UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
- -x

CLARA GARNER,

Plaintiff,

-against- Docket No.
1:24-cv-08208-AMD-JAM

TIM DANIELS and PATCO EQUIPMENT, INC. d/b/a PATCO TRANSPORTATION, INC.

Defendants.

- -x

February 17, 2026
10:10 a.m.

DEPOSITION of GABRIEL L. DASSA, D.O., F.A.A.O.S., a Non-Party Witness herein, taken before Karen Zammit via videoconference, a Shorthand Reporter and Notary Public of the State of New York, pursuant to Subpoena and stipulations between Counsel.

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APPEARANCES:

DALLAS LAW, LLC
Attorneys for Plaintiff
58 South Service Road
Melville, New York 11747

BY: ROBERT DALLAS, ESQ.
(via videoconference)

LEWIS BRISBOIS BISGAARD & SMITH, LLP
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BY: CHRISTIAN McGANNON, ESQ.
(via videoconference)

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STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED, by and among counsel for the respective parties hereto, that the filing, sealing and certification of the within deposition shall be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form of the question, shall be reserved to the time of the trial;

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed before any Notary Public with the same force and effect as if signed and sworn to before the Court.

* * *

THE REPORTER: The attorneys participating in this deposition acknowledge that I am not physically present in the deposition room and that I will be reporting this deposition remotely. They further acknowledge that, in lieu of an oath administered in person, I will administer the oath remotely under penalty of perjury.

The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting.

Please indicate your agreement by stating your name and your agreement on the record.

MR. DALLAS: Agreed.

MR. McGANNON: Agreed.

G A B R I E L L. D A S S A, the witness herein, having first been duly sworn by the Notary Public via videoconference, was examined and testified as follows:

EXAMINATION BY

MR. McGANNON:

Q What is your name?

A Gabriel L. Dassa.

Q What is your business address?

A 203 Wickham Avenue, Middletown, New York 10940.

Q Good morning, Dr. Dassa.

A Good morning.

Q My name is Christian McGannon and I am an attorney with the law firm of Lewis Brisbois Bisgaard and Smith, the attorneys for the defendants in this case.

I will ask you some questions this morning regarding the care and treatment you have rendered to the plaintiff Clara Garner. I will also ask you some questions regarding your education and professional and practice background.

A Yes.

Q If I ask you any question that you don't hear or you don't understand please let me know and I'll rephrase the question or have the court reporter read it back for you.

Please make your responses verbal so the court reporter can record them. Please do not use hand gestures or nods to answer a question because she cannot take that down.

A Yes.

Q Please wait until I am finished with my question entirely before you answer so we can have a clear and accurate record. If you need a break at any point, please let me know and I will accommodate you.

I will ask that you please answer the question that is open before you take the requested break. Do you have any questions or concerns before we begin?

A No.

Q Is there anything that prevents you from providing truthful testimony today?

A No, sir.

Q Have you ever appeared for a deposition previously?

A Yes.

Q Approximately how many times?

A I am deposed at times on a daily basis for Workers' Compensation claims. To give you an exact number, it is a smattering of all types of legal matters pertinent to No-Fault Law types of cases, Workers' Compensation, personal injury. I don't have an exact number. I do volumes of depositions every week.

Q Approximately on average how many times do you testify per week?

A I would say between eight to ten times a week.

MR. McGANNON: Off the record.

[Whereupon, a discussion was held off the record.]

Q For how long have you maintained that frequency of deposition testimony?

A I would say at least for the last ten years.

Q Besides testifying at depositions have you also testified at trial?

A Yes, sir.

Q Approximately how many times a year

do you testify at trial?

A To give you an exact number, I don't know. I can tell you before the pandemic it was probably averaging out to about 12 to 15 times a year. After the pandemic it is probably around two to three times a year.

Q In the year 2018 did you testify approximately 30 times in that year?

A I don't have stats to refute that, so I don't know. I don't have an exact number, I don't know.

Q With respect to your experience how often do you testify on behalf of plaintiffs or claimants?

A To answer that accurately, I see patients mostly as a treating physician. I don't keep stats in my head or logged anywhere.

I do Independent Medical Examinations for both plaintiff and defense purposes. I happen to see more patients for defense exams and I happen to go to court more for plaintiffs because I am a treating doctor.

I usually go to testify for my patients, but to give you an exact quantification

number, I don't have it. All I can say is it is much more for plaintiff than defense in court. As far as doing exams apart from treatment it is far more for defense purposes.

Q When you say far more for defense purposes would you agree that you have testified approximately 86 percent on their behalf?

A I can't tell you exactly yes or no. I would not disagree with you because if I had to estimate that sounds correct.

Q For your trial testimony do you have a current fee for that?

A I do.

Q What is that?

A $10,000.

Q Is that for a full day or half a day or something else?

A It is a flat fee.

Q For deposition testimony what is your rate?

A It is the same fee.

Q Before the start of today's deposition did you review any materials or documents or films or images, anything?

A Yes.

Q What did you review?

A I reviewed the materials that are in my treatment file for Clara Garner which included my office notes and MRI reports and diagnostic images.

Q Before today's deposition did you review the testimony of anyone?

A No, sir.

Q The treatment chart that you keep and maintain for claimant or plaintiff, Clara Garner, is that in paper form, electronic form, both, something else?

A The chart is maintained electronically.

Q Is there any paper file for Miss Garner?

A I don't have a paper file that I keep in my office. I print up representative documents of the electronic file that I have with me today. Those are not maintained in the normal course of business.

Q You gave a business address of 203 Wickham Avenue in Middletown, New York. Do you

have any other business addresses?

A Yes.

Q What are they?

A 813 Allerton Avenue in the Bronx, New York, 2488 Grand Concourse in Bronx, New York. Also 244 Broadway in Newburgh, New York. I am just opening up an office in Rego Park. The address escapes me at the moment.

Q At the current time how much time do you devote to Allerton Avenue in the Bronx office?

A One to two days a week.

Q You have certain days that you go there?

A Yes, Monday and Friday.

Q What amount of time do you dedicate to the Grand Concourse address?

A One time a week with physician assistants and I am there every other week, Thursday.

Q What amount of time do you dedicate to work at Wickham Avenue in Middletown, New York address?

A Generally I go to the north

locations, which is Newburgh and Middletown, on a Tuesday. I am there every other week personally and I have a PA there one to two times per week in each location, depending on the week.

Q Is the same true for the 244 Broadway address in Newburgh?

A Yes, sir.

Q Have you opened up the office in Rego Park, New York?

A Yes, the office just opened. I believe we saw the first patients just before Christmas. My first official day was in January after the new year.

Q The location at 813 Allerton Avenue in the Bronx, do you own or rent that?

A Rent.

Q The Grand Concourse location, do you own or rent?

A Rent.

Q The Wickham Avenue location, do you own or rent?

A Rent.

Q 244 Broadway in Newburgh, do you own or rent?

A Rent.

Q The new location in Rego Park, own or rent?

A Rent.

Q What is your practice name?

A Dassa Orthopedic Medical Services, PC.

Q Have you ever used any other names for your practice?

A Depending on location, for example, in the Bronx it was called Bronx Med Orthopedic, but my official corporation is Dassa Orthopedic Medical Services.

I did for some time -- the sign on the building was called CV Orthopedics, but I continued seeing patients at those offices in 2022.

Q Which locations have the CV Orthopedics name?

A None of the current locations have used CV Orthopedics.

Q When CV Orthopedics was used at what addresses was it used?

A I believe it was 253 Route 211

East, One Civic Center Plaza in Poughkeepsie. Then the 244 Broadway the prior tenant moved out and I took over the space as a tenant in 2023.

Q Did the 244 Broadway address have the CV Orthopedics name?

A Yes, at one time.

Q 253 Route 211 East, is that also in Middletown?

A Yes.

Q What was the reason or reasons that you ceased to use the CV Orthopedics name?

A There was a breach of contract between the landlord of those locations pertinent to an operating agreement that we had, so there was a separation because of a breach of contract.

Q Was it the same landlord that you had at each of those locations?

A I don't understand.

Q Did you have the same landlord for the location at 253 Route 211, One Civic Center in Poughkeepsie and 244 Broadway in Newburgh?

A Yes, sir.

Q What was the name of the landlord?

A Skazka, LLC.

Q Did that landlord have any ownership interest in your medical practice?

A No, sir.

Q Did it derive any money from your medical practice?

A No, sir.

MR. DALLAS: Objection. You can answer.

Q At the present time do you have any business relationship with that landlord?

A No. I terminated all relationships with them completely in 2022. I discontinued at the 244 Broadway location early in 2022, around February. Then at the remaining locations I would say around August of 2022.

Q The business name that you have of Dassa Orthopedic Medical Services, is that name used at each of your locations?

A It is my corporation that I use to do business. My signage in Middletown, Newburgh reflects Dassa Orthopedics. The sign in the Bronx is Bronx Med Orthopedics, but it is a d/b/a type of title just for location recognition. I function as Dassa Orthopedic Medical Services at

all of my locations.

Q Who owns Dassa Orthopedic Medical Services?

A I do.

Q Are there any other owners?

A No.

Q You have 100 percent ownership interest in the business?

A Yes, sir.

Q How about at the other locations?

A I own my business wherever the location is. There is no other ownership but myself.

Q You mentioned that you have different names depending on the location. Are you still the 100 percent owner of those business locations as far as the practice itself?

MR. DALLAS: Objection. You can answer it.

A All of the addresses that are my current locations and prior locations I was always the sole business owner regardless of the name on the sign.

I just never wanted to incur the

cost of changing my sign in the Bronx as I have been using that name since 2010 in the Bronx.

Not to the create confusion I just never changed the sign and the 2488 Grand Concourse building, because it is on the third floor, does not permit external signage so there is no sign on that building.

Q At the present time does your practice share space with any other practice at 203 Wickham Avenue in Middletown, New York?

A Yes.

Q What other practice or practices does your business share space with at that location?

A A chiropractor, I believe it is called Mid Hudson Chiropractic. Also a pain management doctor, Dr. Datta, that's Garden State Pain Management in Middletown.

I don't share space in Newburgh. I do share space at the Grand Concourse and also I share space at the Allerton Avenue with Dr. Datta.

The 2488 Grand Concourse space, I sublease the space there, there are many doctors

there. I can't enumerate the entirety of the doctors there.

Q Does the chiropractor share a space with you at the 2488 Grand Concourse location?

A Yes.

Q Dr. Datta's practice, did that go by a different name at one point?

A I know he has several names. I don't know what names he is using. The name that comes to mind is Garden State Pain Management. I know he has other names, but I don't recall them.

Q 203 Wickham Avenue, how about in 2023, what practices shared space with you there?

A The same.

Q At that time did Dr. Datta's practice go by the name of Datta Endoscopic Back Surgery and Pain Center?

A It sounds familiar as one of the names he did use. Whether he was using it at that location, I don't know. I just know the dealings we have is through Garden State Pain Management, but that's one of his names. He may have used it.

Q The chiropractic practice at 203

Wickham Avenue, that was known as Mid Hudson Chiropractic and Physical Therapy, PLLC?

A Yes, sir.

Q Was there any business relationship between your practice, Dassa Orthopedics, and Datta Endoscopic Back Surgery and Pain Center on or before May 1, 2023?

MR. DALLAS: Objection. You can answer it.

A I have never had any business relationship with Datta Endoscopic or Garden State Pain Management ever.

Q Was there ever any revenue sharing arrangement between your practice and Datta?

A Never.

Q Was there ever any business relationship between your practice and Mid Hudson Chiropractic and Physical Therapy?

A No.

Q Was there ever any revenue sharing arrangement between your practice and Mid Hudson?

A Never.

Q At the present time how many employees are there at Dassa Orthopedic Medical

Services?

A It varies. I would say on the average it is about 19 or 20. I have several people out on maternity leave. I would say currently about 19 employees.

Q Was Dr. Datta ever an employee of your practice?

A Never.

Q Was a Dr. Shan ever an employee of your practice?

A No.

Q Where did you go to college?

A Fordham University.

Q When did you graduate?

A In 1986.

Q Bachelors of science?

A Biology, premed, BS.

Q Where did you go to medical school?

A New York College of Osteopathic Medicine in Old Westbury, New York.

Q What is an osteopath?

A A medical doctor that has a degree designation as DO, doctor of osteopathic medicine.

Q Did you pursue any specialty?
A Yes, sir.
Q What was that?
A Orthopedic surgery.
Q Are you a fellow in any particular specialty?
A Yes.
Q What field?
A Orthopedic surgery.
Q Do you also hold yourself out as a hand surgeon?
A I am a trained hand surgeon, yes, sir.
Q Do you consider yourself a specialist in hand surgery?
A Yes.
Q Have you ever held any fellowship in hand surgery?
A Yes.
Q Do you still hold it?
A Yes.
Q Do you have any hospital affiliations?
A Yes.

Q With what locations or facilities?

A Montefiore Medical Center, Bronx Care Hospital, which used to be Bronx Lebanon Hospital. No others currently.

Q When did you obtain your medical license?

A In 1992.

Q What is your New York State medical license number?

A 190113.

Q Do you hold any medical license in any other state?

A New Jersey and Florida as well.

Q When did you obtain the New Jersey medical license?

A In 2012.

Q What is the license number?

A I don't know. It is a very long number.

Q When did you obtain your medical license in Florida?

A In 2012 as well.

Q Do you know the Florida medical license number?

A No, I don't.

Q Since obtaining your New York State medical license has there been any disciplinary action taken against your license?

A No, sir.

Q Has that New York State license to practice medicine ever been suspended?

A Never.

Q Has there ever been any disciplinary action taken against your New Jersey medical license?

A No.

Q Has that license ever been suspended?

A No, sir.

Q Has there been any disciplinary action taken against your Florida State medical license?

A No.

Q Has that Florida license ever been suspended?

A No, sir.

Q Are all three state licenses active and current?

A Yes, sir.

Q Do you have any practice location in Florida?

A I do not.

Q Have you ever practiced medicine in Florida?

A No.

Q Do you have any business or practice locations in New Jersey?

A No, sir.

Q Have you ever practiced medicine in New Jersey?

A Yes.

Q During what period of time did you practice medicine in New Jersey?

A I maintained an office in New Jersey from 2012 through the end of 2021. I do perform surgery in New Jersey occasionally, but I don't hold a practice in New Jersey at this point.

Q What is the name of the office that you maintained between 2012 and 2021?

A It was under Dassa Orthopedics. That's the best I can recall. I didn't have a

specific name other than my PC.

Q Was there a reason that you closed that office location?

A Just I am getting old and I didn't want to drive. It was a bit laborious to me. My lease terminated in the location and I opted not to continue.

Q What was the address for that office location in New Jersey?

A I was on Clifton Avenue, 1010 Clifton Avenue, and it moved to another location. I don't remember the exact address, but it was both of them on Clifton Avenue.

Q You mentioned you performed surgery in New Jersey. What was the name of the location?

A Various locations, New Horizons Surgical Center, Parkway Surgical Center, Integrated Surgical Center. There were two others, but I don't remember the names. Also Montvale Surgical Center and Rockland and Bergen Surgical Center.

Q Do you hold any ownership in New Horizons Surgical Center?

A No.

Q Did you ever hold any ownership interest in that facility or practice?

A No.

Q Do you hold any ownership practice in Parkway Ambulatory Surgery Center?

A No.

Q Did you ever hold any ownership interest in that practice or facility?

A No.

Q I see from your CV that your wife is a real estate broker?

A She was. She currently manages my office in the Bronx.

Q Did she also manage any of the leases for any of your practice locations?

A No, sir.

Q For how long has your wife been managing your practice?

A Since 2011 or 2012, around that time.

Q Are you board certified?

A Yes.

Q In what field or fields?

A In orthopedic surgery by the American Board of Orthopedic Surgeons and the American Osteopathic Board of Orthopedic Surgeons, double board certified in general orthopedics.

Q When were you certified in each of those fields?

A The American Board was 2001 and the Osteopathic Board in 2005 and I have since recertified two times for both. I am on my third certification cycle for both of them.

Q Do you teach?

A Yes.

Q Where do you teach?

A Not in formal lectures, but I do teach residents and PAs as part of rounds and grand rounds. That's what I do currently. I used to give scientific presentations nationally and internationally, but I no longer do that.

Q Have you ever given any presentations through attorneys?

A To my recollection possibly early on in my practice. I have not done that at least in the last 20 years.

Q To whom did you give a presentation to in terms of attorneys?

A To my recollection I think it was one or two times I had given a lecture on RSD for a CLE course that somebody hired me to do. Beyond that, nothing that I can recall.

Q Do you remember the name of the organization that hosted your presentation?

A No, I don't.

Q Did you ever give any presentations to individual law offices?

A No, sir.

Q In connection with this matter have you seen a claimant named Clara Garner?

A Yes, sir.

Q How did you first come to see Clara Garner?

A She presented to see me as a patient for an initial consultation on May 31, 2023.

Q As part of your practice when someone first comes to your office do you have them fill out a patient questionnaire?

A Yes.

Q Do you keep and maintain that as part of your business records?

A Generally, yes.

Q Is that questionnaire filled out at or about the time that the person first presents to you?

A It depends. Since we moved to digital sometimes the patient does it beforehand on line. At times it is done in the office.

Q With respect to Clara Garner, do you know how she completed her patient questionnaire?

A I don't have that document with me, so I don't know.

Q Do you have that document in your records at the present time?

A No.

Q Have you ever provided a copy of that document to Clara Garner's attorneys?

A I can't verify either way. I am not involved in that process. It may have been through a request for records.

Q Is that patient questionnaire something that you would maintain in the regular

course of your business?

A As part of the patient's file it is not maintained as part of the medical treatment notes, but it would be maintained as part of the file, yes.

Q As part of the first encounter that you have with Miss Garner would that be an important document to keep and maintain?

A If I am relying on that solely for information, yes, but I do question the patient regarding history, which is the same history, and it allows me an opportunity to dig deeper into the information. It doesn't change. I don't actually look at it when I am seeing the patient. I am getting the history from the patient certainly.

Q When you first encounter a new patient is it good and accepted medical practice to obtain as complete a history as possible?

A Yes, sir.

Q If you don't get a full and complete history could that affect your diagnosis?

A It depends on how the history

varies from what was given by the patient, but obviously it would be best to have the most information as opposed to less information. If you did not have pertinent information pertinent to the injury it could affect the diagnostic conclusions.

Q When a new patient first presents to you do you rely on that person's credibility in telling you their history of their claimed condition or conditions?

A Yes, sir.

Q If that history is not truthful or not complete could that affect your diagnosis?

MR. DALLAS: Objection. You can answer it.

A Possibly.

Q When you first encounter a new patient do you have what is known as an intake form?

A Yes.

Q What information goes into that intake form?

A Generally it is a sheet that when the patient is questioned it is filled out by me

putting the information down that I use to dictate the note once the encounter is complete.

Q Besides yourself does anyone else complete an intake sheet as part of your practice?

A At times my PAs do when they see the patient initially. Sometimes a medical assistant will do it.

Q Under what circumstances does a PA or medical assistant add information to an intake sheet as opposed to you?

A There are times when the patient is physically seen by the PA as an initial patient. We see patients together but we divide the work. They would take the history in the event that they are the first person seeing the patient.

Q In the case of Clara Garner do you know if it was you that initially saw her or a physician assistant or a medical assistant or someone else?

A I did see the patient with my PA. As far as who took the historical details down based upon the information that you have, I can't tell if it was him alone or me alone or the both

of us because I don't have the scratch sheet as I dictated the note when the patient was done.

MR. McGANNON: Off the record.

[Whereupon, a discussion was held off the record.]

MR. McGANNON: I will mark this first document as Defendant's Exhibit A. This is plaintiff's medical exchange served October 30, 2024.

[Whereupon, the document was hereby marked as Defendant's Exhibit A for identification, as of this date, by the reporter.]

MR. McGANNON: For the record, it is a 219-page document.

Q I will direct your attention to Exhibit I of the exchange, which begins at Page 144. Do you recognize this particular type of form?

A I do.

Q Is this your intake form that you use in connection with your practice?

A Yes.

Q On this particular new patient

intake form there is a date at the top of May 18, 2023. Does that indicate when Clara Garner first appeared at your office?

A No, that's when she called the office to make an appointment.

Q The information that was provided to your office, was this provided by Clara Garner?

A Yes.

Q How do you know that?

A That information would have been obtained when she called to make an appointment. They asked her her name and date of birth and her address. These are typical questions that patients are asked before they come in.

Q How do you know it came from Miss Garner and not someone on her behalf?

A We generally get that information from patients. We don't speak to other people because of HIPAA issues.

Q As of May 18, 2023 your office knew that Miss Garner was represented by an attorney; is that correct?

A Yes.

G. Dassa

Q On or before May 1, 2023 did your office ever receive a referral of clients to your practice?

MR. DALLAS: Objection. You can answer it.

A It is a very general question. Are you asking me from anybody or at all?

Q From attorneys or law offices, did you ever receive referrals of their clients to your practice?

A This specific attorney or attorneys in general?

Q In general?

A Yes, I get referrals from attorneys on a weekly basis. Most of my Workers' Compensation referrals come through patients who have contact with attorneys as they need attorneys to administer their cases.

Q With respect to this attorney, Robert Dallas, before May 18, 2023 did you ever receive any referrals of his clients to your office or practice?

A I know Mr. Dallas many years. I am sure he has referred me clients in the past. I

don't particularly see clients from him in the Upstate location.

Q For how long have you known Mr. Dallas?

A I would say at least 15 or 20 years.

Q On approximately how many occasions has he referred clients to your practice?

A I don't know.

Q Do you keep any type of record with respect to referrals from attorneys?

A No, I don't.

Q Other than a new patient intake form do you keep any other records that would indicate a potential referral from an attorney?

A This document just indicates that the patient has an attorney. It doesn't indicate that she was referred by an attorney. In the digital section of the chart if the attorney did refer the patient it would be in there.

Q Before today's deposition you didn't review any deposition testimony from Clara Garner?

A No, I didn't.

Q You don't know whether or not she testified under oath that she learned of her doctors through her attorneys?

A I am not aware of that, no.

Q With respect to Miss Garner, Page 144 of Defendant's Exhibit A, the new patient intake form, is there an indication as to how this potential treatment will be billed?

A There is an insurance carrier which is Allstate. If that's what was provided by the patient it is assumed that's how it would be billed.

Q In the fifth subject on the new patient intake form it is indicated it has the heading of case and it has No-Fault circled. Who provides that information?

A The patient.

Q As far as insurance carrier and claim number, does that also come from the patient?

A That information comes in various stages of patient contact. In this particular case since it is with the rest of that information it did come from the patient.

At times the information comes later. It could come from calling an insurance company once the claim is verified or it could at times come from the attorney if it was deemed necessary.

Q Could this information on the patient intake come from an attorney's office?

A In general it could. In this particular case I don't think that's where it came from. All of the information was obtained at the same time.

Q With respect to the sixth subject on the new patient intake form the heading is Body Parts Injured. Does that heading suggest or presume that there was an injury?

A Yes.

Q Who is Sovanna?

A The PA that sees patients with me. It would indicate on May 24th there was an initial appointment set up. We have our own calendar in our scheduling software. It would indicate that the patient was put into his calendar, but it didn't happen on that date obviously.

Q On May 31, 2023 was it you that saw Miss Garner or Sovanna or somebody else?

A We saw the patient together because I sign his notes when I see the patients with him, countersign his notes.

Q The signatures on those notes, are they electronic signatures that can be installed on a note?

A Yes.

Q The form that appears at Page 148 of Defendant's Exhibit A has Dassa Orthopedics and Rehab at the top. Is that the name of the practice that was located at 203 Wickham Avenue as of May of 2023?

A I know my sign says Dassa Orthopedics. I don't know if it says rehab. I don't remember. That's my paperwork.

Q This form, who fills out this form?

A Generally the patient.

Q Do you know if this handwriting is Miss Garner's handwriting or someone else's?

A I don't know.

Q Do you have any forms that are signed by Miss Garner?

A I don't know. I didn't see any forms that she signed.

Q When Miss Garner first arrived at your office on May 31, 2023 did you personally interview her?

A I can't tell based upon the note who took the history. If the patient was in the PA's schedule likely he took the history.

Q Who trained Sovanna?

A I did.

Q Is this the first medical practice in which he ever worked?

A When I did my orthopedic training at Bronx Lebanon Hospital he started as a PA. We worked together since 1993 ir 1994. I have been working with him since that time.

We have worked in the same orthopedic department in Bronx Lebanon Hospital and then at different practice locations. I worked with him for years and this is not the first time he has done this.

Q As of May of 2023 were you confident in your PA Sovanna's abilities to take a full and complete medical history from a new

patient?

A Extremely confident.

Q When Miss Garner first arrived at your practice was there any inquiry as to whether or not she had seen any other providers before arriving at your office?

A Yes.

Q What did the history indicate as far as any other providers that she had seen prior to arriving at your office?

A She stated that she was seen at the emergency department at Wyckoff Heights Hospital and also was seen by the primary care doctor based upon what the note states.

Q Did Miss Garner indicate that she went to Wyckoff Heights Medical Center on the date of the claimed accident?

A She didn't specify.

Q What was the date of the claimed accident?

A May 1, 2023. The note states she was taken. That would assume there was some type of transport, but the date of the accident was May 1, 2023.

Q You are aware that there was no response by any police or ambulance at the scene?

A I was not aware of that, no.

Q Do you know how she was transported or arrived at Wyckoff Heights Medical Center?

A I don't know.

Q Do you know if it was private vehicle?

A I am not certain of the circumstances pertinent to the transport.

Q Is it your understanding that Wyckoff Heights Medical Center records are the first record for this new patient?

A That's my understanding.

Q Between the first visit to your office and today have you ever seen the Wyckoff Heights Medical Center chart for Clara Garner?

A No.

Q Have you made any effort to obtain a copy of the Wyckoff Heights Medical Center chart for Miss Garner?

A Yes.

Q What type of effort did you make?

A Basically we contact the hospital

and we send them a HIPAA release to obtain the records. They advised us that it they would be mailed, but they were never received.

Q When was the first attempt that your office made to get the records?

A It would have been sometime after the May 31st evaluation. I don't know the exact date.

Q That's sometime in May of 2023 that a first attempt was made to obtain Miss Garner's records from Wyckoff Heights Medical Center. What other additional attempts were made until today?

A I don't know the exact number of attempts. I know an attempt was made. How many, I don't know. I can tell you I have never received those records.

Q Given that Miss Garner identified an attorney during the intake process did you make any inquiries of Robert Dallas for a copy of the Wyckoff Heights Medical Center chart?

A No, sir. The absence of that information didn't affect my ability to treat the patient effectively. If there was an issue that

I needed to see those records that could have been done. There was no reason to do so.

Q Would review and consideration of the information from Wyckoff Heights Medical Center affect your opinion with respect to diagnosis?

MR. DALLAS: Objection. You can answer it.

A Again, it depends on the information. Lots of times patients have different symptoms initially that evolve over time. In this particular case it didn't affect my ability to treat the patient.

Q Would it be important to know what her initial complaints were?

A If you are telling me if it is a consistency issue, but as I said, patients will generally go to the emergency room and speak about the thing that is hurting them the most. There could be three other injuries that have not manifested themselves.

Other than the fact that she had an injury that was significant enough for her to go to the hospital, the information in the hospital

record, if it doesn't involve the fracture or some type of catastrophic injury, it doesn't really affect my judgment either way.

Q Do you know if there was a musculoskeletal examination done of Miss Garner at Wyckoff Heights Medical Center on May 1, 2023?

A I can't tell you that because I didn't see the document, I don't know.

Q Do you know if there was a neurological examination performed on Miss Garner at that facility on the date of the accident?

MR. DALLAS: Objection. You can answer it.

A Same answer.

Q Do you know if there were any radiological or other diagnostic testing done of Miss Garner at Wyckoff Heights Medical Center on May 1, 2023?

A Only as verbalized by the patient that she had an X-ray of the neck and was discharged after that was found to be satisfactorily absent of traumatic findings. Beyond that I am not aware of that study because I didn't see it.

Q Did she say anything about a CAT scan?

A She did not verbalize that on that initial date.

Q From May of 2023 up until today have you ever seen a CAT scan of her cervical spine from Wyckoff Heights Medical Center?

MR. DALLAS: Objection. You can answer it.

A No, sir.

Q Is it fair to say you don't know whether or not there was chronic degenerative changes found throughout her cervical spine?

MR. DALLAS: Objection. You can answer it.

A I am not aware of that.

Q In the emergency rooms is there something also more simple for a test such as checking someone's skin in addition to other exams?

MR. DALLAS: Objection. I will instruct him not to answer that.

MR. McGANNON: You can't instruct a witness not to answer.

G. Dassa

MR. DALLAS: You can answer it if you understood it.

MR. McGANNON: I'll rephrase it.

Q Besides the musculoskeletal and neurological examination of a patient in an emergency room setting is there something more basic as a provider checking someone's skin for any evidence of trauma?

A You are speaking of components of a physical examination, so a musculoskeletal examination and a neurological examination is a component of the physical examination.

If you are speaking of observation or inspection that would be a visualization of any outward signs of severe trauma, bruising, bleeding, deformities, so part of the skin would be part of the inspection process.

Q Are you familiar with the term seat belt sign?

A Yes, generally when patients have collisions, specifically front end and rear end collisions, which are most prone to that, there is usually some type of welt or bruising where the seat belt drapes across the shoulder and

chest as a consequence of its restraining the patient after there is an exposed force.

Q Do you know what the mechanism of the collision was?

A The patient reported that it was a driver's side collision. That's my understanding.

Q A sideswipe?

A It is a driver's side collision. The word sideswipe was not used.

Q You don't know?

A No.

Q When Miss Garner arrived at Wyckoff Heights Medical Center do you know if she exhibited any bruising?

A I didn't see the records, so I can't comment accurately.

Q When you first saw her did she exhibit any bruising?

A No, sir.

Q What is arthropathy?

A That would be an abnormal condition of a joint.

Q Is arthropathy something that could

develop within a few hours?

A It depends on the type of arthropathy you are speaking of. There is traumatic arthropathy, degenerative arthropathy.

If you are speaking of traumatic arthropathy it depends on the level of trauma. At times in less than catastrophic injuries it could take hours to weeks sometimes for arthropathy to develop.

In cases of more severe injuries or catastrophic injuries you will see arthropathy in a more immediate timeframe, but it is very variable if you are speaking of traumatic arthropathy.

If we are speaking of degenerative arthropathy, which is specific to arthritis, that would take years to develop.

Q You don't know whether or not the CAT scan taken of Miss Garner's neck at Wyckoff Heights Medical Center revealed chronic degenerative changes in the cervical spine?

MR. DALLAS: Objection. You can answer it.

A Again, I didn't see that study.

She had an MRI of the cervical spine that would indicate something similar.

Q I am just talking about the CAT scan?

A No, I didn't see the CAT scan.

Q Besides going to Wyckoff Heights Medical Center Miss Garner also went to a primary care physician?

A Yes, on May 2, 2023.

Q What was the name of the primary care physician?

A It is not documented. I don't know.

Q Did she go to a hospital facility for the purpose of primary care?

A I don't know where the contact took place.

Q Did you ever make any attempt to obtain Miss Garner's records from her primary care provider?

A No.

Q Why not?

A Because generally primary care notes are incomplete and they don't have the

expertise to obtain information that would be useful.

I generally don't obtain those records unless there is a specific reason to do so and there was no reason to do so in this particular case.

Q What if the primary care provider was Weill Cornell, do you consider Weill Cornell inadequate or ill equipped to diagnose or treat patients?

A Hospitals don't treat, doctors treat. If a primary care doctor was in Brooklyn in the private office or in a clinic in Weill Cornell the hospital does not lend anymore expertise to the doctor's training. What difference would that make to me, it is the same information.

Q What if the primary care provider had additional history that was pertinent to any complaints the patient made to you on initial presentation?

MR. DALLAS: Objection.

A If there was concern to me pertinent to the patient being an inaccurate

historian, yes. But there was no issues pertinent to history. It doesn't really change anything.

Q When Miss Garner first presented to you on May 31, 2023 did you ask her if she ever had any prior knee pain?

A She denied it.

Q Do you know if Miss Garner made complaints of knee pain to anyone at Weill Cornell dating back to September 8, 2015?

A I am not aware of that, I didn't see any records from Weill Cornell.

Q Complaints of knee pain going back to September of 2015 would have been pertinent for your purpose?

A Did the patient ever have pain, yes. The patient had a traumatic injury in 2023. She is 62 years old. Patients could have complaints of pain anywhere in their body. That does not equate to trauma.

Q How do you know she had a traumatic injury on May 1, 2023?

A Because she reported no pain prior to this accident. She had symptoms that developed after the accident. There were

objective findings on MRI that would corollate to some component of an acute trauma. It is my logical deduction in patient care.

Q If Miss Garner didn't tell you the truth about the absence of prior pain in the knees going back to 2015 would that affect your assessment?

MR. DALLAS: Objection, speculation.

A No.

Q What is osteoarthritis?

A That's degenerative arthropathy or degenerative wear and tear or breakdown of a joint.

Q How long does that take to develop?

A Decades.

Q If someone has osteoarthritis and also has tricompartmental synovitis, what does that say with respect to longevity?

A I don't know if I am interpreting the question correctly, but if a person has osteoarthritis it does indicate that there was some pre-existing process in the knee.

In this particular case the patient

is 62 years old, which is not surprising. As far as longevity, in my experience in treating patients with arthritis, especially to the knee, it creates a significant susceptibility issue to having traumatic injury in the face of trauma.

Specifically to longevity it creates susceptibility issues in that patients could sustain acute trauma or acute injury with less force when compared to people who don't have those degenerative changes.

As far as longevity goes, obviously, the joint is not as resistant to trauma as it would be if it didn't have those findings.

Q Do you know if Miss Garner presented with a normal gait at Wyckoff Heights Medical Center?

A Based upon my prior answer, I didn't see the records. I could not comment on any details of that visit to the hospital.

Q The tricompartmental synovitis, could that be associated with preexisting osteoarthritis?

A Synovitis as an issue or diagnosis

is a general finding which represents inflammation. Inflammation can come from degenerative findings. It could come from traumatic findings.

If the symptoms of pain are prior to a trauma you would say it is coming from the arthritis. If it developed after a trauma it could be from some acute injury or an aggravation of the degenerative changes.

It would be depending on the timing of the symptom development. Synovitis as its own finding has to be correlated with history.

Q As far as the intake that you received there was no prior history of any prior knee complaint?

A She was not having any history of any pain or recent injury prior to May 1, 2023. That doesn't mean she never had knee pain in her whole life.

Q The history that you took was no prior knee pain and no prior knee problems; is that correct?

A Yes.

Q You had never seen Miss Garner

before May 31, 2023, correct?

A Correct.

Q Osteoarthritis, is that the same thing as when the cartilage at the end of the bones wears away?

A There is different levels of osteoarthritis. What you just described is advanced stages of osteoarthritis.

You can have softening of the cartilage where that cartilage starts to thin in different grades. A minor thinning would be grade one, grade two is a further thickness, but less than 50 percent, grade three would be greater than 50 percent, and grade four would be complete absence of the cartilage.

It depends what stage you are finding a person with osteoarthritis in a particular joint and what you described is specifically to advanced stages where it is worn off the bone.

Q With respect to the spine, are you familiar with the term spondylosis?

A Yes.

Q What is spondylosis?

A As a result of the normal aging process when you look at tissues that have fluid, disks have a fluid component of their anatomy. There is a nucleus, which is the liquid portion of the disk, and the thick soft tissue component.

As we age, and aging is 30 to 35 years old or older, that process of desiccation or drying of the disk occurs.

As the fluid dries in the disks the pressure is lost on the disks and those disks become compressed. The compression of the disk space causes narrowing and the spondylosis is a specific term to the narrowing of those disk spaces.

Q The desiccation of the disk space narrowing, how long does that take to develop?

A It is very variable because every patient, depending on their genetics, race, their type of makeup, you will have it occur over years.

Some patients can have it occur rapidly over five or six years. In the face of trauma it can occur even quicker. There are some patients that will have minimal narrowing after

30 or 40 years, everybody is different. By a general understanding of spondylosis that narrowing would occur over years, not weeks or months.

Q With respect to facet hypertrophy, is that referring to bony overgrowth?

A Yes.

Q Is that pointing towards a degenerative arthritic chronic stress?

A You can have hypertrophy and bony overgrowth in the absence of degenerative findings.

If the disk space becomes narrow the forces that go across the disks are less dissipated through the disk and it gets absorbedd through the facet. The facet will enlarge in response to those forces. That can occur with or without degenerative changes.

All narrowing is not degenerative and all narrowing is not associated with arthritis. In the specific case of a facet hypertrophy it could be there with degenerative changes and in the absence of degenerative changes.

Q The facet hypertrophy, is that pointing to a chronic condition?

A Yes.

Q When we say chronic, how long?

A It would have to be a number of years. In this particular person she is 62 years old when I saw her. It had to be at least over the course of 40 years.

Q When you first saw Miss Garner on May 31, 2023 in accordance with your practice you took her vitals; is that correct?

A There were no vital signs done.

Q You did take her height and weight?

A Yes.

Q What was her stated height and weight?

A She was five foot two, 190 pounds.

Q What is the BMI score for that height and weight?

A I would have to calculate it.

Q Is that approximately 38?

A I will take your word for it, yes.

Q Is that obese?

A By definition, yes.

Q You did take a history as far as surgery with respect to Miss Garner?

A Yes.

Q What did she tell you?

A She had bariatric surgery, surgery to both shoulders, one in 2016 and one in 2017. She also had breast surgery in 2018 to the right breast.

Q With respect to the bariatric surgery, that's a weight loss procedure?

A Yes.

Q When she saw you she was five foot two and 190 pounds. That would be towards the higher end of class one obesity?

A Yes.

Q What effect does obesity have on joints?

A It varies from person to person, it can range from no effect to severe exacerbation of condition, and it can also cause conditions such as speaking to the weightbearing, the hips, joints, knees, ankles, it can cause the development an exacerbation of degenerative changes.

Q Including osteoarthritis?

A Yes.

Q With respect to the shoulders, did you ask her any questions about why she had undergone bilateral rotator cuff surgeries?

A No.

Q Any reason you didn't ask her about that?

A Because they were not areas of complaint and that information was not pertinent. She was not complaining of shoulder pain.

Q Can't you have referred pain from the neck involving the shoulders?

A That would be radiculopathy. You don't have shoulder surgery for referred pain from the neck. She had a rotator repair to the left shoulder which is a specific repair of a damaged tendon in 2016.

Q Did you ask her if she had been involved in any prior trauma requiring those bilateral rotator surgeries?

A We didn't discuss trauma in the context of those treatments, no.

Q On that first visit of May 31, 2023

do you have that note in front of you?

A Yes.

Q You stated, "Which caused the patient to sustain injury to the neck, lower back, left wrist and left knee." Did I read that properly?

A Yes.

Q When you first saw her you assumed that whatever body part was involved was caused to be injured by a car accident of May 1, 2023?

A There was no assumption, that's what the patient told me.

Q Did you examine her on that date?

A Yes.

Q That meeting with Miss Garner, which included an interview and a physical examination, how long did that take?

A I don't have an indication as to the exact amount of time. Usually it takes 45 minutes to an hour to get through a history and physical and finish up with the patient.

Q In the prior medical history that you recorded there was no mention of any prior complaints with respect to the knees; is that

correct?

A Correct.

Q As far as medications, among the medications Miss Garner revealed she had been taking was Ozempic; is that correct?

A Yes.

MR. McGANNON: The BMI for someone of her height and weight is approximately 34.8. I stand corrected.

MR. DALLAS: Duly noted.

Q On that first occasion that you saw Miss Garner did you set up a treatment schedule or plan for her?

A Yes.

Q On that first occasion did you feel you had a good grasp of what she needed in terms of care and treatment?

A Yes.

Q What were the things that you recommended upon that first encounter with Miss Garner?

A She was advised for physical therapy, chiropractic care and an evaluation by pain management. She was having stomach issues

pertinent to a history of reflux, so we didn't prescribe any antiinflammatory medication. Also the gastric bypass history.

She was noted to be indicated for MRIs of the neck and her back and left wrist and left knee. She was advised to return in three weeks.

Q When you were recommending physical therapy and chiropractic at that moment did you have a particular facility in mind?

A The patient is given a general prescription for therapy. I don't direct patients where to treat.

The patients that live in Middletown, for this particular office it is their choice, they can stay at that location. I have patients that travel distances, so there is lots of surrounding towns. I leave it up to the patient.

Q You had Mid Hudson Physical Therapy and Chiropractic at the same address; is that correct?

A Yes.

Q Did you instruct Miss Garner to

simply stay at that location to do physical therapy or chiropractic?

A I think I answered the question clearly prior. I don't direct patients anywhere. They are given a general prescription and they are to go where it is convenient for them. I don't direct patients to go anywhere.

Q Is it your testimony that you never mentioned that you have Mid Hudson Physical Therapy and Chiropractic at the same location as your practice?

A I don't have those conversations with my patients. There is no reason for me to discuss that.

When they are checking out if they are inquiring about it that would be on their own volition, I don't discuss that with patients.

Q Did Mid Hudson have a sign at the 203 Wickham Avenue office?

A Yes.

Q Was that in existence or in place as of May 31, 2023?

A Yes.

Q Where was that sign in relation to

your sign, Dassa Orthopedics?

A My signage is the main sign as I am the main practice. There is signage on the windows for both the Mid Hudson and Dr. Datta. I know it as Garden State. There is a sign for him as well.

Q In May of 2023 was it your practice to always recommend physical therapy and/or chiropractic on the initial encounter?

MR. DALLAS: Objection. You can answer it.

A It depends on the injuries. There are injuries that it would be contraindicated to do chiropractic treatment.

I don't always do anything. My treatments are not cookbook, they are based upon patient need.

In this particular case with the patient with the neck pain and radicular findings that was the reason for this particular patient to be referred to pain management and the patient was having neck and back pain so that was the reason for the chiropractic evaluation. Do I do that for every patient, no.

Q When you do recommend physical therapy and chiropractic is that in any way contraindicated if someone is being sent for physical therapy and chiropractic at the same time?

A We are dealing with extremities and with the spine. The wrist and the knee is not concurrent care to a neck and back treatment.

Generally physical therapy will deal with the extremities and the chiropractor will deal with the neck and back if that's the services provided.

I didn't send the patient to the chiropractor for left wrist and left knee pain. There is no contraindication to the patient seeing the chiropractor for the neck and back and vice versa.

Q Is it helpful sending someone to do physical therapy and chiropractic of the spine at the same time?

A That would be considered concurrent care. If a chiropractor is treating the neck and back or the physical therapist it would be a duplication of treatment.

There would be no reason to have two treatments for the same body part. The chiropractor generally does all that a physical therapist would do, he just adds manipulations to it.

I am sure some places do it. I don't do that. I would not advise that because you can overtreat a patient and give them more pain if you treat them too much in the initial phases of injury. It is not something that I would advise.

Q Dr. Datta, was his practice known as Garden State in May of 2023 or was it known as Datta Endoscopic Back Surgery and Pain Center?

A He has been known by both of those. What he was identified as at that location, to my knowledge it was Garden State.

That doesn't mean that he was not functioning under Datta Endoscopic. I don't know. Those are questions that would have to be directed to him.

Q You made a referral for Miss Garner to Mid Hudson Physical Therapy and Chiropractic; is that correct?

A Again, I made a physical therapy referral. Where the patient did therapy, I am not certain. I don't have those records.

If you are telling me that's where the patient received treatment, I can state that's where she went. I didn't refer the patient there.

Q Did you refer Miss Garner to Dr. Datta?

A Yes.

Q Did you refer Miss Garner for MRIs?

A Yes.

Q The MRI facility to which you referred Miss Garner, is that Leading Edge Medical Diagnostics, PC?

A Yes.

Q Before May 31, 2023 you had referred other patients to Dr. Datta; is that correct?

A Yes.

Q You had referred other patients to Leading Edge; is that correct?

A Yes.

Q With respect to Leading Edge, going

to Defendant's Exhibit A, Page 147, is this a prescription for MRIs?

A Yes.

Q Leading Edge Medical Diagnostics, PC?

A Yes.

Q The prescription is signed off by you?

A By my PA.

Q Are you designated as the referring doctor?

A Yes.

Q Does the PA have the authority to sign off for you?

A Yes.

Q This form, is that something that you had available at your practice in May of 2023?

A Yes.

Q Did you ever send patients from that area to any other facility?

A Yes.

Q What are the names of the other radiological facilities to which you would refer

patients?

A There is Open MRI in Middletown, Bold Radiology is another source, Orange Radiology. There are various pads in my office for MRI referrals.

Q Is there a reason that you used Leading Edge with Miss Garner?

A Yes, generally reliability for getting appointments and also to get reports in a timely manner.

They have a good track record pertinent to getting a convenient appointment for the patient, getting the study done in a timely manner, and the report.

Upstate there is all sort of issues with radiologists available to read films and things of that nature. There is delays of getting appointments and reports. Leading Edge, at least at that time, it is probably the most reliable place up there.

Q It was a business decision by you to refer Miss Garner to Leading Edge?

A It is a clinical decision. I have to get things done for my patients and you don't

want delay in treatment and diagnosis.

Q Am I correct that your medical practice is a business?

A Yes, but this is a medical decision. I don't have any business with Leading Edge other than to refer them patients for a test. I sent them to them for a medical decision.

Q If you were not satisfied with the services from the other radiology facilities why didn't you cut them out?

A I do. That's why I use Leading Edge. These problems are a dynamic issue, they go through changes.

It would be preferable for me to send the patient to Middletown, but that's the place where I get the worst results as far as getting timely reports. I don't use them.

Do I make a specific decision to say I am getting them out, no, I just refer to the more reliable places which would be Leading Edge in this case.

At that time it would have been Bold, but they didn't have a location in that

area in 2023. There is no conscious statement. I just don't use them because of reliability issues.

Q You mentioned reliability. Did you send patients such as Miss Garner to Leading Edge because you are able to rely on the read from Daniel Schusselberg?

A I don't rely on any radiology reads. I review my own films and come to my own conclusions. I don't find any problems with Dr. Schusselberg.

When I speak of reliability it is pertinent to get a timely appointment and to get the patient to have the study performed and not cancel the appointments and to get my reports in a timely manner.

I interpret my own films and I have not had any issues in the past with Dr. Schusselberg's reads as far as a comparison to my own interpretation.

Q Did you send patients to Leading Edge and Dr. Schusselberg because you can rely on his reads to back up your findings?

A I think I answered that question.

The answer is no.

Q Miss Garner underwent MRI study of the cervical spine, lumbar spine on June 21, 2023?

A Yes.

Q Are you aware of any prior MRI studies of those parts of the body before those dates with respect to Miss Garner?

A Not that I am aware of.

Q Miss Garner underwent MRI studies of the left wrist and left knee on July 12, 2023, correct?

A Yes, sir.

Q Are you aware of any prior MRI studies involving Miss Garner prior to those dates?

A No.

Q With respect to those parts of the body?

A No, sir.

Q Are you a radiologist?

A No, I am not.

Q That would be a different specialty; is that correct?

A Yes.

Q After the performance of the MRI studies you saw Miss Garner on September 19, 2023; is that correct?

A Yes.

Q Was that the first visit after the MRIs?

A Yes.

Q With respect to the left knee MRI, am I accurate that osteoarthritis was found in the left knee?

A Yes.

Q In particular in the area of the patella?

A Yes.

Q Following receipt and review of the read by Dr. Schusselberg did you make any changes to Miss Garner's treatment plan with respect to the left knee?

MR. DALLAS: Objection. You can answer it.

A No, she was advised to continue with the physical therapy and chiropractic care and pain management.

I did mention to her that given her MRI findings there could be a potential if she doesn't improve to discuss surgery and she understood that. There was no specific change made to the treatment plan at that point.

Q Am I correct that your main focus as far as care of treatment of Miss Garner was the left knee?

A Correct.

Q You had referred her for management of the cervical spine and lumbar spine to Dr. Datta; is that correct?

A Yes.

Q With respect to the left wrist, after getting Dr. Schusselberg's read on the left wrist did you make any changes to Miss Garner's care plan with respect to the wrist?

A Specifically, no.

Q What is a vascular necrosis?

A That would be a change in the bone that occurs when there is a violation of circulation. When bone circulation is disrupted the bone dies, which is called necrosis or osteonecrosis.

Q How long does that take to develop?

A If you compare it to gangrene, if I cut off circulation to your toe it is going to turn black within a few hours.

The biologic function is the same to bone. That is looking at it on a biologic level. How long does it take for those changes to occur on a diagnostic study, it could take months.

Q Do you know if Miss Garner made any complaints regarding her left wrist at Wyckoff Heights Medical Center?

A Again, I have answered those questions. I have never seen it, so I don't know.

Q Do you have any idea of the mechanism of the injury to the left wrist with respect to Miss Garner's event of May 1, 2023?

A She did not give any clear mechanism as to why her pain developed after this incident. All I can say generally is it was the car accident. She could have braced herself. I don't know, she didn't describe anything and she was not certain. She just knows that her wrist

began hurting when it wasn't hurting before.

Q It is fair to say you don't know the mechanism associated with the alleged collision with respect to the cervical spine, lumbar spine, left wrist or left knee?

A Generally the mechanism in a car accident is some type of whiplash situation. To give you a specific charting of the mechanism, most of the time you don't have that. Car accidents create forces that go in many directions.

Q Is it fair to say you don't know what the mechanism of the collision was?

A It was a driver's side collision.

Q You don't know what type of collision?

A Driver's side collision.

Q Besides involving that side of the car?

A That's the information I have, a driver's side collision.

Q You don't know the mechanism?

A The mechanism is a driver's side collision. As to how it occurred, no, I don't

know.

Q When did you first discuss surgery with regard to Miss Garner's left knee?

A January 23, 2024.

Q On that occasion of January 23, 2024 when you discussed potential surgery with Miss Garner with respect to the left knee did she agree to it at that time?

A She agreed to surgery in January of 2024. Surgery was never discussed specifically before that as she wanted to continue with therapy.

She felt that the therapy was giving her slow incremental improvement and she wanted to continue with it. It was in January where she felt it was not making a difference anymore. That was when surgery was formally discussed as a treatment.

Q On that date, January 23, 2024, she was advised for left knee arthroscopy; is that correct?

A Yes.

Q On the next visit, March 5, 2024, was there a change in plan?

A No.

Q Was there discussion regarding a Cortisone injection as opposed to a left knee arthropathy?

A That was discussed throughout the whole process. It did come up again in March. The issue in March was we were having a hard time getting medical clearance for her.

She has a lot of medical issues, so if you look at the note it was basically to proceed with left knee surgery once we obtained medical clearance. That was really what the stumbling block or the delay was.

Q What were the medical conditions that were preventing her from getting cleared?

A She has diabetes, hypertrophy, high cholesterol, history of breast cancer, so there is a whole battery of pre-ops that have to be done to manage a patient to optimize them for elective surgery and at that point in March she was not optimized.

Q Was March 5, 2024 the first time that Cortisone injection was discussed?

A No.

Q Was Cortisone injection discussed anywhere in the prior visits as documented by your records?

A As a common practice it is always discussed as a treatment option in patients who are not progressing effectively. There was no reason to discuss it up until December as she stated she was achieving improvement.

Cortisone is not without side effects. We then reiterated it again in January. It is always discussed as a treatment option. It is proper practice of medicine to always offer patients alternatives to surgery.

Q Was Cortisone injection discussed on January 23, 2024 and documented?

A "The purpose of the operation as well as benefits and alternate means of treatment have been discussed."

That would have been the only alternatives means of treatment with the patient that was not employed, so yes.

Q Alternative treatment could mean continued therapy; is that correct?

A No, that would be continued

treatment. Alternate would be something different. The patient had physical therapy which she found wasn't working, she had an increased level of pain.

Other than the normal continuation of things it is done for maintenance, but the only thing to be done different as an alternative to surgery as an additional treatment would have been an injection.

Q You mentioned that she came to you at that time with an increased level of pain?

A Yes, eight to nine out of ten.

Q That type of pain is subjective?

A Yes.

Q It is within the control of the patient?

A It is described by the patient. I don't think patients can control how they perceive pain, but they are in control of how they describe it.

Q Did you try to find out what the cause of the increase was at that the specific visit?

A There was no change in the

condition. It was just the patient just developed more pain.

Q Pain is not something that you can objectively measure, right?

A No.

Q You performed the surgery in the form of a left knee arthroscopy on March 20, 2024; is that correct?

A Yes.

Q Is it accurate to say that you cleaned up some conditions as part of that procedure?

A I removed complex tears of the medial and lateral meniscus, which were tears that were not in the zone that would heal if I sewed them back together. I removed very big tears of the lateral and medial meniscus. I did clean up the tissue from synovitis, which is a synovectomy, and that would be the cleanup part, yes.

Q The procedure that you performed, did you take intraoperative photographs?

A Yes.

Q Do you have those as part of your

chart?

A I don't maintain those, the surgery center does. I can obtain them if necessary.

MR. McGANNON: We have never been provided with with copies of intraoperative photographs. I will follow up in writing for their production.

MR. DALLAS: I will ask that any demand be reduced to writing and served on our office and I will respond accordingly.

MR. McGANNON: You got it.

Q Following the arthroscopy on March 20, 2024 did Miss Garner have any complications?

A From the specific surgery, no.

Q No infection or anything like that?

A No, sir.

Q Did you ask her how she felt in the weeks and months after that procedure?

A Yes.

Q What did she tell you?

A Initially she was seen after the surgery to take out her stitches on April 5, 2024. Obviously, she was still fresh from surgery and had pain. On subsequent visits her

pain level decreased over the subsequent visits.

Q How would you characterize the procedure?

A I don't understand the question.

Q Was it a success, a failure?

A It depends on the measure of what you are measuring. Obviously, if a person achieves pain improvement and functional improvement those are measures of success.

In the knee when you are removing tissue you cannot restore it to what it was prior. Obviously, we didn't make her what she was before. I think in general as a measure of pain relief and functional improvement it was a success.

Q On May 15, 2024 you saw Miss Garner for re-evaluation of the left knee arthroscopy; is that correct?

A Yes.

Q She was complaining about pain over the anterior aspect of the left knee, is that the area of the patella?

A That was more around the surgical portals, where the cuts were made.

Q She had pain with certain activity?
A Yes.
Q What were those activities, do you remember specifically?
A I didn't list them, but to my recollection she was having issues with stairs, going down the stairs, and having pain under her kneecap when she was going down the stairs.
Q You told her to continue pain management for the cervical spine; is that correct?
A Yes.
Q Pain management for the lumbar spine?
A Yes.
Q Did you personally render any care and treatment to the cervical spine or lumbar spine or left wrist?
A No, sir.
Q The cervical spine and lumbar spine, you had left that to Dr. Datta?
A Yes.
Q With respect to the left wrist, who treated that left wrist, if anyone?

A I did treat the wrist initially, not active treatment. The patient had physical therapy. The symptoms in the wrist were related to this a vascular necrosis.

There was no specific recommendation in dealing with that surgically as her pain level didn't amount to a level that would be appropriate to recommend a salvage operation. She would need a wrist fusion and that would not be a good outcome for a person of her age in the absence of unremitting pain that is a ten at least.

There was nothing more than physical therapy that was prescribed. There was no surgical treatment that was advised to the patient for the wrist.

Q Did the patient tell you that the physical therapy was helping with the condition of the left wrist?

A It was intermittent improvement. It wasn't like the knee where it stopped having an effect, so she did relate that the physical therapy was consistently at least helpful in controlling the symptoms.

Q What is TFCC?

A That's a cartilage tear in the wrist. It is a cartilage that exists in the wrist at the distal ulnar and wrist bones.

Q What does that stand for?

A Triangular fibrocartilage complex.

Q With respect to Miss Garner, there was no tear of the TFCV, correct?

A Not that I was able to visualize on the MRI and Dr. Schusselberg reported it was intact and maintained.

Q When did you last see Miss Garner?

A She was last seen on June 10, 2025.

MR. McGANNON: This will be marked as Defendant's Exhibit B. It is entitled Expert Disclosure.

[Whereupon, the document was hereby marked as Defendant's Exhibit B for identification, as of this date, by the reporter.]

Q I will ask you a question about the legal document, the expert disclosure dated July 23, 2025. Did you play any role in the creation of these three pages?

A No, sir.

Q Before testifying today did you review this document?

A It was E-mailed to me. I am aware of it. I didn't read it. I am not aware of the substance of it.

Q When was it E-mailed to you?

A It was sent to me by my office as part of my records pertinent to this deposition. It was attached to the instructions page on logging in.

Q Before July 23, 2025 did you have any discussions with plaintiff's counsel Robert Dallas regarding this expert exchange?

A No.

MR. McGANNON: The Expert Disclosure refers to a narrative report as Exhibit A. We will go to that.

Q At some point in time did you prepare a narrative report at the request of plaintiff's counsel?

A Yes.

Q That report is dated June 10, 2025; is that correct?

A Yes.

Q Did you prepare any other narrative report with respect to Miss Garner?

A No.

Q Before you prepared this report did you have any discussion with plaintiff's counsel with respect to what had to be in the report?

A No.

Q Also incorporated as Defendant's Exhibit B in the Expert Disclosure which we have deemed mark as Defendant's Exhibit B there appears to be your Curriculum Vitae, do you see that?

A Yes.

Q Is this current?

A You have an outdated version of the first page, but everything else is up-to-date.

Q With respect to the CV that is attached to the Expert Disclosure, the address that is listed at the top, is that your home address?

A Yes, sir.

Q When you say the first page is outdated, what is different now?

A I started seeing patients for Medalliance again in 2023, so everything else is accurate. I actually began seeing patients for them again in 2023.

Q Medalliance is at what street address?

A 625 East Fordham Road. That's an Article 28 facility where Medicaid patients are treated.

Q Is that right up against Fordham University?

A Yes.

Q Right across from McDonald's?

A I don't know what is across. It is on Fordham Road. Across the way is the Botanical Gardens and the Bronx Zoo. I believe the parking lot of Fordham University abuts the back of the building.

Q Between 2014 and 2023 was Medalliance active in any shape, manner or form?

A Yes.

Q What was the nature of the practice during that period of time?

A Their practice?

Q Yes?

A Medalliance is an Article 28, a full service medical facility that treats patients that have Medicaid, private insurance that are attached to Medicaid.

They also see patients across the whole spectrum. It provides family practice services, neurology, pain management, orthopedic services, physical therapy, vascular surgery, vascular treatments. There is a whole compliment of full service care provided.

Q What was the reason that you were not associated with Medalliance between 2014 and 2023?

A Mostly because of scheduling. I could not free up my time to be available. In 2023 I closed multiple locations and had more time to see patients there.

Q What was the reason why you closed other locations?

A Again, there was a transitional period in Middletown from 253 211 East to the Wickham Avenue location where I didn't see patients in Middletown. There was a timeframe

where I stopped seeing patients at the Newburgh location until I reacquired the space or acquired the space on my own as a tenant and I stopped seeing patients in Poughkeepsie because I used to see patients in Poughkeepsie as well.

It was just a change in my practice demand because of the transition out of the offices and the prior landlord.

Q Is Miss Garner still under your active care and treatment?

A No, sir.

Q Was she formally discharged?

A She was PRN or in laymens terms discharged with a follow-up on an as-needed basis. That was on August 28, 2024.

Q As of the time that you saw Miss Garner for the first time on May 31, 2023 did you know what she did for a living?

A No.

Q Did you ever ask her?

A I did not.

Q Did you ever inquire of Miss Garner what her usual and customary daily activities were?

A Only as they pertained to her functional impairments pertinent to her injuries.

Q You never asked her what she did for a long part of her daily existence such as work?

A No, I did not discuss work with her.

Q Between August 28, 2024 and June 10, 2025 when you wrote the narrative report at the request of plaintiff's counsel did you ever contact Miss Garner to inquire as to her condition?

A No.

Q When I say you I mean you or anyone associated with your practice?

A No.

Q Do you know when Miss Garner last saw Dr. Datta or anyone associated with his practice?

A I don't know that.

Q Do you know if she was formally discharged from his practice?

A I am not certain.

Q The care and treatment that your

practice rendered to Miss Garner, how was that paid for?

A I am assuming it was through No-Fault. Whether it was paid or not, I don't know. I don't have access to that information today.

If it was paid it would have been through No-Fault to my understanding. Whether it was paid or not, I don't know.

Q Do you know of any outstanding bills or invoices with respect to Miss Garner's care and treatment by your practice?

A As I sit here today I am not aware of it. I would have to check with my billing company.

Q What is the name of your billing company?

A Nimble Business Solutions.

Q For how long have you used Nimble Business Solutions?

A Since 2011, 2010.

Q Has Nimble Business Solutions handled all of your billing regardless of what type of case is involved such as No-Fault or

Workers' Compensation or private insurance?

A Yes.

Q I believe in this particular matter involving Miss Garner the No-Fault carrier was Allstate Insurance Company?

A To my recollection, yes.

Q Do you know if No-Fault benefits are open or were cut off?

A I am not certain, I don't know.

Q Did the succession of your care and treatment of Miss Garner coincide with the end of No-Fault benefits?

A No.

Q The left knee arthroscopy, through what source was that paid for?

A Again, all of her treatment would have been paid for if it was paid for through the same source, which would be Allstate. I don't have any alternative information to indicate another payor.

Q With respect to your practice is arthroscopy a larger ticket item?

A I am not understanding what that means.

Q In May of 2023 what did you charge for an arthroscopy of a knee?

A I don't have a number. There is a fee schedule that we follow, which is New York State No-Fault fee schedule, which we are required to abide by. Whatever that number is it is listed. I don't know the numbers.

Q Did you ever seek private payment for any procedure to avoid the No-Fault fee schedule?

A No. The patient had signed the assignment of benefits would would not make that permissible. There is no rescinding of that assignment of benefits and no effort to use private insurance for anything.

Q Do you know if there was any litigation funding associated with Miss Garner's care and treatment?

A Not that I am aware of.

MR. McGANNON: For the record, I will request an authorization for Nimble Business Solutions to obtain any and all billing associated with Miss Garner.

MR. DALLAS: We request that all

demands be reduced to writing and served upon our office and we will respond accordingly.

Q Did Dr. Datta's practice also use Nimble Business Solutions?

A I don't know who his billing company is, I am not certain.

Q Do you know if Leading Edge used Nimble Business Solutions?

A I don't know.

MR. McGANNON: Off the record.

[Whereupon, a discussion was held off the record.]

Q Have you ever been involved in civil litigation with respect to your practice?

MR. DALLAS: Could you clarify that.

MR. McGANNON: Sure.

Q Have you ever been a party to civil litigation with respect to your practice?

A Yes.

Q Have you ever been a party to any medical malpractice action?

A Yes.

Q Approximately how many?

A There were two cases in my career. One I was dismissed from and one is still a pending issue, but not directed towards something that I did directly. I was just named as a co-defendant for both patients that had anesthesia complications.

Q Were you the surgeon involved in that event involving the anesthesia complications?

A One surgery was never done. The patient had a complication before the surgery commenced. The second one, yes.

Q Those two cases, where were they pending?

A Bronx County.

Q Both of them?

A Yes. One I was taken out of the case and the other one is still pending.

Q Do you remember the name of the patient involved in either one of those matters?

A The one that I believe is still outstanding is Juanita Tucker. The first one, I don't remember the name.

Q In connection with either of those two cases did you ever provide any sworn testimony?

A Yes.

Q Did you sit for depositions in those cases?

A Yes.

Q Besides providing the sworn testimony did you provide any sworn or verified documents?

A No.

Q Were you ever a party to a matter entitled Geico versus Datta, et al?

A Yes.

Q Was that a matter filed in the United States District Court Southern District of New York?

A Yes.

MR. McGANNON: I have a docket number 1:22-cv-10531-Otw.

Q Is that matter still pending?

A The matter is still pending. It is currently in mediation for settlement on payment and compensation. I can't really discuss the

details beyond that as I don't want to jeopardize the negotiations. It is an ongoing matter and getting close to settlement through mediation.

Q Without telling me any specifics, what is your general understanding of the nature of the action?

A It was presented as a boilerplate RICO. It amounts to claims avoidance litigation set forth on the part of Geico to alleviate themselves of the responsibility to pay me for services that I rendered to their insured. That's my understanding as per my attorney.

Q Who is your attorney?

A Steven Harfinest.

Q Where is Mr. Harfinest's office located?

A In Long Island and also in Purchase, New York.

Q In connection with that matter entitled Geico versus Datta, did you provide any sworn testimony in that matter?

A Yes.

Q Did you sit for a deposition?

A Yes.

G. Dassa

MR. McGANNON: I will share a document that we have have marked as Defendant's Exhibit C. This is a caption of the action we were just discussing.

MR. DALLAS: I will note a standing objection to relevance to the line of questioning. You can go forward.

[Whereupon, the document was hereby marked as Defendant's Exhibit C for identification, as of this date, by the reporter.]

Q Besides yourself being named as a defendant there are also Dassa Orthopedic Medical Services, PC, that's your practice?

A Yes.

Q Saddle Brook Endoscopic and Orthopedic Surgery Center, where is that located?

A I don't know.

Q Is that located in Saddle Brook, New Jersey?

A I would assume so, but I don't like to assume.

Q Do you know whether or not that's a facility used by Dr. Datta to perform procedures?

A I don't know.

Q Do you have any ownership interest in Saddle Brook Endoscopic and Orthopedic Surgery Center?

A No, sir.

Q Did you ever have any ownership interest in that facility?

A No, never.

Q Did you ever receive any fees or revenue from that facility?

A Never.

Q Do you know if Dr. Datta is affiliated with Saddle Brook Anesthesia Associates, LLC?

A I don't know.

Q Garden State Neurostimulation, LLC, do you know if Dr. Datta is affiliated with that facility?

A That would be his PC that he has posted on the windows of my offices Upstate. I don't know if there is a specific facility pertinent to that.

Q To your knowledge Dr. Datta is still the owner of Garden State

Neurostimulations?

A I know he is participating in it. Whether he is the sole owner, I don't know the details of the ownership.

Q You understand he is a principal of that entity?

A To my understanding, yes.

Q How about Datta Endoscopic Surgery and Pain Center, LLC?

A The answer is the same.

Q You indicated you sat for several depositions?

A Yes.

Q In this matter of Geico versus Datta, et al?

A Yes.

Q Have you submitted any sworn or verified documents in connection with it?

A Just signed copies of the transcript of said depositions. I did an EUO and then a deposition on behalf of myself personally and then on behalf of my corporation. I signed the documents pertinent to the printed transcript.

G. Dassa

Q In connection with that matter, Geico versus Datta, et al, did you have to produce documents in connection with same?

A Only pertinent to my treatment of some specific patients, you know, as I said, it is in mediation. I don't know how much I am at liberty to discuss.

There were experts that were hired to validate the appropriateness of my treatment. The matter has not gone to court. Basically whatever documents I was asked to provide pertinent to patient treatment that they have listed was provided to Geico.

Q You mentioned a mediation date. Has a trial date been set?

A No. The mediation is done in trying to avoid trial. My last submission to them was a listing of my outstanding claims and claim numbers that my attorney provided Geico and that's the last that I have heard from them.

MR. McGANNON: I will request an authorization to obtain the non-privileged materials from that matter including the EUO transcript and any deposition

transcript.

MR. DALLAS: We will note a standing objection and a standing request that you reduce everything to writing.

MR. McGANNON: You got it.

Q Were you involved in another matter entitled Allstate Insurance Company versus Gabriel Dassa, DO, et al?

A Yes.

MR. McGANNON: I am referring to Allstate Insurance Company, et al versus Gabriel Dassa, DO, et al, the matter in the United States District Court for the Southern District of New York, docket number 7:23-CV-07515-PMH. We will mark this as Defendant's Exhibit D.

[Whereupon, the document was hereby marked as Defendant's Exhibit D for identification, as of this date, by the reporter.]

MR. DALLAS: I will note a standing objection to this line of questioning as well as to the relevance.

Q The matter of Allstate Insurance

Company against Gabriel Dassa, is this matter still pending or has it been resolved?

A It is resolved.

Q How was it resolved?

A It was resolved as a settlement. I have a confidentiality of nondisclosure. I can only state that it was satisfied to the approval of both parties.

I never admitting wrongdoing and I am permitted to continue to treat Allstate clients, so that's the most I can tell you without jeopardizing the settlement.

Q Were you represented by counsel in that matter?

A Yes.

Q Was it Steven Harfinest?

A Yes.

Q When was the Allstate Insurance Company matter resolved?

A I believe sometime in 2024, the end of 2023.

Q In connection with that Allstate Insurance Company matter did you provide any sworn testimony?

A No.

Q Did you submit any sworn or verified documents?

A No.

Q Did you ever produce any documents in the course of discovery or other stage of the litigation?

A Not to my knowledge, no.

Q You are listed as a defendant in the caption and also Sukdev Datta, Daniel Schusselberg is listed as a defendant, Dassa Orthopedic Medical Services, PC, doing business as CV Orthopedic, Garden State Neurostimulations, LLC, Datta Endoscopic Back Surgery and Pain Center, LLC, Leading Edge Medical Diagnostics, PC, Arthur Kostanian, Skazka, LLC and Nimble Business Solutions, Inc. among others.

Are you familiar with the allegations contained in the Complaint which has been deemed marked as Defendant's Exhibit D?

A Yes.

Q Did you ever read any testimony by any of the parties in connection with this matter?

A No.

Q Did you ever read any testimony provided by Daniel Schusselberg in connection with this matter?

A No.

Q What was your understanding of the allegations against you?

A Again it was a boilerplate complaint pertinent to a RICO complaint that amounted to a claims avoidance litigation as it is another No-Fault carrier using the Federal system as a ploy to alleviate themselves for claims that amounted to me servicing their clients.

That's the sum total of it. It was about money and that's my understanding of it. I can't speak beyond that. I don't want to violate the terms of my confidentiality agreement.

Q Was there a challenge to the care and treatment that you rendered based on medical necessity or lack thereof?

A No.

Q In response to the Complaint in the Allstate Insurance Company matter which has been

deemed marked as Defendant's Exhibit D today, did you provide a responsive pleading that was verified by you?

A My attorney did provide that, yes.

Q Was there anything that you personally verified in response to the allegations against you?

A Just what my attorney had prepared for me, prepared on my behalf.

Q Were you also involved in litigation as a defendant in the a matter brought by American Transit Insurance Company?

A Yes. I was never served. I know there was a document that existed with my name on it. The principal party of that litigation was Surgicore.

There was some settlement that was done through Surgicore. I was never officially served with that litigation. I don't know if I can say I have been served in it. I have never received any service of any documentation.

MR. McGANNON: I will share a document that we will mark as Defendant's Exhibit E.

G. Dassa

MR. DALLAS: I will reiterate a standing objection to any questions about this litigation as to the relevance in the subject case.

MR. McGANNON: This is a Complaint. We will mark it as Defendant's Exhibit E.

[Whereupon, the document was hereby marked as Defendant's Exhibit E for identification, as of this date, by the reporter.]

Q Do you see the document on the screen?

A Yes.

Q Is that American Transit Insurance Company against other providers; is that correct?

A Yes, and 180 other medical providers, yes.

Q It is brought in the Eastern District Court in the Eastern District of New York, 1:24-cv-08606. Do you see any providers that were made party to this lawsuit that were also providers to Miss Garner?

A New Horizons Surgical Center, LLC.

Q Do you know the status of this

action?

A Again, I am told it was settled. I have never received any service of the matter. I did sign a document approving the settlement terms and basically that's the last I heard of it. I have never been officially served with this document.

Q You signed off on a settlement agreement to resolve the matter which named you among others?

A Yes.

Q Was there any confidentiality agreement associated with that settlement agreement?

A Yes.

Q Who was the attorney representing you in connection with this matter?

A Nobody represented me. It was the attorneys for New Horizons. These defendants were doctors that ever did a surgery in their center. I didn't have to retain an attorney because I was never served with the action.

Up to this date I never received service. I have a document that I signed

indicating acknowledgement of no wrongdoing and basically beyond that I can continue to treat American Transit patients. Some opted not to continue treating American Transit patients and they were listed in a separate category. That's the most I can speak of it.

Q The surgery that you performed for Miss Garner at New Horizons, what was the reason that that surgery was performed in New Jersey as opposed to New York?

A Basically for scheduling convenience. I have blocked time at certain surgical centers and I had blocked time that dictate. That's the only motivation.

Q It was only done for your convenience?

A And the patient's convenience as well based upon their availability.

Q New Horizons is located in Patterson, New Jersey?

A Yes.

Q What is the distance between Middletown, New York and Patterson, New Jersey?

A I don't know.

Q During the course of time that you treated Miss Garner were you aware that she also had a residence at 72 Linden Street in Brooklyn?

A No.

Q In connection with the American Transit Insurance Company matter did you ever provide any sworn testimony in any form?

A No.

Q Did you ever submit any sworn or verified documents?

A No.

Q Was the last time that you saw Miss Garner on June 10, 2025?

A Yes.

Q That meeting, was that arranged so you could prepare a narrative report?

A Yes.

Q It was an appointment set up for the purpose of litigation?

A Yes.

Q It was not for treatment?

A Correct.

Q Do you have any future scheduled appointments to see Miss Garner?

A No, I don't.

Q Besides reviewing the chart that you maintain for Miss Garner or diagnostic images did you review any records from Dr. Datta in preparation for the deposition?

A I did not.

Q With respect to any MRI findings, did you review any actual images in preparation for the deposition?

A I did review images prior to surgery and about three weeks ago I had asked for the disks again just to compare to refresh my recollection, but I have not seen them immediately prior to this deposition.

Q Who whom did you request the disks?

A From Leading Edge.

Q Do you still have a working relationship with Leading Edge or Dr. Schusselberg or both?

A I still refer patients to Leading Edge, yes.

Q At the present time do you still work at the same location with Dr. Datta?

A Middletown, yes. He is no longer

in Newburgh.

Q Do you still work at the same location as Mid Hudson Chiropractic and Physical Therapy?

A Yes.

Q If I mention Michael Calavano, another physician, does that refresh your recollection?

A I don't know that person.

MR. McGANNON: Thank you for your time and patience today.

EXAMINATION BY

MR. DALLAS:

Q We discussed your fee for appearing at this deposition today, Dr. Dassa. If you were not here being deposed what would you be doing today?

A Surgery.

Q Typically you would be compensated for that surgery?

A Yes.

Q How much would you be compensated for the surgeries that you would have had scheduled versus your time here today?

A That's a hard question because there is reimbursable charges which would probably amount to, scheduling seven cases, about $40,000. How much I will be reimbursed, that's always a wild card. I can tell you that $40,000 of reimbursable services.

Q You were talking about your board certifications earlier. Can you go into more detail about that?

A Generally in the process of medical training there are accredited and non-accredited programs that medical providers graduate from.

If you graduate from an accredited program such as the one I did you are deemed to be trained with the prerequisites to sit for an exam, which makes you board eligible.

When you actually complete all of the parts of that exam successfully you are called board certified.

Now it is only good for ten years. We have to redo our certification to certify that our competence is at a level to a standard set forth by my peers.

Q Are any of those recertifications

within the last three years?

A I just recertified the American Board of Orthopedic Surgery in 2022. I am in the process of recertifying the Osteopathic Board of Surgery right now.

Q I believe you testified that Miss Garner first came under your care on May 31, 2023; is that correct?

A Yes.

Q At that time was an orthopedic examination conducted?

A Yes.

Q During that orthopedic examination did you note anything as far as objective signs which would have indicated traumatic injuries?

MR. McGANNON: Objection.

A Yes.

Q What would that have been?

MR. McGANNON: Objection.

A Specifically for the knee there was swelling. The patient had range of motion impairment, inflection to the left knee, positive McMurray test to suggest a meniscus tear.

For the wrist there was range of

motion impairment in flexion and extension with a positive TFCC test and ulnar compression test which was suggestive of a possible TFCC tear.

The findings on the neck and back there was muscle spasm and tenderness and restricted movement. There was a positive Spurling test in the neck to suggest a disk herniation and a straight leg raising test that was positive for the lower extremities to indicate a possible disk herniation for the lumbar spine.

Q When you measure the range of motion do you use a goniometer?

A Yes.

Q Based upon these objective findings you referred her for diagnostic testing; is that correct?

A Yes.

Q Following her MRIs did you treat Miss Garner again on September 19, 2023?

A Yes.

Q At that time did you review the MRIs that she had conducted?

A Yes.

Q Which MRIs did you review?

A The neck, the back, the wrist and the knee.

Q Following your review of the MRI of the knee did you have a diagnosis for her at that point?

A Yes.

Q What was your diagnosis?

A Left knee medial and lateral meniscus tear with osteoarthritic changes to the patella, avascular necrosis of the lunate and cervical and lumbar multi-level disk displacement.

MR. McGANNON: Move to strike that portion that is not responsive.

Q Was this diagnosis based upon your actual review of the MRI film of the left knee?

A Yes.

Q Was it corroborated and consistent with the complaints that the patient was giving?

A Yes.

MR. McGANNON: Objection.

Q Was it also corroborated with your objective findings during your examination of the

patient?

MR. McGANNON: Objection.

A Yes.

Q Was your diagnosis within a reasonable degree of medical certainty caused by this subject accident on May 1, 2023?

MR. McGANNON: Objection.

A Yes.

Q Would Miss Garner continue to follow up with you on a consistent basis following that second consultation?

MR. McGANNON: Objection.

A She did.

Q You referred her to do conservative treatment such as chiropractic and physical therapy?

A Yes.

Q Was she compliant with that, do you know?

MR. McGANNON: Objection.

Q Did she get any relief based upon your conversations from the chiropractor and the physical therapy?

MR. McGANNON: Objection.

A Initially, yes. More lasting for the wrist, not lasting for the knee. The neck and back she continued to have neck and back complaints. I didn't continue to treat those.

Q Do you know the first time surgery to her knee was presented as an option?

A It was discussed as a general possibility, but a specific conversation regarding surgery, January 23, 2024.

Q I will draw your attention to your note to the examination on September 19, 2023. Do you have that in front of you?

A Yes.

Q In the recommended treatment on Page 3, "Non-Surgical and surgical options with respect to left knee injury were detailed with the patient. The patient understood and contemplated." Did I read that correctly?

A Yes.

Q Does that help refresh your recollection as to when surgery might have been brought up as an option for the first time?

MR. McGANNON: Objection.

A My understanding of your prior

question was as a specific recommendation. Surgical treatment was discussed as one of the treatment options for the patient in September, but the patient wanted to continue with physical therapy because she felt that she was improving in the integral timeframe between May and September.

Q At that point she wanted to continue conservative care versus more invasive treatment like the surgery, is that fair to say?

A Correct.

MR. McGANNON: Objection.

Q Miss Garner had left knee surgery conducted by you in March of 2024; is that correct?

A Yes.

Q What type of procedure was performed?

A Arthroscopic surgery.

Q What was repaired, if anything, during that procedure?

A The patient had tears of the meniscus, medial and lateral. The repair is performed by removing the torn piece of meniscus

that was creating mechanical impairment.

There was a synovectomy performed which is removing the synovium, a shaving of the cartilage of the patella was performed and scar tissue was removed from the knee.

Q During that procedure were you able to actually visualize those tears?

A Yes.

Q Do you have an opinion as to whether or not those tears were acute versus degenerative in nature?

MR. McGANNON: Objection.

A Yes.

Q What is your opinion?

MR. McGANNON: Objection.

A Generally degenerative tears are accompanied by the degeneration in the compartment where the tears are.

The only area of the three compartments of the knee that showed any type of questionable possibility of pre-existing degenerative changes was at the patella, which is not where the meniscus tears were. That was seen on the MRI and intraoperatively. There was

nothing to suggest that these tears were degenerative in nature.

Q Therefore, they would have been acute?

A Yes.

MR. McGANNON: Objection.

Q Is that opinion within a reasonable degree of medical certainty?

A Yes.

Q As far as her prognosis forward, what could be expected?

MR. McGANNON: Objection.

A She does have arthritis in the knee. There has to be a certain component of that that is pre-existing, but there is a component which is traumatic related, traumatic arthritis, which will get worse over time. She has a high probability of needing a knee replacement as I stated in my narrative.

Q If I were to tell you that Miss Garner presented to Wyckoff Heights Medical Center with complaints of back and left knee pain would that be consistent with her complaints when she first presented to you?

G. Dassa

MR. McGANNON: Objection.

A Yes.

Q If I were to tell you that Miss Garner presented to New York Presbyterian Hospital clinic the day following the accident with complaints of neck, left knee and lower back pain as well as left wrist pain, would that be consistent with the complaints that she presented to you with on May 31, 2023?

MR. McGANNON: Objection.

A Yes, sir.

Q Is it your opinion that Miss Garner's injuries to her left knee were causally related to this accident?

MR. McGANNON: Objection.

A Yes.

Q Is that opinion within a reasonable degree of medical certainty?

A Yes.

MR. McGANNON: Objection.

Q What about as far as the injuries to her neck and her lower back?

MR. McGANNON: Objection.

A Yes.

Q You also reviewed personally the MRI films from her cervical and lumbar spine; is that correct?

A Yes.

MR. DALLAS: I have no further questions. Thank you very much.

CONTINUED EXAMINATION

BY MR. McGANNON:

Q You mentioned that you missed an opportunity to perform surgery today; is that correct?

A Yes.

Q The more surgery you perform the more money you earn for your practice; is that correct?

A Yes, that is correct.

Q When I asked you about your practice being a business, your practice does generate money; is that correct?

A Yes.

Q You try to maximize the revenue for your business when you can; is that correct?

A Yes.

Q You are the sole owner of the

business; is that correct?

A Yes.

Q The more treatment that you order, including surgery, the more revenue it generates for your business and by extension yourself; is that correct?

A Yes.

Q Of the people who you see at the Middletown address how many of those people do you refer to Dr. Datta?

A Probably three to five percent. Patients don't always come with issues that require services by pain management. I see mostly extremity issues.

If patients have neck and back issues they are given a general referral based upon convenience so the ones that live in Middletown, if they ask me who I will recommend I will say Dr. Datta because he is a good doctor.

It doesn't amount to a predominance of my practice because I don't see a lot of neck and back problems.

Q In terms of convenience, Dr. Datta is in the same office address; is that correct?

A Yes.

Q As far as convenience, Mid Hudson Chiropractic and Rehabilitation, for those patients that make complaints regarding any portion of the spine, do you refer them to Mid Hudson?

A As stated, the patients are given general referrals. It is a specific service for pain management.

Those services generally are directed to people that I am comfortable with.

As far as physical therapy and chiropractic, I give them a general referral to therapy and chiropractor and the patient chooses where they want to go.

Q You indicated that you are not a radiologist; is that correct?

A Correct.

Q With respect to the findings of Dr. Schusselberg, are you in complete agreement with his findings on any of the MRIs?

MR. DALLAS: Objection.

A Yes.

Q When you refer people to Leading

Edge is it true that you do indicate what parts of the body you want to be the focus of MRI studies, right?

A Yes.

Q You also put down your findings in the prescription?

A It is what you are trying to rule out.

Q You are actually indicating to the facility known as Leading Edge where to look, right?

A It is what your suspicion is on it. You have to have a reason to order the test. Otherwise, it is not an appropriate referral.

The test is done in general. If I am looking for a specific location where I am suspecting something he is asked to pay specific attention to that. It is a diagnostic evaluation of the entire body part.

Q You referred Miss Garner to Dr. Datta and his practice, correct?

A Yes.

Q Do you know if his clinical examination findings were consistent with yours

or inconsistent?

A I didn't see his notes. I can't comment either way.

MR. McGANNON: Thank you very much. I have nothing further.

MR. DALLAS: Thank you very much. I have nothing further.

[Whereupon, the examination of the witness was concluded at 1:10 p.m.]

_____
GABRIEL L. DASSA, DO

Subscribed and sworn to
before me this ____ day
of _____, 2026.

_____
Notary Public

I N D E X

WITNESS	EXAMINATION BY	PAGE
G. Dassa	Mr. McGannon	5, 127
	Mr. Dallas	116

E X H I B I T S

DEFENDANT'S	DESCRIPTION	PAGE
Exhibit A	Plf's Medical Exchange	33
Exhibit B	Expert Disclosure	88
Exhibit C	caption - Geico case	102
Exhibit D	Plf's Complaint	106
Exhibit E	Complaint	111

[Exhibits retained by attorney.]

REQUESTS

Page	Line
84	5
97	21
105	22

* * *

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STATE OF NEW YORK)
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I, KAREN ZAMMIT, a Notary Public for and within the State of New York, do hereby certify:

That the witness(es) whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of February, 2026.

KAREN ZAMMIT

KAREN ZAMMIT

* * *

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NAME OF WITNESS:
DATE OF DEPOSITION:

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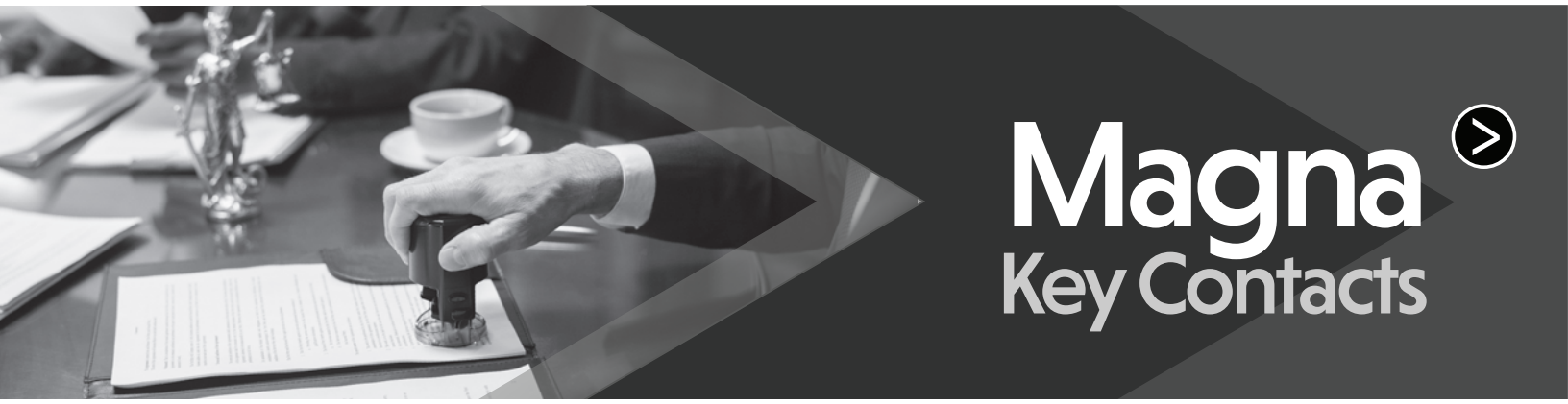

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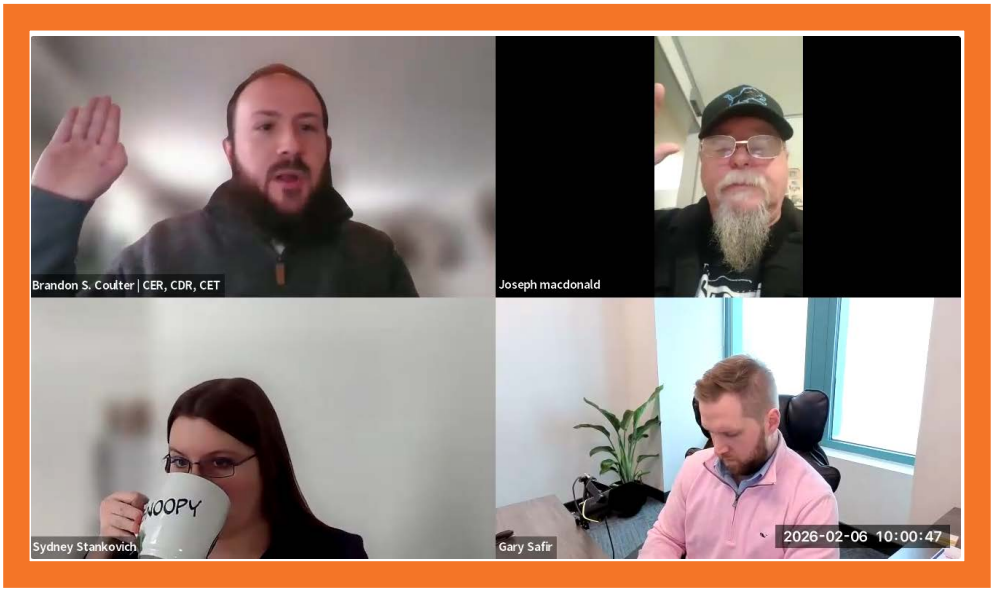

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A

abide
97:7
abilities
40:24
ability
43:24 44:14
able
73:7 88:10 124:7
abnormal
48:23
about
8:5 16:11 18:13 20:4 20:6 29:6 44:20 46:2 50:4 53:6 61:5 61:8 65:17 85:21 88:22 104:9 109:17 111:3 115:12 117:4 117:8,10 126:22 127:18
absence
43:23 53:6 56:16 58:12,24 87:12
absent
45:23
absorbedd
58:16
abuts
91:18
accepted
30:19
access
95:6
accident
41:18,21,24 45:12 52:24,25 62:11 77:23 78:8 121:7 126:6,15
accidents
78:11
accommodate
6:15
accompanied
124:18
accordance
59:11
accordingly
84:11 98:4
accredited
117:12,14
accurate
6:13 75:11 83:11 91:4
accurately
8:16 48:18
achieves
85:9
achieving
81:9
acknowledge
4:4,7
acknowledgement
113:2
acquired
93:3
across
47:25 58:15 91:14,15 91:16 92:7
action
23:5,11,18 98:24 101:7 102:5 112:2 112:23 133:12
active
23:24 87:3 91:21 93:11
activities
86:4 93:24
activity
86:2
actual
115:9 120:18
actually
30:15 91:4 117:18 124:8 130:10
acute
53:3 54:9,9 55:9 124:11 125:5
add
32:11
addition
46:20
additional
43:13 51:20 82:9
address
5:10 10:24 11:9,18 11:24 12:7 14:5 25:9,13 34:15 64:22 90:20,22 91:7 128:10,25
addresses
11:2 13:24 16:21
adds
68:5
administer
4:9 35:19
administered
4:8
admitting
107:10
advanced
56:9,20
advise
68:8,12
advised
43:3 63:23 64:7 75:23 79:21 87:16
affect
30:23 31:6,14 43:24 44:6,13 45:4 53:7
affiliated
103:14,18
affiliations
21:24
after
8:6 12:14 43:7 45:22 48:3 52:25 55:8 57:25 75:3,7 76:16 77:21 84:19,22
again
44:10 49:25 69:2 77:14 80:7 81:11 91:3,5 92:22 96:17 109:9 112:3 115:13 119:21
against
1:7 23:5,11,18 91:11 107:2 109:8 110:8 111:16
age
57:7 87:12
aggravation
55:9
aging
57:2,7
ago
115:12
agree
9:7 79:9
agreed
3:3,8,11 4:17,18 79:10
agreement
4:14,15 14:15 109:19 112:10,14,15 129:21
al
100:14 104:16 105:3 106:9,12,13
all
3:8 7:6 9:2 15:12 16:2,21 23:24 35:8 38:11 58:20,21 68:4 71:16 77:22 95:24 96:17 97:23,25 117:18
allegations
108:20 109:8 110:8
alleged
78:4
Allerton
11:5,11 12:15 17:22
alleviate
101:10 109:13
allows
30:13
Allstate
37:11 96:6,19 106:8 106:12,25 107:11 107:19,23 109:25
alone
32:25,25
also
5:22 7:23 11:7 14:8

17:17,21 21:11 25:21 26:16 37:20 41:14 46:19 50:8 53:19 60:8,21 64:3 71:10 90:10 92:7 98:5 101:18 102:14 108:11 110:11 111:23 114:3 120:24 127:2 130:6
alternate 81:18 82:2
alternative 81:23 82:8 96:20
alternatives 81:14,21
always 16:23 66:9,16 81:5 81:12,13 117:6 128:13
am 4:4 5:16 6:11 7:4 8:23 11:8,20 12:3 21:13 25:5 27:11 29:21 30:10,15,16 35:24 37:5 42:10 45:24 46:17 50:4 52:11 53:21 66:3 68:7 69:3 72:3,21 74:10,23 75:11 76:7 89:5,6 94:24 95:4 95:14 96:10,24 97:20 98:8 105:7 106:11 107:11 112:3 118:4 129:12 130:17,17 133:11 133:13
ambulance 42:3
Ambulatory 26:7
American 27:3,4,9 110:13 111:15 113:4,5 114:6 118:3
among 3:4 63:4 108:18 112:11
amount 11:17,22 62:20 87:8 117:4 128:21
amounted 109:11,14
amounts 101:9
an 4:8 5:16 7:6,9 8:3,11 8:25 11:8 14:15 20:7,10,22 24:17 28:20 30:8,13 31:19 32:5,11,14 34:6,13 34:23 36:16,18,19 37:8,10 38:3,8,16 38:20 43:16,20,25 44:23 45:21 47:6 48:3,23 50:2 51:25 53:3 54:25 55:9 60:24 62:17,19,21 63:24 82:4,8,9,10 82:12 87:23 90:17 91:8 92:3 93:15 97:3,22 101:3 104:21 105:22 112:22 114:19 117:14,16 118:11 122:7,23 124:10 127:10 130:15
anatomy 57:4
and/or 66:9
anesthesia 99:8,10 103:14
ankles 60:23
another 25:12 71:4 96:21 106:7 109:12 116:8
answer 6:8,12,16 8:16 15:9 16:20 19:10 31:16 35:6 44:9 45:14,15 46:10,16,23,25 47:2 49:24 54:19 66:12 74:2 75:22 104:11
answered 65:4 73:25 77:14
anterior 85:22
antiinflammatory 64:3
anybody 35:8
anymore 51:15 79:18
anyone 10:9 32:4 52:9 86:25 94:15,19
anything 6:21 9:25 46:2 52:3 66:16 77:24 84:16 97:16 110:6 118:15 123:21
anywhere 8:18 52:19 65:5,8 81:3
apart 9:4
APPEARANCES 2:2
appeared 6:24 34:4
appearing 116:15
appears 39:11 90:13
appointment 34:6,13 38:21 71:13 73:14 114:19
appointments 71:10,19 73:16 114:25
appropriate 87:9 130:15
appropriateness 105:10
approval 107:8
approving 112:5
approximately 7:3,11,25 8:9 9:8 36:8 59:22 63:9 99:2
April 84:23
are 3:6 10:4,22 11:4 16:6 16:16,21 17:25 19:25 21:6 23:24 26:23 32:13,17 34:15,16 35:7 39:7 39:24 42:2,13 44:17 47:10,14,19,23 49:4 49:6,14,16 50:25 55:6 56:17,22 57:24 58:15 65:6,7,16,17 66:14,17,17 67:7 68:21 69:5 70:11,24 71:5 72:14 73:7 74:7,15,22 81:7 82:20 85:8,10,11 91:9 92:6 96:9 97:6 102:14 108:10,19 117:12,15,19,25 124:17,19 127:25 128:17 129:8,11,17 129:21 130:8,10
area 70:22 73:2 75:14 85:23 124:20
areas 61:10
around 8:7 15:14,16 26:21 85:24
arranged 114:16
arrangement 4:12 19:15,22
arrived 40:4 41:4 42:6 48:14
arriving 41:7,11
arthritic

58:10
arthritis
49:17 54:4 55:8 58:22 125:14,18
arthropathy
48:22,25 49:4,5,5,7 49:10,12,15,17 53:13 80:5
Arthroscopic
123:20
arthroscopy
79:21 83:8 84:13 85:18 96:15,23 97:3
Arthur
108:17
Article
91:9 92:3
ask
5:19,22 6:2,16 52:5 61:5,8,20 84:9,18 88:22 93:21 128:19
asked
34:14,16 94:4 105:12 115:12 127:18 130:18
asking
35:8
aspect
85:22
assessment
53:8
assignment
97:13,15
assistant
32:9,11,20,20
assistants
11:20
associated
54:23 58:21 78:4 92:14 94:16,19 97:18,24 112:14
Associates
103:15
assume
41:23 102:22,23
assumed
37:12 62:9
assuming
95:4
assumption
62:12
as-needed
93:15
attached
89:11 90:20 92:6
attempt
43:5,11,16 50:19
attempts
43:13,16
attention
33:17 122:11 130:19
attorney
5:16 34:23 35:12,20 36:16,18,19,20 38:5 43:20 101:13,14 105:20 110:5,9 112:17,22 132:14
attorneys
2:4,10 4:2 5:17 27:22 28:3 29:20 35:9,12 35:15,18,19 36:12 37:4 112:20
attorney's
38:8
August
15:16 93:16 94:9
authority
70:14
authorization
97:22 105:23
availability
113:19
available
70:18 71:17 92:17
avascular
120:12
Avenue
5:11 10:25 11:5,11 11:23 12:15,21 17:11,22 18:13 19:2 25:11,12,14 39:14 65:20 92:24
average
7:11 20:4
averaging
8:5
avoid
97:10 105:18
avoidance
101:9 109:11
aware
37:5 42:2,4 45:24 46:17 52:11 74:7,10 74:15 89:5,6 95:14 97:20 114:3
away
56:6
a.m
1:13

B

B
5:2 88:16,19 90:11 90:12 132:6,9
Bachelors
20:17
back
6:5 18:17 19:7 52:10 52:13 53:7 62:6 64:6 66:23 67:9,12 67:17,24 68:15 73:24 83:17 91:18 108:15 119:5 120:3 122:4,4 125:23 126:7,23 128:16,23
background
5:24
bariatric
60:6,10
based
32:24 40:7 41:15 54:19 66:17 109:21 113:19 119:16 120:17 121:22 128:17
basic
47:8
basically
42:25 80:11 105:11 112:6 113:3,12
basis
7:5 35:16 93:16 121:11
battery
80:19
be
3:6,10,12 4:6 22:4 30:5,8 31:3 36:21 37:9,12 39:8 43:3 44:15,21 45:22 47:15,18 48:23 51:2 54:14,23 55:9,11,13 56:12,14,15 58:23 59:6,8 60:14 61:15 62:11 64:5 65:17 66:14,22 67:22,24 68:2,21 72:16,22 74:24 76:3,21 80:19 81:25 82:2,8 83:20 84:10 87:9,11 88:15 90:8,13 92:17 96:19 98:2 103:20 116:17 116:20,23 117:5,16 125:12,15,24 126:8 130:3
because
6:9 8:23 9:10 14:16 17:6 33:2 34:21 39:4 45:8,24 50:24 52:23 57:18 61:10 68:8 73:3,7,23 92:16 93:5,8 112:23 117:2 123:6 128:20 128:22
become
57:12
becomes
58:14
been
5:3 17:3 23:4,8,10,14 23:17,21 26:19 29:22 34:12 40:16 43:7 44:3 52:14 61:20 63:5 68:16

72:24 81:19,20 82:10 84:5 95:8 96:18 98:15,20,23 105:16 107:3 108:21 109:25 110:21 112:7 118:19 122:22 125:4
before 1:16 3:12,14 6:12,17 6:19 8:4 9:23 10:8 12:12 19:8 34:16 35:2,21 36:22 41:6 56:2 69:18 74:8 78:2 79:12 85:14 89:3,13 90:6 99:13 131:15 134:19
beforehand 29:9
began 78:2 91:4
begin 6:19
begins 33:18
behalf 8:14 9:8 34:18 104:22,23 110:10
being 51:25 67:4 102:13 116:17 127:19
believe 12:12 13:25 17:16 91:17 96:4 99:23 107:21 118:7
belt 47:20,25
benefits 81:18 96:8,13 97:13 97:15
Bergen 25:22
Besides 7:22 32:4 47:5 50:7 78:19 100:9 102:13 115:3
best 24:25 31:3
between 1:19 7:13 14:14 19:6 19:15,18,22 24:23 42:16 91:20 92:14 94:9 113:23 123:7
beyond 28:7 45:24 101:2 109:18 113:3
big 83:17
bilateral 61:6,22
billed 37:9,13
billing 95:15,17,24 97:24 98:7
bills 95:12
biologic 77:6,7
Biology 20:18
birth 34:14
Bisgaard 2:9 5:17
bit 25:6
black 77:5
bleeding 47:17
block 80:14
blocked 113:13,14
blood 133:12
BMI 59:19 63:8
board 26:23 27:3,4,5,9,10 117:8,17,20 118:4,5
body 38:15 52:19 62:10 68:3 74:8,20 130:3 130:20
boilerplate 101:8 109:9
Bold 71:4 72:25
bone 56:21 76:21,23,24 77:7
bones 56:6 88:5
bony 58:7,11
Botanical 91:16
both 8:20 10:14 25:14 27:11,12 32:25 60:7 66:5 68:16 99:7,18 107:9 115:20
braced 77:23
breach 14:13,16
break 6:14,18
breakdown 53:14
breast 60:8,9 80:18
Brisbois 2:9 5:17
Broadway 11:7 12:7,24 14:3,5 14:22 15:14
broker 26:13
Bronx 11:5,6,11 12:16 13:12,12 15:23,23 17:2,3 22:3,4 26:15 40:15,19 91:17 99:17
Brook 102:17,20 103:4,14
Brooklyn 51:13 114:4
brought 110:12 111:19 122:23
bruising 47:16,24 48:16,20
BS 20:18
building 13:16 17:6,8 91:19
business 5:10 10:23,24 11:2 15:11,17,21 16:9,12 16:17,23 17:14 19:5 19:11,17 24:9 29:3 30:2 71:22 72:4,6 95:19,21,23 97:23 98:6,10 108:13,18 127:19,23 128:2,6
but 8:25 13:13,16 15:23 16:13 18:12,23 24:19 25:13,21 27:16,20 30:5,11 31:2 32:15 38:24 41:24 43:4 44:18 49:13 52:2 53:22 56:13 72:5,17,25 82:7,20 86:6 90:18 99:5 102:22 115:14 122:9 123:5 125:16
by 2:6,12 3:3 4:14 5:3,6 18:8,17 27:2 31:2 31:25 32:14 33:13 34:8,23 36:19 37:11 39:25 41:14 42:3 45:20 58:2 59:25 62:11 63:24 68:16 70:8,10 71:22 75:18 81:3 82:18 88:20 89:9 95:13 97:7 102:11,25 106:20 107:14 108:23

109:4 110:4,13 111:10 116:13 117:24 121:6 123:15,25 124:18 127:9 128:6,14 132:3,14 133:8,10 133:12
bypass 64:4

C

C 102:4,10 132:10
Calavano 116:7
calculate 59:21
calendar 38:22,24
called 13:12,16 17:17 34:5 34:13 76:24 117:20
calling 38:3
came 34:17 38:11 82:11 118:8
can 6:7,13 8:4 9:2 15:8 16:19 19:9 24:25 28:7 31:15 35:5 39:8 43:17 44:8 45:13 46:9,15 47:2 49:23 55:3 56:10 57:22,24 58:11,18 60:20,21,23 64:17 66:11 68:9 69:6 73:23 75:21 77:22 82:19 83:4 84:4 102:8 107:7,12 110:21 113:3,7 117:6,9 127:23
cancel 73:16
cancer 80:18
cannot 6:9 85:12
can't 9:9 18:2 29:21 32:24 40:7 45:8 46:24 48:18 61:13 100:25 109:18 131:3
caption 102:4 108:11 132:10
car 62:11 77:23 78:7,10 78:20
card 117:6
care 5:20 22:4 41:14 50:9 50:12,16,21,24 51:8 51:13,19 53:4 63:18 63:24 67:9,23 75:24 76:8,18 86:17 92:12 93:11 94:25 95:13 96:11 97:19 109:20 118:8 123:10
career 99:3
carrier 37:10,19 96:5 109:12
cartilage 56:5,11,11,16 88:3,4 124:5
case 5:18 32:18 37:16,24 38:10 44:13 51:7 53:25 58:22 66:19 72:23 95:25 99:20 111:5 132:10 134:2
cases 7:8 35:19 49:11 99:3 99:15 100:3,7 117:4
CAT 46:2,7 49:20 50:4,6
catastrophic 45:3 49:8,12
category 113:6
causally 126:14
cause 60:21,23 82:23
caused 62:4,10 121:6
causes 57:13
ceased 14:12
center 14:2,21 18:18 19:7 22:3 25:19,19,20,22 25:23,25 26:7 41:17 42:6,13,18,21 43:12 43:22 44:6 45:7,18 46:8 48:15 49:21 50:8 54:18 68:15 77:13 84:4 102:18 103:5 104:10 108:16 111:24 112:22 125:23
centers 113:14
certain 11:14 42:10 69:4 77:25 86:2 94:24 96:10 98:8 113:13 125:15
certainly 30:17
certainty 121:6 125:9 126:19
certification 3:5 27:12 117:22 133:2
certifications 117:9
certified 26:23 27:5,7 117:20
certify 117:22 133:6,11
cervical 46:7,14 49:22 50:2 74:4 76:12 78:5 86:11,18,21 120:13 127:3
challenge 109:20
change 30:14 52:3 76:5,21 79:25 82:25 93:7 134:9
changed 17:5
changes 46:14 49:22 54:11 55:10 58:19,24,25 60:25 72:15 75:18 76:17 77:8 120:11 124:23
changing 17:2
characterize 85:3
charge 97:2
charges 117:3
chart 10:11,15 36:20 42:18 42:22 43:22 84:2 115:3
charting 78:9
check 95:15
checking 46:20 47:8 65:16
chest 48:2
chiropractic 17:17 18:25 19:3,19 63:24 64:10,22 65:3 65:11 66:10,15,24 67:3,5,20 68:24 75:24 116:4 121:16 129:4,14
chiropractor 17:16 18:4 67:11,15 67:17,23 68:4 121:23 129:15
choice

64:17
cholesterol
80:18
chooses
129:15
Christian
2:12 5:15
Christmas
12:13
chronic
46:13 49:21 58:10 59:3,5
circled
37:16
circulation
76:23,23 77:4
circumstances
32:10 42:11
Civic
14:2,21
civil
98:16,20
claim
37:20 38:4 105:20
claimant
10:12 28:15
claimants
8:15
claimed
31:10 41:18,20
claims
7:5 101:9 105:19 109:11,14
Clara
1:5 5:21 10:5,12 28:15,17 29:11,20 32:18 34:3,8 36:23 42:18
clarify
98:17
class
60:15
CLE
28:6
clean
83:19
cleaned
83:12
cleanup
83:20
clear
6:13 77:20
clearance
80:9,13
cleared
80:16
clearly
65:5
clients
35:3,10,22,25 36:2,9 107:12 109:15
Clifton
25:11,12,14
clinic
51:14 126:6
clinical
71:24 130:24
close
101:4
closed
25:3 92:18,20
coincide
96:12
college
20:13,20
collision
48:5,7,10 78:5,14,15 78:17,18,22,25
collisions
47:22,23
come
28:17 34:16 35:17 37:20,25 38:3,5,8 55:3,4 73:10 80:7 128:13
comes
18:11 28:23 37:22 38:2
comfortable
129:12
coming
55:7
commenced
99:14
comment
48:18 54:20 131:4
common
81:5
company
38:4 95:16,18 96:6 98:8 106:8,12 107:2 107:20,24 109:25 110:13 111:16 114:7
compare
77:3 115:13
compared
54:10
comparison
73:20
compartment
124:19
compartments
124:21
compensated
116:20,23
compensation
7:5,8 35:17 96:2 100:25
competence
117:23
complaining
61:12 85:21
complaint
55:16 61:11 108:20 109:10,10,24 111:6 132:11,12
complaints
44:16 51:21 52:9,13 52:19 62:25 77:12 120:21 122:5 125:23,24 126:7,9 129:5
complete
30:20,23 31:14 32:3 32:5 40:25 56:16 117:18 129:21
completed
29:12
completely
15:13
complex
83:14 88:7
compliant
121:19
complication
99:13
complications
84:14 99:8,11
compliment
92:11
component
47:13 53:3 57:4,6 125:15,17
components
47:10
compressed
57:12
compression
57:12 119:3
concern
51:24
concerns
6:19
concluded
131:10
conclusions
31:7 73:11
Concourse
11:6,18 12:18 17:6 17:21,24 18:5
concurrent
67:9,22
condition
31:11 48:23 59:3 60:21 83:2 87:19 94:13
conditions
31:11 60:21 80:15 83:12
conducted
118:12 119:24 123:15
confident

40:24 41:3
confidentiality
107:7 109:19 112:13
confusion
17:4
connection
28:14 33:23 100:2 101:20 104:19 105:2,4 107:23 108:24 109:4 112:18 114:6
conscious
73:2
consent
4:12
consequence
48:2
conservative
121:15 123:10
consider
21:15 51:9
consideration
44:4
considered
67:22
consistency
44:18
consistent
120:20 121:11 125:24 126:9 130:25
consistently
87:24
consultation
28:20 121:12
contact
35:18 37:23 42:25 50:17 94:12
contained
108:20
contemplated
122:19
context
61:24
continuation
82:6
continue
25:8 75:23 79:12,16 86:10 107:11 113:3 113:5 121:10 122:5 123:5,10
continued
13:17 81:24,25 122:4 127:8
contract
14:13,16
contraindicated
66:14 67:4
contraindication
67:16
control
82:16,19,20
controlling
87:25
convenience
113:13,17,18 128:18 128:24 129:3
convenient
65:7 71:13
conversation
122:9
conversations
65:13 121:23
cookbook
66:17
copies
84:6 104:20
copy
29:19 42:21 43:21
Cornell
51:9,9,15 52:10,12
corollate
53:2
corporation
13:13 15:20 104:23
correct
9:11 34:24 55:23 56:2,3 59:12 63:2,3 63:6 64:23 68:25 69:20,23 72:3 74:13 74:25 75:5 76:7,10 76:13 79:22 81:24 83:9 85:19 86:12 88:9 89:25 111:16 114:23 118:9 119:18 123:12,16 127:4,12,16,17,20 127:23 128:2,7,25 129:18,19 130:22
corrected
63:10
correctly
53:22 122:19
correlated
55:13
corroborated
120:20,24
Cortisone
80:4,24 81:2,10,15
cost
17:2
could
30:23 31:6,14 38:3,4 38:7,9 44:2,21 48:25 49:9 52:18 54:9,20,23 55:4,9 58:23 76:3 77:9,23 81:23 92:17 98:17 114:17 125:12
counsel
1:19 3:4 4:11 89:14 89:22 90:7 94:11 107:14
countersign
39:6
County
99:17 133:4
course
10:23 28:6 30:2 59:9 108:7 114:2
court
1:2 3:14 6:5,7 8:22 9:3 100:17 105:11 106:14 111:20
co-defendant
99:7
create
17:4 78:11
creates
54:5,8
creating
124:2
creation
88:24
credibility
31:9
cuff
61:6
current
9:13 11:10 13:21 16:22 23:25 90:16
currently
20:6 22:5 26:14 27:18 100:24
Curriculum
90:13
customary
93:24
cut
72:12 77:4 96:9
cuts
85:25
CV
13:16,19,22,23 14:6 14:12 26:12 90:19 108:14
cycle
27:12

D

D
5:2 106:17,19 108:21 110:2 132:2,11
daily
7:4 93:24 94:5
Dallas
2:4,6 4:17 15:8 16:19 19:9 31:15 35:5,21 35:24 36:5 43:21 44:8 45:13 46:9,15 46:22 47:2 49:23 51:23 53:9 63:11 66:11 75:21 84:9 89:15 97:25 98:17

89:15 97:25 98:17 102:6 106:3,22 111:2 116:14 127:6 129:23 131:7 132:5
damaged 61:19
Daniel 73:8 108:11 109:4
DANIELS 1:9
date 33:13 34:2,14 38:24 41:18,20,24 43:9 45:12 46:5 62:14 79:20 88:20 102:11 105:15,16 106:20 111:10 112:24 134:4
dated 88:23 89:24
dates 74:9,17
dating 52:10
Datta 17:18,23 18:17 19:7 19:12,15 20:7 66:5 68:13,15,20 69:10 69:19 76:13 86:22 94:19 100:14 101:21 102:25 103:13,18,24 104:9 104:16 105:3 108:11,15 115:5,24 128:11,20,24 130:22
Datta's 18:7,16 98:5
day 9:17,18 12:13 126:6 131:15 133:16 134:19
days 11:13,14
deal 67:11,12
dealing 67:7 87:7
dealings 18:22
Decades 53:17
December 81:8
decision 71:22,24 72:6,9,20
decreased 85:2
dedicate 11:17,22
deduction 53:4
deemed 38:5 90:12 108:21 110:2 117:15
deeper 30:13
defendant 102:14 108:10,12 110:12
defendants 1:10 2:10 5:18 112:20
Defendant's 33:8,12 37:7 39:12 70:2 88:16,19 90:10 90:12 102:4,10 106:17,19 108:21 110:2,24 111:7,9 132:7
defense 8:20,22 9:3,5,6
definition 59:25
deformities 47:17
degeneration 124:18
degenerative 46:13 49:5,16,22 53:13,14 54:11 55:4 55:10 58:10,12,19 58:20,23,24 60:24 124:12,17,23 125:3
degree 20:23 121:6 125:9 126:19
delay 72:2 80:14
delays 71:18
demand 84:10 93:8
demands 98:2
denied 52:7
department 40:19 41:13
depending 12:5 13:11 16:16 55:11 57:19
depends 29:8 30:25 44:10 49:3,7 56:17 66:13 85:7
deposed 7:4 116:17
deposition 1:14 3:6,12 4:3,5,6 6:25 7:19 9:20,24 10:8 36:22,23 89:10 101:24 104:22 105:25 115:6,10,15 116:16 134:4
depositions 7:10,22 100:6 104:13 104:21
derive 15:5
describe 77:24 82:21
described 56:8,19 82:18
DESCRIPTION 132:7
desiccation 57:8,16
designated 70:11
designation 20:24
detail 117:10
detailed 122:17
details 32:23 54:21 101:2 104:5
develop 49:2,10,18 53:16 57:17 77:2
developed 52:25 55:8 77:21 83:3
development 55:12 60:24
devote 11:11
diabetes 80:17
diagnose 51:10
diagnosis 30:24 31:14 44:7 54:25 72:2 120:6,9 120:17 121:5
diagnostic 10:7 31:6 45:17 77:9 115:4 119:17 130:19
Diagnostics 69:16 70:5 108:16
dictate 32:3 113:15
dictated 33:3
didn't 24:25 25:5 36:23,25 38:24 40:2 41:19 43:24 44:13 45:9,25 48:17 49:25 50:6 52:11 53:5 54:14,20 61:8,23 64:2 67:14

69:7 72:12,25 77:24 85:13 86:6 87:8 89:6 92:24 112:22 122:5 131:3
dies 76:24
difference 51:17 79:17
different 16:16 18:8 40:20 44:12 56:7,12 58:2 74:24 82:3,8 90:25
dig 30:13
digital 29:9 36:20
direct 33:17 64:13 65:5,8
directed 68:22 99:5 129:12
directions 78:12
directly 99:6
disagree 9:10
discharged 45:22 93:13,15 94:23
disciplinary 23:4,11,17
disclosure 88:17,23 89:18 90:11 90:20 132:9
discontinued 15:13
discovery 108:7
discuss 61:23 65:15,18 76:4 79:3 81:8 94:7 100:25 105:8
discussed 79:7,11,19 80:6,24 81:2,6,12,15,19 116:15 122:8 123:3
discussing 102:5
discussion 7:16 33:5 80:3 90:7 98:13
discussions 89:14
disk 57:6,9,12,14,16 58:14,16 119:8,11 120:13
disks 57:4,10,11,11 58:15 115:13,16
dismissed 99:4
displacement 120:14
disrupted 76:23
dissipated 58:16
distal 88:5
distance 113:23
distances 64:18
District 1:2,3 100:17,17 106:14,15 111:20 111:20
divide 32:15
docket 1:7 100:20 106:15
doctor 8:23 17:18 20:23,24 41:14 51:13 70:12 128:20
doctors 17:25 18:3 37:4 51:12 112:21
doctor's 51:16
document 29:14,16,20 30:9 33:8,11,16 36:17 45:9 88:18,23 89:4 102:3,9 106:18 110:15,24 111:8,12 112:5,8,25
documentation 110:22
documented 50:13 81:3,16
documents 9:25 10:21 100:11 104:19,24 105:4,12 108:4,6 114:11
does 17:7,9,14 18:4 29:9 32:4,10 34:3 37:20 38:15 51:15 52:20 53:16,19,23 57:17 60:17 68:4 70:14 77:2,8 84:4 88:6 116:8 122:21 125:14 127:19
doesn't 30:14 36:18 45:2,3 52:3 55:19 68:19 76:4 128:21
doing 9:4 108:13 116:17
done 27:24 29:10 33:3 40:22 44:3 45:6,17 59:13 71:14,25 80:20 82:7,8 99:12 105:17 110:19 113:16 130:16
double 27:5
down 6:9 32:2,23 86:8,9 130:6
Dr 5:13 17:18,22 18:7 18:16 20:7,10 66:5 68:13 69:9,19 73:11 73:19,23 75:18 76:12,16 86:22 88:11 94:19 98:5 102:25 103:13,18 103:24 115:5,19,24 116:16 128:11,20 128:24 129:20 130:21
drapes 47:25
draw 122:11
dries 57:10
drive 25:6
driver's 48:7,10 78:15,18,22 78:24
drying 57:9
duly 5:3 63:11 133:8
duplication 67:25
during 24:15 43:20 91:24 114:2 118:14 120:25 123:22 124:7
dynamic 72:14
D.O 1:14
d/b/a 1:9 15:23

E

E 5:2 110:25 111:7,9 132:2,6,12 134:6,6 134:6
each 12:5 14:18 15:19 27:7
earlier 117:9
early

15:14 27:23
earn
127:15
East
14:2,8 91:8 92:23
Eastern
1:3 111:19,20
Edge
69:15,23,25 70:5 71:8,19,23 72:7,14 72:23 73:6,23 98:9 108:16 115:17,19 115:22 130:2,11
education
5:23
effect
3:13 60:17,20 87:23
effectively
43:25 81:7
effects
81:11
effort
42:20,24 97:15
eight
7:13 82:13
either
29:21 45:4 99:22 100:2 131:4
elective
80:21
electronic
10:13,21 39:8
electronically
10:16
eligible
117:17
else
9:18 10:14 32:4,21 39:3 90:18 91:3
else's
39:22
emergency
41:13 44:19 46:18 47:7
employed
81:22
employee
20:7,10
employees
19:25 20:6
encounter
30:7,18 31:18 32:3 63:21 66:10
end
24:18 47:22,22 56:5 60:15 96:12 107:21
Endoscopic
18:17 19:7,12 68:15 68:20 102:17 103:4 104:9 108:15
enlarge
58:17
enough
44:24
entire
130:20
entirely
6:12
entirety
18:2
entitled
88:16 100:14 101:21 106:8
entity
104:7
enumerate
18:2
equate
52:20
EQUIPMENT
1:9
equipped
51:10
escapes
11:9
especially
54:4
ESQ
2:6,12
estate
26:13
estimate
9:11
et
100:14 104:16 105:3 106:9,12,13
EUO
104:21 105:25
evaluation
43:8 63:24 66:24 130:19
even
57:24
event
32:16 77:19 99:10
ever
6:24 13:9 19:13,14 19:17,21 20:7,10 21:18 23:8,10,14,21 24:6,12 26:3,9 27:21 28:11 29:19 35:3,10,21 40:13 42:17 46:7 50:19 52:5,16 70:21 93:21 93:23 94:11 97:9 98:15,20,23 100:3 100:13 103:7,10 108:6,23 109:3 112:21 114:7,10
every
7:10 11:20 12:3 57:18 66:25
everybody
58:2
everything
90:18 91:3 106:5
evidence
47:9
evolve
44:12
exacerbation
60:20,24
exact
7:6,9 8:3,11,25 25:13 43:8,15 62:20
exactly
9:9
exam
117:17,19
examination
5:6 45:6,11 47:6,11 47:12,12,13 62:18 116:13 118:12,14 120:25 122:12 127:8 130:25 131:9 132:3
Examinations
8:20
examine
62:14
examined
5:4
example
13:11
exams
8:22 9:4 46:21
except
3:9
exchange
33:9,18 89:15 132:8
exhibit
33:8,12,18 37:7 39:12 48:20 70:2 88:16,19 89:19 90:11,12 102:4,10 106:17,19 108:21 110:2,25 111:7,9 132:8,9,10,11,12
exhibited
48:16
Exhibits
132:14
existed
110:15
existence
65:22 94:5
exists
88:4
expected
125:12
experience
8:13 54:3
expert
88:17,23 89:15,17

90:11,20 132:9
expertise
51:2,16
experts
105:9
exposed
48:3
extension
119:2 128:6
external
17:7
Extremely
41:3
extremities
67:7,11 119:10
extremity
128:15
E-mailed
89:5,8

F

face
54:6 57:23
facet
58:6,17,17,22 59:2
facilities
22:2 70:25 72:11
facility
26:4,10 45:12 50:15 64:11 69:14 70:22 91:9 92:4 102:25 103:8,11,19,22 130:11
fact
44:23
failure
85:6
fair
46:12 78:3,13 123:11
familiar
18:19 47:19 56:23 108:19
family
92:8
far
9:4,5,6 16:18 32:23 37:19 41:10 54:2,12 55:14 60:2 63:4 72:18 73:20 76:8 118:15 125:11 126:22 129:3,13
February
1:12 15:15 133:16
Federal
109:12
fee
9:13,19,22 97:5,6,10 116:15
feel
63:16
fees
103:10
fellow
21:6
fellowship
21:18
felt
79:14,17 84:18 123:6
few
49:2 77:5
fibrocartilage
88:7
field
21:9 26:25
fields
26:25 27:8
fifth
37:14
file
10:5,17,19,21 30:3,6
filed
100:16
filing
3:5
fill
28:24
filled
29:5 31:25
fills
39:19
film
120:18
films
9:25 71:17 73:10,18 127:3
find
73:11 82:22
finding
55:2,13 56:18
findings
45:23 53:2 54:15 55:4,5 58:13 66:20 73:24 76:3 115:8 119:5,16 120:25 129:20,22 130:6,25
finish
62:22
finished
6:11
firm
5:16
first
5:3 12:12,13 28:17 28:23 29:6 30:7,18 31:8,18 32:17 33:8 34:3 40:4,12,22 41:4 42:14,16 43:5 43:11 48:19 52:4 59:10 61:25 62:9 63:12,16,21 75:7 79:3 80:23 90:18,24 93:18 99:24 118:8 122:6,23 125:25
five
57:23 59:18 60:13 128:12
flat
9:19
flexion
119:2
floor
17:7
Florida
22:14,22,24 23:18,21 24:4,7
fluid
57:3,4,10
focus
76:7 130:3
follow
84:7 97:5 121:11
following
75:17 84:13 119:20 120:5 121:12 126:6
follows
5:5
follow-up
93:15
foot
59:18 60:13
force
3:13 48:3 54:10
forces
58:15,18 78:11
Fordham
20:14 91:8,11,16,18
form
3:9 10:13,13 31:20 31:23 33:20,22 34:2 36:15 37:8,15 38:14 39:11,19,19 70:17 83:8 91:21 114:8
formal
27:16
formally
79:18 93:13 94:22
forms
39:24 40:3
forth
101:10 117:24 133:8
forward
102:8 125:11
found
45:22 46:14 75:11 82:4
four
56:15
fracture
45:2
free
92:17
frequency
7:19
fresh

84:24
Friday
11:16
from
6:22 9:4 15:5 24:18 26:12 30:16 31:2 34:17,20 35:8,9,15 36:2,12,16,23 37:20 37:25 38:3,5,8,11 40:25 43:12 44:5 46:6,8 50:20 52:12 55:3,4,7,9 60:19,20 61:13,17 70:21 72:11 73:7 80:16 83:19 84:15,24 91:14 92:23 94:23 99:4 103:11 105:21 105:24 115:5,17 117:13,14 121:23 124:6 127:3
front
47:22 62:2 122:13
full
9:17 30:22 40:25 92:4,12
function
15:25 77:6
functional
85:9,15 94:3
functioning
68:20
funding
97:18
further
3:8,11 4:7 56:13 127:6 131:6,8 133:11
fusion
87:10
future
114:24
F.A.A.O.S
1:15

G

Gabriel
1:14 5:9 106:9,13 107:2 131:12
gait
54:17
gangrene
77:3
Garden
17:18 18:11,22 19:12 66:6 68:14,18 103:17,25 108:14
Gardens
91:17
Garner
1:5 5:21 10:5,13,18 28:15,18 29:11 30:8 32:18 34:3,9,18,23 36:24 37:6 39:3,25 40:4 41:4,16 42:18 42:22 43:19 45:6,11 45:18 48:14 50:8 52:4,8 53:5 54:16 55:25 59:10 60:3 62:16 63:5,13,22 64:25 68:23 69:9,12 69:15 71:8,23 73:6 74:3,9,11,16 75:4 76:8 77:11 79:8 84:14 85:17 88:8,13 90:4 93:10,18,23 94:12,18 95:2 96:5 96:12 97:24 111:23 113:9 114:3,14,25 115:4 118:8 119:21 121:10 123:14 125:22 126:5 130:21
Garner's
29:20 39:22 43:11 49:20 50:20 75:19 76:17 77:19 79:4 95:12 97:18 126:14
gastric
64:4
gave
10:24
Geico
100:14 101:10,21 104:15 105:3,14,20 132:10
general
27:5 35:7,13,14 38:9 55:2 58:3 64:12 65:6 85:14 101:6 122:8 128:17 129:9 129:14 130:16
generally
11:25 29:4 31:24 34:19 39:20 44:19 47:21 50:24 51:4 67:10 68:4 71:9 77:22 78:7 117:11 124:17 129:11
generate
127:20
generates
128:5
genetics
57:19
gestures
6:8
get
30:22 34:19 35:15 43:6 62:21 71:10,25 72:18 73:14,14,16 121:22 125:18
gets
58:16
getting
25:5 30:16 71:10,13 71:14,19 72:19,21 76:16 80:9,16 101:4
give
7:5 8:3,25 27:19 28:2 28:11 68:9 77:20 78:9 129:14
given
27:21 28:5 31:2 43:19 64:12 65:6 76:2 128:17 129:8 133:10
giving
79:15 120:21
go
8:22,24 11:14,25 18:7,17 20:13,19 44:19,24 50:15 58:15 65:7,8 72:15 78:11 89:19 102:8 117:9 129:16
goes
31:22 54:12
going
50:7 52:13 53:7 69:25 77:4 86:8,9
gone
105:11
goniometer
119:14
good
5:13,14 30:19 63:17 71:12 87:11 117:21 128:20
got
84:12 106:6
grade
56:13,13,14,15
grades
56:12
graduate
20:15 117:13,14
grand
11:6,18 12:18 17:5 17:21,24 18:5 27:18
grasp
63:17
greater
56:15
Greenwich
2:10

H

H
132:6 134:6
had
9:10 14:15,18 19:11 28:5 41:6,10 44:23 45:21 50:2 51:20 52:6,17,21,24 55:19

55:25 59:8 60:6,8 61:5,17,20 63:5,17 64:21 69:18,22 70:18 73:19 76:11 82:3,4 84:25 86:2 86:22 87:3 90:8 92:18 97:12 99:7,13 110:9 113:14 114:4 115:12 116:24 118:22 119:24 123:14,23
half
9:17
hand
6:8 21:12,13,16,19 133:16
handled
95:24
handwriting
39:21,22
happen
8:21,22 38:24
hard
80:8 117:2
Harfinest
101:15 107:17
Harfinest's
101:16
has
18:9,12 20:23 23:4,7 23:10,14,17,21 26:19 35:25 36:9,18 37:15,16 39:12 40:22 53:18,19,22 55:13 68:16 80:10 80:17 95:23 103:20 105:11,16 107:3 108:20 109:25 125:15,19
having
5:3 54:6 55:17 63:25 66:23 80:8 86:7,8 87:22
he
18:9,10,12,20,20,23 35:25 36:9 40:9,13 40:15,22 68:5,16,17 68:19 103:20 104:3 104:4,6 115:25 128:20 130:18
head
8:18
heading
37:16 38:14,15
heal
83:16
hear
6:3
heard
105:21 112:6
height
59:14,16,20 63:9
Heights
41:13,17 42:6,13,18 42:21 43:12,22 44:5 45:7,18 46:8 48:15 49:21 50:7 54:17 77:13 125:22
held
7:16 21:18 33:5 98:13
help
122:21
helpful
67:19 87:24
helping
87:19
her
29:12 32:19 34:14,14 34:14,18 37:3,4 40:6 44:16,24 46:7 46:14 48:19 50:20 52:5 55:19 59:8,12 59:14,16 61:5,8,20 62:9,14 63:9,14 64:6 76:2,2,11 77:12,21,25 79:15 80:9,16 84:18,23,25 85:13 86:8,10 87:8 87:12 93:21,24 94:2 94:3,4,5,8,12 96:17 119:17,20 120:6 121:15 122:7 125:11,24 126:14 126:23,23 127:3
here
95:14 116:17,25
hereby
3:3,7 33:12 88:19 102:10 106:19 111:9 133:6
herein
1:15 5:2 133:8
hereto
3:4
hereunto
133:15
herniation
119:9,11
herself
77:23
high
80:17 125:19
higher
60:15
him
32:25 36:2 39:6 40:17,21 46:23 66:6 68:22
HIPAA
34:21 43:2
hips
60:22
hired
28:6 105:9
his
18:23 35:22 38:23 39:5,6 68:13 73:24 94:19,23 98:7 103:20 129:22 130:22,24 131:3
historian
52:2
historical
32:23
history
30:12,12,16,20,23,25 31:10,13 32:16 40:8 40:9,25 41:9 51:20 52:3 55:13,15,17,21 60:2 62:21,23 64:2 64:4 80:18
hold
21:11,21 22:12 24:20 25:24 26:3,6,9
home
90:21
Horizons
25:18,25 111:24 112:20 113:9,20
hospital
21:23 22:4,5 40:15 40:19 41:13 42:25 44:25,25 50:15 51:15 54:21 126:6
Hospitals
51:12
hosted
28:9
hour
62:21
hours
49:2,9 77:5
how
7:3,11,18,25 8:13 11:10 16:11 18:13 19:24 26:19 28:17 29:12 30:25 34:11 34:17 36:4,8 37:8 37:12 42:5 43:16 52:21 53:16 57:17 59:5 62:18 77:2,8 78:25 82:19,20 84:18 85:3 95:2,20 99:2 104:9 105:7 107:5 116:23 117:5 128:10
Hudson
17:17 19:2,18,22 64:21 65:10,19 66:5 68:24 116:4 129:3,7
hurting
44:20 78:2,2
hypertrophy

58:6,11,23 59:2 80:17

I

idea 77:17
identification 33:13 88:20 102:11 106:20 111:10
identified 43:19 68:17
if 3:13 6:2,13 9:10 30:10,22 31:4,13 32:19,25 36:20 37:11 38:5 39:17,21 40:8 42:8 43:25 44:17,17 45:2,5,10 45:16 47:2,14 48:15 49:6,14,16 51:8,13 51:19,24 52:5,8 53:5,18,21,22 54:14 54:16 55:6,8 58:14 61:20 65:16 67:4,12 67:23 68:10 69:5 72:10 76:3 77:3,3 77:11 80:11 83:16 84:4 85:8 86:25 94:22 95:8 96:8,18 97:17 98:9 103:13 103:18,22 110:20 116:7,16 117:14 123:21 125:21 126:4 128:16,19 130:16,24
ill 51:10
images 9:25 10:7 115:4,9,11
immediate 49:13
immediately 115:15
impairment 118:23 119:2 124:2
impairments 94:3
important 30:9 44:15
improve 76:4
improvement 79:15 81:9 85:9,10 85:15 87:21
improving 123:6
inaccurate 51:25
inadequate 51:10
Inc 1:9,9 108:18
incident 77:22
included 10:6 62:17
including 61:2 105:24 128:5
incomplete 50:25
inconsistent 131:2
incorporated 90:10
increase 82:23
increased 82:5,12
incremental 79:15
incur 16:25
Independent 8:19
indicate 4:14 34:3 36:16,18 38:20,23 41:9,16 50:3 53:23 96:20 119:11 130:2
indicated 37:15 64:5 104:12 118:16 129:17
indicates 36:17
indicating 113:2 130:10
indication 37:8 62:19
individual 28:12
infection 84:16
inflammation 55:3,3
inflection 118:23
information 30:11,14 31:4,4,5,22 32:2,11,24 34:7,12 34:19 37:17,22,25 38:2,7,11 43:24 44:5,11,25 51:2,18 61:11 78:21 95:6 96:20
initial 28:20 32:14 38:21 44:16 46:5 51:21 66:10 68:10
initially 32:8,19 44:12 84:22 87:2 122:2
injection 80:4,24 81:2,15 82:10
injured 38:15 62:11
injuries 44:21 49:8,11,12 66:13,14 94:3 118:16 126:14,22
injury 7:9 31:6 38:16 44:24 45:3 52:17,22 54:6 54:9 55:9,18 62:5 68:11 77:18 122:17
inquire 93:23 94:12
inquiries 43:21
inquiring 65:17
inquiry 41:5
inspection 47:15,18
installed 39:8
instruct 46:23,24 64:25
instructions 89:11
insurance 37:10,19 38:3 92:5 96:2,6 97:16 106:8 106:12,25 107:19 107:24 109:25 110:13 111:15 114:7
insured 101:12
intact 88:12
intake 31:19,23 32:5,11 33:22 34:2 36:14 37:8,15 38:8,14 43:20 55:14
integral 123:7
Integrated 25:20
interest 15:3 16:9 26:4,10 103:3,8
interested 133:13
intermittent 87:21
internationally 27:20
interpret 73:18
interpretation 73:21

interpreting
53:21
interview
40:6 62:17
into
30:13 31:22 38:23 117:9
intraoperative
83:23 84:6
intraoperatively
124:25
invasive
123:10
invoices
95:12
involve
45:2
involved
29:22 61:21 62:10 95:25 98:15 99:9,22 106:7 110:11
involving
61:14 74:16 78:19 96:5 99:10
ir
40:16
Island
101:18
issue
43:25 44:18 54:5,25 72:14 80:8 99:5
issues
34:21 52:2 54:8 63:25 71:16 73:4,19 80:10 86:7 128:13 128:15,17
item
96:23
its
48:2 55:12
itself
16:18
I'll
6:4 47:4

J

January
12:13 79:5,6,10,16 79:20 81:11,16 122:10
jeopardize
101:2
jeopardizing
107:13
Jersey
22:14,15 23:11 24:10 24:13,16,18,19,20 25:10,16 102:21 113:10,21,24
joint
48:24 53:15 54:13 56:19
joints
60:18,23
Juanita
99:24
judgment
45:4
July
74:12 88:23 89:13
June
74:4 88:14 89:24 94:9 114:14
just
11:8 12:11,12 15:24 16:25 17:4 18:21 25:5 36:17 50:4 56:8 68:5 72:21 73:3 77:25 83:2,2 93:7 99:6 102:5 104:20 110:9 115:13 118:3

K

Karen
1:16 133:5,19
keep
8:18 10:11,20 29:2 30:9 36:11,15
knee
52:6,9,13 53:24 54:4 55:16,19,22,22 62:6 64:7 67:8,15 74:12 75:10,12,20 76:9 78:6 79:4,8,21 80:4 80:12 83:8 85:11,18 85:22 87:22 96:15 97:3 118:21,23 120:4,6,10,18 122:3 122:7,17 123:14 124:6,21 125:15,19 125:23 126:7,14
kneecap
86:9
knees
53:7 60:23 62:25
knew
34:22
know
6:4,14 8:4,11,12 18:9 18:10,12,21,21 22:19,24 29:12,15 32:19 34:11,17 35:24 36:10 37:2 39:16,17,21,23 40:2 42:5,7,8 43:8,15,16 43:17 44:15 45:5,9 45:10,16 46:12 48:4 48:12,15 49:19 50:14,17 52:8,21 53:21 54:16 66:6 68:21 77:11,16,24 78:3,13,16,23 79:2 91:15 93:19 94:18 94:21,22 95:6,10,11 96:8,10 97:8,17 98:7,9,11 102:19,24 103:2,13,16,18,22 104:3,4 105:6,7 110:14,20 111:25 113:25 116:10 121:20 122:6 130:24
knowledge
68:18 103:24 108:9
known
19:2 31:19 36:4 68:13,14,16 130:11
knows
77:25
Kostanian
108:17

L

L
1:14 5:2,2,9 131:12
laborious
25:6
lack
109:22
landlord
14:14,17,20,24 15:2 15:11 93:9
larger
96:23
last
7:20 27:25 88:13,14 94:18 105:18,21 112:6 114:13 118:2
lasting
122:2,3
later
38:3
lateral
83:15,18 120:10 123:24
law
2:4 5:16 7:7 28:12 35:9
lawsuit
111:22
laymens
93:14
Leading
69:15,23,25 70:5 71:8,19,23 72:6,13 72:22 73:6,22 98:9 108:16 115:17,19 115:21 129:25 130:11
learned
37:3
lease
25:7

leases
26:17
least
7:20 27:24 36:6 59:8 71:20 87:13,24
leave
20:5 64:19
Lebanon
22:4 40:15,19
lecture
28:5
lectures
27:16
left
61:18 62:6,6 64:6,7 67:15,15 74:12,12 75:10,12,20 76:9,15 76:16 77:12,18 78:6 78:6 79:4,8,21 80:4 80:12 83:8 85:18,22 86:19,22,24,25 87:20 96:15 118:23 120:10,18 122:17 123:14 125:23 126:7,8,14
leg
119:9
legal
7:7 88:23
lend
51:15
less
31:4 49:8 54:10 56:14 58:15
let
6:3,14
level
49:7 77:8 82:5,12 85:2 87:8,8 117:23
levels
56:7
Lewis
2:9 5:16
liberty
105:8
license
22:7,10,12,16,18,22 22:25 23:4,5,7,12 23:14,19,21
licenses
23:24
lieu
4:7
life
55:20
like
84:16 87:22 102:22 123:11
likely
40:9
Linden
114:4
line
29:10 102:7 106:23 132:16 134:9
liquid
57:5
list
86:6
listed
90:21 97:8 105:14 108:10,12 113:6
listing
105:19
litigation
97:18 98:16,21 101:9 108:8 109:11 110:12,16,20 111:4 114:20
live
64:15 128:18
living
93:19
LLC
2:4 14:25 103:15,17 104:10 108:15,16 108:17 111:24
LLP
2:9
located
39:14 101:17 102:18 102:20 113:20
location
12:5,15,18,21 13:3 13:11 14:21 15:14 15:24 16:13,16 17:15 18:5,21 24:3 25:4,7,10,12,17 36:3 64:17 65:2,11 68:17 72:25 92:24 93:3 115:24 116:4 130:17
locations
12:2 13:19,21 14:14 14:18 15:15,19 16:2 16:11,18,22,22 22:2 24:10 25:18 26:17 40:20 92:18,21
logged
8:18
logging
89:12
logical
53:4
long
7:18 22:19 26:19 36:4 53:16 57:17 59:5 62:18 77:2,8 94:5 95:20 101:18
longer
27:20 115:25
longevity
53:20 54:3,7,12
look
30:15 57:3 80:11 130:11
looking
77:7 130:17
loss
60:11
lost
57:11
lot
80:10 91:18 128:22
lots
44:11 64:19
lower
62:5 119:10 126:7,23
lumbar
74:4 76:12 78:6 86:14,18,21 119:12 120:13 127:3
lunate
120:12

M

made
42:20 43:6,11,13,16 51:21 52:8 68:23 69:2 76:6 77:11 85:25 111:22
mailed
43:4
main
66:3,4 76:7
maintain
10:12 29:2,25 30:9 84:3 115:4
maintained
7:18 10:15,22 24:17 24:23 30:4,5 88:12
maintenance
82:7
make
6:6 34:6,13 42:24 43:21 50:19 51:17 72:20 75:18 76:17 85:13 97:13 129:5
makes
117:17
makeup
57:20
making
79:17
malpractice
98:24
manage
26:16 80:20
management
17:18,19 18:11,23 19:13 63:25 66:22 75:25 76:11 86:11 86:14 92:9 128:14 129:10

manages
26:14
managing
26:20
manifested
44:22
manipulations
68:5
manner
4:13 71:11,15 73:17 91:21
many
7:3,11,25 17:25 19:24 35:24 36:8 43:16 78:11 99:2 128:10
March
79:24 80:7,8,21,23 83:8 84:13 123:15
mark
33:7 90:12 106:16 110:24 111:7
marked
33:12 88:15,19 102:3 102:10 106:19 108:21 110:2 111:9
marriage
133:13
materials
9:24 10:4 105:24
maternity
20:5
matter
28:14 96:4 100:13,16 100:22,23 101:3,20 101:22 104:15 105:2,11,24 106:7 106:13,25 107:2,15 107:20,24 108:25 109:5,25 110:12 112:4,10,18 114:7 133:14
matters
7:7 99:22
maximize
127:22
may
3:12 18:23 19:8 28:20 29:22 34:2,22 35:2,21 38:20 39:2 39:15 40:5,23 41:22 41:25 43:8,10 45:7 45:19 46:6 50:10 52:5,22 55:18 56:2 59:11 61:25 62:11 65:23 66:8 68:14 69:18 70:18 77:19 85:17 93:18 97:2 118:8 121:7 123:7 126:10
McDonald's
91:14
McGANNON
2:12 4:18 5:7,15 7:15 33:4,7,15 46:24 47:4 63:8 84:5,12 88:15 89:17 97:21 98:12,19 100:20 102:2 105:22 106:6 106:11 110:23 111:6 116:11 118:17,20 120:15 120:23 121:3,8,13 121:21,25 122:24 123:13 124:13,16 125:7,13 126:2,11 126:16,21,24 127:9 131:5 132:4
McMurray
118:24
me
6:3,14 10:22 11:9 25:6 28:6,19 29:14 30:13 31:25 32:25 35:8,25 38:19 44:17 51:17,24 62:13 65:14 69:5 72:16 89:5,9 101:5,11 109:14 110:10 112:19 128:19 131:15 133:8 134:19
mean
55:19 68:19 81:23 94:15
means
81:18,21 96:25
measure
83:5 85:7,14 119:13
measures
85:10
measuring
85:8
mechanical
124:2
mechanism
48:4 77:18,21 78:4,7 78:9,14,23,24
Med
13:12 15:23
Medalliance
91:3,6,21 92:3,14
medial
83:15,18 120:10 123:24
mediation
100:24 101:4 105:7 105:15,17
Medicaid
91:9 92:5,6
medical
8:19 13:7,14 15:3,6 15:18,25 16:3 19:25 20:19,23 22:3,6,9 22:12,16,21,24 23:4 23:12,18 30:4,19 32:8,11,20 33:9 40:12,25 41:17 42:6 42:13,18,21 43:12 43:22 44:5 45:7,18 46:8 48:15 49:21 50:8 54:18 62:23 69:16 70:5 72:3,5,8 77:13 80:9,10,13,15 92:4 98:24 102:14 108:13,16 109:21 111:17 117:11,13 121:6 125:9,22 126:19 132:8
medication
64:3
medications
63:4,5
medicine
20:21,25 23:8 24:6 24:12,16 81:13
meeting
62:16 114:16
Melville
2:5
meniscus
83:15,18 118:24 120:11 123:24,25 124:24
mention
62:24 76:2 116:7
mentioned
16:15 25:15 65:10 73:5 82:11 105:15 127:10
Michael
116:7
Mid
17:17 19:2,18,22 64:21 65:10,19 66:5 68:24 116:4 129:3,6
Middletown
5:11 10:25 11:23 12:2 14:9 15:21 17:11,19 64:16 71:3 72:17 92:23,25 113:24 115:25 128:10,19
might
122:22
mind
18:11 64:11
minimal
57:25
minor
56:12
minutes
62:21
Miss

10:17 30:8 34:17,23 37:6 39:3,22,25 40:4 41:4,16 42:22 43:11,19 45:6,11,18 48:14 49:20 50:8,20 52:4,8 53:5 54:16 55:25 59:10 60:3 62:16 63:5,13,21 64:25 68:23 69:9,12 69:15 71:8,23 73:6 74:3,9,11,16 75:4 75:19 76:8,17 77:11 77:19 79:4,8 84:14 85:17 88:8,13 90:4 93:10,17,23 94:12 94:18 95:2,12 96:5 96:12 97:18,24 111:23 113:9 114:3 114:13,25 115:4 118:7 119:21 121:10 123:14 125:21 126:4,13 130:21
missed
127:10
moment
11:9 64:10
Monday
11:16
money
15:5 109:17 127:15 127:20
Montefiore
22:3
months
58:5 77:10 84:19
Montvale
25:22
more
8:21,22 9:3,5,6 46:19 47:7 49:11,13 68:9 72:22 83:3 85:24 87:14 92:18 117:9 122:2 123:10 127:14,15 128:4,5
morning
5:13,14,20
most
31:3 35:16 44:20 47:23 71:20 78:10 107:12 113:7
mostly
8:17 92:16 128:15
motion
118:22 119:2,14
motivation
113:15
Move
120:15
moved
14:3 25:12 29:8
movement
119:7
Mr
4:17,18 5:7 7:15 15:8 16:19 19:9 31:15 33:4,7,15 35:5,24 36:4 44:8 45:13 46:9,15,22,24 47:2 47:4 49:23 51:23 53:9 63:8,11 66:11 75:21 84:5,9,12 88:15 89:17 97:21 97:25 98:12,17,19 100:20 101:16 102:2,6 105:22 106:3,6,11,22 110:23 111:2,6 116:11,14 118:17 118:20 120:15,23 121:3,8,13,21,25 122:24 123:13 124:13,16 125:7,13 126:2,11,16,21,24 127:6,9 129:23 131:5,7 132:4,5
MRI
10:6 50:2 53:2 69:14 71:3,6 74:3,7,11,15 75:3,10 76:3 88:11 115:8 120:5,18 124:25 127:3 130:3
MRIs
64:6 69:12 70:3 75:8 119:20,24 120:2 129:22
much
9:3 11:10 68:10 105:7 116:23 117:5 127:7 131:5,7
multiple
92:18
multi-level
120:13
muscle
119:6
musculoskeletal
45:6 47:5,11
my
5:15 6:12 8:18,24 10:5,6,20 12:13 13:13 15:20,21 16:2 16:12,21 17:2 25:2 25:6 26:14 27:11,23 27:24 28:4 32:7,22 35:16 39:16,18 40:14 42:15 43:24 44:14 45:4 48:7 53:3 54:3,19 65:14 66:3,16 68:17 70:10 71:5,25 73:10,10,16 73:18,20 86:6 89:9 89:10 92:17 93:4,7 95:9,15 96:7 99:3 101:13,13 103:21 104:8,23 105:5,10 105:18,19,20 108:9 109:17,19 110:5,9 110:10,15 115:13 117:24 122:25 125:20 128:22 133:15
myself
16:14 104:22

N

N
132:2
name
4:15 5:8,15 13:6,20 14:6,12,24 15:17,18 16:24 17:3 18:8,10 18:17 24:22 25:2,16 28:8 34:14 39:13 50:11 95:17 99:21 99:25 110:15 134:2 134:3
named
28:15 99:6 102:13 112:10
names
13:9 16:16 18:9,10 18:12,20,23 25:21 70:24
narrative
89:18,21 90:3 94:10 114:17 125:20
narrow
58:14
narrowing
57:13,14,17,25 58:4 58:20,21
NASSAU
133:4
nationally
27:19
nature
71:18 91:23 101:6 124:12 125:3
necessary
38:6 84:4
necessity
109:22
neck
45:21 49:20 61:14,17 62:5 64:6 66:20,23 67:9,12,17,23 119:5 119:8 120:3 122:3,4 126:7,23 128:16,22
necrosis
76:20,24 87:5 120:12
need
6:14 35:18 66:18 87:10

needed
44:2 63:17
needing
125:19
negotiations
101:3
neurological
45:11 47:6,12
neurology
92:9
Neurostimulation
103:17
Neurostimulations
104:2 108:14
never
16:25 17:5 19:11,16 19:23 20:9 23:9 43:4,17 55:19,25 65:9 77:15 79:11 84:5 94:4 99:12 103:9,12 107:10 110:14,19,21 112:4 112:7,23,24
new
1:3,18 2:5,11,11 5:11 10:25 11:6,6,7,23 12:10,14 13:3 17:11 20:20,21 22:9,14,15 23:3,7,11 24:10,13 24:16,17,19,20 25:10,16,18,24 30:18 31:8,18 33:25 36:14 37:7,14 38:14 40:25 42:14 97:5 100:18 101:19 102:21 106:15 111:20,24 112:20 113:9,10,11,20,21 113:24,24 126:5 133:3,6
Newburgh
11:7 12:2,7,24 14:22 15:21 17:20 93:2 116:2
next
79:24
Nimble
95:19,20,23 97:22 98:6,10 108:17
nine
82:13
Nobody
112:19
nods
6:8
nondisclosure
107:7
None
13:21
non-accredited
117:12
Non-Party
1:15
non-privileged
105:23
Non-Surgical
122:16
normal
10:22 54:17 57:2 82:6
north
11:25
not
4:4 6:8 9:10 10:22 17:4,7 24:5 25:7 27:16,24 29:22 30:4 31:5,13,14 34:18 37:2,5 40:21 41:6 42:4,10 44:21 45:24 46:4,13,17,23,25 48:11 49:19 50:13 50:23 51:15 52:11 52:20 54:2,13,20 55:17 58:4,20,21 61:10,11,12 66:17 67:8 68:8,11,19 69:4 72:10 73:15,19 74:10,23 77:20,25 79:17 80:22 81:7,10 81:22 83:4,16 87:3 87:11 88:10 89:6 92:14,17 93:22 94:7 94:24 95:5,10,14 96:10,24 97:13,20 98:8 99:5 102:24 105:11 108:9 113:4 114:22 115:7,14 116:17 120:16 122:3 124:11,24 129:17 130:15 133:11
Notary
1:17 3:12 5:3 131:17 133:5 134:21
note
32:3 33:3 39:9 40:7 41:15,22 62:2 80:11 102:6 106:3,22 118:15 122:12
noted
63:11 64:5
notes
10:6 30:5 39:5,6,7 50:25 131:3
nothing
28:7 87:14 125:2 131:6,8
now
90:25 117:21 118:6
No-Fault
7:7 37:16 95:5,9,25 96:5,8,13 97:6,10 109:12
nucleus
57:5
number
7:6,9 8:3,11 9:2 22:10,18,20,25 37:20 43:15 59:6 97:4,7 100:21 106:16
numbers
97:8 105:20

O

oath
4:8,9 37:3
obese
59:24
obesity
60:15,17
objection
15:8 16:19 19:9 31:15 35:5 44:8 45:13 46:9,15,22 49:23 51:23 53:9 66:11 75:21 102:7 106:4,23 111:3 118:17,20 120:23 121:3,8,13,21,25 122:24 123:13 124:13,16 125:7,13 126:2,11,16,21,24 129:23
objections
3:9 4:13
objective
53:2 118:15 119:16 120:25
objectively
83:5
observation
47:14
obtain
22:6,15,21 30:20 42:20 43:2,11 50:20 51:2,4 84:4 97:23 105:23
obtained
34:13 38:11 80:12
obtaining
23:3
obviously
31:3 38:25 54:13 84:24 85:8,13
occasion
63:12,16 79:6
occasionally
24:19
occasions
36:8
occur
57:20,22,24 58:4,18 77:9

occurred
78:25
occurs
57:9 76:22
October
33:10
off
7:15,17 33:4,6 56:21 70:8,15 77:4 96:9 98:12,14 112:9
offer
81:13
office
10:6,20 11:8,12 12:9 12:11 24:17,22 25:4 25:10 26:15 28:23 29:10 34:4,6,8,22 35:3,23 38:8 40:5 41:7,11 42:17 43:6 51:14 64:16 65:20 71:5 84:11 89:9 98:3 101:16 128:25
offices
13:17 28:12 35:9 93:9 103:21
official
12:13 13:13
officially
110:19 112:7
often
8:14
old
20:21 25:5 52:18 54:2 57:8 59:8
older
57:8
once
32:3 38:4 80:12
one
11:13,19 12:4 14:2,7 14:21 18:8,19,23 28:5 56:13 60:7,7 60:15 99:4,4,12,14 99:19,20,22,23,24 117:15 123:3
ones
128:18
ongoing
101:3
only
45:20 81:20 82:8 94:2 105:5 107:8 113:15,16 117:21 124:20
open
6:17 71:3 96:9
opened
12:9,11
opening
11:8
operating
14:15
operation
81:17 87:10
opinion
44:6 124:10,15 125:8 126:13,18
opportunity
30:13 127:11
opposed
31:4 32:12 80:4 113:11
opted
25:7 113:4
optimize
80:20
optimized
80:22
option
81:6,12 122:7,23
options
122:16 123:4
Orange
71:4
order
128:4 130:14
organization
28:9
orthopedic
13:7,12,13 15:18,25 16:3 19:25 21:5,10 27:2,3,4 40:14,19 92:9 102:14,18 103:4 108:13,14 118:4,11,14
orthopedics
13:16,20,22,23 14:6 14:12 15:22,23 19:6 24:24 27:6 39:12,17 66:2
osteoarthritic
120:11
osteoarthritis
53:12,18,23 54:24 56:4,8,9,18 61:2 75:11
osteonecrosis
76:25
osteopath
20:22
osteopathic
20:20,24 27:4,10 118:5
other
11:2,20 12:3 13:9 16:6,11,13 17:10,13 18:12 22:13 25:2 34:20 36:14,15 41:6 41:10 43:13 44:21 44:23 45:17 46:20 69:19,22 70:22,24 72:7,11 82:6 90:3 92:21 99:20 108:7 111:16,17
others
22:5 25:21 108:18 112:11
Otherwise
130:15
our
38:21,22 84:11 98:3 117:22,23
out
8:5 14:3 20:5 21:11 28:24 29:5 31:25 39:19 65:16 72:12 72:21 82:13,22 84:23 93:8 99:19 130:9
outcome
87:11 133:14
outdated
90:17,25
outstanding
95:11 99:24 105:19
outward
47:16
over
14:4 44:12 57:20,23 58:4 59:8 85:2,21 125:18
overgrowth
58:7,12
overtreat
68:9
own
12:16,19,22,25 13:3 16:12 38:21 55:12 65:17 73:10,10,18 73:21 93:4
owner
16:17,23 103:25 104:4 127:25
owners
16:6
ownership
15:3 16:8,13 25:24 26:3,6,9 103:3,7 104:5
owns
16:3
Ozempic
63:6

P

PA
12:4 32:10,14,22 38:19 40:15,24 70:10,14
pads
71:5
page
33:18 37:6 39:11 70:2 89:11 90:18,24

122:16 132:3,7,16 134:9
pages 88:25
paid 95:3,5,8,10 96:16,18 96:18
pain 17:17,19 18:11,18,22 19:7,13 52:6,9,13 52:16,19,23 53:6 55:6,18,19,22 61:12 61:13,16 63:25 66:20,22,23 67:15 68:10,15 75:25 77:21 82:5,12,14,20 83:3,4 84:25 85:2,9 85:15,21 86:2,8,10 86:14 87:8,12 92:9 104:10 108:15 125:23 126:8,8 128:14 129:10
pandemic 8:4,6
paper 10:13,17,19
paperwork 39:18
Park 11:8 12:10 13:3
parking 91:17
Parkway 25:19 26:7
part 27:17 28:22 29:3 30:3,4,5,7 32:5 47:17,18 62:10 68:3 83:12,20,25 89:10 94:5 101:10 130:20
participating 4:3 104:3
particular 21:6 33:19,25 37:23 38:10 44:13 51:7 53:25 56:19 59:7 64:11,16 66:19,21 75:14 96:4
particularly 36:2
parties 3:4 4:11 107:9 108:24 133:12
parts 38:15 74:8,19 117:19 130:2
party 98:20,23 100:13 110:16 111:22
PAs 27:17 32:7
past 35:25 73:19
PATCO 1:9,9
patella 75:15 85:23 120:12 124:5,23
patience 116:12
patient 28:20,24 29:9,12,24 30:11,15,16,19 31:2 31:8,19,25 32:8,13 32:14,17,22 33:3,25 36:14,18,21 37:7,12 37:15,18,21,23,25 38:8,14,23 39:4,20 40:8 41:2 42:14 43:25 44:14 45:20 47:6 48:3,6 51:21 51:25 52:16,17 53:4 53:25 57:19 62:5,13 62:22 64:12,20 66:18,20,21,22,25 67:14,16 68:9 69:3 69:6,8 71:14 72:17 73:15 80:20 81:21 82:3,17,18 83:2 87:3,17,18 97:12 99:13,22 105:13 118:22 120:21 121:2 122:18,18 123:4,5,23 129:15
patients 8:17,21,25 12:12 13:17 32:15 34:16 34:20 35:17 38:19 39:5 44:11,18 47:21 51:11 52:18 54:4,8 57:22,25 64:14,15 64:18 65:5,8,14,18 69:19,22 70:21 71:2 71:25 72:7 73:6,22 81:6,14 82:19 91:2 91:4,9 92:5,7,19,25 93:2,5,6 99:7 105:6 113:4,5 115:21 128:13,16 129:5,8
patient's 30:3 113:18
Patterson 113:21,24
pay 101:11 130:18
payment 97:9 100:24
payor 96:21
PA's 40:9
PC 13:8 25:2 69:16 70:6 102:15 103:20 108:13,17
peers 117:24
penalty 4:9
pending 99:5,16,20 100:22,23 107:3
people 20:5 34:20 54:10 128:9,10 129:12,25
per 7:12 12:4 101:13
perceive 82:20
percent 9:8 16:8,17 56:14,15 128:12
perform 24:19 102:25 127:11 127:14
performance 75:3
performed 25:15 45:11 73:15 83:7,22 113:8,10 123:19,25 124:3,5
period 24:15 91:24 92:23
perjury 4:10
permissible 97:14
permit 17:7
permitted 107:11
person 4:8 29:6 32:17 53:22 56:18 59:7 60:19,19 85:8 87:11 116:10
personal 7:8
personally 12:3 40:5 86:17 104:22 110:7 127:2
person's 31:9
pertained 94:2
pertinent 7:7 14:14 31:5,5 42:11 51:20,25 52:2 52:14 61:11 64:2 71:13 73:14 89:10 94:3 103:23 104:24 105:5,13 109:10
phases 68:11
photographs

83:23 84:7
physical
19:3,19 47:11,13 62:17,22 63:23 64:9 64:21 65:2,10 66:9 67:2,5,10,20,24 68:4,24 69:2 75:24 82:3 87:3,15,19,23 92:10 116:4 121:16 121:24 123:5 129:13
physically
4:4 32:14
physician
8:17 11:19 32:20 50:9,12 116:8
piece
123:25
place
50:18 65:22 71:21 72:18
places
68:7 72:22
plaintiff
1:6 2:4 5:21 8:20 9:3 10:12
plaintiffs
8:14,23
plaintiff's
33:9 89:14,22 90:7 94:11
plan
63:14 75:19 76:6,18 79:25
play
88:24
Plaza
14:2
pleading
110:3
please
4:14 6:3,6,7,11,14,16
Plf's
132:8,11
PLLC
19:3
ploy
109:13
point
6:14 18:8 24:21 76:6 80:21 89:20 120:7 123:9
pointing
58:9 59:3
police
42:3
portals
85:25
portion
57:5 120:16 129:6
positive
118:23 119:3,7,10
possibility
122:9 124:22
possible
30:20 119:4,11
possibly
27:23 31:17
posted
103:21
potential
36:16 37:9 76:3 79:7
Poughkeepsie
14:2,22 93:5,6
pounds
59:18 60:14
practice
5:23 13:6,10 15:3,6 16:18 17:10,10,13 18:7,17,25 19:6,15 19:18,22 20:8,11 23:8 24:3,10,16,20 26:4,6,10,17,20 27:24 28:22 30:19 32:6 33:23 35:4,11 35:23 36:9 39:14 40:12,20 41:5 59:11 65:12 66:4,8 68:13 70:18 72:4 81:5,13 91:23,25 92:8 93:7 94:16,20,23 95:2,13 96:22 98:5,16,21 102:15 127:15,19 127:19 128:22 130:22
practiced
24:6,12
practices
17:13 18:14
predominance
128:21
preexisting
54:23
preferable
72:16
premed
20:18
preparation
115:6,9
prepare
89:21 90:3 114:17
prepared
90:6 110:9,10
prerequisites
117:16
Presbyterian
126:5
prescribe
64:3
prescribed
87:15
prescription
64:13 65:6 70:3,8 130:7
present
4:5 15:10 17:9 19:24 29:17 115:23
presentation
28:2,9 51:22
presentations
27:19,22 28:11
presented
28:19 52:4 54:17 101:8 122:7 125:22 125:25 126:5,9
presents
29:6 31:8
pressure
57:11
presume
38:16
preventing
80:16
prevents
6:21
previously
6:25
pre-existing
53:24 124:22 125:16
pre-ops
80:19
primary
41:14 50:8,11,16,20 50:24 51:8,13,19
principal
104:6 110:16
print
10:20
printed
104:24
prior
14:3 16:22 41:11 52:6,23 53:6 54:19 55:6,15,15,18,22,22 61:21 62:23,24 65:5 74:7,15,16 81:3 85:13 93:9 115:11 115:15 122:25
private
42:8 51:14 92:5 96:2 97:9,16
PRN
93:14
probability
125:19
probably
8:5,6 71:20 117:4 128:12
problems
55:22 72:14 73:11 128:23
procedure
60:11 83:13,22 84:19 85:4 97:10 123:18

123:22 124:7
procedures
102:25
proceed
80:12
process
29:22 43:20 47:18 53:24 57:3,8 80:7 117:11 118:5
produce
105:4 108:6
production
84:8
professional
5:23
prognosis
125:11
program
117:15
programs
117:13
progressing
81:7
prone
47:23
proper
81:13
properly
62:7
provide
100:3,10 101:21 105:12 107:24 110:3,5 114:8
provided
29:19 34:7,8 37:11 67:13 84:6 92:12 105:14,20 109:4
provider
47:8 50:21 51:8,19
providers
41:6,10 111:16,18,21 111:23 117:13
provides
37:17 92:8
providing
6:22 100:9
Public
1:17 3:13 5:3 131:17 133:5 134:21
Purchase
101:19
purpose
50:16 52:15 81:17 114:20
purposes
8:21 9:5,7
pursuant
1:18
pursue
21:2
put
38:23 130:6
putting
32:2
p.m
131:10

Q

quantification
8:25
question
3:9 6:2,4,9,12,17 30:11 35:7 53:22 65:4 73:25 85:5 88:22 117:2 123:2
questionable
124:22
questioned
31:25
questioning
102:8 106:23
questionnaire
28:24 29:5,13,24
questions
5:19,22 6:18 34:15 61:5 68:21 77:15 111:3 127:7
quicker
57:24

R

R
5:2 134:6,6
race
57:19
radicular
66:20
radiculopathy
61:15
radiological
45:17 70:25
radiologist
74:22 129:18
radiologists
71:17
radiology
71:4,5 72:11 73:9
raising
119:9
range
60:20 118:22,25 119:13
rapidly
57:23
rate
9:21
reacquired
93:3
read
6:5 62:6 71:17 73:7 75:18 76:16 89:6 108:23 109:3 122:19
reads
73:10,20,24
real
26:13
really
45:4 52:3 80:13 100:25
rear
47:22
reason
14:11 25:3 44:3 51:5 51:6 61:8 65:14 66:21,24 68:2 71:7 81:8 92:13,20 113:9 130:14
reasonable
121:6 125:9 126:18
reasons
14:11
recall
18:12 24:25 28:7
receipt
75:17
receive
35:3,10,22 103:10
received
43:4,18 55:15 69:6 110:22 112:4,24
recent
55:18
recertifications
117:25
recertified
27:11 118:3
recertifying
118:5
recognition
15:24
recognize
33:19
recollection
27:23 28:4 86:7 96:7 115:14 116:9 122:22
recommend
66:9 67:2 87:9 128:19
recommendation
87:7 123:2
recommended
63:21 122:15
recommending
64:9
record
4:16 6:7,13 7:15,17 33:4,6,15 36:11 42:14 45:2 71:12 97:21 98:12,14 133:9
recorded
62:24

records
29:3,17,23 36:15 42:13 43:3,6,12,18 44:2 48:17 50:20 51:5 52:12 54:20 69:4 81:4 89:10 115:5
redo
117:22
reduce
106:5
reduced
84:10 98:2
refer
36:21 69:7,9,12 70:25 71:23 72:7,21 115:21 128:11 129:6,25
referral
35:3 36:16 68:23 69:3 128:17 129:14 130:15
referrals
35:10,15,17,22 36:12 71:6 129:9
referred
35:25 36:9,19 61:13 61:16 66:22 69:15 69:19,22 76:11 119:17 121:15 130:21
referring
58:7 70:11 106:11
refers
89:18
reflects
15:22
reflux
64:2
refresh
115:13 116:8 122:21
refute
8:10
regard
79:4
regarding
5:20,22 30:12 77:12 80:3 89:15 122:10 129:5
regardless
16:23 95:24
Rego
11:8 12:10 13:3
regular
29:25
rehab
39:13,17
Rehabilitation
129:4
reimbursable
117:3,7
reimbursed
117:5
reiterate
111:2
reiterated
81:11
relate
87:23
related
87:4 125:17 126:15 133:11
relation
65:25
relationship
15:11 19:5,12,18 115:19
relationships
15:12
release
43:2
relevance
102:7 106:24 111:4
reliability
71:9 73:3,5,13
reliable
71:21 72:22
relief
85:15 121:22
rely
31:9 73:7,9,23
relying
30:10
remaining
15:15
remember
25:13,21 28:8 39:18 86:5 99:21,25
remotely
4:6,9
removed
83:14,17 124:6
removing
85:11 123:25 124:4
render
86:17
rendered
5:21 95:2 101:12 109:21
rent
12:16,17,19,20,22,23 12:25 13:2,4,5
repair
61:17,18 123:24
repaired
123:21
rephrase
6:4 47:4
replacement
125:20
report
71:15 89:18,21,24 90:4,6,8 94:10 114:17
reported
48:6 52:23 88:11
reporter
1:17 4:2 6:5,7 33:14 88:21 102:12 106:21 111:11
reporting
4:6,13
reports
10:6 71:10,19 72:19 73:16
representative
10:20
represented
34:23 107:14 112:19
representing
112:17
represents
55:2
request
29:23 89:21 94:11 97:22,25 105:22 106:4 115:16
requested
6:18
REQUESTS
132:15
require
128:14
required
97:7
requiring
61:21
rescinding
97:14
reserved
3:10
residence
114:4
residents
27:17
resistant
54:13
resolve
112:10
resolved
107:3,4,5,6,20
respect
8:13 29:11 35:20 36:12 37:6 38:13 44:6 53:20 56:22 58:6 60:3,10 61:4 62:25 69:25 74:9,19 75:10,19 76:15,18 77:19 78:5 79:8 86:24 88:8 90:4,8 90:19 95:12 96:22 98:16,21 115:8 122:17 129:20
respective

3:4
respond
84:11 98:3
response
42:3 58:18 109:24 110:7
responses
6:6
responsibility
101:11
responsive
110:3 120:16
rest
37:24
restore
85:12
restraining
48:2
restricted
119:7
result
57:2
results
72:18
retain
112:22
retained
132:14
return
64:7
revealed
49:21 63:5
revenue
19:14,21 103:11 127:22 128:5
review
9:24 10:3,9 36:23 44:4 73:10 75:17 89:4 115:5,9,11 119:23 120:2,5,18
reviewed
10:4 127:2
reviewing
115:3
re-evaluation
85:18
RICO
101:9 109:10
right
60:8 83:5 91:11,14 118:6 130:4,12
Road
2:5 91:8,16
Robert
2:6 35:21 43:21 89:14
Rockland
25:22
role
88:24
room
4:5 44:19 47:7
rooms
46:18
rotator
61:6,17,22
rounds
27:17,18
Route
13:25 14:8,21
RSD
28:5
rule
130:8

S

S
5:2,2 132:6 134:6
Saddle
102:17,20 103:4,14
said
44:18 104:21 105:6 133:10
salvage
87:9
same
3:6,13 9:22 12:6 14:17,20 18:15 30:12 38:12 40:18 45:15 51:17 56:4 64:22 65:11 67:5,21 68:3 77:6 96:19 104:11 105:4 115:24 116:3 128:25
sat
104:12
satisfactorily
45:23
satisfied
72:10 107:8
saw
12:12 32:19 39:2,4 48:19 59:8,10 60:13 62:9 63:12 75:4 85:17 93:17 94:19 114:13
say
7:13,20 9:2,6 15:16 20:3,5 36:6 46:2,12 53:20 55:7 59:5 72:21 77:22 78:3,13 83:11 90:24 94:15 110:21 123:11 128:20
says
39:16,17
scan
46:3,7 49:20 50:5,6
scar
124:5
scene
42:3
schedule
40:9 63:13 97:5,6,11
scheduled
114:24 116:25
scheduling
38:22 92:16 113:12 117:4
school
20:19
Schusselberg
73:8,12,23 75:18 88:11 108:12 109:4 115:20 129:21
Schusselberg's
73:20 76:16
science
20:17
scientific
27:19
score
59:19
scratch
33:2
screen
111:13
sealing
3:5
seat
47:19,25
second
99:14 121:12
section
36:20
see
8:16,21 26:12 28:17 28:19 32:7,15,22 36:2 39:5 40:2 44:2 45:9,25 48:17 49:12 49:25 50:6 52:12 54:20 88:13 90:13 92:7,19,24 93:6 111:12,21 114:25 128:9,14,22 131:3
seeing
13:17 30:15 32:17 67:17 91:2,4 93:2,5
seek
97:9
seen
28:15 32:14 41:6,10 41:12,14 42:17 46:7 55:25 77:15 84:22 88:14 115:14 124:24
sees
38:19
send
43:2 67:14 70:21 72:17 73:6,22
sending
67:19

sent
67:4 72:8 89:9
separate
113:6
separation
14:16
September
52:10,14 75:4 119:21 122:12 123:4,8
served
33:9 84:10 98:2 110:14,20,21 112:7 112:23
service
2:5 92:4,12 110:22 112:4,25 129:9
services
13:7,14 15:18,25 16:4 20:2 67:13 72:11 92:9,10 101:12 102:15 108:13 117:7 128:14 129:11
servicing
109:14
set
38:21 63:13 101:10 105:16 114:19 117:23 133:8,15
setting
47:7
settled
112:3
settlement
100:24 101:4 107:6 107:13 110:18 112:5,9,14
seven
117:4
several
18:9 20:4 104:12
severe
47:16 49:11 60:20
sewed
83:17
shall
3:6,10
Shan
20:10
shape
91:21
share
17:10,14,20,21,22 18:4 102:2 110:23
shared
18:14
sharing
19:14,21
shaving
124:4
sheet
31:24 32:5,12 33:2
Shorthand
1:17
shoulder
47:25 61:12,16,18
shoulders
60:7 61:4,14
showed
124:21
side
48:7,10 78:15,18,19 78:22,24 81:10
sideswipe
48:9,11
sign
13:15 15:22 16:24 17:2,5,8 39:5,16 47:20 65:19,25 66:2 66:3,6 70:15 112:5
signage
15:21 17:7 66:3,4
Signature
134:17
signatures
39:7,8
signed
3:12,14 39:25 40:3 70:8 97:12 104:20 104:23 112:9,25
significant
44:24 54:5
signs
47:16 59:13 118:15
similar
50:3
simple
46:19
simply
65:2
since
17:3 23:3 26:21 27:10 29:8 37:24 40:16,17 95:22
sir
6:23 7:24 10:10 12:8 14:23 15:4,7 16:10 19:4 21:3,14 23:6 23:16,23 24:2,11 26:18 28:13,16 30:21 31:12 43:23 46:11 48:21 74:14 74:21 84:17 86:20 89:2 90:23 93:12 103:6 126:12
sit
95:14 100:6 101:24 117:16
situation
78:8
six
57:23
sixth
38:13
Skazka
14:25 108:17
skin
46:20 47:8,17
slow
79:15
smattering
7:6
Smith
2:9 5:17
so
6:7,12 8:11 14:15 17:7 29:15 44:3 47:11,17 48:17 51:6 51:6 64:2,18 66:23 77:15 80:10,18 81:22 87:23 91:3 102:22 107:12 114:16 128:18
soft
57:6
softening
56:10
software
38:22
sole
16:23 104:4 127:25
solely
30:10
Solutions
95:19,21,23 97:23 98:6,10 108:18
some
5:19,22 13:15 41:23 45:3 47:24 53:3,24 55:9 57:22,24 68:7 78:8 83:12 89:20 105:6 110:18 113:4
somebody
28:6 39:3
someone
28:23 32:21 34:18 39:22 53:18 63:8 67:4,19
someone's
46:20 47:8
something
9:18 10:14 29:25 46:19 47:7 48:25 50:3 68:11 70:17 82:2 83:4 99:5 130:18
sometime
43:7,10 107:21
sometimes
29:9 32:8 49:9
sort
71:16
sounds
9:11 18:19

source
71:4 96:16,19
South
2:5
Southern
100:17 106:15
Sovanna
38:18 39:3 40:10
Sovanna's
40:24
space
14:4 17:10,14,20,21 17:22,24,25 18:4,14 57:13,16 58:14 93:3 93:4
spaces
57:15
spasm
119:6
speak
34:20 44:19 73:13 109:18 113:7
speaking
47:10,14 49:4,6,14 49:16 60:22
specialist
21:16
specialty
21:2,7 74:25
specific
25:2 35:12 49:17 51:5 57:14 58:22 61:18 72:20 76:5 78:9 82:23 84:15 87:6 103:22 105:6 122:9 123:2 129:9 130:17,18
specifically
47:22 54:7 56:20 76:19 79:11 86:5 118:21
specifics
101:5
specify
41:19
spectrum
92:8
speculation
53:10
spine
46:8,14 49:22 50:2 56:22 67:8,20 74:4 74:4 76:12,12 78:5 78:6 86:11,15,18,19 86:21,22 119:12 127:3 129:6
spondylosis
56:23,25 57:13 58:3
Spurling
119:8
SS
133:3
stage
56:17 108:7
stages
37:23 56:9,20
stairs
86:7,8,9
stand
63:10 88:6
standard
117:23
standing
102:6 106:4,4,22 111:3
start
9:23
started
40:15 91:2
starts
56:11
state
1:17 17:18 18:11,22 19:13 22:9,13 23:3 23:7,18,24 66:6 68:14,18 69:6 97:6 103:17,25 107:8 108:14 133:3,6
stated
41:12 59:16 62:4 81:9 125:20 129:8
statement
73:2
states
1:2 41:15,22 100:17 106:14
stating
4:15
stats
8:10,18
status
111:25
stay
64:17 65:2
Steven
101:15 107:17
still
16:17 21:21 84:24 93:10 99:4,20,23 100:22,23 103:25 107:3 115:18,21,23 116:3
STIPULATED
3:3,8,11
stipulations
1:19 3:2
stitches
84:23
stomach
63:25
stopped
87:22 93:2,4
straight
119:9
street
2:10 91:6 114:4
stress
58:10
strike
120:15
studies
74:8,11,16 75:4 130:4
study
45:24 49:25 71:14 73:15 74:3 77:9
stumbling
80:14
subject
37:14 38:13 111:5 121:7
subjective
82:14
sublease
17:25
submission
105:18
submit
108:3 114:10
submitted
104:18
Subpoena
1:18
Subscribed
131:14
subsequent
84:25 85:2
substance
89:7
success
85:6,10,16
successfully
117:19
succession
96:11
such
46:19 60:22 73:6 94:5 95:25 117:15 121:16
suggest
38:15 118:24 119:8 125:2
suggestive
119:4
Sukdev
108:11
sum
109:16
sure
35:25 68:7 98:19
surgeon
21:12,13 99:9
Surgeons
27:3,5

surgeries
61:6,22 116:24
surgery
18:18 19:7 21:5,10 21:16,19 24:19 25:15 26:7 27:2 60:3,6,6,8,11 61:16 68:15 76:4 79:3,7 79:10,11,18 80:12 80:21 81:14 82:9 83:7 84:3,15,23,25 92:10 99:12,13 102:18 103:4 104:9 108:15 112:21 113:8,10 115:12 116:19,21 118:4,6 122:6,10,22 123:11 123:14,20 127:11 127:14 128:5
surgical
25:19,19,20,22,23,25 85:24 87:16 111:24 113:14 122:16 123:3
surgically
87:7
Surgicore
110:17,19
surprising
54:2
surrounding
64:19
susceptibility
54:5,8
suspecting
130:18
suspended
23:8,15,22
suspicion
130:13
sustain
54:9 62:5
swelling
118:22
sworn
3:14 5:3 100:3,9,10 101:22 104:18 107:25 108:3 114:8 114:10 131:14 133:8 134:19
symptom
55:12
symptoms
44:12 52:24 55:6 87:4,25
synovectomy
83:20 124:3
synovitis
53:19 54:22,25 55:12 83:19
synovium
124:4
system
109:13

T

T
132:6 134:6,6
take
6:9,17 32:16 40:24 49:9,18 53:16 57:17 59:14,23 60:2 62:18 77:2,8,9 83:23 84:23
taken
1:15 23:5,11,18 41:23 49:20 99:19
takes
62:20
taking
63:6
talking
50:4 117:8
teach
27:13,15,17
tear
53:14 88:3,9 118:24 119:4 120:11
tears
83:14,15,18 123:23 124:8,11,17,19,24 125:2
tell
8:4 9:9 32:25 40:7 43:17 45:8 53:5 60:5 84:21 87:18 107:12 117:6 125:21 126:4
telling
31:10 44:17 69:5 101:5
ten
7:13,21 82:13 87:13 117:21
tenant
14:3,4 93:4
tenderness
119:6
tendon
61:19
term
47:19 56:23 57:14
terminated
15:12 25:7
terms
28:3 63:17 93:14 109:19 112:6 128:24
test
46:19 72:8 118:24 119:3,3,8,9 130:14 130:16
testified
5:4 7:23 9:7 37:3 118:7
testify
7:12 8:2,8,14,24
testifying
7:22 89:3
testimony
6:22 7:19 9:12,20 10:9 36:23 65:9 100:4,10 101:22 107:25 108:23 109:3 114:8 133:7 133:10
testing
45:17 119:17
TFCC
88:2 119:3,4
TFCV
88:9
than
9:3 25:2 36:14 44:23 49:8 56:14,15 72:7 82:6 87:14
Thank
116:11 127:7 131:5,7
that's
17:18 18:23 24:25 27:18 34:5 37:11,12 38:10 39:18 42:15 43:10 48:7 53:13 60:11 62:12 67:12 69:5,7 72:13,17 78:21 88:3 91:8 101:13 102:15,24 105:21 107:12 109:16,17 112:6 113:6,15 117:2,5
their
4:11 9:8 31:10,10 35:10,19 52:19 57:4 57:19,19 64:17 65:17 84:8 91:25 101:12 109:14 112:21 113:19
them
6:7 15:13 18:12 25:14 27:12 28:24 43:2 44:20 65:7 68:9,10 72:7,8,8,12 72:19,21 73:3 80:20 83:17 84:4 86:6 91:5 99:18 105:19 105:21 115:14 129:6,14
themselves
44:22 101:11 109:13
then
14:3 15:15 40:20 81:11 104:22,23
therapist
67:24 68:5

therapy
19:3,19 63:24 64:10 64:13,21 65:3,11 66:9 67:3,5,10,20 68:24 69:2,3 75:24 79:13,14 81:24 82:3 87:4,15,19,24 92:10 116:5 121:17,24 123:6 129:13,15
Therefore
125:4
thereof
109:22
these
34:15 72:14 88:25 112:20 119:16 125:2
they
4:7 11:4 32:7,16,17 34:14,16 35:18 39:8 43:3,3,4 50:25 61:10 64:17 65:6,6 65:16,16 66:17 71:12 72:14,25 82:19,20,21 92:7 94:2 99:15 105:13 113:6 125:4 128:17 128:19 129:16
thick
57:6
thickness
56:13
thin
56:11
thing
44:20 56:5 82:8
things
63:20 71:18,25 82:7
think
28:4 38:10 65:4 73:25 82:19 85:14
thinning
56:12
third
17:6 27:11
this
4:3,6,12,13 5:18,19 24:20 28:14 33:7,9 33:13,19,22,25 34:8 35:12,20 36:17 37:9 37:23 38:7,9 39:19 39:19,21 40:12,21 40:22 42:14 44:13 51:6 52:24 53:25 59:7 64:16 66:19,21 70:2,17 72:5,23 77:21 87:5 88:15,20 89:4,10,15 90:6,16 96:4 102:4,11 104:15 106:17,20 106:23 107:2 108:24 109:5 111:4 111:6,10,22,25 112:8,18,24 115:15 116:16 120:17 121:7 126:15 131:15 133:12,14 133:16 134:19
those
10:22 13:17 14:14,18 16:17 27:8 39:7 43:18 44:2 51:4 54:11,14 57:11,14 58:18 61:21,24 65:13 68:16,21 69:4 74:8,8,16,19 77:8 77:14 83:25 84:3 85:10 86:4 99:15,22 100:2,7 117:25 122:5 124:8,11 128:10 129:4,11
three
8:7 23:24 44:21 56:14 64:7 88:25 115:12 118:2 124:20 128:12
through
18:22 24:18 27:22 29:23 35:17 37:4 58:16,17 62:21 72:15 95:4,9 96:15 96:18 101:4 110:19
throughout
46:14 80:6
Thursday
11:21
ticket
96:23
TIM
1:9
time
3:10 11:10,10,17,19 11:22 13:15 14:7 15:10 17:9 18:16 19:24 24:15 26:22 29:6,17 38:12 40:17 40:22 44:13 62:20 67:6,21 71:20 72:24 78:10 79:9 80:8,23 82:12 89:20 91:24 92:17,19 93:17,18 113:13,14 114:2,13 115:23 116:12,25 118:11 119:23 122:6,23 125:18
timeframe
49:13 92:25 123:7
timely
71:11,14 72:19 73:14 73:17
times
7:3,4,12,14,25 8:6,7 8:9 12:4 27:11 28:5 29:10 32:7,13 38:2 38:5 44:11 49:8
timing
55:11
tissue
57:6 83:19 85:12 124:6
tissues
57:3
title
15:24
today
6:22 10:22 42:17 43:14 46:6 89:3 95:7,14 110:2
116:12,16,18,25 127:11
today's
9:23 10:8 36:22
toe
77:4
together
32:15 39:4 40:16 83:17
told
62:13 86:10 112:3
too
68:10
took
14:4 32:23 40:8,9 50:17 55:21 59:12
top
34:2 39:13 90:21
torn
123:25
total
109:16
towards
58:9 60:14 99:5
towns
64:19
track
71:12
trained
21:13 40:10 117:16
training
40:14 51:16 117:12
transcript
104:21,25 105:25 106:2 133:9
Transit
110:13 111:15 113:4 113:5 114:7
transition
93:8
transitional
92:22
transport
41:24 42:11
TRANSPORTATI...
1:9

transported
42:5
trauma
47:9,16 49:7 52:20 53:3 54:6,9,14 55:7 55:8 57:24 61:21,23
traumatic
45:23 49:5,6,14 52:17,21 54:6 55:5 118:16 125:17,17
travel
64:18
treat
43:24 44:14 51:10,12 51:13 64:14 68:10 87:2 107:11 113:3 119:20 122:5
treated
86:25 91:10 114:3
treating
8:17,23 54:3 67:23 113:5
treatment
5:20 9:4 10:5,11 30:4 37:9 63:13,18 66:15 67:9,25 69:6 72:2 75:19 76:6,8 79:19 81:6,12,18,21,23 82:2,9 86:18 87:3 87:16 93:11 94:25 95:13 96:12,17 97:19 105:5,10,13 109:21 114:22 121:16 122:15 123:3,4,11 128:4
treatments
61:24 66:17 68:3 92:11
treats
92:4
trial
3:10 7:23 8:2 9:12 105:16,18
Triangular
88:7
tricompartmental
53:19 54:22
true
12:6 130:2 133:9
truth
53:6
truthful
6:22 31:13
try
82:22 127:22
trying
105:18 130:8
Tucker
99:24
Tuesday
12:3
turn
77:5
two
8:7 11:13 12:4 25:20 27:11 28:5 56:13 59:18 60:14 68:3 99:3,15 100:3
type
15:24 33:19 36:11 41:23 42:24 45:3 47:24 49:3 57:20 78:8,16 82:14 95:25 123:18 124:21
types
7:7,8
typical
34:15
Typically
116:20

U

ulnar
88:5 119:3
under
4:9 24:24 32:10 37:3 68:20 86:8 93:10 118:8
undergone
61:6
understand
6:3 14:19 85:5 104:6
understanding
42:12,15 48:8 58:3 95:9 96:24 101:6,13 104:8 109:7,17 122:25
understood
47:3 76:5 122:18
underwent
74:3,11
United
1:2 100:17 106:14
University
20:14 91:12,18
unless
51:5
unremitting
87:12
until
6:11 43:13 46:6 81:8 93:3
up
10:20 11:8 12:9 38:21 46:6 62:22 63:13 64:19 71:21 73:24 80:7 81:8 83:12,19 84:7 91:11 92:17 112:24 114:19 121:11 122:23
upon
32:24 40:7 41:15 54:19 63:21 66:17 98:3 113:19 119:16 120:17 121:22 128:18
Upstate
36:3 71:16 103:21
up-to-date
90:18
us
33:2 43:3
use
6:8 14:12 15:20 18:20 32:2 33:23 72:13,19 73:3 97:15 98:5 119:14
used
13:9,22,23,24 15:19 18:24 22:4 27:19 48:11 71:7 93:5 95:20 98:9 102:25
useful
51:3
using
17:3 18:10,20 109:12
usual
93:24
usually
8:24 47:24 62:20

V

validate
105:10
variable
49:14 57:18
varies
20:3 31:2 60:19
various
25:18 37:22 71:5
vascular
76:20 87:5 92:10,11
vehicle
42:9
verbal
6:6
verbalize
46:4
verbalized
45:20
verified
38:4 100:10 104:19 108:4 110:4,7 114:11
verify
29:21
versa
67:18
version
90:17
versus
100:14 101:21 104:15 105:3 106:8

106:12 116:25 123:10 124:11
very 22:19 35:7 49:13 57:18 83:17 127:7 131:5,7
via 1:16 2:7,12 5:4
vice 67:18
videoconference 1:16 2:7,12 5:4
violate 109:18
violation 76:22
visit 42:16 54:21 61:25 75:7 79:24 82:24
visits 81:3 84:25 85:2
visualization 47:15
visualize 88:10 124:8
Vitae 90:13
vital 59:13
vitals 59:12
volition 65:18
volumes 7:10

W

wait 6:11
waive 4:12
waived 3:7
want 25:6 72:2 101:2 109:18 129:16 130:3
wanted 16:25 79:12,16 123:5 123:9
wasn't 78:2 82:4 87:22
way 29:21 45:4 67:3 91:16 131:4 133:13
we 6:12,19 12:12 14:15 18:22 29:8 32:15,15 34:19,20 38:21 39:4 40:15,18 42:25 43:2 49:16 57:7 59:5 61:23 64:2 67:7 80:8,12 81:11 84:5 85:13 89:19 90:11 97:5,6,25 98:3 102:3,5 106:3,16 110:24 111:7 116:15 117:22
wear 53:14
wears 56:6
week 7:10,12,14 11:13,19 11:20 12:3,4,5
weekly 35:16
weeks 49:9 58:4 64:8 84:19 115:12
weight 59:14,17,20 60:11 63:9
weightbearing 60:22
Weill 51:9,9,14 52:9,12
well 22:14,23 66:7 81:18 93:6 106:24 113:19 126:8
welt 47:24
went 41:17 50:8 69:7
were 25:20 27:7 40:23 43:4,13 44:16 45:16 52:25 59:13 61:10 63:20 64:9 72:10 80:8,15,16 83:15,16 85:25 86:4 87:4 92:13 93:25 96:9 99:3,9,15 100:13 102:5 105:9,9 106:7 107:14 110:11 111:22,22 112:21 113:6 114:3 116:16 117:8 122:17 124:7 124:11,24 125:2,21 126:4,14 130:25
Westbury 20:21
whatever 62:10 97:7 105:12
when 9:6 13:23 20:15 22:6 22:15,21 27:7 28:22 30:15,18 31:8,18,24 32:7,13 33:3 34:3,5 34:13 39:5 40:4,14 41:4 43:5 47:21 48:14,19 52:4 54:10 56:5 57:3 59:5,8,10 60:13 62:9 64:9 65:16 67:2 73:13 76:22,23 78:2 79:3 79:7,18 85:11 86:9 88:13 89:8 90:24 94:10,15,18 107:19 117:18 119:13 122:22 125:24 127:18,23 129:25
where 20:13,19 27:15 38:10 47:24 50:17 56:11 56:20 64:14 65:7,25 69:3,5,7 72:18 79:17 85:25 87:22 91:9 92:24 93:2 99:15 101:16 102:18 124:19,24 129:16 130:11,17
WHEREOF 133:15
Whereupon 7:16 33:5,11 88:18 98:13 102:9 106:18 111:8 131:9
wherever 16:12
whether 18:20 37:2 41:5 46:13 49:19 95:5,9 102:24 104:4 124:11
which 10:5 12:2 13:19 22:4 30:12 33:18 37:10 40:13 47:23 49:17 54:2 55:2 57:5 61:18 62:4,17 69:14 70:25 72:22 76:24 82:4 83:15,19 90:11 96:19 97:5,6 108:20 109:25 112:10 117:3,17 118:16 119:4 120:2 124:4 124:23 125:17,18
whiplash 78:8
who 16:3 32:23 35:17 37:16 38:18 39:19 40:8,10 54:10 81:6 86:24 98:7 101:14 112:17 115:16 128:9,19
whole 55:20 80:7,19 92:8 92:11
whom 28:2 115:16
whose

133:7
why
50:23 61:5 72:11,13 77:21 92:20
Wickham
5:11 10:25 11:23 12:21 17:11 18:13 19:2 39:14 65:20 92:24
wife
26:12,19
wild
117:6
will
4:6,8 5:19,21 6:15,16 32:9 33:7,17 37:9 44:18 46:22 49:12 57:20,25 58:17 59:23 67:10,12 84:7 84:9,11 88:15,22 89:19 97:22 98:3 102:2,6 105:22 106:3,16,22 110:23 110:24 111:2,7 117:5 122:11 125:18 128:19,20
windows
66:5 103:21
within
3:6,12 49:2 77:5 82:16 118:2 121:5 125:8 126:18 133:6 133:9
without
58:19 81:10 101:5 107:13
witness
1:15 5:2 46:25 131:10 132:3 133:15 134:3,17
witness(es)
133:7,10
word
48:11 59:23
work
11:23 32:15 94:6,7 115:24 116:3
worked
40:13,16,18,21
Workers
7:5,8 35:16 96:2
working
40:17 82:4 115:18
worn
56:20
worse
125:18
worst
72:18
would
7:13,20 9:7,10 15:16 20:3,5 29:25 30:5,8 31:3 32:16 34:12 36:6,15,21 37:12 38:20,22 41:23 43:3 43:7 44:4,15 47:15 47:17 48:23 49:18 50:2 51:2,17 52:14 53:2,7 54:14 55:7 55:11 56:12,14,15 58:4 59:6,21 60:14 61:15 65:17 66:14 67:22,24 68:2,5,8 68:12,21 70:25 72:16,22,24 74:24 76:21 81:20,25 82:2 82:9 83:16,20 85:3 87:9,10,11 95:8,15 96:17,19 97:13,13 102:22 103:20 116:17,20,23,24 117:3 118:16,19 121:10 125:4,24 126:8
wrist
62:6 64:6 67:8,15 74:12 76:15,17,18 77:12,18,25 78:6 86:19,24,25 87:2,4 87:10,17,20 88:4,5 88:5 118:25 120:3 122:3 126:8
writing
84:7,10 98:2 106:5
wrongdoing
107:10 113:2
wrote
94:10
Wyckoff
41:13,17 42:6,13,17 42:21 43:12,22 44:5 45:7,18 46:8 48:14 49:20 50:7 54:17 77:12 125:22

X

x
1:4,11 132:2,6
X-ray
45:21

Y

year
7:25 8:6,7,8,9 12:14
years
7:21 27:25 35:24 36:7 40:21 49:18 52:18 54:2 57:8,21 57:23 58:2,4 59:7,7 59:9 117:21 118:2
York
1:3,18 2:5,11,11 5:12 10:25 11:6,7,7,23 12:10 17:11 20:20 20:21 22:9 23:3,7 97:5 100:18 101:19 106:15 111:21 113:11,24 126:5 133:3,6
yours
130:25
yourself
21:11,15 32:4 102:13 128:6

Z

Zammit
1:16 133:5,19
zone
83:16
Zoo
91:17

$

$10,000
9:16
$40,000
117:5,6

1

1
19:8 35:2 41:22,25 45:7,19 52:22 55:18 62:11 77:19 121:7
1:10
131:10
1:22-cv-10531-Otw
100:21
1:24-cv-08208-AM...
1:8
1:24-cv-08606
111:21
10
88:14 89:24 94:10 114:14
10:10
1:13
100
16:8,17
10007
2:11
1010
25:11
102
132:10
105
132:18
106
132:11
10940
5:12
111
132:12
116

132:5
11747
2:5
12
8:5 74:12
127
132:4
144
33:19 37:7
147
70:2
148
39:11
15
8:5 36:6 85:17
17
1:12
18
34:2,22 35:21
180
111:17
19
20:4,6 75:4 119:21 122:12
19th
133:16
190
59:18 60:14
190113
22:11
1986
20:16
1992
22:8
1993
40:16
1994
40:16

2

2
50:10
20
20:4 27:25 36:6 83:8 84:14
2001
27:9
2005
27:10
2010
17:3 95:22
2011
26:21 95:22
2012
22:17,23 24:18,23 26:21
2014
91:20 92:14
2015
52:10,14 53:7
2016
60:7 61:19
2017
60:7
2018
8:8 60:8
2021
24:18,23
2022
13:18 15:13,14,16 118:4
2023
14:4 18:14 19:8 28:21 34:3,22 35:2 35:21 39:2,15 40:5 40:23 41:22,25 43:10 45:7,19 46:6 50:10 52:5,17,22 55:18 56:2 59:11 61:25 62:11 65:23 66:8 68:14 69:18 70:19 73:2 74:5,12 75:5 77:19 91:3,5 91:20 92:15,18 93:18 97:2 107:22 118:9 119:21 121:7 122:12 126:10
2024
33:10 79:5,7,11,20 79:24 80:23 81:16 83:9 84:14,24 85:17 93:16 94:9 107:21 122:10 123:15
2025
88:14,24 89:13,24 94:10 114:14
2026
1:12 131:15 133:16 134:19
203
5:11 10:24 17:11 18:13,25 39:14 65:20
21
74:4 132:18
211
13:25 14:8,21 92:23
219-page
33:16
22
132:18
23
79:5,6,20 81:16 88:24 89:13 122:10
24th
38:20
244
11:7 12:6,24 14:3,5 14:22 15:14
2488
11:6 17:5,24 18:5
250
2:10
253
13:25 14:8,21 92:23
28
91:9 92:3 93:16 94:9

3

3
122:16
30
8:9 33:10 57:7 58:2
31
28:20 39:2 40:5 52:5 56:2 59:11 61:25 65:23 69:18 93:18 118:8 126:10
31st
43:8
33
132:8
34.8
63:10
35
57:7
38
59:22

4

40
58:2 59:9
45
62:20

5

5
79:24 80:23 84:23 132:4,17
50
56:14,15
58
2:5

6

62
52:18 54:2 59:7
625
91:8

7

7:23-CV-07515-P...
106:16
72
114:4

8

8
52:10
813
11:5 12:15
84
132:17
86

9:8
88
132:9

9

97
132:18