, you know, what a perfectly healthy 28-year-old, you know, disc, you know, should look like.
Q. Thank you, Doctor.
Now, Doctor, I'm gonna show you another photograph -- well, strike that.
First of all, you did ultimately perform the surgery that you recommended, correct?
A. Yes.
Q. Do you remember what date you performed that surgery?
A. May I refer to the record?
Q. Sure. Umm-hum. Doctor, I could also mark your operative report --
A. Okay.
Q. -- if you'd like and show it to you.
A. Yeah. That would be great.

Q. Okay.
A. Thank you.
Q. So let's mark your operative report as Apazidis-12 for identification, and I'll just project it for you.
(Operative report dated 8-29-24 was received and marked Apazidis-12 for identification.)
BY MR. PARRA:
Q. Does that refresh your recollection as to the date that you performed the procedure?
A. Yes. August 29th of 2024.
Q. Okay. And did you have anyone assisting you in that procedure?
A. Yes. Dr. El-Shafy.
Q. And what is the procedure that you actually performed?
A. I performed a thoracolumbar pelvic laminectomy and fusion operation, with placement of pedicle screws and rods and deformity correction.
Q. And where did you perform that surgery?
A. At Hudson Regional Hospital.
Q. Was that under general anesthesia?
A. Yes.
Q. Does general anesthesia carry with it its own risks?

A. Yes.
Q. Was the patient advised as to those risks, as well?
A. Yes. It was part of my discussion, and the anesthesiologist has their own discussion and gives their own written consent from the patient, and obviously, you know, general anesthesia does include the risk of death, including blindness, respiratory dysfunction and, you know, the risk of having a prolonged intubation, in other words, taking -- particularly with a surgery like this, taking longer to extubate than would initially be anticipated.
Q. And after having all those discussions with the patient he still elected to proceed with that operation?
A. Yes. Very much so.
Q. Doctor, where did the procedure take place?
A. It took place at Hudson Regional Hospital.
Q. What is the general preparation for that procedure?
A. From -- you mean on my part or on the patient's part?
Q. On the patient's part.
A. Well, again, he has to do presurgical

testing, you know, it's including EKG, chest x-ray, labs, a medical review to make sure that he's medically stable for a, you know, several hour high risk, high blood loss type procedure, and once he clears all of those hurdles, then he would have a presurgical evaluation by the anesthesiologist and be deemed stable to undergo, you know, prolonged anesthesia with intubation, and then we -- he would be -- from the night before, have nothing to eat after midnight, although he went first thing in the morning so it would be probably nothing to eat after 10 p.m., and then he would come to the hospital, be checked in, have the anesthesiology again review him, have IVs placed, you know, would have large caliber IVs bilaterally, and he would then be put to sleep through intubation and then I take over the surgery.
Q. Once you arrive into the operating room can you describe for the jury what the layout is?
A. Sure. So in a surgery like this we use computer-guided navigation. So there's a large surgical table and with certain, you know, specific padding to allow me to position him appropriately. And then once he's put to sleep and I place a Foley catheter, because obviously with a surgery like

this we need to drain the bladder because it's going to be a prolonged period of time, he's then placed prone, in other words, face down. A lot of special padding for that because he's completely immo -- paralyzed, you know, through drug agents, so we have to make sure there's no pressure points on his -- on his skin. The anesthesiologist makes sure that the eyes are safely padded, as well, because again, it's a high risk of blindness with a surgery like this. He's then -- we then want a CAT scan intraoperatively, and the CAT scan is used to orient the computer navigation system for this. And then we, you know, prep -- prepare the patient utilizing, you know, cleansers and so forth for the skin, and then we prep and drape the patient and then, again, begin the dissection portion of the surgery, which includes incising through the skin, moving all of the posterior muscles out of the way, and then, again, utilizing the computer navigation system, orient the appropriate levels and then, you know, begin the actual, you know, surgical procedure itself.
Q. Approximately how long does that does this procedure take place?
A. I mean, this would be anywhere from six to

eight hour procedure.
Q. Okay. Doctor, do you make photographs as part -- do you take photographs as part of your medical record in these procedures?
A. Yes.
Q. And as well as some videographic imaging as a result of this procedure?
A. Yes.
Q. Is that Precision Pain & Spine's practice, to take photographs, as well as video of this?
A. Yes.
Q. And is that for the patient's medical record?
A. Yes.
Q. Is that part of the medical record?
A. Yes.
Q. Would showing the jury some of these photographs and videos assist you in explaining to the jury the details of the procedure?
A. Yes.
Q. Okay.
MR. BROOKS: Objection. Off the record.
THE VIDEOGRAPHER: Off the video record. The time is 3:40 p.m.
MR. BROOKS: The nature of the objection is that there is already a motion in limine pending

regarding the showing of these videos and photos of the actual surgical procedure itself. That stands. I'm not going to continue to interrupt with objection after objection as to each photo and each commentary. Can we agree, Harry, that it's a standing objection and that it is pending as a motion in limine, and that way we don't add another 45 minutes to our testimony here today going off and on and off and on?
MR. PARRA: Yeah. Yeah. That's why I'm gonna try to keep him to the same, like, segment.
MR. BROOKS: Okay. All right. We can go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 3:41 p.m.
BY MR. PARRA:
Q. Doctor, I believe what we were asking you is whether you felt that the demonstration of these photographs to the jury would assist the jury in understanding your explanation as to the details of the procedure?
A. Yes.
Q. Thank you, Doctor.
Doctor, I'm gonna show you what's been marked now as Apazidis-13, I think what we're on now.

(Surgical photograph was received and marked Apazidis-13 for identification.)
BY MR. PARRA:
Q. Doctor, can you tell us, what is it that we're looking at here?
A. Sure. So this is the patient's back. Okay. As I described, we cut through the skin. The kind of orange-yellowish area, that's the skin. It's cut, you know, from the upper thoracic all the way down to the pelvis. The muscles are taken down off of the bone and retracted out, because we need full access to the spine. In order to reconstruct or change the posture of the spine, I need to use -- the instrument in my hand is a burr, so we use, you know, burs and something equivalent to what's a chisel to break the bone and remove the posterior elements of the bone. So just like, if you could imagine, if you break your arm and it's -- it heals in a bad position. If you want to straighten that arm, you have to recreate the fracture, break it and then reset it in the right position, so that's kind of what we're doing here with the spine. I have to break up the posterior elements to allow me to straighten the spine from the bent over position.

Q. Let me just interrupt you briefly here. You indicated that you retract the muscles. How do you do that? Is there -- is there something on this photo that demonstrates how you do that?
A. Oh, sure. So the muscles are intimately attached to the bony surface. So we use something -- it's like a burning, like a laser burning type device, and that is used to scrape the muscle off of the bone in a way to try to prevent too much bleeding. Obviously it's muscle tissue so it's still gonna bleed extensively, but we use this laser to try to control that. So as the muscles are carefully removed off of the bone -- I'm gonna use the arrow here to point. This is a retractor, this silver thing here.
Q. Hold on, Doctor. Doctor, we can't really see your -- your mouse there, but I can give you --
A. Oh.
Q. -- I can give you control, or I guess our videographer can give you control of that.
THE VIDEOGRAPHER: Yes. Doctor, I'll give you control and then you'll just have to click on your mouse.
THE WITNESS: Okay. So is it -- can you see me moving the arrow or no?

THE VIDEOGRAPHER: Hang on one moment for me. Off the video record. The time is 3:45 p.m.

Sorry, Counsel. Actually, because you're the one sharing the document, you would actually have to give the doctor remote control access.

MR. PARRA: Oh, I gotcha. I gotcha. Why don't we see if you can -- if we can see your mouse.

THE WITNESS: Okay. Can you --

MR. PARRA: Yeah.

THE WITNESS: -- see me moving it? Yes?

MR. PARRA: Yeah.

THE WITNESS: Okay. Great.

THE VIDEOGRAPHER: I'll get us back on.

Back on the video record. The time is 3:45 p.m.

BY MR. PARRA:

A. Okay. So as I was saying, this is the retractor here. You see it looks like it has like a scissor handle back here, and then these are the long limbs of the retractor. So the muscle which has been taken down off of the bony areas here is being held back by this, this retractor here.

Sometimes we put one or two or, you know, multiple retractors and we move them around, depending on what part of the spine we are working on, because you don't want to keep the muscle, you know, retracted for long periods of time because you put -- retract the muscle, you're kind of cutting off blood flow to it, so we do move this retractor around, depending on what part of the spine we're working on. I have in my hand here a burr. This is a suction device in my assistant's hand, and the burr is used to take down the facet joints and some of the bony surfaces in the back in order to be able to manipulate the spine.

Q. Can you tell us, is the patient's head oriented towards the top of the photo or the bottom of the photo?

A. The bottom of the photo. The head is here and these are the extremities here, the lower extremities.

Q. And around where your mouse is, what are all those tubes?

A. These are the different instruments that we have. I mean, this is a suction tube. There's another suction tube here. This black cable is for the burr, the high-speed burr. This kind of like

accordion type tube is for the -- that laser device. It has like a suction system with it. And then there's some other instruments. This yellow tube -- there's something called Aquamantys. It helps us -- it's another different, like, laser type device. It helps us remove the muscle off of the bone while, you know, trying to minimize bleeding.

Q. Okay. I'm gonna show you, Doctor, Apazidis-14.

A. Umm-hum.

(Surgical photograph was received and marked Apazidis-14 for identification.)

BY MR. PARRA:

Q. Does this offer us any additional information?

A. Sure. It's a little more close-up view of the actual spine. So what we have, this is the -- these are the spinous processes here, and then these shiny metal areas here, these are the screws that were placed into the vertebral bodies. This is another instrument here that I'm using to place another screw, and this is the suction device used to suck in -- suction the blood that, you know, unfortunately kind of continues to trickle through

the wound because of the muscle tissue that, once it's disrupted, kind of always gives off a little bit of blood during the surgery.

Q. Okay. And in Apazidis-15.

(Surgical photograph was received and marked Apazidis-15 for identification.)

BY MR. PARRA:

A. I think this is a more zoomed out view of the similar from the previous.

Q. Okay. Thank you, Doctor.

I'm gonna show you now what's been previously marked as Apazidis-16.

(Surgical video was received and marked Apazidis-16 for identification.)

BY MR. PARRA:

Q. Doctor, do you still have control of the mouse --

A. Yeah.

Q. -- moving the mouse?

A. Sure.

Q. No, it does not appear that you do --

A. No.

Q. -- so hold on. Let me see if I can -- well, you know what, I'll just -- I'll just play it for you.

A. Sure.
Q. Doctor, this is part of the video record in the patient's medical file?
A. Yes.
Q. Okay. And is this a drawn back sort of view from the photos that we were looking at before?
A. Yes. This is a picture of -- the patient is laying, you know, laying on the table there. My hands are close to the patient. You can see kind of a metal object or -- that's just above my right hand. That's the -- a system that assists with the navigation. It orients the navigation guidance to the patient's actual body. So when we run the CAT scan, that telemetry system creates the image and lets us know in space where the patient's bones are, and then all the instruments that we use are based off the telemetry with that -- with that antenna.
Q. And that's you in the purple mask?
A. Yes.
Q. And what is the object -- is that your assistant on the other side of the patient?
A. Yes. That's Dr. El-Shafy, and he has a mallet in his right hand.
Q. Okay. I'm gonna play the video, and if you

could just describe what we're looking at while the video plays.
A. Sure. So what I'm using here is an instrument to cannulate or get into the vertebral body of the bone, of the vertebra. So you see I'm not looking at the patient. I'm actually looking at a screen, because the instrument I'm using is oriented with the navigation and I'm placing it in the correct place utilizing navigation system, and then he is helping me by tapping it into place. This way I can perfectly control the pedicle finder and cannulator, and then he taps in place -- and then you can see I'm -- what I'm looking at, actually, with that, that image, where I'm, like, seeing where the screw is being placed on the vertebra itself, you know.
Q. I'm gonna take you -- not to interrupt, but I'm gonna take you back to that last image, and if you could describe what it is that we're looking at there.
A. Sure. So this is an intraoperative CAT scan of the vertebral body, and you can -- you can see the bony part is the brighter areas. You see a lot of, like, gray. The really black areas on the right are the lungs. Right next to the lungs are

the ribs, and then next -- then in the middle area is the vertebral body. Coming off the vertebral body you see the transverse processes, and then heading straight up is the spinous process. So where I'm placing the cannula is what's called the pedicle. That's a thoracic level -- excuse me. That's a thoracic vertebra, so I'm cannulating or making a hole in the bone through which I can place my screw safely, and the reason we use this navigation where, you know, we used to use either clumsy x-ray or just do it by feel, is you can see obviously a lot of important structures here and we're placing, you know, large metal implants, you know, close to the lungs, close to the spinal cord, the spinal canal, so we use this navigation so all our screws are placed in the perfect position.
Q. Thank you, Doctor.
MR. PARRA: Off the video record.
THE VIDEOGRAPHER: Off the video record. The time is 3:52 p.m.
MR. PARRA: Okay. I don't have much more to go. I'd like to just take five minutes here so that I could organize this last set of exhibits and then we can finish up the direct.
Okay?

(A brief recess was taken.)
THE VIDEOGRAPHER: Back on the video record. The time is 4:02 p.m.
(Photograph was received and marked Apazidis-17 for identification.)
BY MR. PARRA:
Q. Okay. Doctor, I'm going to show you Apazidis-17, which I'll represent to you is a photo of the patient before you performed your surgery, and he'll authenticate it, and I'm gonna ask you if this is, in fact, the condition that you sought to repair with your surgery?
MR. BROOKS: I'm gonna object. Off the record.
THE VIDEOGRAPHER: Off the video record. Time is 4:02 p.m.
MR. BROOKS: It's the same objection as to lack of authentication. I suppose that's probably gonna work itself out --
MR. PARRA: Yeah.
MR. BROOKS: -- due to the order and how we're taking these. I'm not gonna -- again, I'm not gonna continue to object to this line of photographs, assuming he had more than this. Can we agree, Harry, that it's the same objection as to

all of them?
MR. PARRA: Of course.
MR. BROOKS: Okay. Back on the record, please.
THE VIDEOGRAPHER: Back on the video record. The time is 4:03 p.m.
BY MR. PARRA:
Q. Doctor, is that the condition that you sought to repair with your surgery?
A. Yes. This is more or less how the patient presented to me when I first saw him that caused me to move further with the workup.
Q. And again, you saw him about a year and a half after the December 8th, 2022 accident, correct?
A. Yes.
(Photograph was received and marked Apazidis-21 for identification.)
BY MR. PARRA:
Q. Okay. Doctor, I'm gonna show you -- I'm sorry -- Apazidis-21. And Doctor, if you could, what are we looking at here?
A. Okay. So this is the patient in the -- in his hospital bed. This is his back. The -- this is the dressing that's applied to the patient. You

see a gauze pad. It's held down with tape. The tubes at the bottom, those are what's called drains. So obviously after a surgery like this, even after the plastic surgeon puts everything back together again, the -- this -- you know, the muscles continue to kind of drain and there's some bleeding, as well as just the swelling, any fusion that comes from the inflammation after a procedure like this, especially after taking down the bone, so we put in drains to kind of drain away some of that excess fluid, to take pressure off of the wound to allow the skin to heal, so those are the drains at the bottom there, and this is his -- you know, the white part is the dressing.
(Photograph was received and marked Apazidis-18 for identification.)
BY MR. PARRA:
Q. Okay. Doctor, and how about Apazidis-18?
A. Okay. This is -- this is probably an earlier, or a more postoperative, or more immediate postoperative dressing. Again, you can clearly see the drain tube at the bottom there. That special silver dressing is something we put on early on. It's like an anti-infection material. It's Silvadene. The yellow part underneath is -- again,

it's an anti-bacterial, anti-infection dressing. It's called Xeroform.
(Photograph was received and marked Apazidis-19 for identification.)
BY MR. PARRA:
Q. And Apazidis-19?
A. Okay. So this is with the wound exposed. It looks to be, you know, probably several days or a week later. As you can see, he's still in the hospital, which is pretty typical for a procedure like this. You can see some of the deformity. He's kind of, like, leaning forward but, you know, we've kind of taken out some of the more acute kyphosis or, you know, forward bending position. The drain is still there. Usually the plastic surgeon leaves it in place until he feels that the drainage is down sufficiently, that he's comfortable to take it out, or that the wound has healed to the extent that he's not worried about pressure or build-up of fluid inside.
Q. And Doctor, I'm noting here these -- what appears to be these sutures, or how do you -- how do you get the back back together, I guess is what I'm --
A. In a case like this, these are actually

staples.
Q. Okay. Is this multiple layers that you have to put back together?
A. Oh, yeah. So, you know, deep inside we have to bring the muscle back together, and then there's the fascia on top of the muscle, the thoracolumbar fascia, that's brought back together. Above the fascia is a layer of fat called Camper's layer. That's brought back together with a different layer of suture, and then just beneath the skin is the dermis and that's brought back together with a finer suture, and then the skin itself. In a case like this I would use -- I use staples.
Q. Thank you, Doctor.
(Photograph was received and marked Apazidis-20 for identification.)
BY MR. PARRA:
Q. And finally, 20, is that just the same type of photo?
A. Yeah. It looks pretty similar.
Q. Okay. Thank you, Doctor.
Doctor, after the surgery like this one what is the patient's recovery period?
A. I mean, six months to a year.
Q. Okay. And what does the recovery look like?

What does he have to do, or what did he do in this case?
A. So he followed a very typical course. Usually hospitalization can be upwards of a week, and he was right in there. He had a little longer hospital stay because he had no -- he didn't really have any help at home, so we really had to make sure he was completely independent before sending him home. That involves, you know, getting up with a walker, being able to get out of bed by yourself, being able to walk to the bathroom, being able to take a few steps, and eventually you're doing some stairs before being deemed safe for discharge home. And once home, obviously there's, you know, a lot of discussions with him about safety evaluation, you know, is he still able to get out of bed, you know, is there no trip hazards, things like that that we worry about. Obviously his strength and coordination are completely off. So he used a walker. He used the walker for a better part of a year during the recovery.
Q. Was he in pain after this?
A. Yes. There's a lot of pain.
Q. Did you prescribe pain medicine as a result of that?

A. Yes. He was on narcotic medication at least for six months.
Q. What are some of the side effects of narcotic medication?
A. Obviously sedation, and as well as severe constipation, which presents a whole other set of complications in itself. There's respiratory sedation, which we always worry about. You heard a patient takes a pill and doesn't wake up. So the narcotics themselves have a lot of risks, as well as complications.
Q. What about dependency, is that one of the risks associated with it?
A. There's a high risk of dependency in a situation like this. We have to monitor very closely and basically just give him enough that he's, you know, not in pain but still having some pain to kind of -- you know, you can never give somebody zero pain with narcotics. We just try to get him to a point where he's comfortable, and he demonstrated understanding. He, you know, he understood those risks and, you know, he was himself concerned about, you know, about those risks.
Q. Thank you, Doctor.

And I'm gonna take you back to your -- what we've marked as Apazidis-12 but what is essentially your operative report, and I'm gonna direct your attention to page 2. First of all, you authored this report, correct?
A. Yes.
Q. Okay. And on page 2, if you could see my mouse, there's a particular notation here that -- I wanted you to start right here, where it says he. Could you read that off to the jury?
A. Sure. He demonstrated understanding, asked appropriate questions, and consented to the surgical procedure. I explained to the patient that his fractures that occurred almost two years ago previously had deteriorated to the point of his current kyphotic posture. Obviously this represents a possible permanent deformity that even with surgical correction may not be correctible, especially given that the neurologic status of the cord may have accepted this position and not tolerate significant correction at this point. He demonstrated understanding of these issues and wished to proceed with the attempted correction and at least stabilization of the kyphotic fractures so they would not deteriorate any further.

Q. Thank you, Doctor.
And so, Doctor, one of the questions I have, is this a condition that is now permanent?
A. Yes. I mean, and it was, you know, possibly permanent even, you know, when I saw him. One of the things we didn't really discuss about the surgery is that because the spine had been in that bent over position and at the level of, you know, T9, 10, 11 and 12, you're involving the actual spinal cord. There is -- and with fractures, inflammation and scar formation, so the cord can get kind of stuck in that position. So even though we release the bone and I use a straighter bar to attach the screws to, as I'm doing the correction we use what's called neural monitoring system, where we kind of turn his body into a circuit board and we plug into his nerves and then shoot electrical stimulation down from the brain down to the legs, and then as I'm doing the correction, we actively monitor the spinal cord to see if it's being upset by that correction. So, you know, the idea that I can, you know, after almost two years bring that back to 100 percent normal would be not advisable, because even with the monitoring system, you know, even if you get the signal saying, hey,

stop that, or release it, you know, you don't want to cause a neurologic event, so I told him off the bat, I'm gonna go for an acceptable level of correction but I'm not gonna go for, you know, a severe level of correction, because I didn't want to risk, you know, any kind of neurological event.

Q. Thank you, Doctor.

Doctor, I'd like to refer you to your report of November 5th, and in particular to what appears to be the -- page 6. At the bottom of that page you gave an opinion as to causation?

A. Yes.

Q. And can you tell us --

MR. BROOKS: Objection. Off the record.

THE VIDEOGRAPHER: Off the video record. The time is 4:15 p.m.

MR. BROOKS: You may have been about to correct it, Harry, but I don't think there was actually a question pending, so I made --

MR. PARRA: I was about to correct it.

MR. BROOKS: All right. Let's go back on.

THE VIDEOGRAPHER: Back on the video record. The time is 4:15 p.m.

BY MR. PARRA:

Q. Doctor, with respect to your paragraph on causation, do you indicate on there -- do you indicate what motor vehicle accident injuries you were evaluating him for?

A. Yes. I evaluated him for the accident of December 8th, 2022, as well as the subsequent December 23rd, '22 accident.

Q. And did you give an opinion as to what the -- what injuries were caused by his first accident?

A. Sure. So as evidenced by his complaints on presentation on December 9th of 2022, as well as the imaging studies obtained on December 12th and 13th of 2022, all subsequent to the December 8th accident but prior to the December 23rd accident. The patient had MRI evidence, as well as clinical complaint of thoracic vertebral compression fractures, as well as, you know, increased pain to the neck and the lower back, with, you know, MRI evidence of injuries to these levels subsequent to this December 8th accident.

Q. And if you turn to the following page, do you indicate what injuries as of today he still had from his previous August 12th, 2021 accident?

A. With respect to the August 12th, 2021 accident, the patient had had some, you know, neck and lower back pain, however, it completely resolved, and I -- you know, his condition as of when I first saw him up till now, I don't think there's really any contributions from that -- from that 2021 event.

Q. And with respect to the following paragraph, on December 23rd, 2022 -- regarding the December 23rd, 2022 accident, what was your opinion?

A. I mean, certainly this accident did, you know, aggravate, exacerbate, you know, and contribute to his overall situation. He was already vulnerable in terms of already having suffered, you know, fractures. These fractures were acute and what we refer to as, like, hot or unstable. In other words, they were in an acute inflammatory state. This was already an unstable fracture. I'm, you know, not clear if he was even being braced at that time in that interim period, but, you know, obviously he's vulnerable, and then he suffered a subsequent, you know, motor vehicle accident. So certainly there's, you know, contribution of that to the overall current situation, as well as, you know, what I started with in June of 2024.

Q. And Doctor, I know we asked you to numerically allocate the injuries stemming from which particular accident. Is that something that is really possible, though? Can anyone give an exact figure?

A. I mean, obviously this is -- this would be challenging, you know. These accidents occurred within two weeks of each other, you know. The one thing that helps here is that I do have the pictures from in between these accidents, which is fortunate, you know, allowing me to at least attribute the fracture, the C6-7 disc herniation, you know, to the December 8th accident, and, you know, I was asked to try to ascribe a percentage. Obviously, you know, it's not an exact thing but, you know, my overall feeling and best estimate would be, you know, anywhere from 30 to 40 percent, let's say, would be attributable to the December 8th accident and the remainder due to the subsequent, you know, accident. Again, this was -- you know, it's a very difficult thing, as we don't have a big -- you know, certainly not a big functional track record in between, but fortunately we do have the imaging.

MR. BROOKS: Objection. Off the record.

THE VIDEOGRAPHER: Off the video record. The time is 4:19 p.m.
MR. BROOKS: Harry, he can't just randomly add 50 percent more injury to what he has already attributed to this accident. 30 to 45 percent is way outside of this. I'm moving to strike that entire response. If you want to reask the question so that he doesn't change what he's already reported on, I guess we could solve that. Otherwise, that's gonna get stricken.
MR. PARRA: I mean --
MR. BROOKS: You can't just change percentage on the fly.
MR. PARRA: Listen, I disagree with you, only because the case law does not require him to even give a percentage, so he's only really doing this trying to illustrate what he -- what he is saying.
MR. BROOKS: But he did. He did give a percentage.
MR. PARRA: So what.
MR. BROOKS: And now -- now, in front of a jury, to change that percentage, that's nonsense. It's absolute ridiculous. You can't do that.
THE WITNESS: I didn't say 40.

MR. BROOKS: That's grounds for striking the entirety.
MR. PARRA: He didn't say 45.
THE WITNESS: Yeah. I said 40.
MR. BROOKS: He said 30 to 45 percent. We can read it back.
MR. PARRA: No, he did not.
THE WITNESS: No. I said 40. I'm sorry. If I miss -- if I was misheard --
MR. PARRA: You didn't, Doctor.
THE WITNESS: I did say 30 to 40.
MR. PARRA: Right. So, I mean, you can make your objection and we'll handle it that way, and you can ask him on cross, too.
MR. BROOKS: Oh, that's happening.
MR. PARRA: I know.
MR. BROOKS: You can go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 4:21 p.m.
BY MR. PARRA:
Q. Doctor, I believe you already answered this, however, you believe that the injuries that he sustained in the December 8, 2022 accident that we're here for today are permanent in nature?
A. Yes. I mean, the fracture and the position

of the fracture had become permanent, and obviously I performed a permanent surgery, placing permanent implants into his back, including, you know, pedicle screws bilaterally, as well as rods and, you know, bone graft and so forth. I performed a fusion procedure, which is also permanent, you know. Once the bone and everything fuses together, that's also permanent.
Q. Right. And Doctor, regarding -- regarding that, we do have an image study here that I would like to mark as -- it's gonna be Apazidis-22, I believe we're on now. Let me show you.
(X-ray dated 10-7-25 was received and marked Apazidis-22 for identification.)
BY MR. PARRA:
Q. Doctor, can you tell us what we're looking at here?
A. Sure. So this is an x-ray. This is a front to back x-ray. You can see the silhouette of the heart, as well as the lungs. In the middle is the spine. Okay. At the top you have just the bottom of the cervical, or spine or the neck, and then we have the -- one, two, three -- the first three thoracic levels, and starting at T4 I've placed one of my pedicle screws. So you can see the kind

of -- the really white area is the screws and you can see screws on both, you know, both sides, right and left, starting in the upper thoracic area, and then, you know, going all the way down, in this case, you know to about the bottom of the thoracic, but these -- this did extend into the sacrum.
Q. What is -- what is the date of this x-ray?
A. Sorry. Date of this x-ray is -- looks like October 7, 2025.
Q. Thank you, Doctor.
And would it benefit the jury to see the side view?
A. Sure. It would be helpful.
Q. Okay. Now, Doctor, we're looking at the side view of the x-ray. Can you tell us what we're looking at here?
A. So again, you can see the screws. In some cases it only looks like it's one screw, because they're perfectly overlying each other in silhouette, but again, there's -- you can kind of see the two, the two rods, left and right, and then -- so the screws go into the bone and then using the bilateral, you know, screws on both sides I'm able to manipulate the spine and try to straighten it out, and mostly it also helps just to

kind of hold it in place, to provide that added support, because obviously the spine's in a bad posture, so the rods here were bent to be straighter, you know, than he was before, but obviously there's still some curvature, and the thoracic spine does have some degree of natural, you know, curvature in this direction, so we use this to hold things in place, and then the rods are secured to the screws and then the screws thereby hold the bones in place.

Q. Will the rods also gradually help to straighten out a little more?

A. No. This is as straight as I could get him. Based on the fact that, you know, the spine had become fairly rigid, you know, it had been stuck in this position for a year and a half and, you know, it's unsafe to overly straighten it, and we can accept, you know, some curvature here. You know, we can accept even up to 60 degrees. This is much less, probably closer to 40 degrees. You know, the idea of trying to get closer to, you know, 20 to 25 degrees just would be unwise in a situation like this.

Q. What is the length of the pedicle screw?

A. They're different lengths depending on the

vertebral body. Can be anywhere from 30 millimeters to 45 millimeters long.

Q. Do you have to drill holes into the bone before inserting the screw?

A. Yes. So we have a sequence of instruments, you know. They're -- each a little bit wider than the last, and that's what I was using the navigation system for. So we use what's called a pedicle finder, which is about a 4 millimeter kind of pick, and under the navigation guidance I make the initial hole and then it's widened utilizing a 5 millimeter tap, and then ultimately the, you know, 5 or 6.5 millimeter screws are placed into the bone.

Q. And is this why the procedure takes between six and eight hours, as you're testifying?

A. Yes. I mean, it takes almost two hours just to expose the bony surfaces. Orienting the navigation system itself can be almost an hour long process. Then, you know, actually cannulating the bone and the pedicles and taking off of the, you know, the posterior elements, chiselling and burring them off and then performing the correction procedure before finally, you know, using -- you know, securing the rod to the screws themselves,

and then of course closure, putting it all back together again, that's almost two hours, just to put everything back together again.

Q. Thank you, Doctor.

Doctor, as you sit here today would you be able to say if he was not involved in this December 8th accident whether he would be in the same condition today?

A. Well, I don't think he would have the fracture that caused the kyphotic deformity.

Q. Thank you, Doctor.

Would you be able to say if he was not involved in his December 23rd accident whether he would be in the same condition here today?

A. Well, it's -- I mean, it's difficult. I can't say, you know, if that -- so that accident may have contributed to certainly exacerbation of the fractures, possibly to worsening of the fractures. Obviously there was, you know, an exacerbation. I mean, probably would have been better off had he not got into a second accident.

Q. Right. Okay. So you wouldn't be able to say that if he had not been involved in the December 23rd accident he would be in the same condition today?

A. I would --

MR. BROOKS: I'll object. Off the record.

MR. PARRA: I'll withdraw that question. That's a -- it's not a good question. I'll withdraw that question.

Q. And Doctor, finally, will the patient ever be in the same condition he was before the accident of December 8th, 2022, in your opinion?

A. No.

Q. No further questions.

CROSS EXAMINATION BY MR. BROOKS:

Q. Doctor, I have quite a lot of questions for you.

A. Okay.

Q. Do you know what bias is?

A. I'm sorry. Could you say the word again?

Q. Bias, B-I-A-S.

A. Oh, bias, yes.

Q. Okay. It's a prejudice in favor or against one thing or another generally accepted to be an unfair prejudice. Is that an agreeable definition?

MR. PARRA: Objection.

THE VIDEOGRAPHER: Off the video record. Time is 4:29 p.m.

MR. PARRA: Where you getting this definition from?
MR. BROOKS: I'm asking him if he agreed. He hasn't answered.
MR. PARRA: Okay.
MR. BROOKS: He could say yes. He probably should. That's pretty much the standard definition of it.
MR. PARRA: We'll see.
MR. BROOKS: Let's go back on.
THE VIDEOGRAPHER: On the video record. The time is 4:30 p.m.
BY MR. BROOKS:
Q. Doctor, did you -- did you agree with my generalized definition of what bias is?
A. I mean, I don't have a dictionary in front of me, I'm not an English major, but it sounds like a good definition, yes.
Q. Okay. You work for Precision Pain & Spine, right?
A. Yes. That's my practice.
Q. And if we go on to the Precision Pain & Spine website, we see you posing with all your other worker guys, doctors there with the thumbs up so that everyone can take a look at you, right?

A. Yes.
Q. And you know that Precision Pain & Spine claims to be owed a significant amount of money for the treatment that plaintiff received? You're aware of that fact, right?
A. Yeah. I assume we do have a bill, yes.
Q. Okay. And just to be clear, Precision Pain & Spine, the practice that you work for, they expect to be paid out of this lawsuit if the jury makes an award, right?
A. Yes.
Q. Okay. And that's sort of the business model, right, is to treat for a lawsuit accident, get paid out of the settlement or the verdict, right?
A. I mean, I don't know about a business model, but, you know, I'm not involved in the business operations.
MR. PARRA: Objection.
THE VIDEOGRAPHER: Off the video record. The time is 4:31 p.m.
MR. PARRA: Sometimes that's not the case, though, so --
MR. BROOKS: I'll narrow it to this case. I'll narrow it to this case.
Let's go back on.

THE VIDEOGRAPHER: Back on the video record. The time is 4:31 p.m.
BY MR. BROOKS:
Q. So Doctor, that's sort of the model for how Precision Pain & Spine, the practice you work for, expects to be paid in a case like this one, you treat them for a lawsuit accident and get paid out of the settlement or the verdict that results; is that fair?
A. I believe in this case the insurance did not authorize the procedure and I did feel that he needed it, so however the practice made the arrangement for, you know, getting permission to do it -- again, I'm not involved with the business operations. I just, you know, treat the patients and make, you know, my treatment decisions.
MR. BROOKS: I'm gonna object. Off the record.
THE VIDEOGRAPHER: Off the video record the time is 4:32 p.m.
MR. BROOKS: I'll move to strike the response to the extent that it responded to something other than what I asked and it made mention of insurance, which we can't do here in front of a jury. With that said, I'm gonna move on

to the next set of questions here.
Harry, any commentary?
MR. PARRA: Let me -- let me just put -- my response to that is it's not always the case that we can't mention insurance. When it comes to PIP and things like that, you can mention insurance. In this case, you know, they're not even gonna know that there is insurance from this, so -- right? I mean, presumably.
MR. BROOKS: Well, the doctor just said the insurance wouldn't pay for it.
MR. PARRA: Well, if it's PIP insurance, I mean, that is one of the reasons why he couldn't have it done. He's gonna be able to talk about that, so -- but I understand.
MR. BROOKS: It's a two-level objection, as to non-responsiveness and to commentary as to insurance. I'm gonna move on, because I think that response is gonna be stricken and I suspect that it will sort itself out at that point.
MR. PARRA: Fair enough.
MR. BROOKS: Okay. Let's go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 4:34 p.m.
BY MR. BROOKS:

Q. So Precision Pain & Spine, the practice you work for, claims to be owed a significant amount of money for this treatment, but they treated plaintiff for both this accident, the 12-8-2022 accident, as well as the subsequent one that happened 15 days later on 12-23-2022, right?
A. Yes.
Q. Okay. So Precision Pain & Spine, because they expect to be paid out of whatever this jury awards or does not award, has a direct financial interest in the outcome of the trial; isn't that true?
A. Yes.
Q. And you, as a member of Precision Pain & Spine, are not only speaking on your behalf, but you have already testified as to what other members of the practice have found and observed and concluded, right, because you're part of them?
A. Yes.
Q. Okay. Yet you'd have this jury believe that you can -- you can set that aside, that bias, that you're financially interested in the outcome of this and that you can be completely objective in your position in giving testimony here today? That's your position; is that correct?

A. Yes.
Q. Okay. I sort of thought that you would take that position, but I guess the jury will determine whether they find that credible.
Let's talk about the --
MR. PARRA: Objection. I'm just gonna -- that's not even a question.
MR. BROOKS: It's an interlude into the next set of questions, so what was the basis of the question -- of the objection?
THE VIDEOGRAPHER: Off the video record. Time is 4:36 p.m.
MR. BROOKS: Oops. We'll have to edit our bickering out.
MR. PARRA: Yeah, but, I mean, you know, the objection is that it's not a question. It's not even a question. It's not in the form of a question and it is not reasonably --
MR. BROOKS: I'll rephrase it. How's that?
MR. PARRA: It's not a reasonable prelude to any question, so anyway --
MR. BROOKS: I'm gonna rephrase it.
MR. PARRA: In the form of a question?
MR. BROOKS: Okay. Go back on.

THE VIDEOGRAPHER: Back on the video record. The time is 4:36 p.m.
BY MR. BROOKS:
Q. Sir, just to be clear, it's your position that you are not being guided by the direct financial interest that you just admitted to when reaching your conclusions as to causation of plaintiff's injuries; that's your position?
A. Yes.
Q. Okay. Let's talk about the nature of a treating physician's relationship to the patient. As a treating physician you develop a doctor/patient relationship with your patients; is that right?
A. Yes.
Q. Okay. And you did that with plaintiff here, as well, right?
A. Yes.
Q. Okay. And you do that so that you can -- supposedly so you can treat him more effectively, right?
A. Well, I mean, it's good to have a relationship in terms of open communication to understand, you know, the issues in his life, when making -- certainly when making decisions about

significant surgeries, cuz a lot of times it involves the home situation, involves a support network, you know. There's times when people are undomiciled. Like, they might need surgery but they have no home to go home to, and that's -- would be inappropriate to proceed with a surgery, you know, versus someone who has, you know, a better home network, so a lot of that does figure into surgical decision-making, treatment decision-making, you know, what -- realistically what we can or cannot do for a patient, you know, so yeah, that -- the relationship is very important.
Q. Good. I think we agree on that point.
And in forming that doctor to patient relationship there should be trust between the doctor and the patient, right?
A. I mean, yeah. The patient has to be honest, yeah.
Q. And the patient should be -- also be able to trust the doctor, right?
A. Yeah. I hope so, yes.
Q. Okay. And we would hope that the doctor should be able to trust the patient, as well. I think that's part of that, right?

A. Sure.
Q. And did you have any reason at all not to trust plaintiff in this case?
A. No.
Q. Okay. When he told you about himself, how he felt, how he was doing, did you believe what he told you?
A. Yes.
Q. Okay. And generally, as a treating physician, can we agree that you should believe what your patients say in general about how they feel, what their progress is, and what the cause of their injuries are?
A. Yeah. I mean, some of the questions are, you know, like, what is your pain level, you know, what are things you're able to do, things you cannot do, so yeah. I mean, these are -- it's part of the overall assessment, sure.
Q. It's questioning them and then digesting and believing what they tell you; is that right?
A. Yes. I have to believe in my patient, sure.
Q. Okay. We're gonna come back to that a little bit later in the cross examination here. I'd like you to take a look at your litigation report that we talked about before. I think that it was marked

as -- bear with me. A lot of them have been marked. It's the one dated November 5th, 2024. Do you have that handy?
A. Yes.
Q. Okay. I may have heard you say, and I don't know if it made it into the record, that there was another narrative report generated in September of 2024. Is there another report?
A. No. I think it was just another copy that was in the chart. Like, sometimes they just scan multiple things in here. It's the --
Q. So this is the only -- sorry. I talked over you there.
This is the only narrative report that you generated for these two accidents, November 5, 2024's report; is that right?
A. Yes.
Q. Okay. And it's on Precision Pain & Spine letterhead; is that right?
A. Yes.
Q. Again, it refers to the dates of accidents here as 12-8-2022 and then 15 days later, 12-23-2022, right?
A. Yes.
Q. Okay. And at the very beginning of this

report you have a section, history of present illness. Did I get that correct, as well?
A. Yes.
Q. And you didn't evaluate plaintiff until -- and you didn't personally evaluate him until June 3rd, 2024; is that right?
A. Yes.
Q. This report says January 6th, 2023, though. Do you see that, in the very first sentence?
A. Yes.
Q. That wasn't you who evaluated him on January 6, 2023, was it, or somebody else?
A. Yeah. Correct. You see it says, we had the pleasure, and the report is signed by both --
Q. Sure.
A. -- Dr. Elkholy and myself.
Q. Okay. In that same sentence it says, after the second motor vehicle accident of 12-23-2022, right? You see that?
A. Yes.
Q. Okay. And you characterized the 12-23-2022 as the second motor vehicle accident, right?
A. Yes.
Q. Okay. And then a little bit further down you refer to this accident as initiating, I think, the

initial injury date. You see that? It's a couple paragraphs down --
A. Correct.
Q. -- following the initial injury date?
A. Yes.
Q. Okay. And refer to it as the first MVA. That's motor vehicle accident, I assume?
A. Yes.
Q. Okay. And you date that 12-8-2022, correct?
A. Yes.
Q. But when you wrote this report, the one that we're here talking about today, the accident of 12-8-2022, you knew that wasn't his first motor vehicle accident or his initial date of injury, you knew that was his -- actually his second motor vehicle accident --
MR. PARRA: I'm just gonna --
Q. -- right?
MR. PARRA: Objection.
THE VIDEOGRAPHER: Off the video record. The time is 4:44 p.m.
MR. PARRA: Counsel, that's a misleading question to the jury. I mean, like two paragraphs down he makes reference to the August 12th, 2021, so, I mean --

MR. BROOKS: I'm gonna correct all that. I'm gonna go through it with him, but he repeatedly does this throughout the report and I'm entitled to cross him on it.

MR. PARRA: Okay. I just wasn't aware where you were going with that.

MR. BROOKS: Let's go back on.

THE VIDEOGRAPHER: Back on the video record. The time is 4:44 p.m.

BY MR. BROOKS:

Q. I'm gonna reask the question, Doctor.

You've referred to the 12-8-2022 accident as the first accident throughout this report, but you knew when you wrote the report that wasn't his first accident, it was actually his second accident, right?

A. Well, in terms of relevance, you know, the prior accident wasn't really relevant to the topic at hand, but yes, he -- you know, we do have it in the history that he did have a previous injury over a year before.

Q. My question was, you knew that it wasn't his first motor vehicle accident where he claimed injuries, right?

A. Yes.

Q. Okay. And you do acknowledge in the past medical history section prior MVAs, it's plural, but on 8-12-2021. Do you see that?

A. Yes.

Q. Okay. And when you wrote this report you referred to the 12-23-2022 accident, the one that was 15 days after the one we're litigating here today, you called that the second motor vehicle accident when, in fact, it's actually the third, correct?

A. I mean, again, this report is, you know, regarding the injuries that, you know, I'm treating, and the relevance, you know, I mean, you know, the relevance to what I'm dealing with is the 12-8 and the 12-23, you know, dates of injury. You know, prior things weren't really relevant to what I'm discussing here, so that's why I'm referring to it as --

Q. We'll come --

A. -- one and two.

Q. We'll come back to that, but when you wrote this report you knew that the 12-23-2022 accident was the third accident he had been in and it was not the second; yes or no?

A. Yes.

Q. And you noted in the label -- the section labeled surgical history that plaintiff had a prior surgery to his cervical spine, surgery to his left knee, and that was from the prior accident that happened before either of the ones that you reported on in here, that's the 8-12-2021 accident, right?

A. Yes.

Q. And by the way, that past surgical history was also with Precision Pain & Spine, correct?

A. Yes.

Q. So to be clear, we're really talking about three accidents, 8-12-2021, 12-8-2022, and 12-23-2022, span of more or less 16 months. That sound right?

A. I mean, yeah. How far back you want to go? I mean, there's a lifetime of, you know, events. I mean, again, this report is, you know, relevant to the -- particularly the thoracic compression fractures that are due to the December, 2022 injuries, but yeah.

Q. Sir, I just asked you whether we were talking about three accidents in the span of 16 months. That's all I want to know. Is that what we're talking about?

A. No. I'm not talking about the 2021 accident, because it has no relevance to what I'm -- what I'm dealing with here. I'm discussing the December --

Q. Okay.

A. -- 2022 accidents.

Q. Okay. And it's -- I mean, it's convenient that the earlier one doesn't matter, but we're gonna circle back on that a little bit further in here.

Nowhere in your report does it state that you reviewed photos from any of the accidents, does it?

A. Photographs?

Q. Yeah.

A. No. I mean, I have radiological records, but no, I don't have any photographs, no.

Q. No. No. No. No. I'm talking about accident scene photos. You didn't report that you looked at any of that, did you?

A. No, I did not.

Q. Okay. And nowhere in your report does it indicate that you reviewed any of plaintiff's four separate sworn depositions concerning these three motor vehicle accidents, does it?

A. No. I did not review any depositions, no.

Q. Okay. And as a treating physician it would

be helpful for you to know what plaintiff had to say about his accidents and how he was feeling after each one of them, just like we talked about, the doctor/patient relationship, trust and communication, right?

A. I mean, I asked him about those.

Q. Okay. You didn't even hear his trial testimony here today, because we're videotaping you before -- before he shows up in person, right, so you don't know what he's gonna say at trial?

A. No.

Q. So I'm not sure, but I don't think you reported anywhere that in the accident that we're here litigating today, that plaintiff was driving a big box truck and the opposing driver was driving a Jeep. You didn't report that, did you?

A. No. I remember seeing something about a box truck, but I don't know the details, no.

Q. Did you know that the latest of these three accidents, the one that happened only 15 days after the one we're here on trial about today, is the one where plaintiff claimed to be hit by a trash truck? Because I didn't see that in your report, either.

A. I'm not sure if I mentioned in the report, but I do remember something about another truck in

the second accident, yes.

Q. Okay. Did you know that it was plaintiff being rear-ended by a trash truck and another passenger vehicle was smashed underneath his vehicle and that it required heavy equipment to separate the vehicles, that sort of thing? Did you know any of that?

A. I -- again, no. I don't know the details. I know it was a significant, you know, injury.

Q. Okay. And you didn't examine or evaluate plaintiff until well after that, that 12-23 trash truck accident? I think we've established that, right?

A. Yeah. Year and a half, yeah.

Q. And you -- you know -- well, let me rephrase that.

Did you know that after the 12-8-2022 accident, the one we're here to talk about today, that plaintiff had gone back to work?

A. I mean, I don't remember the exact work history. I know he -- he, I believe, had a company, and I think he was trying to, you know, maintain that company. I remember him talking about losing his company. That's one of the main complaints that he has with all this.

Q. Did you know that in the prior accident he gave sworn testimony that said he was gonna lose his company from that accident, too?

A. No. I don't know anything about any kind of testimony, no.

Q. Okay. So the accident that we're here litigating on trial today is the 12-8-2022 accident. I just want to be clear, did you know that 15 days later when he's hit by a trash truck he's already back to work at that point?

A. I apologize. I don't have the exact work history. I don't remember discussing it. Again, by the time I saw him, he very much was not working and not able to work and I -- again, I believe at that point his company was lost.

Q. Okay. I just want to be very clear, because I don't know that you've truly answered the question, and I think it can just be a yes or a no, but did you know that as of the 2nd -- excuse me -- the 23rd, the 12-23-2022 accident, which was 15 days after this one we're trying here today, that plaintiff was back to work? It's sort of a yes or no.

A. No.

Q. Okay. And because you didn't review any of

plaintiff's sworn deposition transcript, you don't know that plaintiff gave sworn testimony that being hit by that trash truck was really bad and "totally destroyed him." You're not aware of that?

A. No. I mean, I remember discussing, you know, that he -- that, you know, he had pain and problem after the first accident, and that was further exacerbated and worsened by the second accident, and, you know, I think that's what, you know, went towards my apportionment, as well.

Q. Okay. And you don't know that he was actually on the job when he was hit by the trash truck, right?

A. I -- I -- I don't know the employment situation at that time, no.

Q. And sort of back to my question, because I'm not sure that you answered it. You didn't review his transcripts from the four depositions that he gave for these three different accidents, so you don't know that he said that it was the trash truck accident that was really bad and totally destroyed him, and that he hasn't been able to do anything since being hit by the trash truck; you're unaware of that because you didn't read that, nobody gave it to you, right?

A. No. I -- I'm -- you know, I'm just his doctor. I don't read his depositions.
Q. And because you did not report having reviewed plaintiff's dep transcripts, you don't know that when he gave sworn testimony in the trash truck case, that he testified that between this accident, 12-8-2022, and the trash truck accident 15 days later, that his neck was "fine." You're not aware of that?
A. I'm not aware of that statement, no.
Q. Same question. Because you didn't review any of his four deposition transcripts, you don't know that when questioned under oath as to whether his back was hurting between this accident, 12-8-2022, and 15 days later when he's hit by the trash truck, he said I don't remember? You're unaware of that?
A. I did not read any, you know, legal depositions, no.
Q. Okay. And because you didn't read those because nobody gave them to you to review, you're unaware that he previously gave sworn testimony that when -- that between 12-8-2022, this accident, and the December 23rd accident, 15 days later, after being hit by the trash truck, that he could not recall whether any parts of his body were

suffering from pains or whether he had complaints of pain in any part of his body? You don't know that?
A. I don't know what his complaints were on, you know, December 24th of 2022. I only started seeing him in, you know, June of 2024.
Q. Hopefully this is the last of my deposition questions here. Because you didn't read any of the four sworn depositions that he gave concerning these three different accidents, you're unaware that when he was questioned under oath he said he did not develop the spinal deformity resulting in the hunching of his back until after he was hit by the trash truck? You're unaware of that?
A. Well, I'm not sure how he self-evaluated his deformity, but if that's what he said, you know, I'm not aware of that statement, no.
Q. Okay. And again, I asked you earlier if you should believe your patients and you said that you should and that you had no reason to disbelieve Mr. Plaintiff, right?
A. I have no reason to disbelieve what I saw with my own eyes, no.
Q. Or your own patients, which is what you already said, right?

A. I mean, I do not disbelieve that he had pain and that he had dysfunction and disability and, again, I have all my examination and MRIs, as well.
Q. Okay. Let's look at the physical examination of 1-6, section of your narrative report towards the bottom of the first page here. Okay. In fact, let's go to the next page, where it says thoracic spine, very top of that section -- top of that page, same section. You there?
A. Yes.
Q. Okay. And there's no mention in this paragraph here of an exaggerated kyphosis, which is what we colloquial call the hunching of a person's back, right?
A. Yes.
Q. Okay. And we look there, there's no mention of exaggerated kyphosis, curvature of the cervical spine either? That's the bottom of the previous page, right?
A. Not -- no. Not on this report, no.
Q. Okay. Is that just something you left out or is there a reason why that's not in there in either the cervical or the thoracic?
A. I mean, I guess it was left out on that report. In my actual progress note from that date

I do note that there is marked kyphosis to the thoracic spine. I know that there's, you know, rib humps and evidence of scoliosis, as well as kyphosis. So it is on my June 3rd progress note, but it is not on that summary report.
Q. Okay. And you -- you know that the curvature of the spine, the sort of the hunching over of the spine is a -- sort of a key problem that plaintiff has been complaining of associated with this lawsuit and the claims for the injuries in the trash truck crash? You're aware of that, right?
A. Yes.
Q. Okay. And when you wrote this narrative report, the lawsuit report of November 5, 2024, you were aware that that was a significant issue, too, the kyphosis or exaggerated curving or hunching of the back? You were aware of that, right?
A. Yes.
Q. But when you discussed in this report, which was specifically for litigation purposes, the thoracic spine examination was totally absent from that on this report, right?
A. Well, so the mention of kyphosis is absent from the November 5th report. Again, it is in my progress note from June 3rd.

Q. Sure. Let's look at the diagnostic studies section of this lawsuit report, page 2 near the bottom there. You reviewed x-ray of the right ankle. You see that?
A. Yes. Sorry. Let me just bring it up again.
Q. Again, it's the bottom of the second page, diagnostic studies. Do you need me to show you the --
A. No. I got it. Yeah. I got it. So starting with right ankle x-ray.
Q. Yup. You found no acute fractures, mild osteoarthritic changes. Do you see that?
A. Yes.
Q. Okay. Osteoarthritic changes, that's -- we commonly call that arthritis, right?
A. Yes.
Q. Okay. You're not saying that he developed arthritis in only four days after this accident, are you?
A. No.
Q. Okay. Same questions about the x-ray of the left ankle. We got to flip to the next page to get to that one.
A. Yes.
Q. That x-ray is taken four days after the

subject accident, too, right?
MR. PARRA: Could we go off the record for a moment?
THE VIDEOGRAPHER: Off the video record. The time is 5:02 p.m.
MR. PARRA: Oliver, we're not even making any ankle claims on this. I mean, what -- are you gonna take him through all the stuff that he's not -- that we're not claiming he hurt in this -- in this accident?
MR. BROOKS: Well, I'm gonna -- there's only two questions about these ankles, so I'm gonna run through them and --
MR. PARRA: All right.
MR. BROOKS: Let's go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 5:03 p.m.
BY MR. BROOKS:
Q. Okay. Doc, I'm sorry, but we -- you did review a left ankle x-ray taken four days after the subject accident, right?
A. Yes.
Q. You didn't find any -- any acute fractures, but you did find mild arthritis, same thing as the left ankle?

A. Yeah, but I think the more important part is there was some edema, you know, swelling around the ankle joint.
Q. You're not claiming that he developed arthritis in only four days, right? Same thing?
A. No. I mean, it's an x-ray finding. You see some, you know, some mild -- again, it's mild changes.
Q. Okay. And you also reviewed cervical, thoracic and lumbar MRIs of 1-11-23. Do you see that?
A. Yes.
Q. Those are all taken after he got hit by the trash truck on 12-23-22, right?
A. Yes.
Q. And again, you refer to this as the second MVA, but we've established that's actually the third accident, right?
A. I mean, in the -- yeah. In the three things you've described, yeah.
Q. Okay. In the thoracic MRI of 12-13-22 -- let's look at that. That's on the next page, page 4 of your lawsuit report.
A. Umm-hum.
Q. You talk about compression fractures in this

section; is that right?
A. Yes.
Q. And when you were on direct examination you described the compression fractures as acute, hot and in an inflammatory state. Do you see -- do you remember doing that?
A. Yes.
Q. Okay. Nowhere in this section does it talk about acute, hot or inflammatory state at all, does it?
A. No.
Q. Okay. That only came out in front of the jury. That wasn't reported after you reviewed all of his records, right? Not in the report?
A. It's not in this report, no.
Q. Okay. Normally when we see interpretations of imaging reports like MRIs we see some kind of notes as to whether the observed abnormality or problem, so to speak, is new or old, acute or chronic, but there's nothing in this paragraph that denotes any of that. You just say mild compression fractures, right?
A. Yes.
Q. Okay. But you did sort of give those descriptions of whether injuries were new or old,

acute or chronic in other sections, such as in the cervical spine section above, right?
A. Yeah. I mean, we described that this, you know, is something different from before. I mean, obviously he didn't have fractures before. Actually, there wasn't any thoracic MRI, you know, previous.
Q. And we'll get to that in just a moment. There's nothing at all in your lawsuit report here that at all dates these supposed compression fractures, is there? You can take a moment and flip through the entire seven pages, but unless I'm really overlooking something, I don't see anything that dates those compression fractures.
A. Well, I mean, they're present on the MRI from December 13 and that's the date in which, you know, we have evidence of them.
Q. Okay. And you just mentioned earlier that there's -- just a moment ago, really, that there's no prior MRI of the thoracic spine with which you can compare this study post accident of 12-8-2022 with; is that right?
A. Yes.
Q. You simply don't have any imaging studies of the thoracic spine before the accident we're here

trying today, right?
A. Correct.
Q. So you don't know for sure that there weren't "compression fractures" before this because you don't have imaging to compare to, right?
A. Well, I think you would know if he had a fracture.
Q. Well, that's -- that's a good point. That's a good point.
Compression fractures of the spine are actually very common even without being in an accident, right?
A. I mean, in, like, you know, 80-year-old women with osteoporosis.
Q. Okay. And you don't have to be in any kind of an accident to have a compression fracture, you can just have on a bum spine or a worn-out spine and get a compression fracture, right?
A. I mean, you have to have osteoporosis, typically, or some kind of, you know, bone disease that makes your bone insufficient.
Q. Okay. And you don't know at all whether plaintiff was ever tested for any of that sort of stuff leading up to this, do you? You have none of that information?

A. We don't normally test, you know, 28-year-old men for osteoporosis.
Q. Okay. The question really is, you just don't know, right?
A. No. He was not tested.
Q. Okay. MRI is sort of the gold standard for imaging of the spine; can we agree on that?
A. I mean, it's used for certain injuries, yes. You know, but obviously we -- it's a -- you know, x-rays are important. CTs can be important, depending on the pathology you're looking for or what you're trying to determine.
Q. Yeah, but the MRI can be used to see not just bones, but you could see soft tissues, muscles, sometimes fascia, sometimes even nerves, nerve roots, that sort of stuff? You can see an awful lot, right?
A. It's completely integral to evaluation of the spine, yes.
Q. I think you and I agree on that issue, so I'm going to ask you a few more questions about -- about these MRIs.
You did not report anywhere in this evaluation of the thoracic spine, taken only a couple of days after the accident we're trying here

today, that there was bleeding or swelling inside the bone marrow on this MRI image, did you? It's not in this report?
A. It's not in the narrative, no.
Q. Okay. And, similarly, you did not report that this MRI of the thoracic spine that was taken only four days after the accident we're here trying today had showed any bleeding or swelling in the muscles of the back, either, right? It's not in the report?
A. No. That's not mentioned in the report.
Q. Okay. And in the case of acute fractures, we often see bleeding and swelling of the muscles in the back, right?
A. I wouldn't say bleeding of the muscles. You could see some effusion sometimes. It depends on the degree of the fracture. It depends on how maintained, you know, some of the cortical integrity is. I wouldn't say it's, like, 100 percent of the time you're gonna see certain things, but, you know, if they're seen, you know, they're there, or if they're not, you know, we really are looking at the actual posture of the spine, as well as the integrity of the vertebral bodies themselves.

Q. Okay. My question is, you didn't see any of that or note any of that in the thoracic spine MRI that was taken only four days after the accident we're here trying before the jury today?
A. I mean, in my summary narrative report, yes, that was not mentioned.
Q. Okay. Generally speaking, bones, including vertebrae, don't just break in the absence of an effect on the surrounding tissues, do they?
A. It depends on the mechanism, you know. It's -- you know, if it's a compression type mechanism where it's purely kind of pressure coming through the spine, then -- you know, it depends on the direction of the force, you know. If the force is coming from a lateral, you know, and it's like an outside to in, you know, type of force, then yeah, you could see some disruption of the fascia or the muscles or the ligaments. If it's purely, you know, kind of compression down on the spine itself, depending on where the force comes from, you know, you could have a fracture without, you know, significant soft tissue damage around it, so it's not a hard and fast rule, I would say.
Q. Sure. Sure. But you didn't report seeing any bleeding or swelling in the muscles, anyway,

right?
A. Again, no. In my summary, no, it's not there.
Q. Okay. In the case of an acute fracture, you would often see bleeding and swelling of the bone marrow itself, correct?
A. There's certain signal changes you can see on the MRI, which he had.
Q. Where is that in your report here? It's not, is it?
A. It's not there, no.
Q. Okay. And in the case of acute fractures, we can often see it with an MRI, the epidural hematoma -- an epidural hematoma; is that right?
A. I mean, I wouldn't -- some fractures you can see epidural hematomas, but they're certainly not present with every, you know, type of fracture, and usually with a compression fracture you would not.
Q. You didn't note in your analysis of the thoracic MRI taken four days after the accident we're here trying today that you saw any of these -- these features, swelling in the muscles of the back, bleeding in the muscles of the back, swelling or bleeding of the bone marrow, epidema (phonetic) -- epidural hematoma, you just -- it's

not in your report at all, is it?
A. No, it is not.
Q. Okay. And you created this report fully knowing it was going to be used in a lawsuit, right, or two lawsuits, really?
A. Yeah. I mean, usually --
MR. PARRA: Objection.
THE VIDEOGRAPHER: Off the video record. Time is 5:15 p.m.
MR. PARRA: You can't make reference to other lawsuits.
MR. BROOKS: I think I can, but I'm gonna rephrase it in case I lose the motion that you may or may not be filing in the future. We'll go back on.
THE VIDEOGRAPHER: Back on the video record. Time is 5:15 p.m.
BY MR. BROOKS:
Q. And when you created this report you were aware that this report was going to be used for lawsuit purposes, right?
A. Usually narratives are at the request of an attorney.
Q. Let's flip to the sixth page of your lawsuit report here, under the course of treatment section.

It's about a third of the way down the page. You see that?
A. Yes.
Q. You detail what I think you refer to as conservative treatments, chiropractic therapy, nonsteroidal antiinflammatory analgesia. Did I get that right?
A. Yes.
Q. Okay. Are those nonsteroidal antiinflammatory analgesia you're referring to, are those the injections or is that something else?
A. That's something else.
Q. Okay. Okay. And if we look at paragraph three of that section, it indicates that plaintiff reported that those treatments gave him significant pain relief, which helped managing his pain. Do you see that?
A. Yes.
Q. Okay. And on page 7 -- and to be clear, those are nonsurgical interventions you're discussing when you refer to conservative treatments, right?
A. Yeah. I mean, the injections in the -- in the -- in bullet number two, you know, they're nonsurgical. They're interventional.

Q. I understand what you're saying.
Interventional injections as opposed to surgeries like what you performed on him at a later date? The fusion we heard about earlier?
A. Yes.
Q. Let's look at the next page, where it says prognosis and recommendations, sort of the bottom third of the page there. Do you see that?
A. Yes.
Q. Okay. And partly through the first paragraph it says, the patient has failed conservative treatment, such as chiropractic therapy, nonsteroidal antiinflammatory analgesia, and required a more interventional pain management modality to control the pain. Did I get that right?
A. Yes.
Q. So one page before you reported that conservative treatment was reported by the patient, Mr. Plaintiff here, to produce significant pain relief, and then a page later you characterized that as a failure. Why did you -- why are you saying that it failed if plaintiff is saying it makes him feel better?
A. Well, I mean, there's certainly temporary or

short-term effects of these procedures. I think what we're trying to convey is that, you know, he did -- he did get some benefit from the procedures, but ultimately -- ultimately the pain was not more controlled and, you know, he went on to -- to need the complete reconstruction.
Q. And earlier in this cross examination I asked you whether you should believe your patients when they tell you how they're feeling, and you said yes, that you should, right, but in this case I guess you don't. Is that -- am I getting that right?
A. No. That's not right.
Q. Well, if he reports -- we can go back to page 6. If he reports that the nonsurgical procedures that you talk about, conservative treatment and the interventional treatments, the epidural steroid injections provided him with self-reported significant pain relief, apparently you do disagree with him, because you characterize that as failed treatment --
MR. PARRA: Objection.
Q. -- right?
A. Again, it's short-term. I mean, it help -- you know, he got some benefit after the procedures.

He said yeah, I feel better, but it wears off, you know. Just like you take a Motrin, it helps you for six hours and then it wears off, you know, and it's important to note, you know, if you didn't get any relief from the procedures, then, you know, you have to question where the source of the problem is, so it's actually important information to say like, well, I got the injection, I felt better, but then the pain came back. That's important information for us when making -- you know, when developing, you know, further treatment and recommendations.
Q. Let's look at your operative report, which counsel previously marked as Apazidis-12. You have that pulled up?
A. Let's see. I think you did. I don't know. Did you guys -- I think you guys projected that. I can find it.
Q. I can pull it up for you if it's --
A. Okay. Yeah. That would be great.
MR. PARRA: I got it. You want me to pull it up?
THE WITNESS: Thank you.
MR. BROOKS: No. I'll do it. I have it.

MR. PARRA: You got it, okay.
Q. So we pulled up Apazidis-12 again, which is your operative report for the fusion surgery. Did I characterize that correctly?
A. Yes.
Q. And I wanted to talk a little bit about the videotaping and photography of the surgical procedure itself. Okay. Who took the actual video? Who's the videographer?
A. Oh, I don't know.
Q. Well, we can see a reflection in the -- when she turns her cell phone to the monitor that you described for placement of the hardware and we can see she's -- it's a female who's recording using a cell phone. Does that sound like what you recall happening?
A. Well, the -- I can't say I recall the -- you said there was a reflection?
Q. Yeah. On the monitor that shows the placement of your implement. You can see clearly there's a female. I don't know what her role is, but she's in scrubs and she's holding a cell phone which is being used to record the video.
A. Oh, I think the -- I think I know the reflection. That is the rep from the robot

company, the navigation company. So sometimes they're in front of the screen. I don't know if -- we actually have a -- they have, like, a videographer, I think, like, you know, whose actual job it is, but the -- obviously the monitor can reflect anyone in the room. If I think I remember the picture you're talking about, I think that's the rep who assists, like, with the technological aspects of the navigation system.

Q. So that rep's just in there with a cell phone recording major surgeries like this? That's how it works?

A. Again, that -- that -- I'm not sure if that video is from her, but the reps from the company do -- because, you know, they're constantly trying to, like, you know, improve and monitor their systems. Sometimes they do also take pictures of, you know, either our navigation or the position of the robot, things like that.

Q. You didn't need -- as a professional surgeon you didn't need somebody to videotape what you were doing in order for you to do the procedure appropriately, did you?

A. Do I need it, no. It's a -- it has become like a policy and practice at Precision.

Q. Yeah, because you know that these videos are going to be shown for lawsuit purposes, right?

MR. PARRA: Objection.

THE VIDEOGRAPHER: Off the video record. Time is 5:24 p.m.

MR. PARRA: He testified that the majority of his patients are -- that not all of his patients are in lawsuits, and so if this is a policy and practice, then it's misleading to ask him whether the reason why this is done in all of his patients is for lawsuit reasons. I mean, what about the ones -- what about the ones that aren't in lawsuits and have their video recordings? That's why it's a misleading question.

MR. BROOKS: Well, now that he's heard your objection, I think he can still answer the question. He's allowed to answer my question.

MR. PARRA: He can answer the question over my objection but, you know, that's --

MR. BROOKS: Let's go back on.

MR. PARRA: -- how it works.

THE VIDEOGRAPHER: Back on the video record. The time is 5:25 p.m.

BY MR. BROOKS:

Q. Doctor, do you need me to restate the question or do you understand it?

A. Sure. It's -- again, it's a -- it's a policy and procedure at our practice to record, you know, all these surgeries.

Q. Okay. You indicated that these compression fractures that were discussed were between T9 and T12. Did I get that right?

A. Yes.

Q. If we look at your operative report that's here -- and I can scroll for you or enlarge or shrink, whatever you need.

A. Umm-hum.

Q. It doesn't actually say where these alleged compression fractures were located, does it?

A. You can scroll through here in the presurgical discussion.

Q. Tell me when to stop.

A. Sure. Hold there.

No. I did not -- I did not on this surgical report discuss the level of the fractures.

Q. Okay. So if these fractures that we're -- you've been talking about here were acute, hot, as you said, and in an inflammatory state, why would you not report in your surgical report where they were?

A. The -- I was referring to the MRI from December 13th of '22. The surgery took place August of '24.

Q. I see.

A. But by that time the fracture had collapsed, had unfortunately collapsed into a -- into a kyphotic deformity and had, you know, like all bone fractures, eventually healed, you know. They kind of consolidate in that position, so it's well past the inflammatory state.

Q. I see. So when you were actually conducting the operation, there's no more active fractures that you can observe, they have -- in your opinion they've healed into the position that they were which required this, this surgery that you conducted, right?

A. Yes. They had -- it collapsed and healed in that position.

Q. So let's state this in a different way. You used your own eyes to observe his vertebrae, right, direct observation of his vertebrae?

A. Yes.

Q. And you didn't note in any report anywhere that you observed active or actual cracks, fractures, breaks in any of his vertebrae, did you?

A. During the surgery?
Q. Correct.
A. No. There were no -- the -- this is a compression fracture, so unlike a bone that breaks apart, this is a collapsing fracture, so there wouldn't be like a -- and actually, I mean, at this point there's -- the whole bone is consolidated so, you know, so it wouldn't be necessarily a fracture line.
Q. And just so I get it right, that's because whenever these supposed compression fractures occurred, was so long before your surgery that they had, I think you said consolidated, which is just a different way of saying healed, right?
A. Yes.
Q. Okay. Counsel asked you some questions about the -- I guess this is the second page of your operative report. Let me scroll to it for you here. I think we're on it.
And you -- you indicated that plaintiff's abnormal kyphosis may not be correctible because the cord may have accepted this position and not tolerate significant correction at this point; is that -- is that right?
A. Yes.

Q. So if we rephrase that, you're saying in your operative note that the abnormal curvature, the sort of hunching of the back has been that way for so long that you can only do so much to straighten it out, right?
A. That's always a concern, yeah.
Q. That is what you were saying when you reported this, right?
A. Yes. Of course.
Q. And just to be clear, whatever compression fractures that you say were present had -- they had been there for a long time before you did the surgery of 8-29-24. Can we both agree on that?
A. Yeah. A year and a half.
Q. Well, that's not my question, sir. My question was, they had been there for a long enough time to where everything had healed --
MR. PARRA: Objection.
Q. -- and/or consolidated, as you put it?
MR. PARRA: Objection.
THE VIDEOGRAPHER: Off the video -- off the video record. The time is 5:30 p.m.
MR. PARRA: That was exactly your question. He answered your question. You didn't like the answer, I get it, but you can't just start

off with that wasn't my question. That was your question, was it there for a long time.
MR. BROOKS: He didn't --
MR. PARRA: If a year and a half is -- if a year and a half is a long time to him, that's the answer to the question.
MR. BROOKS: We'll let the judge decide that one, because I really don't think that's a response to the question.
MR. PARRA: Okay.
MR. BROOKS: Anyway, let's go back on.
THE VIDEOGRAPHER: Back on the video record. Time is 5:31 p.m.
BY MR. BROOKS:
Q. I'm gonna stop sharing here. Sir, I did a little bit of research and I reviewed some information about compression fractures from sources, namely, the Cleveland Clinic. Are you familiar with the Cleveland Clinic?
A. Of course.
Q. Pretty much a very well-known orthopaedic and spinal institution, right?
A. Yes.
Q. Okay. And according to the Cleveland Clinic, compression fractures are so common that an

estimated one to one and a half million occur in the United States every year. Do you have any reason to disagree with that?
A. No. That number sounds about right.
Q. Okay. And you don't have to have a specific incident that generates a compression fracture? You don't have to be in a car crash or fall off a ladder or something like that, it can happen over time, correct?
A. Well, there's two reasons for a fracture, either the bone is insufficient or the force is sufficient enough to overcome healthy bone. So either the -- you have normal forces going against insufficient bone, a/k/a, 80-year-old lady with osteoporosis, or you have sufficient force going against normal strength bone, a/k/a, high energy trauma.
Q. When you did the surgery on plaintiff, do you know how much he weighed?
A. I'm sure it was recorded somewhere but -- you know, probably around 200 pounds or so.
Q. Do you know that less than a year before he weighed 320 pounds?
A. I believe, yeah, I remember him telling me something about, you know, him going through weight

loss.
Q. Okay. According to the Cleveland Clinic, compression fractures are "common as you age". Do you have any reason to disagree with that?
A. You know, again, it's -- it's common in elderly population, yes.
Q. And according to the Cleveland Clinic, the most common area for compression fractures of the spine is actually the thoracic spine. Do you have any reason to disagree with that?
A. No. That's correct.
Q. And according to the Cleveland Clinic, the most common form of compression fractures, particularly non-traumatically induced compression fractures, is actually a wedge-shaped fracture, like what we see on Mr. Plaintiff. Do you have any reason to disagree with the Cleveland Clinic on that?
A. No. That's -- that's exactly correct.
Q. And it's the wedge shape of the vertebral body that causes the exaggerated kyphosis we've been talking about, right?
A. Yes.
Q. Okay. So when I, as a layman, think about this, I think about when you go into an old

building and there are wedge-shaped stones that form an archway over a door or something like that. That's sort of what we're talking about when we're talking about a wedge deformity of the vertebral bodies, right?
A. Yeah, I mean, but to be clear, it's something -- you know, most compression fractures occur with, you know, one, you know, you get one compression fracture, whether it's due to osteoporotic insufficiency, and then sometimes that imbalance now with the spine and continued insufficiency of the bone can lead to a subsequent compression fracture and a sub -- so obviously, like the little old ladies, they don't become a hunchback right away. They get one, and then they might get another one, and then they -- it kind of builds and then eventually they, you know, they get that kind of, like, bent over position.
Q. You would agree there are times when a person can have a compression fracture of the spine and be asymptomatic of that fracture?
A. Acutely, typically not, but I have encountered patients who had gone through it, had some pain, you know, took Tylenol and down the line were surprised to find out that it had been a

fracture, not just like, you know, a back pain episode.
Q. And to that end, someone could have a compression fracture, and as you said, not really even be aware that they had it, right?
A. I think it would be nearly impossible to not have pain. I don't know if they -- unless they went to see a doctor, got an x-ray and got the diagnosis. How would they know they had a fracture? They might just think they have a back pain. I have encountered that.
Q. Sure. Sure. Thank you.
So you would agree that not all compression fractures need surgery to heal or consolidate?
A. That -- that's an area of active research and very controversial. There's definitely people who believe that all compression fractures should undergo procedures to be restored. We do a procedure called -- if you get to it in the first six weeks, we do a procedure called the kyphoplasty procedure to restore the contour, because the number one reason for subsequent, particularly osteoporotic compression fractures, is malpositioning from the first compression fracture, so there's a school of thought that believes that

they should all be restored immediately to maintain the posture of the patient, maintain overall balance and prevent subsequent compression fractures. There are some recent papers, actually, that have come out just from the last two years that actually go the other way. Long term studies are showing that whether you treat them or not, it doesn't contribute that much to the overall function and disability and pain of the patient. So there's definitely controversy in whether they should be treated, you know, or how aggressively and so forth, but I think, you know, in the end it still comes down to the individual patient and evaluation of that patient and the overall circumstance.
Q. Okay. And the term kyphosis refers to the directional curvature of the spine, right? It's from the -- from the person's back towards their front; am I getting that right?
A. Yes.
Q. Okay. And the opposite of that is like in the low back, where we have lordosis, where the curve goes from their back towards their front, right?
A. Yes.

Q. Okay. And to be clear, in your reports when you refer to kyphosis, we're talking -- you were talking about, rather, abnormal or exaggerated kyphosis, right?
A. Yes. Inappropriate. Like, greater than 60 degrees.
Q. Okay. So if someone like plaintiff's lawyer were to argue in front of the jury that everyone has kyphosis and that's normal, not the type of kyphosis you've been talking about throughout this trial and in your reports, that's abnormal, inappropriate kyphosis, right?
A. Yes. It's out of the normal range.
Q. I'm gonna show you my screen, if I can get it to come up. Bear with me one moment.
MR. PARRA: Can we go off the record while you pull it up --
MR. BROOKS: That's fine.
MR. PARRA: -- just so I can see what you're gonna --
THE VIDEOGRAPHER: Off the video record. Time is 5:40 p.m.
MR. BROOKS: Sure. I'll share my screen with you now. And Harry, it's just that spinal diagram and exemplar for questioning purposes, if

you want to see that.
MR. PARRA: Okay. Yeah. That's fine.
THE VIDEOGRAPHER: I'll get us back on. Back on the video record.
MR. BROOKS: Let's go back on.
THE VIDEOGRAPHER: The time is 5:40 p.m.
BY MR. BROOKS:
Q. Okay. Doctor, I'm going to mark this as Apazidis, I think we're on 23 at this point. Can you see my screen?
A. Yes.
(Spinal diagram was received and marked Apazidis-23 for identification.)
BY MR. BROOKS:
Q. Okay. I've shown you sort of a generalized spinal diagram. Do you agree with that characterization of what I've shown you?
A. Yes.
Q. Okay. And obviously human spines are not in this color, but the colors are set forth to denote the various sections, cervical, thoracic, lumbar, sacrum and coccyx. Do you see that?
A. Yes.
Q. Okay. And I'm gonna stop sharing my screen here and show you another page of that. If you

bear with me, my computer's somewhat slow at this moment. We're gonna mark this one as Apazidis-24.
(Spinal diagram was received and marked Apazidis-24 for identification.)
BY MR. BROOKS:
Q. Do you see my screen now?
A. Yes.
Q. Okay. It's the same spinal diagram but I've added here a denotation of the -- a demarcation, rather, of the area where you've claimed that there were compression fractures, T9 to T12. Did I get that area right on the diagram?
A. Yes.
Q. And just so I'm clear, you're not saying there were fractures of the spine anywhere else other than through T9 to T12, right?
A. Yes.
Q. Okay. And I think you did testify already that it was really T10 and T11 that you were focused on; is that right?
A. They had the most severe, you know, collapse, and then to a lesser degree 9 and 12.
Q. Okay. I'm going to show you the next slide of this. I'm gonna call this Apazidis-24 -- 25. Excuse me.

(Spinal diagram was received and marked Apazidis-25 for identification.)
BY MR. BROOKS:
Q. Before I share my screen, I want to be clear, you fused a far greater portion of plaintiff's spine than the T9 through T12 we were just looking at. Can we agree on that?
A. Yes.
Q. Okay. So I'm going to share my screen with you now. Again, this is Apazidis-25. I've added to what we looked at before, a demarcation of the length of the spine that you fused, right, it's T4 through L3. Did I get that right?
A. Yes.
Q. Okay. And again, your surgery did not just focus on this area of T9 through T12 that you say has compression fractures, you did -- you went how many vertebrae above? You went -- one, two, three, four -- five above and -- one, two -- three below; did I get that right?
A. Yes.
Q. Okay. And you did that in order to correct this abnormal kyphotic curvature, the abnormal curvature of the spine. You needed to do that to address the curve, right?

A. Well, there's two things. As I describe in my report, the area of the osteotomies were focused on the area of the fracture, you know, T, like, 9, 10, 11 -- really, 8, 9, 10, 11, as I describe in the report, was the area of the osteotomies to loosen up that area in order to try to correct the deformity through that area, and the placement of the pedicle screws and anchor points well above and below that area is because you need multiple anchor points to -- to stand up to the forces of, you know, someone standing up. The spine, you know, in its natural state is perfectly balanced. It has muscles in the front, in the back, ligaments and so forth. When you disrupt that, particularly at a transition level, you know, like the lower thoracic spine going into the lumbar spine, that's a very high stress point, so the reason we go several levels above and several levels below, as I was trained at Hospital for Joint Diseases, is to provide multiple anchor points to prevent both breakdown above, as well as breakdown below your construct, because if you try to put too much forces on too few screws, then those screws will either -- will -- will break out and/or the levels above will fall over, because of too high a stress.

Some people would have gone -- some people -- some people who trained me, even, you know, would have argued to go to T2 and -- and argued to go to the pelvis in the construct, you know. My own judgment, you know, I took this measured approach and that's why I used, you know, the levels above and below the area of the fracture.

Q. Sorry. I talked over you. My apologies.

How many 10 level fusions have you done in your career?

A. Probably about two to three a year.

Q. When is the last one you did?

A. I've done one in 2025. I think I did two in 2024, you know. I've -- I've been taking less call, particularly at the trauma center, you know. I can tell you in 2020 I must have done eight or nine. Took a lot more call that year and, you know, as I take less call, I have less -- less reason to do these types of surgeries.

Q. Your post surgery records, I have indicated here that you reported that you do not anticipate any further surgeries for plaintiff; is that right?

A. Yes.

Q. Okay. And the last record that we have of you actually, you personally seeing plaintiff was

February 13th of 2025, so about 11 months ago. Does that sound right?

A. That might be the last record you have, but I've seen him -- I've seen him at least once or twice since then. I think I've seen him maybe not even a month ago.

Q. Okay. But you don't have those records here today?

A. I mean, I have access to them in my chart.

Q. Let's switch gears. Let's talk about -- back to your lawsuit report, the one dated November 5, 2024.

A. Umm-hum.

Q. Okay. Page 7 specifically -- I'm gonna take this down. I don't need this anymore.

Page 7, where you talk about assigning a percentage split between this accident and the trash truck accident that happened 15 days later.

A. Umm-hum.

Q. You told us on direct examination that you're able to somehow determine that 30 percent of plaintiff's injuries, and then you said maybe 40, and then I think you said 45 percent were due to this accident and 70 percent were due to him being hit by the trash truck 15 days later, right?

MR. PARRA: Objection.

THE VIDEOGRAPHER: Off the video record. The time is 5:50 p.m.

MR. PARRA: He never said 45 percent. I don't know why you keep saying that. I mean, we can have the transcript read back all the way back to then, but he never --

MR. BROOKS: I would like -- I'd like to get through this, and the exact percentage he said is really not material. It's that it's changed.

MR. PARRA: Well, that's fine, but you could just change the question, then.

MR. BROOKS: Let's go back on.

THE VIDEOGRAPHER: Back on the video record. The time is 5:50 p.m.

BY MR. BROOKS:

Q. Doctor, on direct examination by plaintiff's lawyer you told us that you were somehow able to determine that 30 percent or maybe 40 percent of plaintiff's injuries were due to this accident and 70 percent were due to him being hit by a trash truck 15 days later. Do you remember giving that testimony?

A. Yes.

Q. Okay. Tell us, exactly what kind of units of

measurement are you using to come up with these percentages? Feet? Inches? Gallons? What is it?
A. Well, obviously, you know, this is a challenge, you know, in a patient that had significant injuries two weeks apart, you know. Some of it you've already reviewed in terms of, you know, what exactly his complaints were at the time. Obviously this report was written last September, you know. We tried to make an assessment based on, you know, complaints. I mean, obviously the fractures themselves were evident after the December 8th accident, you know, and again, I don't remember my exact determination and how I came to it, you know, a year ago, but it would have been based off of trying to determine what exactly his complaints were after the first accident, after the second accident, what his level of function was, how that developed. Part of it would have been maybe some of the details of the accident themselves. Again, I'm not saying I recall everything right now, but at the time of putting the report together, you know, getting input in terms of magnitude of collision and so forth, trying to put together some of those details and, you know, again, I was asked to try to apportion

how much of his overall problem is attributable to one versus the other accident, so, you know, putting all that together to the best of my ability, you know, I determined it at, you know, 30/70, you know, determination.
Q. Doctor, that was a very slick pivot, but my question was, what units of measurement were you using when you came up with this 70/30 split?
MR. PARRA: Objection.
Q. It's a pretty simple question.
A. I used --
MR. PARRA: I'm just gonna -- we got to go off the record.
THE VIDEOGRAPHER: Sorry, Counsel.
Off the video record. The time is 5:53 p.m.
MR. PARRA: Obviously characterization of slick is not appropriate and I'm going to object to that.
MR. BROOKS: It's perfectly appropriate.
MR. PARRA: It's not. It's not.
MR. BROOKS: Give it credit where credit is due.
(Cross talk. Reporter clarification.)
MR. PARRA: It's argumentative and

superfluous commentary on the part of the defense attorney who is just throwing his opinion around as to slickness.
MR. BROOKS: You can't even say it without laughing. Let's go back on.
MR. PARRA: I'm laughing because it's a ridiculous word.
THE VIDEOGRAPHER: Back on the video record. The time is 5:54 p.m.
BY MR. BROOKS:
Q. Doctor, again, I'm just asking you what units of measurement you were using in order to come up with this 70/30 split, where 30 percent is attributed to this accident we're trying here today and 70 percent is attributed to plaintiff being hit by a trash truck 15 days later?
A. I use percentage units.
Q. Okay. But there's no -- again, there's no inches, feet, dollars, ounces, grains, nothing like that that you can point to that you used to measure? Nothing?
A. Again, I used percentage units.
Q. And you said you were asked to try to apportion between these two accidents. Who asked you to do that?

A. I think it was as part of the report.
Q. For litigation purposes, right?
A. Again, the narrative reports are usually requested by attorneys.
Q. Okay. You didn't report in your lawsuit report here where you come up with the 70/30 split that you consulted with any peer-reviewed articles in order to come to that distribution of blame between the two accidents, did you? That's not in the report?
A. I've never encountered articles on apportionment.
Q. Okay. You didn't even look, and you didn't report that either, right?
A. I mean, I read -- I read the yellow journal, the white journal, the Spine Journal every month. For the last 15 years I've never encountered an article on apportionment.
Q. You didn't review any textbooks in order to reach your 70/30 split here, did you?
A. I mean, I've read textbooks. Again, I've not encountered any assistance with, you know, something like that.
MR. PARRA: Off the record.
Q. That wasn't the question. The question

was --
MR. PARRA: Off the record.
THE VIDEOGRAPHER: Off the video record. The time is 5:56 p.m.
MR. PARRA: Just so the record reflects my objection to this line of questioning, because Oliver, you know that this is a legal requirement, not a medical, like, standard of care or even a medical -- a medical requirement in any way. They don't really care, usually, about litigation. This is a legal requirement. We have to do that. The doctor doesn't have to do that. We're asking him to do that, but it's a legal requirement, not a medical requirement.
MR. BROOKS: That may or may not be the case, but the point is --
MR. PARRA: Well, it is the case. I know it's the case. I'm sorry. Go ahead.
MR. BROOKS: He's assigned values to it and I'm entitled to probe him on how he came to those values.
MR. PARRA: I understand that, but you're asking whether he read -- you're implying that there's some medical journal that's making commentary on the legal standard in New Jersey of

apportionment and, you know, that's not really fair, so --
MR. BROOKS: Your objection is noted. The judge can sort that one out. I'm gonna continue this line of questioning. Let's go back on.
(A brief recess was taken.)
THE VIDEOGRAPHER: Back on the video record. The time is 6:09 p.m.
BY MR. BROOKS:
Q. Okay. Doctor, when we left off just a second ago the question that was pending was, you did not report anywhere in your lawsuit report here that you reviewed any textbooks or learning treatises in order to come up with this 30 percent/70 percent split between this accident and the trash truck accident; is that correct?
A. I'm not aware of any, so no, I did not refer to any.
Q. And similarly, you did not report that you consulted with any disability tables or actuarial tables in determining that 30 percent is from this crash and 70 percent is from being hit by a trash truck?
A. When we -- the disability -- there are

disability tables, but they were not applied to an apportionment situation, and the other source -- I'm sorry. What was the other source you were asking me about?
Q. I asked you about disability tables and actuarial tables and whether you reviewed any of those in reaching this 70/30 split, and I think you've already said no.
A. Again, I was -- disability tables would not apply to an apportionment situation, but again, I'm not aware of actuarial tables for this purpose.
Q. When you were reaching the 70/30 split did you have to do any rounding or did it just -- the calculations just land perfectly on 70/30?
A. Well, again, I, you know, had to weigh the reports, what the patient told me, the information, whatever it was that we had regarding the actual accidents, the MRI evidence, and I used all of that in coming up with the percentage.
Q. The question -- that didn't answer my question. The question is, did you have to do any rounding to reach the 70/30 split?
A. Well, I --
Q. You can say I don't know if that's --
A. I don't think it would be appropriate to use

smaller units than, you know, either -- either, you know, five or zero in terms of coming up with a percentage, only because it's not an exact science. You know, the -- using a smaller percentage unit will probably not be appropriate.
Q. Okay. So you remember when you were presumably a kid back in grade school, in arithmetic you have to go up to the board and show your work in order to get credit? You remember that back in the old days when they had blackboards?
A. Sure.
Q. I don't consider myself old, but we still had blackboards when I was a kid and we always had to show our work.
You didn't show your work at all in reaching this 70/30 split in your report here, you just wrote it down, right, 70/30?
A. I wasn't asked.
Q. I understand.
I'm gonna turn your attention to prior report from Precision Pain & Spine which we're going to mark as Apazidis-26. I'm gonna share my screen with you. You tell me when you can see my screen, please. Are you able to see it now?

A. Yes.
(Report dated 1-7-22 by Wael Elkholy, MD was received and marked Apazidis-26 for identification.)
BY MR. BROOKS:
Q. Okay. And again, we're marking this as Apazidis-26. This is a report from Precision Pain & Spine. Can you see that?
A. Yes.
Q. Have you ever seen this report before?
MR. PARRA: I'm just gonna -- let me put an objection on the record.
THE VIDEOGRAPHER: Off the video record. The time is 6:13 p.m.
MR. PARRA: Okay. I don't have a problem with you showing this exhibit to the doctor. I do have a problem publishing it to the jury, and I just want to make it clear for the record, you should not ask about John Pisano, as it references a potential other lawsuit that's not associated with this one.
MR. BROOKS: Okay. Well, I'm not gonna ask him about Pisano, but I do intend on publishing this to the jury. It's a report from his own practice group, predates his involvement with the

practice group, but it's fair game to ask him about his records.
MR. PARRA: Maybe with just the appropriate redactions, but we'll still note my objections. Just like any other medical reports, it's a hearsay statement, and we'll let the judge call that one.
MR. BROOKS: Sure. One second.
Okay. We can go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 6:14 p.m.
BY MR. BROOKS:
Q. Okay. I had asked you, Doctor, whether you had ever seen this report before, and I'm not sure whether you answered. Maybe you did. I didn't catch it.
A. I -- I don't recollect this report. I mean, if it's in the chart, I may have glanced at it, but I don't -- I don't have intimate knowledge of this report, no.
Q. Okay. Well, let's just go through a couple of things here. Again, this is on Precision Pain & Spine's letterhead, and we can -- can we agree that this really should be in Precision Pain & Spine's files concerning Mr. Aburadwan?

A. I'm sorry. Are you asking me if it should be?
Q. Yeah. Should this be in the file for Mr. Aburadwan from Precision Pain & Spine given that they wrote a report about his prior condition?
A. I mean, this looks like a letter addressed to an attorney, so I don't know. I have to ask the manager what the policy is about if this is part of the medical report or the medical chart. So, I mean, I can't really speak to if it should or should not be in the chart.
Q. Well, your lawsuit report that you generated for this accident in the trash truck accident, the one from November 5, 2024, that would be in Precision Pain & Spine's records, right?
A. That -- that report is in the medical chart, yes.
Q. Okay. So why would a prior report that's for the same purpose not be? Is there a reason you could think of why it would not be?
A. Well, again, this is a -- this is a letter. It looks like it's a letter addressed to an attorney. I don't -- you know, this is not titled narrative report and I -- I don't know what the policy and procedure was of the practice two years

before I joined it, and I -- I have to -- I have to say I'm not clear in New Jersey what the policy -- what the regulations are regarding including all letters, if they're part of the medical chart or not.
Q. Okay. Well, let's go through it now. Okay?
A. Sure.
Q. First let's look at -- I can make it a little bigger for you, because it's probably pretty small.
A. It is. Yes. Thank you.
Q. How's that? Is that a little easier?
A. That's perfect. Yeah. Thank you.
Q. Okay. It says, "Thank you for contacting my office regarding my 8-20-21, 9-17-21, 10-8-21, 10-18-21, 11-1-21, 11-29-21, and 12-17-21 evaluations of Mr. Aburadwan with respect to his injuries sustained in an 8-12-2021 motor vehicle accident." You see that?
A. Yes.
Q. Okay. And the subparagraph one talks about complaints of shooting pain in the neck, radiating into both shoulders and down into both upper extremities with tingling and numbness. Did I get that correct?

A. Yes.
Q. Okay. And it indicates in the very next paragraph that Mr. Aburadwan, the plaintiff in this case, indicated that the neck symptoms were severe to the extent that they were increasingly debilitating and affecting daily participation in physical activities. Did I get that right?
A. Yes.
Q. Okay. Let's scroll down a little bit to the second page of this report here. Okay. And the report goes on to say, Mr. Aburadwan, the plaintiff in this case, required a cervical discectomy at C5-6, which he underwent on 1-6-2022. Did I also get that right?
A. Yes.
Q. And the very next paragraph indicates that while -- well, let's back up again.
He underwent the surgery on 1-6-2022, right? I'll scroll up. That's only one day before this report's generated. Do you see that?
A. Yes.
Q. Okay. So it indicates that while this surgery, this cervical surgery will improve the severe cervical radiculopathy, there will be a degree of permanency to the cervical injury which

required surgery, right?
A. Yes.
Q. Okay. This report from your practice group, Precision Pain & Spine, from January 7, 2022 says that he has permanent cervical injury. Did I get that right?
A. Yes.
Q. Okay. In the next line, "It is my conclusion that the cervical injuries are obviously related to the 8-12-2021 motor vehicle accident." Did I get that one right?
A. Yes.
Q. Okay. Nowhere in your litigation report, your lawsuit report we talked about, the November 5, 2024 report, one that's targeting the accident we're here about, 12-8-22, and the subsequent trash truck accident do you discuss this report, do you?
A. No.
Q. And the final paragraph here, let's look at that. It indicates that Mr. Aburadwan is also experiencing significant lumbar symptoms with radiating pain and numbness. He was anxious to address the increasingly severe cervical symptoms, but also concerned about the lumbar symptoms, which

are related to L5-S1 disc herniation and L4-5 disc bulge, which are present based upon my independent evaluation of MRI films. Do you see that?
A. Yes.
Q. And if we scan to the very last sentence in that paragraph, it ends in, the lumbar injuries are directly related to the 8-12-2021 motor vehicle accident, right?
A. Yes.
Q. And who signed this report at the bottom?
A. Dr. Elkholy.
Q. And he's the same guy who coauthored your lawsuit report in this case and also addressing the subsequent trash truck crash 15 days later, right?
A. Yes.
Q. Okay. And Dr. Elkholy's not here at trial, right? Not expected to show up?
A. Are you asking me?
Q. Yeah.
A. Oh, I -- I have no idea.
Q. Okay. He is still in your practice group, right, at Precision Pain & Spine?
A. Yeah. He's our president.
Q. And you didn't -- you didn't discuss this trial appearance with him and whether he would be

here to testify?
A. No.
Q. And this -- this prior report that we're talking about, it's dated about 11 months before the case we're trying here today; is that about right?
A. Yes.
Q. Okay. We just mentioned Dr. Elkholy co-authoring the report that we've been talking about dated November 5, 2024. That's the lawsuit report for this accident and the trash truck accident. As an expert surgeon you didn't need Dr. Elkholy's help to write this report, did you?
A. No. I think just the report incorporated elements of my treatment, as well as his treatment.
Q. Okay. And you've written other reports without his help, right, other litigation-oriented reports without Dr. Elkholy co-signing with you, right?
A. Yes. I've written other narratives, yes.
Q. I want to circle back to your CV very briefly. Again, we discussed earlier that your CV is like a professional resume. I think we both agreed as to that characterization; is that right?
A. Yes.

Q. Can we agree that when choosing a physician, particularly one that's going to do surgery on you, his or her credentials and experience are pretty important in making that decision?
A. Sure.
Q. Okay. And let's look -- do you have your -- I can put your CV back up for you, because that's probably gonna be the fastest way to do this. Bear with me one second.
MR. PARRA: Off the record while we're pulling that up.
THE VIDEOGRAPHER: Off the video record. The time is 6:25 p.m.
MR. PARRA: You did indicate you're not gonna publish this one, right?
MR. BROOKS: Not being published.
MR. PARRA: Okay. Back on the record.
THE VIDEOGRAPHER: Back on the video record. The time is 6:26 p.m.
BY MR. BROOKS:
Q. I've scanned down in your CV, and I'm happy to scan up so you can see the beginning of it. We looked at this, but we're on page 3 of your CV at the section entitled societies. Do you see that?
A. Yes.

Q. And maybe we can cut through this a little bit. Would you agree that you included this section for the purposes of showing your involvement in ongoing professional groups?
A. Yes.
Q. Okay. And part of that is to show that you are up to date and that you know what's going on and that you -- that your opinions and education and knowledge are relevant in the fields of practice that you practice; is that a fair way to say things?
A. Well, I mean, if you're saying why I included it, you know, I've seen other resumes and they indicate, you know, any society involvement, so I included it as part -- as part of mine. I'm not sure if I had a purpose in mind for it, but I thought it was a standard element of a -- of a CV.
Q. Okay. And the first group under societies listed here is the American Academy of Orthopaedic Surgeons, also known as the AAOS. Do you see that?
A. Yes.
Q. And you list membership in the American Academy of Orthopaedic Surgeons from 2004 to present. Did I get that right?
A. Yes.

Q. Well, I looked on the AAOS website and in order to be a member it's required that you maintain a full unrestricted and unlimited license to practice medicine or be full-time service in the federal government. So did you know that when you wrote this?
A. I know I've always been a member. I can't say I read every bylaw, but I have always maintained a full active and unrestricted license.
Q. Okay. Well, that's not true, sir. You were suspended for 36 months, which would make you ineligible to be a member of the American Academy of Orthopaedic Surgeons during that period of time, correct?
MR. PARRA: Objection.
THE VIDEOGRAPHER: Off the video record. The time is 6:28 p.m.
MR. PARRA: You did read that the suspension was stayed, right, and he was on probation?
MR. BROOKS: Okay. It says unrestricted and unlimited to be a member.
MR. PARRA: Okay. Well, unless you're getting an expert to come in and tell us whether the American Academy of Orthopaedic Surgeons took

him off the Academy, I mean, I don't know, you know, how that's even relevant.
MR. BROOKS: Okay. We can go back on. I don't agree with you, but I think it's entirely relevant to cross examination here.
MR. PARRA: Okay.
THE VIDEOGRAPHER: Back on the video record. The time is 6:29 p.m.
BY MR. BROOKS:
Q. Okay. So during that 36-month period where your license to practice medicine was suspended, according to the AAOS itself, you can't be a member during that. Is that the first time you're hearing this?
A. I know I paid my dues every year, and again, I have maintained a fully active and unrestricted license since it was issued. I have never been prevented from practicing whatsoever, from writing prescriptions, seeing patients or doing surgery in any hospital, institution or by any licensing agency. As you refer to it, it was a stayed with probation and the entire time I maintained my practice, so I'm -- I'm unaware of any limitations, and it was specifically actually explained to me that my license remained fully active and

unrestricted the entire time by the Department of Health.
Q. But not by the American Academy of Orthopaedic Surgeons. Did you ever ask them?
A. Whenever I sent in my membership dues every year, no, I did not ask if they had an issue with that. No.
Q. Can I presume you didn't volunteer that information when you paid your dues during your suspension period?
A. Was never asked.
Q. Sure. Okay. I don't see anything in any of your reports where you indicate that you ever provided your CV to plaintiff. Did you ever give him your CV?
A. Did I personally give it, no. I -- I guess I provided this CV to Precision, obviously must have been early on because this is a little out of date. I have -- you know, I have updated my CV, and I'll definitely make sure that the office has, you know, my updated CV before they, you know, give it out to any more people.
Q. Okay. But my question is a little bit narrower than what you answered. Do you recall ever giving a copy of your CV, whether it's this

one or a different version, to plaintiff?
A. No. I've never met Harold.
MR. PARRA: Well, are you referring to plaintiff's attorney or plaintiff himself, like Mr. Aburadwan?
MR. BROOKS: I'm referring to plaintiff, not to counsel. I'm referring to plaintiff.
Q. When you were --
MR. PARRA: Right.
Q. When you treated him or when you were consulting with him, at any point did you ever give him a copy of your CV?
A. No.
Q. Did you ever suggest to him that because it's such a significant procedure that you were contemplating, that maybe he get a second opinion?
A. He actually told me that he already had spoken to at least two other surgeons, that I recall, maybe more, but I believe I was the third surgeon that he had consulted and he told me that basically everybody told him the same thing and he elected to move forward with me.
Q. That's interesting, because we don't have any records of him consulting with anyone other than you. Did he tell you anything more about where

these other surgeons were that he consulted with?
A. No.
Q. Did he indicate whether they were maybe in this country or in his travels in the Middle East?
A. I -- I don't recall exactly. I -- my best recollection is that they were surgeons here in, you know, in the United States.
Q. And at no point did you communicate with any of them to discuss the pros and cons, appropriateness or not appropriateness of this surgical procedure; is that a fair statement?
A. I don't need to consult with another surgeon about my opinion.
Q. Okay. The answer is no, you didn't do that --
A. No, I didn't do that.
Q. -- correct?
A. Yeah.
Q. Did you ever tell -- let me back up a little bit.
You're aware, are you not, that part of what plaintiff is claiming as his damages is addiction to pain control medications, right?
A. Yeah. As we said, that is a risk with, you know, extended period of, you know, pain control.

He did suffer some complications of the medications, for sure.
Q. But you -- my question's really narrower than that. You know that he says because he was in this accident, 12-8-2022, he was prescribed medications that he is now addicted to. You're aware of that, right?
A. I have not specifically discussed the medication regimen with him. He has also been seeing a pain management doctor outside our practice, I believe, for medications, and I have to be honest, I have not reviewed, you know, the other doctor's, you know, pain control regimen.
Q. Okay. Who's that other doctor, because again, we don't have records of that?
A. I don't know. I think it was, you know, in like a, like a free clinic or something, because I'm not sure what his resources are for insurance, so I think he consulted, like, with a hospital, free clinic type thing to get, you know, pain management for -- I don't do long-term medication management. I'm a surgeon.
Q. Okay. Earlier in this -- in this cross examination I asked you about the -- sort of the lack of review of his four prior depositions

concerning these three accidents. You recall that line of questioning? It was pretty extensive line.
A. Yes.
Q. I'm gonna add another little bit to that. Because you did not review any of his prior four deposition testimonies for these three different accidents, I assume you are unaware that he testified that Precision Pain & Spine had prescribed him morphine for the prior accident that Dr. Elkholy wrote the report for we just went through a few minutes ago. Are you unaware of that?
A. I mean, I'm not aware of the specifics, but, you know, yes, we do prescribe narcotic medications for acute -- in acute situations, the first three months, four months, things like that. After surgery it might be a little bit more extended, but if we get into a long-term, like, greater than six month type situation, I think there is one doctor in the practice that does do that on a limited basis, but I certainly don't. I'm a surgeon. I don't -- you know, that's not my thing, but I think there's one person in the practice who does that, again, on a limited basis.
Q. Okay. That was helpful, but my question is

really, because you didn't read his deposition transcripts, maybe because you weren't provided with them, you're unaware that his testimony, plaintiff's testimony is that he had a prescription for morphine to control pain associated with injuries from the prior motor vehicle accident of 8-12-2021; is that a fair statement?
A. I would have to look back in our prescription records to verify that, but I have no reason to doubt that he would be prescribed, you know, strong pain medication. He did undergo a cervical, you know, discectomy based off the 2021 accident and it would be normal practice to do so, but again, I have not reviewed the prescription records from 2021.
Q. And because you didn't review his four different depositions for these three different accidents, you don't know that he testified that he still had a prescription for morphine on the day of this accident? You're unaware of that?
A. I would -- well, if the last time he was seen by Dr. Elkholy was January 6th of 2022, I'm not sure -- well, I know for a fact we would not have issued any further prescriptions without an office visit. That's the policy. If he still had pills

remaining in December of 2022, how could I possibly know about that?
Q. Those are my questions. You didn't know that he previously testified that he still had a prescription for morphine on the day of this accident, 12-8-2022? You're -- you're just not aware of it?
A. No. I don't -- I did not review any of his, you know, legal depositions.
Q. So I presume that you never disclosed to plaintiff that you had had your license suspended for a period of 36 months concerning improper prescription of narcotic and/or opioid medications, that was at least part of the suspension? You didn't tell him about that, did you?
A. No. We did not discuss it.
Q. Okay. And there's nothing on the Precision Pain & Spine website that would let a curious patient or potential patient know about your history of medical discipline, is there?
A. I'm not required to do so, and after 10 years, which it's been over 10 years, even the Department of Health takes it off their website.
Q. Okay. So the only way that a potential patient, such as plaintiff, would know about this

history is if he went digging into your history, just like -- just like I did, right?
A. Well, I don't think it requires much digging, but yeah, they could find out.
Q. And you know that plaintiff lives in New Jersey and not in New York, right?
A. Yes.
Q. So if he wanted to check up on your disciplinary history, he would not only have to go digging for it, but he'd have to actually look in a different state to find that, that history; is that right?
A. I mean, I think Google doesn't respect state boundaries, but it would not be on the New Jersey Department of Health website, and actually, it's no longer on the New York Department of Health website either.
Q. And again, you didn't tell him about it?
A. No.
Q. I don't have any more questions.
REDIRECT EXAMINATION BY MR. PARRA:
Q. I just have a few. Gonna kind of start backwards.
First of all, the January 7th, 2022 report from Dr. Elkholy does not contain any reference to

the thoracic spine, right?
A. Correct.
Q. And there was no statement of any treatment that he had received regarding his low -- his mid back or any problems that he was having with his mid back, right?
A. Correct.
Q. And from January 7th, 2022 until December 8th of 2022, that's almost -- that's like an 11 month span?
A. Yes.
Q. He had no treatment whatsoever --
MR. BROOKS: Objection.
Q. -- for any parts of his --
MR. PARRA: Excuse me.
MR. BROOKS: I'm entering an objection.
MR. PARRA: Okay.
THE VIDEOGRAPHER: Off the video record. The time is 6:43 p.m.
MR. BROOKS: I let you get -- do it two, three, four times in a row, but these are leading questions, Harry.
MR. PARRA: It's redirect, but okay. I'll alter the form. I'm just trying to get through it quick.

MR. BROOKS: I know. I know, but I got to do what I got to do. Let's go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 6:43 p.m.
BY MR. PARRA:
Q. What treatment, according to his records, did he have from January 7, 2022, or January of 2022 through December 8th, 2022?
A. None.
Q. Okay. Does that indicate to you whether he was having any problems during that span of time?
A. I mean, typically, in my experience, when patients don't come to see you, it means they're doing well and they don't want to waste any more time in your office.
Q. Right. Okay. And you're here giving testimony regarding the treatment that you rendered and your diagnosis and -- as a treating physician, correct?
A. Yes.
Q. Do you really care what is contained in deposition transcripts relating to court proceedings?
A. I'm not a lawyer. No.
Q. Does that have -- does that have any effect

on your opinion as to what his problems were relating to this December 8th, 2022 accident?
A. No. I'm -- I speak directly to him.
Q. What -- I mean, what records did you consider when coming to your opinion as to what happened in December 8th, 2022 accident?
A. The images, MRIs, x-rays, obviously my physical exam. That's not a record but, you know, the records as -- what other treatment he's received. You know, again, I saw him a year and a half after his injury, so I looked at the records of what other treatments, other procedures that he had undergone, medication, prescriptions and, you know, progress note reports.
Q. Do you really care what happens as a result of this litigation?
A. I mean, I -- I'm his doctor. I take care of him and, you know, my job is to report to you what, you know, what I found and what was done.
Q. I mean, the reason why I'm asking is counsel, on cross examination, asked you about some bias that you may have regarding the medical bill that Precision pain management may have generated. You have any -- do you have any bias as a result of that bill?

A. No, I do not.
Q. Because you understand that whether the jury finds that this defendant was responsible for these injuries and the treatment or not, Mr. Aburadwan is still on the hook for that bill regardless, right?
A. Well, we provided the service and we provided a bill, you know. This is medicine, so we're kind of accustomed to, you know, providing service and seeing what happens, but that's what doctors do.
Q. Counsel also asked you questions about whether you were aware about the mechanism of injury regarding his truck -- what he calls the -- where he keeps referring to as the trash truck accident of December 23rd, 2022 as opposed to the accident that occurred in this case in December 8, 2022. If the testimony is that in this accident, the December 8th, 2022 accident, the Jeep went almost like across his truck and caused his truck to bounce up and down in a motion that caused his body to be thrown up and down in his seat and his cab, is that mechanism of injury consistent with compression fractures in his spine, such as the ones that you saw on his August 13th, 2022 MRIs?
MR. BROOKS: Objection. Off the record.
THE VIDEOGRAPHER: Off the video record.

The time is 6:47 p.m.
MR. BROOKS: So a couple of things. Number one, that's not what I asked him, so this is beyond the scope of cross examination. I asked him whether he was aware of how the accident happened, not for an analysis of biomechanics. Number two, on voir dire he admitted that he is not an accident reconstruction expert, he is not a biomechanical expert, he is not an engineer, nor is he a physicist and a litany of other things that he is not, so asking him to give an analysis of the biomechanics of injury causation is inappropriate in that respect. Secondarily, that's nowhere in any one of his documents, including the litigation report of November 5, 2024 or any of the 400-and-some-odd pages of exhibits that you showed him. That ain't in there, and it's out of bounds for testimony here today.
MR. PARRA: Okay. Well, you opened the door to that line of questioning. You did refer to the mechanism of injury. You indicated that the trash truck accident was a rear-end hit, and so I would be entitled to ask him these questions, and that's going to be for the judge.
MR. BROOKS: That's definitely for the

judge, because I was very careful not to ask him about the biomechanics of injury causation.
MR. PARRA: Michelle, can you read the question back?
(The court reporter read back the previous question.)
MR. BROOKS: Same objection.
MR. PARRA: Back on the record.
THE VIDEOGRAPHER: Back on the video record. The time is 6:50 p.m.
BY MR. PARRA:
Q. You could answer that, Doctor.
A. Sure. If, you know, if you're thrown up and you hit your head on the top of something and that exerts a compressive or, you know, axillary force and then you're -- then fall down again on your butt and that can -- and that exerts another compression force on the way down, that, you know, could be consistent with compression, you know, across the spine, and the -- the highest stress point, again, would be at that thoracolumbar junction, T -- you know, T10-T11. We tend to see that in, for instance, you know, what we call jumpers, you know, people who jump off a building or something and they fall, they hit their butt and

we tend to see compression fractures in that area. Obviously it would depend on the level of the injury -- oh, no. Sorry. -- the level of the energy. You know, more energy would be like a fracture dislocation. Less energy, like maybe something like this, could give you just compression without actual dislocation. So yeah, I could see that mechanism causing the type of injury that we see here, and again, we did see the MRI a few days after this accident which did demonstrate those fractures within days of this accident.
Q. Thank you, Doctor.
Also, counsel pointed out that Mr. Aburadwan had gone back to work prior to his December 23rd, 2022 accident. Is that a factor that you had considered when you apportioned the respective causation of these current injuries?
MR. BROOKS: Objection.
THE VIDEOGRAPHER: Off the video record. The time is 6:52 p.m.
MR. BROOKS: Two things. Number one, beyond the scope of the direct questioning as to the 30/70 split. Secondly, that's not in his report either. You're asking him whether he considered going back to work. It's just not in

there.
MR. PARRA: You opened the door when you were asking him all of those questions, and so we're going to leave that one to the judge, as well.
MR. BROOKS: Those were very narrowly tailored. Even though they were extensive, they were -- they had walls on them to keep you from doing this, Harry. We can go back on. A judge will figure that one out.
THE VIDEOGRAPHER: Back on the video record. The time is 6:53 p.m.
BY MR. PARRA:
A. Again, you know, this was done a year ago. I can't tell you exactly what I reviewed at the time, but typically we would -- I would look at the images, the records, whatever information that we have in there, you know. Again, I think despite the fact that we have these fractures that occurred within days of the December 8th accident, you know, I have to think that some of that came into play because we -- I attributed, you know, the majority to the subsequent accident. So if there was something like work records or, you know, pain reports and so forth, that's the kind of stuff that

I use to try to come up with, you know, an appropriate apportionment.
Q. Thank you, Doctor.
The spinal column itself, is that -- is it only -- does it only stand erect from the bones, the vertebrae and the discs or are there other tissue that supports it?
A. So the spine has like a -- what we call the cone of stability, so if there is a -- there's an architecture to the spine itself. That's why it's not just straight. That's why you have a cervical lordosis, thoracic kyphosis, lumbar lordosis, and then the curvature of the sacrum, you know, into the hip joints. So the spine itself could actually balance, you know, quite well and you could hang a lot of weight on it, and there's studies that do that. They take skeletonized, you know, spines and subject them to forces, and it is a very well-balanced structure, but of course, you know, you do have to add things to it, like the ligaments and the muscles, and that's why sometimes if you have, like, a bad hip, it can give you back pain. If you have a bad ankle, it can give you back pain. If other things are off balance, then, you know, it can throw off the spine, so that's why you need --

you know, we have all the beautiful architecture of the muscles and ligaments that, you know, do surround and aid in stabilizing the spine.
Q. So would the exaggerated kyphosis resulting from the collapse of his fractured vertebrae be immediate, as soon as it happens, or would it tend to be more gradual over the next few weeks or months?
A. You know, you do have compensatory mechanisms.
MR. BROOKS: Objection. Objection. Off the record.
THE VIDEOGRAPHER: Off the video record. The time is 6:55 p.m.
MR. BROOKS: Harry, this is not in any of his reports. It's not in any of his -- it's beyond the scope of cross examination. Now you're just patching up holes in the story here. This is not appropriate. You can't go ask him these questions when they're not in the records and it wasn't part of cross.
MR. PARRA: The purpose of redirect is to patch up holes caused by the open doors that defense counsel creates on cross, and so you asked him about his extreme kyphosis. You put up -- you

put up graphics of levels of where the compression fracture is and where these things happen and made a reference as to the fact that it happened after December 23rd, and so once you open that door, I'm entitled to ask him for an explanation as to why that would be, so that's what I'm doing.
MR. BROOKS: I don't think so, because I very narrowly asked him about plaintiff's reports thereof, not about his diagnosis of some sort of delayed onset kyphosis, which is not in the reports and which you did not ask him on direct.
MR. PARRA: Same difference, and the record will speak for itself.
So, Doctor, if you could answer that question.
THE WITNESS: We on the record?
MR. BROOKS: We have to go back on.
THE VIDEOGRAPHER: Back on the video record. The time is 6:57 p.m.
BY MR. PARRA:
A. You know, again, we -- there are compensatory mechanisms, you know, around the spine, you know, of the muscles. That's why a lot of times, you know, you might get hurt, you don't feel it till the next day. Again, it's not something we see all

the time, especially, you know, if you're like a young, otherwise strong, active, you know, type person, you know, you -- also, people tend to kind of mentally compensate, you know. It's like, eh, it hurts, but I could keep going, you know, until you decompensate, you know, until the point where, like possibly in this case with the subsequent accident, you know. If things get past that point -- we do see, you know, people struggling through work despite having pain. We see that, as well. You know, again, I believe this guy was running his own business, so a lot of times, you know, they don't really have a choice, you know, if it hurts or not, you keep on going. So, you know, again, it's difficult -- you know, you're asking me to look back as to what could possibly have been going on around that time and that's the best that I can, you know, speculate on that.
Q. Thank you, Doctor.
MR. BROOKS: Objection.
THE VIDEOGRAPHER: Off the video record.
MR. BROOKS: I withdraw it. We can go back. I'm withdrawing my objection. Go ahead.
MR. PARRA: Back on the record?
MR. BROOKS: Yeah. Sorry.

THE VIDEOGRAPHER: We're on, Counsel.
MR. PARRA: Thank you.
BY MR. PARRA:
Q. Now, Doctor, counsel also asked you about the MRI being a gold standard, but is looking at it with your own eyes better on your, for example, surgical situation?
A. If you mean actually looking at the spine during surgery, obviously that's, you know, that's the actual, you know, the actual spine MRI, again, is a -- is a magnetic effect of spinning water cells and balancing that out, you know, to develop an idea. The word gold standard just depends on how you apply it, but again, the MRI is a tool, same as CAT scan, same as x-ray, same as our physical exam findings. These are all tools that we use to put things together, to make diagnoses, to make treatment plans and, you know, come up with, you know, the proper strategy for a patient.
Q. Thank you, Doctor.
The video footage that we looked at previously, was the video footage itself, was that an accurate depiction of the events that were occurring during that period of time during the procedure?

A. Yes. That was, you know, that was a brief part of the video of me inserting one of the screws.
Q. In other words, that was actually you, that was actually the patient, that was actually your assistant?
A. Yes.
Q. And again, that's part of the patient's medical record?
A. Yes.
Q. And Doctor, I think you touched on this in your answer to defense counsel's questions as to why you would fuse more levels than were actually affected in terms of compression fractures, but the question is, does weakness in one or two or three levels affect other levels of the spine?
A. So the spine is a -- descending, so any -- an injury at one part of the spine will certainly affect levels below that injury and can actually affect levels even slightly above the level of the injury, as well.
Q. And that knowledge, how did that affect your decision as to what levels to fuse?
A. Well, the levels of fusion were strictly related to the -- to the mechanical strength of the

construct that was necessary to address, you know, someone where I had to do four levels of osteotomy, so that creates a level of area of instability at that -- at that transition level of the spine, which is a high stress zone, in order to get some correction, and then you need multiple anchor points above and below to hold that, you know. As powerful as those screws look on x-ray, you know, in the human body over a period of time, even just months with millions of cycling, they basically turn into, you know, tin paper clips, so they -- you need multiple anchor points to hold the spine up above and below the area where the osteotomies and the correction was done.
Q. Thank you, Doctor.
Are you aware of whether any doctor colleague of yours in practice hands a copy of their CV to their patients?
A. I've never seen that done, no.
Q. Thank you, Doctor.
I have no further questions.
RECROSS EXAMINATION BY MR. BROOKS:
Q. I have a couple on -- just on redirect here.
I just want to be sure I really heard what you just said on redirect when Mr. Parra asked you

about not caring about plaintiff's prior deposition testimony. Did I hear you say that you really didn't care what he said under oath in four different depositions concerning these three different accidents? Did I get that right?
A. I never said I don't care, but I'm not -- it's not part of my process to review legal records.
Q. Okay. Even though those deposition transcripts talk extensively, or include extensive testimony from plaintiff about how he was feeling and when he was feeling it, you're saying that that wouldn't be something that you should consider? Did I get that right?
A. I mean, again, if you want to present me with something, I'm happy to consider it. I don't typically -- I don't even know if I'm allowed to review legal records, but I just ask my patient. I don't have to look at a deposition. I, you know, I have the patient in front of me, and who I see multiple, multiple times over a long period of time.
Q. And you know that plaintiff claims that he has memory problems because of the surgery, right? You know that? You're aware of that?

A. He has complained to me about, you know, memory, sleep, focus, concentration. Again, these are all -- you know, we do see these kind of complaints in patients after traumas, you know, whether it's related to -- you know, you described here that patient did hit his head in the December 8th accident. Whether it's post-concussion, whether it's post-anesthesia effects, whether it's prolonged use of narcotics, you know, insomnia, memory, focus, concentration, you know, these things are things that patients do complain about.

Q. I get that. I get that, sir, but none of this post-concussion trauma to the head or brain has ever been alleged in this case. Plaintiff's allegation is that because of the surgery you conducted he has memory problems. Are you aware of that?

A. Well, again, the patient says because of the surgery, but what I'm trying to elucidate is that obviously surgery on the spine is not necessarily gonna cause him to have memory problems, but anesthesia, prolonged narcotic use, insomnia, these are things that could lead to, you know, memory problems, focus, concentration.

Q. I just asked you whether you knew that's what plaintiff was claiming, not whether you think that that's credible or where that comes from. I just want to know whether you know that's what plaintiff says, is that he has memory problems because of the surgery.

A. I -- I would -- I remember him saying that he has problems with his memory. I don't remember him saying the word, you know, quote-unquote, because of the surgery, no.

Q. Okay. Well, I'll represent to you that he said it multiple times under oath. So assuming that he can't remember things anymore, whatever the cause is, don't you think it would be important to know his version of how things happened, how he felt, and when he felt them as recorded in sworn testimony? Wouldn't that be helpful?

A. Again, I -- I'm his doctor. I don't know. I've never requested deposition records. I just ask my patient.

Q. Sir, I didn't ask you whether you requested deposition records. I asked you whether when you have a patient who claims to have memory problems, that getting to his recorded version of the facts of how the accident happened, how he felt, and when

he felt it, wouldn't that be helpful information for you to have, because you can't just ask him because he says he has no memory?

A. Well, again, if he's claiming the memory problems are after the surgery, then things he reports to me before the surgery, you know, I don't know that they would be relevant, but again, I'm happy to look at any -- any evidence that I'm presented with, you know, but again, I've never looked at deposition records.

Q. Because nobody gave them to you, right?

A. Correct.

Q. Okay. Counsel just asked you on redirect about my questions as to the financial bias that you admitted to having. He asked you as to whether you really care what happens at this trial financially, and you went on to say that you do not, because no matter what, Mr. Aburadwan, the plaintiff in this case, is, quote, on the hook for the bills. Do you recall that just a few minutes ago?

A. I remember that line of questioning, yes.

Q. Let's just expound very briefly. You know that if he doesn't get paid, you guys are not gonna get paid? You know that, right?

MR. PARRA: Objection.

THE VIDEOGRAPHER: Off the video record. The time is 7:08 p.m.

MR. PARRA: You say he's not gonna -- that -- are you suggesting that Mr. Aburadwan is not gonna pay his medical bill?

MR. BROOKS: I am 100 percent stating that if he doesn't win at trial, he is not going to be paying his medical bill, and I can see the look on your face and you know I'm right.

MR. PARRA: I mean, how can -- how can -- how can you speculate as to that? Like, what makes you -- what makes -- what are you basing that on? That he's not gonna owe him money --

MR. BROOKS: Harry, I asked the witness if he knew that to be true and he just said yes. It's common sense. Your objection can stand --

MR. PARRA: If there's insurance.

MR. BROOKS: Did the court reporter get the response to the question on the record, because I don't want to have to reask it again?

(The court reporter read back the previous question.)

MR. BROOKS: Let's go back on the record.

THE VIDEOGRAPHER: Back on the video record. The time is 7:09 p.m.
BY MR. BROOKS:
Q. So, Dr. Apazidis, you know that the reality is that if plaintiff doesn't get paid, you are not gonna get paid, you meaning Precision Pain & Spine, the practice group that you work for?
A. Look, he asked me if I care. You know, I do my work and we take care of patients, so, you know, getting paid or not getting paid is irrelevant.
Q. Can you please answer my question? You know, practically speaking, that if plaintiff doesn't get paid, you and Precision Pain & Spine are not gonna be paid? Yes or no?
A. I have no idea about financials. I don't handle that part of the practice. If we get paid, we get paid. If we don't get paid, we don't get paid. I mean, this is medicine. We're -- we're very much accustomed to this.
Q. Okay. And because you didn't review any of plaintiff's deposition transcripts from the four different sworn depositions he gave concerning three different accidents, you're unaware that he has already testified that he asked you and the other members of Precision Pain & Spine for

permission to leave the country and that permission was denied?
MR. PARRA: Objection.
Q. You're unaware of that, right?
THE VIDEOGRAPHER: Off the video record. The time is 7:11 p.m.
MR. PARRA: Oliver, I know you keep referring over and over to four different depositions from three different accidents, but if my -- you understand that if my motion in limine to prohibit implications or references to any other lawsuits, that's gonna be a problem for your questioning.
MR. BROOKS: I disagree. Even if you win, it will just prevent me from saying you know he had another lawsuit, right. I can still ask him about sworn testimony in the form of depositions. There's absolutely no way that that can --
MR. PARRA: Maybe. Maybe. Depositions from four -- four different depositions may be from this one accident, but four depositions spanning from three different accidents, that's a different -- that's a little -- that's a little dicey.
MR. BROOKS: It would be -- it would be

wrong for me to suggest that all four depositions were from this accident, though. That would be untruthful. You know that.
MR. PARRA: That's true.
MR. BROOKS: So let's -- what was my last question, Madam Court Reporter? I know it's late and my brain is starting to become weak.
(The court reporter read back the previous question.)
MR. BROOKS: Let's go back on the record.
THE VIDEOGRAPHER: Back on the video record. The time is 7:13 p.m.
BY MR. BROOKS:
Q. Doctor, will you please answer that?
A. Sure. He never asked me about leaving the country. He did ask me for a letter to try to have someone from his family come here to help him, and we did give him a letter, but I think the travel visa was denied, so it's -- but that's the only travel-related thing that I remember.
Q. Okay. So you're unaware of that testimony that I just mentioned to you?
A. Yeah. He never asked me about him traveling anywhere.

Q. Okay. The other question -- hopefully this is very brief, but plaintiff's counsel asked you about comparison between the efficacy of surgical observations versus MRI observations. Do you recall that just a few minutes ago?
A. Yes.
Q. Okay. So can we agree that you can't have a person under complete or general anesthesia and conduct imaging of them with your eyes, meaning, visualize with weight bearing in their spine?
A. No. That cannot be done.
Q. You can do that with an MRI, can't you?
A. Yeah. Some facilities have what's called standing MRIs.
Q. Some facilities have dynamic MRIs, too, where they can actually show how things change as you move, right?
A. Yes. They take, like, in a flexed position, in an extended position, yes.
Q. Can't do any of that under general anesthesia when somebody is cut open to look at them, can you?
A. No, but you can manipulate the spine.
Q. Sure. But not in the way that the human body would manipulate itself, right?
A. No.

Q. And also, the MRI has the -- you know what, I think I'm done. I don't have any more questions for you. It is quarter past seven. Let's call it.

MR. PARRA: I have zero questions.

THE VIDEOGRAPHER: That concludes the deposition of Dr. Apazidis. The time is 7:15 p.m. We are off the video record.

(At 7:15 p.m. proceedings were concluded.)

CERTIFICATE

I, MICHELLE GRUENDEL, a Certified Court Reporter and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically and digitally at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

MICHELLE GRUENDEL, C.C.R.
C.C.R. License No. 30X100190500
Notary Public of the
State of New Jersey

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