

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX : CIVIL TERM : PART IA-19

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3 RHINA SOTO,

Index:
21564/2018

4 Plaintiff,

5 -against-

TRIAL

6 LIU ZHANG and E&K TRAVEL INC.,

7 Defendants.

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8 851 Grand Concourse
9 Bronx, New York 10451
March 27, 2026

10 **TESTIMONY OF DR. SEBASTIAN LATTUGA**

11 **B E F O R E:**

12 THE HONORABLE ALICIA GEREZ,
Justice of the Supreme Court & jury

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

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15 LAW OFFICE OF MICHAEL S. LAMONSOFF
Attorneys for the Plaintiff
32 Old Slip
16 New York, New York 10005
BY: BRENDAN O'MEARA, ESQ.

17

18 JEFFREY SAMEL & PARTNERS
Attorneys for the Defendants
150 Broadway, Suite 910
19 New York, New York 10038
BY: KEVIN J. BARRY, ESQ., OF COUNSEL

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Joanna Garcia
Senior Court Reporter

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1 M O R N I N G S E S S I O N

2 COURT OFFICER: All rise. Jury entering.

3 (Whereupon, the sworn jurors enter the courtroom
4 and take their respective seat.)

5 THE COURT: Please be seated. Good morning my
6 wonderful jurors. You see how I claim you as my own. Now
7 you're mine. My jurors. I hope you all had a good evening
8 last night and I hope you had an easy commute in this
9 morning.

10 As I told you yesterday, we're going to continue
11 with our trial today. We have three expert witnesses
12 appearing on behalf of the plaintiff. Sounds like a lot
13 three expert witnesses but it shouldn't be too taxing of a
14 day and I expect that we should not be here past 4:00.
15 Probably will be done by 3:30 and get an early start to our
16 weekend. Counsel, would you like to call your witness?

17 MR. O'MEARA: Yes, Your Honor. Dr. Lattuga.

18 (Whereupon, the witness is approaching the stand.)

19 THE COURT: Good morning, Doctor.

20 COURT OFFICER: Raise your right. Do you swear or
21 affirm that the testimony that you're about to give will be
22 the truth, the whole truth and nothing but the truth?

23 THE WITNESS: Yes.

24 COURT OFFICER: Please state your name and address
25 for the record.

1 THE WITNESS: Sebastian Lattuga, 2001 Marcus
2 Avenue, Lake Success, New York.

3 MR. O'MEARA: Ready, Your Honor?

4 THE COURT: Yes, please.

5 D R. S E B A S T I A N L A T T U G A, called as a
6 witness by and on behalf of the Plaintiff, after having been
7 first duly sworn, was examined and testified as follows:

8 DIRECT EXAMINATION BY

9 MR. O'MEARA:

10 Q Good morning, Doctor. How you are?

11 A I'm well. Thank you.

12 Q Can you give us a little bit of history of your
13 education?

14 A Yes. I'm a physician licensed to practice medicine in
15 the State of New York since 1991. My specialty is I'm a board
16 certified orthopedic spinal surgeon. I've been in practice
17 for -- since 1998.

18 My practice is really dedicated exclusively to the
19 treatment of people with complex spinal conditions. I went
20 to school at St. John's, undergrad. Then I went to Stony Brook
21 Medical School and then Stony Brook Orthopedic Residency and
22 fellowship in spinal surgery at the University of Miami Jackson
23 Memorial Medical Center.

24 Q Okay. And can you tell us a little bit about your work
25 history?

1 A From the beginning, I've been taking care of people
2 with spinal injuries. You know, my role in the medical -- has a
3 spine problem, they're sent to me for spine surgery. That's
4 what I do every day. I'm a spine surgeon, but I evaluate people
5 on the weekly basis to see if I can help them with surgery or
6 not.

7 Q And are there such orthopedic surgeons that don't
8 specialize in spinal surgeons?

9 A Yes.

10 Q Do they still do spinal surgeries?

11 A No.

12 Q And have you testified before in court?

13 A Yes.

14 Q And have you testified in court before for our firm?

15 A Yes.

16 Q How many times?

17 A A dozen.

18 Q And are you getting paid to be here today?

19 A Yes.

20 Q And how much are we paying you?

21 A One thousand an hour.

22 Q And do you know who Rhina Soto is?

23 A Patient.

24 Q And how did you meet her?

25 A She came to see me one day after an accident.

1 Q Do you remember how she was referred to you?

2 A No.

3 Q And did you perform a history?

4 A Yes.

5 Q And do you recall what that history was?

6 A She was involved in a motor vehicle accident.

7 Q And did you do any sort of testing that day?

8 A Yeah, I examined her that day. So, typically, a
9 patient comes to the office and they tell you what's wrong.
10 They write down. They say what's wrong and then so I listen to
11 the story and then I get clarification on what happened and then
12 I do a physical exam.

13 My specialty is the spine. So, I'm not listening to
14 the heart and lungs. what I'm doing is focused on the spinal
15 exam.

16 And for the jury, the spine exam really has two
17 components. One is range of motion on the spine, how well is
18 the spine moving and then the second part is a neurologic exam.

19 So, you guys are all aware if you a spine injury, you
20 can be paralyzed and the reason why that is because the spinal
21 cord and the nerves are contained inside the spine.

22 So, if there's an injury to the spine, you can also
23 have injuries to the nerves. So, part of the exam is if you
24 believe someone may have been injured is to not only examine the
25 range of motion but to examine the nerves and we call that a

1 neurological exam.

2 Q And do you remember the exam that you gave Ms. Soto
3 when you first met her?

4 A I mea, I know what my exam is, but if you'd like me to
5 review my notes from that day, I'd be happy to review it.

6 MR. O'MEARA: I'm just handing up his record.

7 (Handing)

8 THE COURT: Yes.

9 Q And me and you have discussed this case before, right
10 Doctor?

11 A Yes. So, I believe the first time that I saw her was
12 July 31, 2019.

13 Q So, do you know if she had been receiving treatment
14 prior to that?

15 A Yes. She was seeing an interventional pain management
16 doctor and doing physical therapy and getting treatments.

17 So, I was seeing her almost two years after her
18 accident. She had already been seen by other doctors. She
19 already had been treating for her condition nonsurgically. And
20 so, she's coming to see me after two years for a surgical
21 evaluation.

22 Q And did you give her a surgical evaluation?

23 A Yes.

24 Q And what did that evaluation consist of?

25 A Like I described before, I took a history and then I

1 did a physical exam. I found some abnormalities in her exam
2 both in range of motion and neurologically which was consistent
3 with the MRI and I'm sure you guys are going to see the MRI. It
4 was consistent with what she was saying, consistent with what I
5 saw on the MRI.

6 So, that's the whole story. I hear. I see. And then
7 I examine. And then I make recommendations and I made some
8 recommendations.

9 Q Is that called clinical correlation?

10 A Yes.

11 Q Okay. And if Ms. Soto attempted conservative
12 treatment?

13 A Two years.

14 Q And in your opinion, was that successful?

15 A It helped a little bit. Obviously, two years after the
16 accident, she still had significant pain.

17 Q And what was your diagnosis?

18 A Diagnosis was a cervical, cervical means neck, cervical
19 herniated disc with -- this is a big doctor word, radiculopathy.
20 And what radiculopathy means is like a pinched nerve or nerve
21 pain or nerve dysfunction.

22 So, if a patient is describing to you that they're numb
23 or tingling, that's what the patient says but the doctor word
24 for that is loss of sensation and radiculopathy. That's the
25 word.

1 Q And did you review her MRIs?

2 A Yes.

3 Q And did you order another MRI?

4 A Yes.

5 Q I'm just going to show you what's previously been
6 entered into evidence. Can you describe to the jury what an MRI
7 is?

8 A So, an MRI is a diagnostic test like an X-ray. I'm
9 sure you all know what an X-ray is. An X-ray is very good for
10 looking at bones and broken bones but the best test to evaluate
11 the spine is a test called MRI.

12 The MRI is the best test because not only does it show
13 the bones like an X-ray would, but it also shows structures
14 called intravertebral discs which everyone here has heard about
15 a herniated disc, but to see that, you can't see that on an
16 X-ray. You can only really see that on an MRI.

17 So, if there was damage to that disc, the MRI is the
18 best objective, meaning the patient has no control over what the
19 MRI shows, a test to really evaluate damage to the disc and the
20 nerves.

21 The nerves don't show up either on the spinal cord on
22 an X-ray but on an MRI, you can see them. So, that's why we
23 order MRIs for patients who have presumed spinal injuries.

24 Q Okay. I'm going to show you something on the screen.
25 Doctor, do you recognize what that is?

1 A Yes.

2 Q Do you want to come down and explain to the jury what
3 you see?

4 THE COURT: Counsel, before we do that, can we --

5 MR. O'MEARA: I'm sorry. I'm going to have him
6 identify the specific slide.

7 THE COURT: Yes. I need identification.

8 Q When you take an MRI, Doctor, does it take a number of
9 pictures?

10 THE COURT: What exhibit are we looking at? That's
11 what I need to know. For the record, I need to know.

12 MR. BARRY: Kolb MRI Plaintiff's 7 in evidence.

13 THE COURT: Plaintiff's 7 in evidence. Thank you.

14 MR. BARRY: What slide number is this?

15 Q Can you tell us what slide number that is?

16 A Yes. It's series 102, image 7 of 12, 7 over 12.

17 Q Thank you, Doctor. Can you explain or show the jury
18 what you see when you review that? Do you have experience
19 reviewing MRIs?

20 A Yes. MRIs, we're trained to review MRIs and evaluate
21 patients and also for determining what surgeries are necessary.

22 So, this is an MRI which there's lots of pictures on an
23 MRI but we put up one that's easiest for you to see, the jury.
24 So, this is MRI of Ms. Soto's neck that was done in 2017.

25 And what you can see in this image and it's one of

1 several, is you see this is a cross-section of the neck of the
2 spine as if you were to slice the body this way. (Indicating)

3 So, you're looking at it from the side. So, what you
4 see here is some anatomical landmarks would be like this is the
5 mouth. Here's the brain. Here's the part of the brain, the
6 blue part, and this thing running down is the actual spinal
7 cord.

8 That's what carries information to the brain and down
9 from the brain to the extremities to the rest of the body, arms
10 and legs.

11 You see here a column of bones of squares all separated
12 by what looks like a disc-shaped structure and that's the
13 disc-shape structure is called the intravertebral disc and what
14 that disc is there for is it provides stability meaning it's
15 holding one bone connected to the other but because it's got
16 some flexibility, it allows for some motion over that area.

17 And so, that's the purpose of the intravertebral disc.
18 And in this is particular case, what I can show you is if you
19 follow the spinal cord down, you can see this black protrusion
20 of disc material. And again, the patient is not moving when
21 this is done so it changes with movement but you can see it
22 impinging on the spinal cord at C-4/5 and all of the vertebrae
23 in the spine are numbered from the top all the way down.

24 The cervical spine which is the neck has 7 cervical
25 vertebrae. And so, this is C-4/5, C-5/6, C-6/7, you can see

1 even though you probably don't read a lot of MRIs at home, you
2 can see that this is protruding out and so that's what I see.

3 And then this correlates meaning when you ask the
4 patient were you hurt, she said I have pain and numbness in this
5 area. The nerve that's here and the nerve that's here is the
6 same for everyone. (Indicating)

7 So, if the patient says they have pain and numbness in
8 this area, that correlates directly with an area of the spine.
9 So, if she says something that it's numb and that's the same as
10 I see on the MRI and it's the same that I can, you know, provoke
11 in a physical examination, then pretty much you can be sure that
12 that's what's causing the problem. And that's what happened in
13 this circumstance.

14 Q And do you see degeneration?

15 A So, I don't see degeneration but I see age-related
16 changes. So, the word degeneration is used very commonly in the
17 spine. We're reviewing the spine and it means got worse over
18 time. It degenerates. Right.

19 So, I always try to -- it's a misleading because what I
20 say to people is the same way I look 50 something on the
21 outside, if you take an MRI inside, it looks like I'm 50 inside,
22 too. You can imagine the same changes occur, right.

23 So, those age-related changes losing my hair, whatever
24 it is, also you have changes inside the body like the discs
25 begin to get a little dry. And so that comes up as they look

1 darker than if you were 18 years old. That's not necessarily a
2 breakdown event.

3 My testimony today and my opinion is that's what's
4 called an age-related change and she does have age-related
5 changes on this thing.

6 Q And did you also take another MRI?

7 A Yes. So, this was done like 2 years before I saw her.
8 So, I wanted a new MRI to see if anything had changed.

9 MR. O'MEARA: It's the same exhibit, Your Honor,
10 but it's from October 1, 2019.

11 A And it's slide 102 series, 7 over 12, but it's the 2019
12 MRI. And you can see now that you are all experts in MRI. You
13 can see the brain, the spinal cord and you can that herniation
14 and you can see that sticking out more.

15 And it continues to show a herniated disc at C-4/5,
16 C5/6 is smaller but C6/7 is also significant. So, the follow-up
17 MRI, that's the way that I would express it. The follow-up MRI
18 after 2 years of treatment showed no regression. The disc
19 didn't get smaller. Actually, it went the other way. It got a
20 little larger.

21 Q What recommendation did you make to Ms. Soto?

22 A So, my custom and practice is I always say okay, well,
23 here are all your options. You can do nothing and live in pain
24 forever because you've had it 2 years and there's really no
25 other nonsurgical treatment. She already had epidural

1 injections in her neck. She already had therapy and she had
2 medicines that didn't work.

3 So, you can do nothing. You can continue to do those
4 treatments which helped a little but didn't cure you or the
5 third option is surgery. Right. And obviously, I'm the surgeon
6 so she's interested in my opinion about surgery.

7 And then I'll go into the whole description of what I
8 do with surgery. So, I'll discuss with them surgical treatments
9 and we have a little video we show them and we tell them about
10 the actual procedure, what we're doing.

11 We talk about the benefits of surgery to get better and
12 what are the risks of surgery. Everybody wants to know that so
13 we go into risks, things like infection and bleeding and not
14 healing properly. Sometimes these things happen. Right. Even
15 when the surgery is done correctly.

16 Q And what you see on the screen there, can that cause
17 pain?

18 A Like I described before, herniated discs can cause a
19 nerve injury. And so -- and the nerve injuries are
20 characterized by patients say they feel numbness. They feel
21 tingling. The feel weak in the arms.

22 And in this case, in the neck, it usually causes neck
23 and arm symptoms. It could also cause lower extremities
24 symptoms in certain circumstance, but here, it was neck and
25 arms.

1 And what's important here is that it's consistent with
2 what she said. She came in and said something and I said oh
3 yeah, I can see something that caused what you're saying.

4 Q And do you have an opinion within a reasonable degree
5 of medical certainty as to what caused those symptoms?

6 A The motor vehicle accident.

7 Q And can you -- did you she make a decision in regards
8 to surgery?

9 A So, I recommended surgery. I think she said she wanted
10 to sleep on it is how we left off, but she ultimately three
11 months later ended up having surgery.

12 Q Can you describe or show to the jury on the screen what
13 type of surgery or what you do for the surgery?

14 A So, the surgery is a pretty standard operation and it's
15 called anterior cervical discectomy and fusion, anterior
16 cervical discectomy and fusion. It's a pretty stand operation.

17 And basically what I'm doing during surgery, it's an
18 operation done at the hospital. The patient goes to sleep by
19 anesthesia and then I prepare and we come in and the patient is
20 prepped and draped appropriately.

21 And then I make the incision over the neck in the
22 traditional way. I use optic magnification like a microscope
23 loops to really give me great visualization. And we go down to
24 the spine. I take an X-ray to confirm I'm at the right spot.
25 And then what I do is two parts, decompression and fusion.

1 So, the first part is decompression. And like you can
2 imagine, I need to decompress that spinal cord. So, how do we
3 do that? By removing the disc.

4 So, I'm looking at it through the microscope. I'm
5 taking all of the disc material out and I'm actually seeing the
6 herniation impinging on the spinal cord. I'm taking it off the
7 spinal cord. I'm a spinal cord surgeon. That's what I do.

8 So, I'm doing that. I'm taking the pressure off the
9 spinal cord, decompression. Once you remove that disc, you
10 can't just leave it empty, right. I would tell you that you
11 shouldn't leave it empty and what we do is we put implants in
12 like you use in knee replacements and hip replacements. We put
13 implants in. That's how we rebuild the human body.

14 In this case, we use titanium implants that looks like
15 a plate and screw to support the vertebrae and recreate the
16 normal shape of the spine.

17 So, the surgery is about under two hours, you know. We
18 wake the patient up. I usually like to keep them in the
19 hospital overnight or two depending how they feel and then they
20 go home.

21 Q And do you know if she had some issues after the
22 surgery?

23 A Yes.

24 Q And what were those issues?

25 A She had a wind problem which was cleaned out.

1 Q Did she have to go to the hospital for a couple of
2 extra days?

3 A Yes.

4 MR. O'MEARA: Your Honor, I'm just going to turn on
5 the TV for a moment.

6 Q Doctor, do you recognize what's on the screen?

7 A Yes.

8 Q And what is on the screen?

9 A That's the implant. It's an X-ray of Ms. Soto after
10 surgery.

11 THE COURT: May I stop for one moment? What
12 exhibit is this? It was marked for ID?

13 MR. O'MEARA: It was marked for ID and I'm going to
14 have him identify it now.

15 THE COURT: Just give us a moment.

16 (Whereupon, at this time, a discussion was held at
17 sidebar.)

18 THE COURT: Plaintiff's 13 for ID right now.

19 MR. BARRY: Postop X-ray. I'll agree to put this
20 into evidence, Judge.

21 THE COURT: Okay. Plaintiff's 13 in evidence.
22 This is the X-ray post-surgery, right?

23 MR. BARRY: Right, dated December 8th, 2021.

24 THE COURT: Dated 12/8/2021. Thank you so much for
25 that.

1 MR. BARRY: Judge, we have another one. Same
2 place, Innovative Orthopedics 58th Street, March 4, 2020 and
3 that would be Plaintiff's 14 in evidence from March 4th,
4 2020.

5 THE COURT: Plaintiff's 14 in evidence. This is an
6 X-ray --

7 MR. BARRY: Post-operative X-ray dated March 4th,
8 2020.

9 THE COURT: Thank you so much.

10 MR. O'MEARA: Thank you.

11 MR. BARRY: So, that's actually the first one.

12 THE COURT: Yes. That's the first one.

13 MR. BARRY: This is closest to the surgery.

14 MR. O'MEARA: Okay.

15 Q Doctor, we're going to have you look at what's been
16 marked as 13 into evidence. Can you describe what we see here?

17 A This is an X-ray. You can see it a little different
18 compared to the other picture and this is an X-ray of Ms. Soto's
19 neck taken front to back. It's taken this way. (Indicating)

20 And what you can see in this imagine and this was done
21 after surgery. You'll notice and you can see something in here.

22 And this is her head and face. This is the cervical
23 spine these bones individually and what you see is the implant
24 that I described to you.

25 And I did that decompression and fusion at those three

1 different discs, at C-4/5 C-5/6 and C-6/7. And so that's what
2 you see. It's a three-level plate. That's how I describe it.
3 That's the front to back view. And this is the X-ray taken from
4 the side so this is what it looks like from the side. You see
5 the implants.

6 The implant is secured with screws. We put two in each
7 level. I put two in each level. And you see the vague outline
8 of a space. So, we use a spacer as well. We don't just leave
9 an empty gap. We put a spacer in there and that helps.

10 And so, the goal of surgery is to reduce the -- is take
11 the pressure off the nerve, which I did. And then to stabilize
12 the vertebrae and recreate the shape. And you see this little
13 curve here and that's the normal shape of the spine. And that's
14 why it's done that way.

15 Q You can sit down, Doctor. Doctor, when you reviewed
16 Ms. Soto's MRIs, did it look as if the nerve was being impinged
17 upon?

18 A Yes. That was my opinion.

19 Q And do you know that she didn't go to the ER for three
20 weeks after the accident?

21 A Yes.

22 Q And does that change your opinion about the causation?

23 A No.

24 Q Why not?

25 A It's really not that uncommon when people get involved

1 in an accident. Patients often don't go to the emergency room
2 right away. They think they're doing okay. They think it's not
3 that bad or they're all shaken up.

4 And so, we see often that patients -- well, there will
5 be a delay of treatment or initial diagnosis of several weeks.
6 Obviously, after a certain amount of time, three weeks later or
7 two weeks later, they still have pain and they say I must have
8 really injured myself and then they go to the doctor. That
9 really happens a lot. I'm sure it happened to each and every
10 one of you.

11 Q And do you know that she fell down a flight of stairs
12 or was in an incident in 2011?

13 A Yes.

14 Q And do you know if that had any -- in your opinion, did
15 that have any effect on your opinion or effect your opinion?

16 A No. In preparation of this trial, I asked to see
17 treatment records or MRIs. Nothing was available for me to
18 review. The fact that she wasn't being treated in the years
19 prior to it this accident to me says that it wasn't a
20 significant injury.

21 Q Does Ms. Soto's age make her more susceptible to
22 trauma?

23 A Yes.

24 MR. BARRY: Objection.

25 THE COURT: Sustained as to form.

1 Q Do you know how old Ms. Soto was?

2 A She was over 50 at that time.

3 Q And do you know if as you age, does your age effect
4 your ability when you get impacted?

5 A So, obviously as we get older, we're more fragile and
6 so the question is, is it easy to get hurt when you're older and
7 the answer is absolutely. Right. You don't need me to say
8 that.

9 Q And can you have a herniated disc without having pain?

10 A Yes.

11 Q And is that called asymptomatic?

12 A Yes.

13 Q And can a person have a herniated disc without physical
14 limitations?

15 A Yeah. You can have a herniated disc and you won't be
16 able -- it doesn't bother you or it doesn't cause any physical
17 manifestations.

18 Q And can you have a herniated disc without requiring
19 treatment?

20 A Yes.

21 Q And can a herniated disc become symptomatic due to
22 trauma?

23 A Correct.

24 Q Can you determine if it's acute trauma?

25 A Sometimes.

1 Q Can you describe to the jury what acute trauma is?

2 A Acute trauma means it happened reasonably

3 contemporaneous with your evaluation.

4 Meaning that I'm able to see evidence that it was an
5 acute injury, that it happened as something recent as opposed to
6 something a long time ago.

7 Q And when you were looking at the MRIs, are you able to
8 tell exactly when that occurred?

9 A I was not able to date the actual herniation based on
10 the MRI.

11 Q Do you know if that's possible?

12 A I mean, it is possible. You need a prior MRI. You
13 need to see something before the accident to compare it against.
14 Right. In this case, I just have this one isolated MRI.

15 Q And did you try to determine whether or not she had any
16 preexisting conditions?

17 A I did. In my history, that's what I was eluding to
18 before. I asked the patient before this accident, were you
19 going to the doctor and being treated on a regular basis for a
20 neck problem and the answer was no.

21 Q And do you know -- did she come see you recently?

22 A Yes. I'm just going to get you the date. I think my
23 most recent evaluation was 8/7/23.

24 Q And do you know what she came to see you for on that
25 date?

1 A She was following up from her surgery. She still had
2 persistent symptoms related to her neck and upper extremities.

3 She wanted to review that with me and see if that was
4 normal. And so, like every interaction, I took the history. I
5 did a physical exam.

6 And it was my assessment that indeed, her injury and
7 the complaints she had on that day are consistent with her
8 original accident, history, her original history of a nerve
9 injury from the accident and subsequent treatment from the
10 surgery.

11 Q Would some additional physical therapy be of assistance
12 do you believe?

13 A It's palliative. Right. And so, I think that therapy
14 going forward can help her have less symptoms but it's not going
15 to cure the symptoms that she has.

16 Q And will this effect you as you get older having this
17 surgery?

18 A Yes.

19 Q Can you elaborate?

20 A So, even though she's safe from developing further
21 nerve injury at the area that I operated on, it's still not
22 normal to have a plate and screws in your neck. It's not a
23 normal scenario. He it creates abnormal stress on the rest of
24 the spine.

25 Obviously, we're doing the surgery to stop the nerves

1 from getting much worse. So, we did that but the fact that she
2 has these implants that retain, put stress on the levels above
3 and below and can more likely than not accelerate further jury
4 at those levels, plus she has neurological issues persistent
5 meaning even though she had surgery, some of this numbness
6 didn't go away to keep answering your question. It may be a
7 little bit better but it's not completely cured. So, that's
8 also a continuing issue with her.

9 Q And did you find that she had a traumatic injury
10 caused --

11 A It's my opinion that it was --

12 Q Did you make a determination on whether or not a
13 traumatic event caused this injury?

14 A Yes.

15 MR. BARRY: Objection.

16 THE COURT: Overruled.

17 A Yes. It's my opinion that these herniations and the
18 fact that they got symptomatic were caused by the car accident
19 which then ultimately required two years of treatment before I
20 even saw her and the surgery that I did and all the symptoms
21 that she has.

22 Q One other question. And do you know what osteophytes
23 are?

24 A Bone spurs, yes.

25 Q And did you see bone spurs on the MRI?

1 A No, they weren't bone spurs but there were age-related
2 changes.

3 Q And is that something that's consistent with aging?

4 A Consistent with her age.

5 MR. O'MEARA: Nothing further, Your Honor.

6 THE COURT: Thank you, Counsel. Mr. Barry.

7 MR. BARRY: Thank you, Judge.

8 CROSS-EXAMINATION BY

9 MR. BARRY:

10 Q Good morning, Doctor.

11 A Hi.

12 Q Did you bring any of your office files with you today?

13 A Just the -- no. Well, what I'm reviewing here.

14 Q And that's what was marked into evidence as the records
15 that your office sent to court?

16 A Yes, sir.

17 Q So, you didn't bring any of your billing information,
18 any of your medical records?

19 A No.

20 Q When a patient comes to see you and you take the
21 history, do you write it down or do you use a scribe?

22 A No. I mean, we -- so the record is created
23 contemporaneously. So, as they speak to you, then we create the
24 note.

25 Q Okay. So, you say contemporaneously. The patient

1 comes in. They sit down or they stand up next to you and you
2 ask them questions. Do you write it down or do you use a
3 Dictaphone?

4 A It's actually all done on the computer.

5 Q And do you do that or does a scribe do it?

6 A I do it along with my physician's assistant.

7 Q Okay. So, they assist in putting in what the records
8 are?

9 A Correct.

10 Q You're licensed in New York. Are you licensed anywhere
11 else?

12 A New Jersey.

13 Q Do you perform surgeries in New Jersey?

14 A Yes.

15 Q How often do you perform surgeries in New Jersey?

16 A Twice a week.

17 Q Okay. And how much do you perform surgeries in
18 New York?

19 A I moved so I no longer live close to this hospital.
20 So, now I do all my surgeries in New Jersey.

21 Q Do you still have the office on Marcus Avenue?

22 A Yes.

23 Q When was the last time that you performed a surgery in
24 New York State?

25 A Maybe a year and a half ago.

1 Q Do you currently have privileges at any hospital in the
2 State of New York?

3 A Northwell Hospital.

4 Q And which Northwell?

5 A The one in Valley Stream but I don't do any surgeries
6 there.

7 Q Do you have privileges to do surgery at any hospital in
8 the State of New York currently?

9 A No. Again, I moved to Connecticut.

10 Q And back in 2019, did you have privileges at any
11 hospital to perform surgeries in the State of New York?

12 A Yeah. I believe this one was done at New York
13 Presbyterian Hospital.

14 Q Yes. It used to be called Beekman?

15 A Yes.

16 Q Just for reference. When did you start performing
17 surgeries at that hospital?

18 A Ten years ago.

19 Q Okay. And when was the last time you performed surgery
20 there?

21 A I told you a year and a half ago.

22 Q And was that the only hospital you used to perform
23 surgeries for cervical fusions?

24 A Yes. So, I had credentials -- I moved to Connecticut
25 because of the COVID issues with my family.

1 And so, to commute from Connecticut to Lower Manhattan
2 to what was called Beekman Hospital was an hour and 40 minutes
3 each way. So, it became untenable to continue that part of the
4 practice. I tried for a period of time and then an opportunity
5 came up to do a surgery at a hospital that I thought would be
6 helpful for my patients.

7 Q And what hospital do you perform surgery at in New
8 Jersey?

9 A Hudson Regional Hospital.

10 Q Do you have any part ownership or interest in Hudson
11 Regional?

12 A No.

13 Q When you were -- had your office at Marcus Avenue, you
14 were there for over 20 years?

15 A I still have that office.

16 Q You still have it. And when you first started up until
17 a few years ago, did you go there every day?

18 A I mean, I -- so, my practice expanded and -- because I
19 don't remember the last time I saw patients at Lake Success, if
20 that's what you're asking me.

21 Q How many offices do you currently have?

22 A I mean, my practice has over 20 offices. I go --
23 basically, I see patients in Midtown Manhattan and in Jersey
24 City.

25 Q The offices that you have, the 20 or so offices, are

1 those in your name, a business name or something else?

2 A I mean, it's my practice. I'm the sole proprietor of
3 the practice.

4 Q In the calendar year 2025, how many patients did you
5 treat?

6 A I did about 300 surgeries, I guess, not including
7 patients I see in the office.

8 Q So, you did 300 surgeries in 2025?

9 A It's an estimate, sir. Yes.

10 Q And how many days a week in 2025 did you perform
11 surgery?

12 A Two or three days a week.

13 Q And how many surgeries do you normally perform in a
14 day?

15 A Three or four.

16 Q And are those surgeries all cervical fusions or are
17 they also lumbar fusions?

18 A Lumbar fusions as well.

19 Q On a given day, will you perform both cervical and
20 lumbar fusions?

21 A Yes.

22 Q How long does an average cervical fusion take?

23 A About an hour. It depends on how many levels. More
24 levels take more time.

25 Q You testified in this case just a few minutes ago that

1 this took two hours?

2 A Because it's a three-level. Right. So, the more
3 levels, the more time.

4 Q So, each level, you have an increase of the time?

5 A Yes.

6 Q And how long does it take you to do a lumbar fusion?

7 A Depends on the type of lumbar fusion but it's about an
8 hour and a half a level I would say.

9 Q And if you had a two-level or three-level, it would be
10 more?

11 A It could be, yes.

12 Q So, what do you charge for a cervical fusion one-level
13 surgery?

14 A So, I mean, the answer is it depends. If it's a motor
15 vehicle accident or it's a Workers' Comp, those fees are
16 dictated by the state and that's what we charge but in the
17 private world, it's significantly more.

18 Q Okay. So, in a private world, what do you charge?

19 A The prices for a complex lumbar and cervical fusions
20 with depressions could be \$80,000 to \$100,000.

21 Q \$100,000?

22 A \$80,000 to \$100,000.

23 Q And that's for a complex multilevel on a lumbar?

24 A Correct. But that's not what she had. And that's not
25 what she got charged.

1 Q So, let's go to the cervical. What do you charge in
2 the general world?

3 A Same.

4 Q For a one-level fusion?

5 A The same.

6 Q And if you do the three-level, it's also \$80,000 to
7 \$100,000?

8 A It's in that range. That's what it encompassed the
9 time it takes to do that.

10 Q And did you charge Ms. Soto \$80,000 to \$100,000?

11 A No.

12 Q Well, you just told us that it costs \$80,000 to
13 \$100,000. What do you charge her?

14 A Not to be argumentive but if you recall, I said if it's
15 a car accident or Workers' Comp, those fees are dictated.

16 Q So, she wasn't a general world case?

17 A Again, you know as well as I do, she was a motor
18 vehicle accident.

19 Q So, what did you charge?

20 A I think we received \$17,500 for this case.

21 Q Where did you receive that from?

22 A Oh, I don't know.

23 Q Do you have a copy of the check?

24 A I don't know.

25 Q Do you know how many checks you received?

1 A Respectfully, I don't think I have a copy of the from 7
2 years ago.

3 Q Do you know how many checks you received for that total
4 amount?

5 A No.

6 Q Did you have an invoice to her, what the bill should
7 have been?

8 A Again, I use professional billers to do my billing. I
9 wasn't involved -- I'm not directly with billing at all.

10 Q You don't do it through your office?

11 A I rely on professional billers.

12 Q And what's the name of the professional billers?

13 A I don't recall.

14 Q Well, do you pay them?

15 A Again, that's an administrative function. I like to
16 take care of patients.

17 Q Do you have someone in your office who takes care of
18 that?

19 A Yeah. We have -- people in my organization that -- so
20 the company that I actually use --

21 THE COURT: Wait, Counsel. Wait. Please, one at a
22 time. He wasn't finished his answer. You may finish,
23 Doctor.

24 A We have people in my office that are professional
25 billers that I rely upon.

1 Q The professional billers, do they have an office in
2 your office?

3 A Yes.

4 Q And do you know the name of the person?

5 A It's a several people. I don't know who would have
6 been involved with this case.

7 Q And you don't know the name of the company?

8 A No. We use several professional billers actually.

9 Q When you pay them, do you send a check to them? Do you
10 send a wire? How do you pay them?

11 A I'm just a doctor. I don't -- that's an administrative
12 function which is taken care of by --

13 Q I understand you're just a doctor, Doctor, but it's
14 your practice. You own the practice and you hire and fire
15 people and retain people, isn't that correct?

16 A Well, mostly the medical staff I'm involved with. I'm
17 not involved with the day-to-day administrative functions.

18 Q And you watch the money of the firm, don't you?

19 A Well, it's my business so I am involved in the
20 economics overall. Obviously, I see what I get.

21 Q Now, when you did the surgery in this case, did you
22 prepare or have your staff prepare an invoice to send to
23 Ms. Soto?

24 A I don't know the actual mechanics. Like I described to
25 you in my prior response, I rely on professional billers to do

1 this.

2 Q So, when Ms. Soto first came to your office and you
3 took the initial history and then you made the recommendation
4 that she should have surgery, right?

5 A Yes.

6 Q Did you explain to her at that first meeting what all
7 of this would entail?

8 A I don't understand the question.

9 Q Okay. Well, did you provide her with any paperwork at
10 that first visit to your office about surgery, how she would pay
11 for it, what the cost would be? Did you do any of that?

12 A I mean, my interaction with her had nothing to do with
13 that. I just describe -- I go over the surgery and then it goes
14 to the professional billers and then they make an assessment as
15 to coverage and how it's going to get paid.

16 Q Well, when somebody comes into the office and you tell
17 them that they will need surgery and then they say okay, I'll
18 have it, do you tell them what the cost of that surgery is going
19 to be?

20 A I don't go over the finances of it. I'm not
21 necessarily tuned into what the insurance may or may not be on
22 the case. So, it's not really part of how I make --

23 Q Isn't it relevant to you because it's going to be a
24 different price?

25 A It's not -- again, you asked what my fees were and I

1 described them to you under those circumstances. I don't get
2 involved in that conversation or that evaluation. I understand
3 that you're asking me am I involved? I'm not involved in that
4 evaluation.

5 Q So, when Ms. Soto first came into your office, did you
6 give her any forms about how she was going to pay for the
7 surgery?

8 A I mean, I can't answer that question with yes or no
9 because they're -- obviously, we're taking information about the
10 patient's demographics and the patient's insurance.

11 When you go to the doctor, they say what's your
12 insurance. So, that's all done again, by the professional
13 administrative staff and the professional billers. I'm not
14 involved with that at all.

15 Q In your office, do you have a procedure when a new
16 patient comes in, are there certain forms that they're handed
17 that they have to fill out?

18 A I'm sure, yes.

19 Q And do you have any idea what they are?

20 A That's all done by the professional billers.

21 Q Is there a form to fill out about payment?

22 A Again, your question is a little misleading. We don't
23 discuss payment with the patients at the time of the medical
24 evaluation.

25 Q Well, is there ever a time where you discuss payment

1 with the patient?

2 A Not me, no. I never do.

3 Q You never do that?

4 A I never talk to patients about the money.

5 Q Do you ever ask for patients for a down payment of
6 money for the exam or the surgery?

7 A I mean, I could if the patient says I have no
8 insurance. I have no way of paying, then we would say well, you
9 need to pay for the visit like you would imagine would occur.

10 Q Do you have tell the plaintiff or the patient when they
11 come in that they can take out a loan?

12 A No.

13 Q You never say that?

14 A Never had that conversation ever.

15 Q Well, I want to read something to you. This is
16 testimony from yesterday that was given by the plaintiff in this
17 case, Rhina Soto. Actually, it was two days ago March 25th,
18 2026 and this starts on Page 66.

19 THE COURT: One moment. You can continue.

20 MR. BARRY: Okay.

21 "QUESTION: Ms. Soto, when you first went to see
22 Dr. Lattuga, did he ask you to fill out any paperwork when
23 you went to his office?

24 "ANSWER: Yes.

25 "QUESTION: Do you recall what kind of paperwork

1 you filled out?

2 "ANSWER: The type of papers that they give you at
3 the clinic like if you have allergies and things like that.

4 "QUESTION: Did you pay for the surgery yourself?

5 "ANSWER: They took out a loan.

6 "QUESTION: Dr. Lattuga did that for you?

7 "ANSWER: I know that it was a loan to --

8 THE COURT: One moment. I need to stop if a juror
9 is not talking to you because I need them to listen.

10 Okay. They're okay. If you can start again, I'm
11 so sorry, but the juror was speaking so he didn't hear the
12 question.

13 MR. BARRY: Okay. Starting from the beginning of
14 this, this is a transcript from Rhina Soto, Plaintiff in
15 this case. She testified on March 25, 2026 and it was here
16 in this courtroom. This is on Page 66 of the trial
17 transcript Line 18.

18 "QUESTION: Ms. Soto, when you first went to see
19 Dr. Lattuga, did he ask you to fill out any paperwork when
20 you went to his office?

21 "ANSWER: Yes.

22 "QUESTION: Do you recall what kind of paperwork
23 you filled out?

24 "ANSWER: The type of papers that they give you at
25 the clinic like if you have allergies and things like that.

1 "QUESTION: Did you pay for the surgery yourself?

2 "ANSWER: They took out a loan.

3 "QUESTION: Dr. Lattuga did that for you?

4 "ANSWER: I know that it was a loan for Medicaid.

5 "QUESTION: And they had you sign papers in the
6 doctor's office to do that?

7 "ANSWER: Yes.

8 "QUESTION: Do you know who the loan was with?

9 "ANSWER: It was with my insurance.

10 "QUESTION: Well, your health insurance isn't going
11 to give you a loan. So, it was through another bank or
12 somebody?

13 "ANSWER: They took out a loan. That's what I know
14 from the insurance because I received notification stating
15 that they had paid for a treatment that was not from the
16 doctor.

17 "QUESTION: And you signed up for the loan on the
18 first day that you went to see Dr. Lattuga?

19 "ANSWER: Not the first day, no.

20 "QUESTION: Was it on the second visit?

21 "ANSWER: When he decided and he prescribed the
22 surgery, the attorneys called me."

23 That's what her testimony is, that you talked to
24 her about the loan and you had her fill out the paperwork
25 for the loan; is that true?

1 A That's not true at all and I don't think that testimony
2 actually said that. You're misrepresenting that to the jury.

3 THE COURT: Stop, stop. Both stop. This is not an
4 argument, Doctor. The lawyer asks questions. You answer
5 it. If you cannot, then we'll continue.

6 THE WITNESS: Yes, ma'am.

7 THE COURT: Go ahead.

8 Q Doctor, did you or did you not give her an application
9 for a loan company?

10 A No.

11 Q So, you're saying Ms. Soto who came here and testified
12 took an oath just like you did today that she's lying? Is that
13 what you're saying?

14 A I can't answer that with yes or no. The answer is no,
15 she's not lying.

16 Q No, she's not lying. So, then she's truthful. And
17 you're the one here that's misrepresenting and trying to confuse
18 the jury because you gave her the paperwork; isn't that true?

19 MR. O'MEARA: Objection --

20 THE COURT: One moment. One moment. He asked you
21 a question, Doctor. You have to answer the question.

22 THE WITNESS: I will. Thank you, Your Honor.

23 THE COURT: Thank you.

24 A I guess for the third time, I never handed her any loan
25 documents. We've never gotten involved with that. We have no

1 relationship with any loan company.

2 Q No relationship at all?

3 A Zero. Zero.

4 Q So, what Ms. Soto told us about and told this jury
5 you're saying is incorrect or wrong?

6 A No, I think you're --

7 Q It's yes or no, Doctor.

8 THE COURT: If you can say yes or no, if you cannot
9 answer yes or no, you let me know.

10 A Ms. Soto is an honest person.

11 Q Okay. So, Doctor, when you did the -- did you do this
12 on a lien?

13 A I mean, I don't have an independent recollection of the
14 billing. But there's a professional -- I have my professional
15 biller that does it. Right.

16 Q Do you know how you were paid here?

17 A No.

18 Q Did you do a corpectomy in this case?

19 A Partial.

20 Q And do you know what date you did that?

21 A The date of the surgery.

22 Q Okay. I have a bill here, Doctor. What was the date
23 of the surgery? I'll help you out. It was October 3, 2019.

24 A Okay.

25 Q I have an invoice here to Rhina Soto from New York

1 Spine Specialist. That's your company; right?

2 A Yes.

3 Q And the bill goes to Soto, Rhina, that's the plaintiff.
4 It says funding 2001 Marcus Avenue, New Hyde Park, New York
5 11042, policy number ACDF63081. That's your office?

6 A I don't understand the question, sir.

7 Q So, you have an invoice that you sent to yourself and
8 it says that you did a corpectomy on September 12, 2019
9 vertebral corpectomy. That's before the surgery?

10 A Sir, sir --

11 Q Doctor, it's yes or no.

12 A It's not correct. You're just misrepresenting the
13 document that's before you.

14 Q I'll show you the document. This was exchanged by your
15 counsel, plaintiff's counsel. (Handing)

16 Right there, Statement of account from your office.

17 Are you going to say that's not from yours?

18 A I didn't say it wasn't from mine. What's the question,
19 sir?

20 Q So, what am I misrepresenting? Here's the date,
21 September 12, 2019, it was before the surgery was done, you
22 billed for a corpectomy and you received a check for it?

23 A Well, no. That's not what happened. So, the bill --

24 Q Yes or no --

25 THE COURT: Counsel, I'm going to need you to step

1 back. Officer, I need you to hand up the exhibits, please.
2 Thank you.

3 If we can move the screen back also, that would be
4 very helpful so we have a little bit more room up there. I
5 appreciate that. I'm sorry for the interruption, Mr. Barry.

6 Q Doctor, do you see that invoice that's from your
7 office; correct?

8 A Yes.

9 Q And it says New York Spine Specialist, which is you?

10 A Yes.

11 Q It says billed to -- actually, let's go to the other
12 side. It says claimant Rhina Soto, that's the plaintiff in this
13 case, right?

14 A Yes.

15 Q And then it says billed to and it has Soto, Rhina. It
16 says lien with your address 2001 Marcus Avenue, New Hyde Park,
17 New York; is that true?

18 A That's what it says. It says \$25,000 would be the
19 charge for the surgery. Yes, sir.

20 Q And then it says on that that you did a corpectomy in
21 September which is prior to the time of the surgery?

22 A That's absolutely false.

23 Q So, your billing is false --

24 THE COURT: One moment, Doctor. Just answer the
25 question. You will have an opportunity later to explain if

1 your lawyer wants to you to.

2 A This is a bill prepared again, not by me. I've not
3 seen this document but this is a bill prepared obviously before
4 surgery.

5 Someone wanted to know, the patient probably, what it
6 was going to cost to have surgery. And so, they generated this
7 bill for the patient and her representatives so that they can be
8 aware of the finances.

9 It's important for attorneys and patients to know the
10 finances. I did not bill for the fourth time sir. I did not
11 bill for a procedure that wasn't done yet. Indeed, we know I
12 did the surgery. I have the operative report --

13 Q We know that, Doctor but if you were going to bill for
14 something in the future, you would put the date that the surgery
15 was going to be, yet you put a date ahead of time and got paid
16 for it, correct?

17 THE WITNESS: Your Honor?

18 THE COURT: You have to answer the question,
19 Doctor. If you can --

20 A First of all, I didn't prepare the document. Okay.
21 And so the document has a date.

22 Q Doctor --

23 A I'm talking, sir.

24 THE COURT: Wait, Doctor. Let's stop, Mr. Barry,
25 Doctor, this is cross examination so he gets some leeway in

1 the way he asks the question.

2 If you cannot answer yes or no if it requires an
3 explanation, you can let us know.

4 Q There's no question that's from your office, a bill
5 generated from your office?

6 A Yes.

7 Q And you also have other bills. I want to show you this
8 one. This is one, same heading, same type.

9 This one says it's a lien for a follow-up visit for a
10 total of \$600. I'll show you that one. Take a look at it.

11 (Handing)

12 Did you ever see it before?

13 A No.

14 Q You didn't even look at it, Doctor.

15 A I don't review the billing records. So, my answer is
16 going to be no, I have not seen these documents before.

17 Q So, your staff can just send out bills, you have no
18 idea what they are and then you came in here to testify today
19 and you have no idea about that. Is that true?

20 A That's false, sir. Your characterization is false. I
21 rely on professional billers to send bills out according to
22 whatever the guidelines for the billing standards are. They
23 sent the bill.

24 Q So, do you see that one on the top where it says lien,
25 what does that mean to you? Does your office have a lien?

1 A Yes.

2 Q Did you fill out paperwork for that?

3 A I mean, the patient is aware there's a lien, so is the
4 attorney. That's -- so often times the insurance --

5 Q There's no question.

6 A The insurance company --

7 THE COURT: Doctor, stop. There's no further
8 question.

9 Q Here's another one. This one also same thing, your
10 letterhead and all --

11 A He did expect me to answer what the lien was. So, I
12 was in the process of answering what the lien was --

13 THE COURT: Doctor, wait. You're both going to
14 stop. Doctor, please respect my directives.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Thank you.

17 Q We have one more document here. This is called a
18 transportation lien from your office to your office. (Handing)

19 Did you ever see that before, Doctor?

20 A Not before today. No, sir.

21 Q So, you had a taxi service pick up Ms. Soto three times
22 and you billed her for it and put it on a lien. So, she has to
23 pay interest on it would that be fair?

24 A There's no interest on these outstanding bills, sir.

25 Q Doctor, you've testified in the past, haven't you, that

1 when you have a lien in your office, you collect seven percent
2 interest; isn't that true?

3 A That's absolutely false, sir.

4 Q Absolutely false. All right. Let me get the
5 transcript.

6 Doctor, this is from a deposition in the United States
7 District Court, Eastern District of New York, Case Number
8 19CV05951-DG-RML. It's a deposition of you, Doctor on January
9 9th, 2026. Are you familiar with that?

10 A I'll take your word for it. Yes, sir.

11 Q Okay. And you appeared at a deposition and you were
12 asked questions on a case?

13 A Yes.

14 Q This is from Page 45 of 80, Line 16. Actually, Line
15 19.

16 "QUESTION: Liens, okay. And sir, these liens that
17 you have, do you charge interest on them?

18 "ANSWER: Yes.

19 "QUESTION: What is the interest rate that you
20 charge on the liens?

21 "ANSWER: You know, I think it's seven percent.

22 "QUESTION: Seven percent. Seven percent per
23 month, per year?

24 "ANSWER: No.

25 "QUESTION: What?

1 "ANSWER: I think it's seven percent annually but
2 I'd have to go back and check to be sure."

3 Doctor, do you recall giving that testimony?

4 A Yes.

5 Q And being asked those questions and those answers two
6 months ago?

7 A Yes.

8 Q And you testified that liens in your office, you charge
9 a rate of seven percent annually?

10 A No. The answer is no. I do not charge interest on
11 liens. What my response was --

12 Q No, no, no. That's just the question --

13 THE COURT: You will have an opportunity later,
14 Doctor.

15 THE WITNESS: Yes, ma'am.

16 A No. I don't charge interest on liens.

17 Q So, you testified in a Federal Court action being asked
18 questions and answering you charge seven percent annually on
19 liens now you're telling us this is false?

20 A My comment related to --

21 Q Yes or no, Doctor.

22 A The answer is no. I do not charge interest on liens
23 that is not represented of the comments that I made that day.
24 You're taking it out of context.

25 Q How is that taken out of context --

1 A Let me explain --

2 THE COURT: One at a time, gentlemen. Gentlemen,
3 take a deep breath. Take a moment.

4 The court reporter cannot take the both of you down
5 at the same time. I certainly can't understand what's going
6 on. And the jury cannot either.

7 So, please -- I'm not done yet. I'm still going.
8 Doctor, I know you know you'll have an opportunity to
9 explain everything to the jury once Mr. Barry is done and
10 jurors, you will hear. Okay. Now, let's continue.

11 THE WITNESS: Thank you.

12 Q Doctor, despite reading from a Federal Court deposition
13 transcript where you testified on January 9th, 2026 after taking
14 an oath to tell the truth that you charge seven percent on
15 liens, you're sitting here today saying that's false?

16 A I've never charged interest on liens. I didn't say I
17 charged interest on liens that day. It's taken out of context.

18 THE COURT: Thank you.

19 Q Now, Doctor, are you familiar with a company called
20 Pegasus?

21 A No.

22 Q Have you ever heard of them?

23 A No. I don't know what you're talking about, sir. I'm
24 sorry.

25 Q It's a third-party litigation funding company.

1 A Okay.

2 Q Did you ever do any business with them?

3 A I have no direct or indirect financial relationship
4 with Pegasus.

5 Q And have you ever received any payment for surgeries
6 from them?

7 A I don't know.

8 Q You don't know?

9 A I don't know.

10 Q And do you ever tell clients or patients if they can't
11 pay, to take out a loan?

12 A No.

13 Q You never tell them that?

14 A Never tell them that.

15 Q Do you know if you received money in this case from
16 Pegasus?

17 A I don't know, sir.

18 Q Did you review any of your records before coming here
19 today, any receipts, accounts receivables before you came in to
20 testify here today?

21 A I reviewed my medical records with respect to this
22 case, sir.

23 Q And do you know that you were actually paid by a
24 litigation funding company called Pegasus. You were paid
25 \$17,500. And Prompt, which is your other company, they were

1 paid \$3,000 for a total of \$20,250 and that was paid as an
2 agreement on September 5, 2019. Do you recall that?

3 A I don't have a specific recollection but it's
4 consistent with my business practice, yes.

5 Q And your patient took out the loan to pay you. Do you
6 know what the interest rate was on that?

7 A Sir, I'm not involved with patients --

8 Q It was 30 percent. 30 percent annually. Are you aware
9 of that?

10 A Sir, I don't participate in any way with patients and
11 how they obtain the funds necessary for their treatments.

12 Q So, you just do the surgeries, the more appearance you
13 do, the more times they come to the office, the more your bill
14 is, right? Because each time they come to your office, you
15 charge them?

16 A I charge. Every time I see a patient, I charge them.

17 Q So, it's in your best interest to see the patients,
18 perform other services. Do you have pain management in your
19 office?

20 A Yes.

21 Q So, that's another piece of the pie that you get,
22 right? Not in this case but in other cases?

23 A I can't answer that yes or no. I don't understand that
24 question. It's more of an accusation than a question.

25 Q Do you own a third-party litigation funding company?

1 A No.

2 Q Did you ever have any interest in one?

3 A None.

4 Q Doctor, what is the total amount of money that you
5 claim you were paid for the surgery in this case, if you know?

6 A You have the documents. You showed them to me. I
7 think you said \$20,000, the \$17,500 and the \$3,000.

8 Q But I have other numbers here that the claim was
9 \$26,203.66?

10 A I mean, I'm not aware of that. Like I said, I rely on
11 professional billers.

12 Q So, let's go back to the number of surgeries you do.
13 How many surgeries on the cervical spine do you do per week?

14 A Four or five.

15 Q Now, the day that Ms. Soto had her surgery which was
16 October 3, 2019, how many surgeries did you do that day?

17 A Oh, I don't remember.

18 Q Well, do you know where she was scheduled in the
19 process?

20 A I don't know, sir.

21 Q Was she the first surgery of the day?

22 A I don't have an independent recollection of that day,
23 sir.

24 Q Was she the last one?

25 A I don't have an independent recollection of that day,

1 sir.

2 Q Do you have any records to reflect that?

3 A No.

4 Q Were all the surgeries that you did that day on the
5 cervical spine?

6 A I don't recall, sir, as I responded to you before.

7 Q Now, before you did that surgery -- actually, strike
8 that.

9 Before you saw Ms. Soto for the very first time, did
10 you review the MRI films, not the reports but the films?

11 A Yes. It's my custom and practice. I don't have an
12 independent recollection, but it's my custom and practice.

13 Q It's your custom and practice?

14 A To review the MRIs, yes.

15 Q And are they sent to you electronically, does the
16 patient bring them to you?

17 A It really depended on when it was and what the
18 prevailing modalities were. So, she could have brought me a CD,
19 downloaded it or it could have been online. We have access
20 online. I don't recall the actual films. I don't remember.

21 Q Doctor, you also do work with patients who have been
22 injured in job-related accidents?

23 A Yes.

24 Q Like construction workers?

25 A Yes.

1 Q And do you do -- can you do examinations for the
2 Workers' Compensation Board?

3 A Yes.

4 Q You still do?

5 A Yes.

6 Q Are you still on the list for --

7 A Yes.

8 Q -- the Workers' Comp fund?

9 A Yes. I still take care of Workers' Comp patients,
10 yeah.

11 Q Didn't you fail to renew your license?

12 A Never happened, sir.

13 Q What's that?

14 A That never happened, sir.

15 Q So, the information on the state website where it says
16 here that Sebastian Lattuga, your authorization number
17 182708-AW. Is that your number?

18 A I don't know my number.

19 Q You don't know. That on September 1, 2025, you failed
20 to renew the authorization to work for the Workers' Comp. Board?

21 A That's not accurate, sir. I currently -- I currently
22 hold -- I'm a board certified orthopedic spinal surgeon
23 credentialed with the Workers' Comp. Board, sir. And my license
24 has never been subject to disciplinary review. I never lost my
25 license.

1 Q I'm not asking about disciplinary. I am asking you did
2 you fail to renew it?

3 A No.

4 Q So, the state records are wrong?

5 A I don't know what that document says. You are just
6 waving a piece of paper --

7 Q I'm just reading you what the state says --

8 MR. O'MEARA: Your Honor, he should be able to look
9 at the document.

10 Q I'll give it to you.

11 THE COURT: Absolutely. Can we have a sidebar?

12 MR. BARRY: Sure.

13 (Whereupon, at this time, a discussion was held at
14 sidebar.)

15 THE COURT: Doctor, the last question pertaining to
16 the licensing, I'm sustaining an objection that wasn't made.
17 So, you don't have to answer those questions.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: You're welcome. We're going to take a
20 break now. Take about a 15-minute break. I see all the
21 heads nodding.

22 COURT OFFICER: All rise. Jury exiting.

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

24 (Whereupon, a brief recess was taken.)

25 COURT OFFICER: All rise. Jury entering.

1 (Whereupon, the sworn jurors enter the courtroom
2 and take their respective seat.)

3 THE COURT: Please be seated. What's the date on
4 this one? It says September 14th, 2017. You may proceed.

5 MR. BARRY: Thank you.

6 Q Doctor, I just want to show you the MRI we have here.
7 You can stay up there. This is the MRI that was marked into
8 evidence. It's the one we showed before September, series 102,
9 image 7 of 12.

10 Doctor, looking over here, this is the vertebrae here
11 with the disc and the vertebrae, right?

12 A Yes.

13 Q The spine. And the disc area, that's all darkened,
14 correct?

15 A Yes.

16 Q And normally discs have fluid in them, right?

17 A Yes.

18 Q And that shows up on an MRI the white?

19 A Brighter.

20 Q Right. And this is all dark?

21 A Correct.

22 Q So, that shows that there was something called
23 desiccation, right?

24 A There was desiccation, yes.

25 Q Loss of fluid?

1 A Yes, sir.

2 Q And you also get loss of height when you have loss of
3 fluid?

4 A Yes.

5 Q Because it shrinks, there's no more space?

6 A It shrinks.

7 Q And in this case, almost the entire cervical spine has
8 loss of fluid in all the discs. That's prior to the accident,
9 would you say? That wasn't caused by the accident? Let me
10 strike that --

11 A I'm trying to answer.

12 Q I'll withdraw the question. So, when you have
13 desiccation in a disc in the cervical spine, that's something
14 that has been there for a period of time?

15 A Well, it's an age-related change.

16 Q But it's something that occurs over a period of time?

17 A Absolutely. Yes, sir.

18 Q So, her accident was on August 7th of 2017. And then
19 this MRI is taken on September 14th, 2017, five weeks after the
20 accident. You wouldn't have all this desiccation in five weeks,
21 would you?

22 A I don't believe that desiccation is related to the
23 accident, no, sir.

24 Q So, that wouldn't be there? That wasn't caused by the
25 accident?

1 A That was my response, sir. I don't believe the
2 desiccation and the age-related changes are related to the
3 accident.

4 Q So, you're using it as age-related. It's degeneration
5 meaning it's been there over time?

6 A I don't think that was my prior testimony. I don't use
7 the word degeneration. I do agree that it's desiccation and
8 it's not related to the accident.

9 Q And you can't tell when the herniated disc occurred,
10 right?

11 A Can't tell from the MRI. No, sir.

12 Q So, you don't know if it's from the accident or you
13 don't know if it's caused by the desiccation?

14 A Anything is possible.

15 Q And wouldn't it be more likely desiccation because as
16 the water comes out of the disc in between the vertebrae, the
17 vertebrae comes down and they squeeze the disc and that pushes
18 it comes out. Wouldn't that be fair?

19 A I don't think so, sir.

20 Q And on this particular -- this is the sagittal, I think
21 we're looking at?

22 A Yes, sir.

23 Q And what do you call the other one?

24 A Coronal and axial.

25 Q And that shows you the overall view looking from the

1 top?

2 A Correct, with the top-left corner.

3 Q Here on this you see the different bones at a couple of
4 different levels. And you're saying the levels of herniations,
5 those are called, right, do you see any extrusion?

6 A No.

7 Q Extrusion is when the material comes out the disc,
8 right?

9 A Yes.

10 Q So, here the disc didn't break because there's no
11 extrusion?

12 A I wouldn't characterize it that way but there's no
13 extrusion.

14 Q And also looking at this film, when you look at this
15 particular film, did you see any signs of trauma on this film?

16 A No.

17 Q No sign of any soft tissue injury?

18 A No.

19 Q Any edema?

20 A No.

21 Q Any abnormal bone marrow signal?

22 A No.

23 Q And that would be something since this was five or six
24 weeks after the accident, if that had occurred, you would see it
25 on here. Wouldn't it still be there?

1 A I don't understand your question.

2 Q If there was swelling or a bone bruise, that would be
3 something that you probably would still see in the MRI five
4 weeks after the accident?

5 A I mean, anything is possible.

6 Q Now, did you see in the vertebrae, each vertebrae has
7 two foraminal?

8 A Yes.

9 Q Is there's one on each side, left and right?

10 A Yes, sir.

11 Q And the foraminal is where the nerve exits the spinal
12 canal which is the long piece with the fluid?

13 A Yes, sir.

14 Q And that's where it goes through, correct?

15 A Yes, sir.

16 Q And when you looked at the MRI, did you see any issues
17 with the foraminal?

18 A Well, as part of the operation --

19 Q I didn't ask about the operation. I asked about the
20 MRI.

21 A Oh, then I don't understand the question. I'm sorry.

22 Q Did you see any foraminal narrowing where the nerve
23 passes from the spinal cancel through the vertebrae?

24 A At the level of the neuroforaminal?

25 Q Yes.

1 A I don't recall that.

2 Q When you did the surgery, did you do the
3 foraminectomies?

4 A Yes.

5 Q How many foraminectomies did you perform?

6 A Two at each level, sir.

7 Q And that's cleaning out the canal?

8 A That's cleaning out the foramen.

9 Q Describe the foramen.

10 A So, every level of the spine, two nerves come off in
11 each left and right at every level between four and five.

12 Between five and six, between five and six and between
13 six and seven. And so, where it comes out, there's an opening
14 in the spine. Obviously, it's coming out of the spine. That
15 opening is called foramina. That's what it's called.

16 And part of the operation, it's important to visualize
17 the nerves as they go out because often times, disc material
18 will get into that area and cause pain as well. So, that's why
19 I routinely do foraminotomies at those levels.

20 Q And you can also get bone growth in there, too?

21 A Yes, you can.

22 Q And the tool that you use to do that when you clean it
23 out, is that called a Kerrison?

24 A Yes.

25 Q That grinds the bone down?

1 A Bites the bone.

2 Q Pulling it off?

3 A Yes.

4 Q You open up something that's been there. That's
5 something that takes a while to grow, doesn't it?

6 A Yeah. It would be consistent with someone that was
7 that age of 50-plus years old. It's not something that grows in
8 two weeks, if that's what you're asking.

9 Q Wouldn't you agree that there were osteophyte
10 formations at C-4/C-5, C-5/C-6 and C-6/C-7?

11 A During the surgery, I did notice some foraminal
12 spurring and also at the back of the vertebral body. So, that's
13 really the point of the surgery.

14 Q When you say the back, that's the posterior?

15 A Yes.

16 Q And that is where that leans up against the neurocanal?

17 A Yes.

18 Q So, if there's an osteophyte of the bone growth that's
19 sticking out off the back of the vertebrae which would be over
20 there where the spine is, that pushes against the spine on the
21 neurocanal, correct?

22 A I mean, it could. If you have the MRI, it's not really
23 the bone that's pressing. It's the disc but routinely as part
24 of the operation, I'll remove all of that because it's what you
25 find during surgery. So, routinely I find it and I remove it.

1 Q And you knew ahead of time there was such a
2 condition --

3 A I mean, I don't have an independent recollection but I
4 would anticipate based on her age that I would find something
5 like that.

6 Q Nows, you also did something called a
7 hemi-vertebrectomy, H-E-M-I-V-E-R-T-E-B-R-E-C-T-O-M-Y. You did
8 that at four levels. Can you tell us what that is?

9 A Just what I just described to you. So, not just
10 removing the disc but removing a portion of the bone.

11 So, it's a partial removal of the vertebrae, partial
12 vertebrectomy, all the way back to the spinal cord. And the
13 reason for that in this case is because there was some
14 age-related changes, which I had to address during surgery.

15 What's nice about it also is it gives me a greater
16 visualization as you can imagine, I removed more bone and now I
17 can see more of the spinal cord. So, it's a nice tool that we
18 have to get the best evaluation of the spinal cord.

19 Q And sometimes that bone can put pressure on the spinal
20 canal, right?

21 A Correct.

22 Q And when you shave that back and release it, it
23 decompresses the spine to let it go back?

24 A Correct, sir.

25 Q Okay. And you did that here at each one of the levels?

1 A Yes, sir.

2 Q Now, is that -- when you do that, you use a high-speed
3 shaver?

4 A I use the Kerrison. I use the larger four or five
5 Kerrison and then I use a burr, B-U-R-R.

6 Q And that shaves it back --

7 A Yeah, back to the front towards the spinal canal.

8 Q And what percentage of each vertebrae did you remove?

9 A It's about half.

10 Q Somewhere around 50 percent?

11 A Yes.

12 Q And what you performed, is that known as anything else?
13 Is that also a corpectomy?

14 A No. A corpectomy is 100 percent.

15 Q Can you have a partial corpectomy?

16 A Yeah. It's the same as -- if I can give some
17 terminology. So, hemi-corpectomy and hemi-vertebrectomy is the
18 same thing.

19 Q Okay. And that's what I was trying to ask to see if
20 they were the same thing.

21 Now, when you remove the disc, you take out the whole
22 disc and all the disc material?

23 A Yes.

24 Q And now, you have an opening. So, that's where you put
25 the device you were talking about?

1 A Yes.

2 Q And what exactly in this case did you put in?

3 A Bone, transplant bone.

4 Q Is that bone from the patient or is that what you grind
5 up whatever bone you have and put it in?

6 A No. You get it from the transplant patients.

7 Q Okay. And then if it's a match, then it goes in?

8 A Yes.

9 Q Do you have to pack it or does it come in a form?

10 A It doesn't have to be matched.

11 Q Okay.

12 A It's rendered nonallergic and then we put them in.

13 Q Okay. And now, when you put that bone in with the
14 existing bone, do you rough up the bone a little bit to get some
15 bleeding so that it all mixes to get an adhesion?

16 A I mean, in this case, obviously I did that because I
17 used the burr to remove part of the vertebrae. So, that leaves
18 the bone -- you like to leave the bone a little bleeding. Bones
19 bleed and you like that because it helps things to heal.

20 Q And what is an arthrodesis?

21 A It's a fusion.

22 Q That's the whole procedure?

23 A That's the medical word for fusion.

24 Q And that is where -- in this case, did you use one
25 plate to go over the whole four vertebrae?

1 A Yes.

2 Q And is that a flexible plate that you can mold?

3 A You can mold it. It's not really flexible but you can
4 mold it, yes.

5 Q And approximately how much space are we talking about
6 here in the back of the neck?

7 A Oh, I don't understand the question.

8 Q Is it like four inches high for all those levels, six
9 inches?

10 A I would say four inches.

11 Q And before you put the screws in, did you have to drill
12 holes into the vertebrae?

13 A Yes.

14 Q Did you have to tap those or is it like a screw that
15 make its own connection?

16 A Self-tapping.

17 Q And two screws in each?

18 A Yes.

19 Q Now, when you perform the procedure, did you put any
20 kind of -- after you were done, was there any kind of a
21 structure or a support that you put on the patient like a brace
22 of some type or a collar?

23 A I don't have an independent recollection. I don't
24 always use a brace but yes, sometimes we use a cervical collar
25 after surgery.

1 Q In this case, do you remember what you did?

2 A No.

3 Q And did you put any kind of bandages around the neck?

4 A Just on the incision, sir.

5 Q And where was the incision on this particular patient?

6 A On the front of the neck.

7 Q And did you install a drain?

8 A Yes.

9 Q And was the drain functioning in the hospital after the
10 surgery?

11 A I mean, I don't have an independent recollection.
12 Obviously, you put it in at the time of surgery. Leave a tube
13 in to collect any fluid that may drain. And it's usually kept
14 overnight and usually removed the next day but I don't have an
15 independent recollection.

16 Q Any of the material that you took out of the cervical
17 spine, did you send it to pathology?

18 A I believe so.

19 Q Now, did you take any X-rays or fluoroscopy in the
20 operating room as you were doing the procedure?

21 A Yes.

22 Q Now, I know Ms. Soto testified that she stayed
23 overnight and the next morning she was -- she had fluid coming
24 out of her neck?

25 A Again, I don't have an independent recollection of the

1 post-operative period.

2 Q Do you recall getting called back to come to the
3 hospital that she had an issue?

4 A I mean, you know, as refreshed by my records. So,
5 yeah.

6 Q Well, when you reviewed the records today that you had,
7 was there anything in any of your records that show that she had
8 to go back into the hospital for five days because the wound was
9 leaking?

10 A Yes. I mean, that's what happened. We discussed that
11 before.

12 Q Did you fix it?

13 A Yeah.

14 Q What was the cause of that?

15 A You know, as I described earlier, there's risks of
16 surgery including infection, fluid drainage, bleeding.

17 So, those things can occur despite the fact that you
18 put a drain in, you can still have those things occur on any
19 surgical site anywhere.

20 Q After the surgery was done, do you know what time of
21 day you finished with Ms. Soto?

22 A No.

23 Q Do you know if you saw her again that day before you
24 left the hospital?

25 A I don't have an independent recollection but it's my

1 custom and practice to see them in recovery and see them in the
2 hospital along with my team of doctors.

3 Q Did you see her the following day when she was
4 discharged?

5 A Again, I don't have an independent recollection, but
6 she was seen and cared for by --

7 Q So, somebody -- another doctor at the hospital who was
8 working for you or on your staff --

9 A It could have been me or my partner could have went to
10 see the patient or the --

11 Q You don't have any recollection of that?

12 A No.

13 Q Would you have made any notes of that?

14 A No.

15 Q Would you have made a note in the hospital chart?

16 A Not necessarily.

17 Q So, when she was released from the hospital after this
18 was done, do you know if the wound was leaking at that time or
19 it was fine?

20 A I mean, eventually, you know, it healed. Obviously, it
21 healed.

22 Q Okay. Now, how many times did you go -- did she come
23 back to you for a post-operative visit?

24 A Do you want me to count all the records?

25 Q If you have them there, sure.

1 A It looks like seven or eight times.

2 Q Post-op visits?

3 A Yes.

4 Q The last was in 2023?

5 A Yes.

6 Q And she hasn't seen you since?

7 A No.

8 Q And there's no future appointments scheduled?

9 A No, not that I'm aware of.

10 Q And you haven't performed surgery on any other part of
11 her body, correct?

12 A No, I don't believe so.

13 Q Just one other question, Doctor. An osteophyte, that's
14 bone growth, correct?

15 A Say that again.

16 Q And that is something that forms either from arthritis
17 or osteoarthritis?

18 A That's one of the causes of bone spurs, yes.

19 Q And it's also a chronic condition, right?

20 A It occurs over time, yes.

21 Q And one of the normal levels where that occurs is
22 C-5/C-6?

23 A It can occur anywhere in the spine, but yes.

24 Q But that's the most probably one, correct?

25 A It's -- I mean, that middle cervical spine is often

1 afflicted with that condition.

2 MR. BARRY: Thank you, Doctor. I don't have any
3 other questions for you.

4 THE COURT: Thank you, Mr. Barry.

5 MR. O'MEARA: Thank you, Judge.

6 REDIRECT EXAMINATION BY

7 MR. O'MEARA:

8 Q When you do those 300 surgeries a year, are they all
9 spine surgeries?

10 A Yes.

11 Q You don't do knees or shoulders?

12 A No.

13 Q Do you want to get paid for your surgeries?

14 A Of course.

15 Q And so, you have somebody in your office that discusses
16 with patients how they're going to pay for the surgery?

17 A Professional staff, yes.

18 Q And is there some kind of a limit on the amount of
19 insurance that's on an automobile case?

20 A That's frequently an issue.

21 Q And therefore, do you your patients have to figure out
22 ways to pay for their surgeries?

23 A My patients have to figure out -- along with their
24 representatives help them to figure out how to pay for it if
25 they want it, yes.

1 Q You don't discuss billing with your patients?

2 A No, sir.

3 Q And when you talk about a fusion, does the bone grow
4 over the area?

5 A Yeah. The word fusion means that ultimately what I do
6 gets the bones to actually grow together and that's what the
7 word fusion mean.

8 Q What would be a situation where you would have a lien
9 on a case?

10 A So, a lien would be -- basically, it means we don't get
11 paid until the end and that's when there isn't sufficient
12 coverage.

13 In other words, there's no coverage. No insurance
14 company is paying the bills. So, we just accumulate the amount
15 of money.

16 Q What would happen to Ms. Soto if she needed that
17 surgery and there was no such thing as liens?

18 A I mean, she probably wouldn't have the surgery. Right.
19 I mean --

20 Q What if there was no such thing as funding?

21 A She wouldn't be able to have the surgery.

22 Q So, anybody and if there wasn't enough coverage on any
23 type of case, that person just wouldn't have the surgery?

24 A Yeah. I mean, they couldn't have surgery, yes.

25 Q And when you charge your patient, that pays for a

1 number of people, correct?

2 A Yeah. All of the support staff that it takes.

3 Q And do you collect interest on your liens?

4 A No.

5 Q Can you explain to the jury? Can you put into context
6 what was read to you from that deposition transcript?

7 MR. BARRY: Objection, Your Honor.

8 (Whereupon, at this time, a discussion was held at
9 sidebar.)

10 THE COURT: Defense counsel's objection is noted
11 for the record. The objection is overruled. Doctor, you
12 can answer the question.

13 Q You can answer.

14 A So, there are circumstances where we are -- I am -- my
15 practice is awarded interest. And so, there are certain
16 circumstances when and again, not to get too into the weeds,
17 insurance companies deny payments for bona fide services and
18 they say we don't think it was necessary.

19 So, then the way it works, we actually have to
20 arbitrate it or litigate it meaning that we give it to legal
21 professionals and they argue with the insurance company.

22 So, the state, it's not me, the state, there's a
23 statute, there's a law that says if you don't pay the doctor and
24 you make him wait four years for that payment, then you owe
25 interest if he can prove that -- and that's the interest that I

1 was talking about at the time. I don't know if that's clear
2 enough but that's what I do.

3 Q And are you currently seeing Workers' Comp patients
4 right now?

5 A Yes.

6 Q And have you ever stopped seeing Workers' Comp
7 patients?

8 A Never stopped.

9 MR. O'MEARA: I have nothing further, Your Honor.

10 THE COURT: Thank you. Mr. Barry?

11 MR. BARRY: No, Your Honor.

12 THE COURT: Okay. Thank you. Thank you, Doctor.
13 Have a good day.

14 (Whereupon, the witness is stepping down.)

15 THE COURT: All right. Jurors we are excused for
16 the morning.

17 MR. O'MEARA: Your Honor --

18 THE COURT: Oh, we do have an expert here. I
19 thought it was this afternoon.

20 MR. O'MEARA: We have both.

21 THE COURT: So you have one now and then one at
22 2:00. So we're going to continue.

23 MR. O'MEARA: Can we have a five minute break.

24 THE COURT: Sure let's take a brief recess.

25 (Whereupon, a recess was taken.)

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