

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF KINGS : CIVIL TERM: PART 75

3 RANDY DECAYETTE, -X

4 Plaintiff,

5 - against - INDEX NUMBER:
6 523486/2018
7 TRIAL

8 50 LEX DEVELOPMENT, LLC and TISHMAN CONSTRUCTION
9 CORPORATION OF NEW YORK,
10 Defendants.

11 -X

12 Supreme Courthouse
13 360 Adams Street
14 Brooklyn, New York 11201

15 June 16, 2026

16 BEFORE:

17 HONORABLE ANNE J. SWERN,
18 Justice of the Supreme Court
19 (And a Jury)

20 APPEARANCES:

21 ELEFTERAKIS, ELEFTERAKIS & PANEK
22 Attorneys for the Plaintiff
23 80 Pine Street, 38th Floor
24 New York, New York 10005
25 BY: RAYMOND PANEK, ESQ.
BY: QUIANA C. MOORE, ESQ.

HANNUM FERETIC PRENDERGAST & MERLINO, LLC
Attorneys for the Defendants
55 Broadway, Suite 202
New York, New York 10006
BY: DAVID P. FEEHAN, ESQ.
BY: MEREDITH L. BERNSTEIN, ESQ.

LUCILLE CRAVOTTA
Senior Court Reporter

Proceedings

1 THE COURT: Trial continued. Lawyers same. Let's
2 go.

3 MR. PANEK: Your Honor, I explained this to
4 Mr. Feehan before making the application, but yesterday
5 there was questioning of Dr. Kyriakides which assumed facts
6 not in evidence or not before the Court that BMAC
7 procedures were not FDA approved or were experimental and
8 are deemed to be experimental by the FDA. There was a
9 curative instruction. Well, withdrawn. There was the
10 question was stricken from the record, but the jury did in
11 fact hear that testimony and there was a bit of back and
12 forth and also the question was phrased, it was not
13 stricken in the context of it being experimental. I am
14 calling for an offer of proof from Mr. Feehan. He
15 represented that a governmental body or agency deemed a
16 procedure to be experimental or unapproved or unreliable
17 was the tenor of the question. If this is something where
18 there should be a good faith basis for an attorney to ask
19 that question.

20 The FDA does, in fact, produce and print
21 guidelines and in my research at the end of the day my
22 research revealed that all of the procedures and the
23 pertinences to a BMAC procedure are in fact FDA approved
24 and because a BMAC procedure involves the harvesting --

25 THE COURT: Let me stop you for a moment. I am

Proceedings

1 perfectly happy for you to go through the record and see
2 any reference to this and propose something. I believe I
3 took care of it. I believe I took care of it by striking
4 the question with respect to FDA and striking the answer
5 and giving the curative instruction to the jury in the
6 moment. I don't think they're thinking this. I don't
7 think he's arguing this. I don't think anything else is
8 going to happen as a result of it.

9 And you know, you are a trial attorney, bringing
10 it up now might be more in the jury's mind than even exists
11 for a further curative instruction, but I am open to it. I
12 want you to go through the record to see other than what I
13 struck and it's not before them and I told them not to
14 consider, if there was anything else not stricken or
15 anything else I didn't address with my curative instruction
16 and striking the question and answer and telling them to
17 disregard in their mind let me know.

18 I don't want to spend too much time on this. I
19 know your objection. I know your request. Get me the
20 questions in the record and we'll go through.

21 MR. PANEK: In advance of that we call for the
22 offer of proof so that I can propose what the curative or
23 remedy would be, what Mr. Feehan based his question on
24 because it's sanctionable conduct to represent something
25 that is not a governmental --

Proceedings

1 THE COURT: Okay, he's asking a question, one
2 question is necessarily sanctionable conduct and if it's
3 sanctionable I am not sanctioning him. I will ask him for
4 the offer of proof, but I am not sanctioning him for one
5 question, so just know that.

6 MR. PANEK: I am not seeking a sanction on
7 Mr. Feehan, a trial sanction in terms of the curative is
8 what I am referring to.

9 THE COURT: You already got the curative and you
10 already got the instructions to the question, now you are
11 gilding the lilly, I am willing to let you gild the lilly
12 if you get more questions that weren't stricken and more
13 references that weren't addressed and get my curative and
14 get what I said.

15 And at the same time Mr. Feehan can -- we can have
16 an offer of proof. But because I am not going to sanction
17 him the offer of proof is interesting, but it's not going
18 to form the basis of a sanction. If he doesn't have it I
19 already took care of it in my mind. I don't think the jury
20 heard it. I don't think the jury is going to argue it.

21 Your client didn't even get it yet. So, if your
22 client didn't get it I don't think it's that relevant to
23 anything. And by the way, I think part of his answer was
24 he doesn't think it's experimental, he's been doing it
25 15 years. So to me, I don't think it impeded his

Proceedings

1 credibility the way I heard it. I don't think it was a big
2 deal. I don't think the jury focussed on it. I don't know
3 even the significance.

4 But you can go through the paces and Mr. Feehan
5 can go through the paces if you want. But I am not going
6 to spend more than ten minutes on this because we had time
7 before the jury came in, but now the jury is waiting. I am
8 not spending a lot of time. We could have done this 20
9 minutes ago.

10 What else.

11 MR. PANEK: One more item is the doctors testified
12 premarked for ID Plaintiff's 19 showed to Mr. Feehan. I
13 also explained to him that I have printouts for the jury to
14 hold as the Doctor goes through the MRI. I just wanted to
15 apprise the Court of the same. Let the Court know I have a
16 copy for you, for Mr. Feehan.

17 THE COURT: Are they marked as exhibits?

18 MR. PANEK: The exhibit is marked as 19, these are
19 just copies of it. I'll lay the foundation for it and then
20 we'll go from there.

21 THE COURT: Okay, okay.

22 MR. PANEK: The procedure would be I would ask our
23 court officer to hand them out to the jury; correct?

24 THE COURT: Sounds good.

25 All right. Anything else?

Ashley Simela, M.D. - Plaintiff - Direct

1 MR. PANEK: No, your Honor.

2 THE COURT: Anything from you, Mr. Feehan?

3 MR. FEEHAN: No, your Honor. Thank you.

4 THE COURT: Let's bring the jury in, Officer
5 Santos.

6 MR. PANEK: Your Honor, may I exit the courtroom
7 to ask Dr. Simela to enter, please.

8 THE COURT: Sure. Gentlemen, ready?

9 MR. FEEHAN: Yes.

10 COURT OFFICER: All rise. Jury entering.

11 (Jury entering.)

12 THE COURT: Welcome back, please be seated. Hope
13 you had a pleasant evening. Thank you so much for coming
14 and being on time and so alert and we will get started
15 momentarily.

16 Mr. Panek.

17 MR. PANEK: Thank you, your Honor. Plaintiff
18 calls Dr. Ashley Simela.

19 THE CLERK: Do you swear or affirm that the
20 testimony you are about to give this Court will be the
21 truth, the whole truth and nothing but the truth?

22 THE WITNESS: I do.

23 THE CLERK: Please be seated. In a loud and clear
24 voice state your name, title and address of business.

25 THE WITNESS: Certainly. My first name is Ashley,

Ashley Simela, M.D. - Plaintiff - Direct

1 Dr. Ashley A-S-H-L-E-Y, Simela, S-I-M-E-L-A, business
2 address is 2132 Ralph Avenue, that's Brooklyn, New York
3 11412.

4 THE COURT: Good morning, Dr. Simela.

5 THE WITNESS: Good morning.

6 THE COURT: You already have done the first thing
7 I say to every witness, speak in a loud, clear voice so the
8 back of the jury can hear you and the back of the courtroom
9 can hear you, but you already did that.

10 The other thing is that lawyers ask questions,
11 sometimes they object, wait for my ruling before you
12 answer. I will usually say overruled, sustained. I will
13 also say you may anticipate an answer, please don't answer,
14 just so the flow is slower. First of all, it allows our
15 reporter to write down everything and it allows the flow of
16 objections.

17 Finally, lawyers ask questions and you can say I
18 don't understand the question, please repeat the question.
19 You have the opportunity to do that.

20 THE WITNESS: Certainly, your Honor.

21 THE COURT: Okay. Please continue, Mr. Panek.

22 MR. PANEK: Thank you, your Honor.

23 Good morning, jurors.

24 DIRECT EXAMINATION

25 BY MR. PANEK:

Ashley Simela, M.D. - Plaintiff - Direct

1 Q Good morning, Dr. Simela.

2 A Good morning.

3 Q Dr. Simela, are you licensed to practice medicine in
4 the State of New York?

5 A Yes, I am.

6 Q And do you have a specialty, sir?

7 A I do, orthopedics and orthopedic spine surgeon.

8 Q Doctor, would you please tell the jury a bit about your
9 educational background and training as an orthopedic spine
10 surgeon?

11 A Certainly. I completed my undergraduate education as
12 Paces University. I am a native New Yorker. Following
13 undergraduate education with my bachelors in biology with honors
14 I then moved to graduate school, Cornell University. Following
15 graduate school I completed a four year medical program at
16 New York Institute of Technology. At the could completion of
17 graduation of medical school I then did an internship at
18 Northwell Health on Long Island. Subsequent to that I completed
19 a five year orthopedic surgery residency at university hospitals
20 in Cleveland. At the completion of my residency I was then
21 awarded a fellowship in spine surgery at Cedar Sinai Medical
22 Center in Los Angeles.

23 Q Doctor, would you explain to these folks what a
24 fellowship in spine surgery entails?

25 A Certainly. Throughout that five year orthopedic

1 residency we do complete multiple months of spine surgery, the
2 award of a fellowship is a dedicated curriculum specifically
3 dedicated to only spine surgery.

4 Q And what is orthopedic spine surgery?

5 A Orthopedics is by definition a physician that treats
6 bone and joint injuries. Spine surgery specifically because the
7 spine is encased by bones, that's also encompassed by orthopedic
8 surgery.

9 Q And would you tell these folks about your current
10 practice as a spine surgeon?

11 A Certainly. I have my main office is in Brooklyn. I
12 also have offices in Manhattan and a satellite offices in the
13 Bronx and Queens and I largely do spine surgery, but also do
14 trauma as well as orthopedics and sports injuries.

15 Q Doctor, are you board certified in spine surgery?

16 A Yes, I am a diplomate of the board of certification in
17 orthopedics.

18 Q Doctor, do you treat traumatic spine injuries such as
19 cervical herniations, et cetera?

20 A Yes.

21 MR. PANEK: Your Honor, at this time I would offer
22 Dr. Simela to this Court as an expert in medicine and an
23 expert in the field of orthopedic spine surgery and the
24 treatment of traumatic spine injuries.

25 THE COURT: Any objection, Mr. Feehan?

Ashley Simela, M.D. - Plaintiff - Direct

1 MR. FEEHAN: No objection.

2 THE COURT: Then he is so declared an expert by
3 this Court.

4 MR. PANEK: Thank you, your Honor.

5 Q Dr. Simela, are you being compensated for your time
6 here today in court away from your practice?

7 A Yes.

8 Q What is your rate of compensation, sir?

9 A I believe my office has an established fee, it ranges
10 based upon a full day versus a part-time day in court. I
11 believe it ranges from \$9,500 to \$15,000.

12 Q And where do you expect to be this afternoon, Doctor?

13 A I have surgery scheduled this afternoon.

14 Q Where is the surgery scheduled?

15 A Here in Brooklyn.

16 Q And Doctor, have you ever testified in court on behalf
17 of a patient before?

18 A Yes.

19 Q Have you ever testified in court on behalf of a patient
20 that I've represented?

21 A No.

22 Q And prior to coming to court, fair to say that you and
23 I met to discuss your treatment of the gentleman seated here,
24 Mr. Randy Decayette?

25 A Yes.

Ashley Simela, M.D. - Plaintiff - Direct

1 Q And Doctor, fair to say that Randy Decayette is a
2 patient under your care?

3 A Yes, he is.

4 Q And in front of you have, Doctor, you have your medical
5 chart; correct?

6 A That is correct.

7 Q Now, Doctor, rather than taking the time to mark that
8 and move that into evidence, all those records are already in
9 evidence so you can refer to your chart and your notes as we go
10 forward.

11 A Okay.

12 Q What is the first day, Doctor, that you saw Mr. Randy
13 Decayette?

14 A My initial evaluation occurred on May 20th of 2023.

15 Q And on that date you are aware that he was referred to
16 by Dr. Kyriakides' office after an accident that took place in
17 July of 2018; correct?

18 A Yes.

19 Q And fair to say prior to that time you received various
20 medical treatments and was seeing various providers; correct?

21 A Yes.

22 Q Does your note reflect what records you were provided
23 by those professionals prior to your examination?

24 A Yes.

25 Q And can you just take us through what records were

Ashley Simela, M.D. - Plaintiff - Direct

1 available to you, what you were able to look at when you saw
2 Mr. Decayette?

3 A During my initial evaluation I did have the opportunity
4 to review medical records from City MD, Dr. Pamela Levine,
5 Carlos Vargas, PT, the records from Livingston Physical Medicine
6 Physical Therapy, Kolb Radiology, Lenox Hill Radiology, New York
7 Presbyterian, Brooklyn Methodist Hospital and New York
8 Orthopedic Surgery and Rehabilitation.

9 Q And Doctor, just to let you know all of those records
10 are contained in evidence so feel free to make reference to them
11 as you need to in addition to your records as we go forward.

12 Did you take a history from Mr. Decayette on the date
13 that you saw him?

14 A Yes.

15 Q And can you summarize the history that you took, what
16 was the reason he was seeing you?

17 A The patient initially saw me for an injury to his
18 cervical spine. He gave a history of falling from a ladder,
19 which resulted in injuries to his neck and extremities.

20 Q Now, Doctor, we've heard medical testimony, but we
21 haven't heard anything about the spine, so before we go any
22 further I am just going to ask with the Court's permission if
23 using this model you can just explain spine terminology so as we
24 go forward with your testimony the jury is well equipped to
25 understand all the various spine terms.

Ashley Simela, M.D. - Plaintiff - Direct

1 MR. PANEK: Your Honor, may the Doctor step down?

2 THE COURT: Sure.

3 THE WITNESS: Thank you.

4 Q So Doctor, I am just going to ask if you could explain
5 the anatomy of the spine and the pertinent parts that we will be
6 talking about going forward.

7 A Certainly. This is a model of the entire spine
8 starting at the occiput which is the back of your head. First
9 off the segments you notice are the cervical spine followed by
10 the thoracic spine sort of where the rib cage begins and ends,
11 and then the lower segment is the lumbar spine where you would
12 describe as your low back, where most people describe when they
13 describe their low back, there are small what we call vestibule
14 regions meaning we don't use them as much, that would be your
15 sacrum and the coccyx, the last two segments of the bone pine.

16 Q Doctor, when we say cervical spine, just for colloquial
17 terms you are talking about the neck; correct?

18 A The neck, correct. The cervical spine would be the
19 seven vertebral body and the corresponding nerve elements.

20 Q And Doctor, can you briefly explain we have another
21 exhibit to show you later where the intravertebral disks are
22 that we'll be talking about.

23 A Certainly. Initially what I had described are the bony
24 components of the T-spine. There is are also softer components
25 which would encompass the disk, then the nervy structure which

1 are protected by the bone structure as well as the disk.

2 Q You may resume your seat, Doctor. Thank you.

3 In addition to talking to Mr. Decayette and receiving
4 records did you also perform a physical examination of him on
5 that date?

6 A Yes.

7 Q And Doctor, would you please take the jury through the
8 pertinent portions of the physical examination on the things
9 that you would like to point out?

10 A Certainly. At the beginning of an orthopedic physical
11 examination we start with an observation, we're looking for any
12 asymmetry in the posture, asymmetry in the way the head is held.
13 Followed by that I then touch the patient, physically examine
14 them, palpate for any muscle spasm and step off any abnormality
15 in the way the bones feel. As noted on my exam when I initially
16 examined this patient he did have muscle spasm. There was
17 something tense causing the muscle to form a ball or curl into a
18 spasm.

19 Followed by that he had tenderness, so when I pushed on
20 certain elements of his neck he did have pain.

21 The next thing I did was range of motion. In order to
22 do range of motion we use a handheld device similar to a
23 protractor that you may have used in school and that gives us a
24 sense of the neck moving normally or abnormally.

25 Q What did your range of motion testing reveal with

1 respect to Mr. Decayette's neck?

2 A In this case he had decreased range of motion meaning
3 there was some functional limitation to the amount of motion he
4 could put his head through; looking up, looking down, left,
5 looking left, looking right. He did have limitation in many of
6 those planes.

7 Q Did Mr. Decayette have any complaints of pain when you
8 tested the range of motion of his neck?

9 A Yes, he did.

10 Q And what, if anything, does that tell you?

11 A Typically, the location of the pain will give me a clue
12 as to where the pain generator is coming from.

13 Q There are two notations here, negative Hoffman's and
14 positive Spurling's on the left, would you explain those to the
15 jury, please?

16 A Certainly. Hoffman's is a test for neural integrity
17 meaning if there is considerable compromise of a nerve the
18 Hoffman sign will be positive. In this case fortunate for him
19 at the time he did not have a positive Hoffman's. Usually those
20 are patients we are either taking to surgery right away because
21 they're what we call myelopathic or there's impending nerve
22 doom.

23 He did have a positive Spurling's however, which means
24 when I put his head in a certain position and pushed down on his
25 spine he did exhibit pain, meaning there's something encroaching

1 upon the nerve, something that's tethering the nerve that was
2 positive on the left.

3 Q And there is a notation here that sensation is altered
4 along the C6, sensation is altered along the left hand and
5 forearm in the C6 dermatomal distribution, can you explain what
6 that means?

7 A Certainly. Parts of the physical exam in addition to
8 touching the patient you also want to determine from a
9 neurologic standpoint any deficit, so the dermatome that we are
10 speaking of is the C6 dermatome. The dermatome is essentially
11 where your body is wired for that specific location on your
12 body. So most people have a fuse box in their home, I like to
13 describe it as if the fuse in your bathroom goes out, you go to
14 the bathroom fuse panel, flip the breaker, it turns it back on.
15 That's the way the nerves work. They have a corresponding
16 switch or location that causes sensation or motor function in
17 that area. That's called a dermatome.

18 In his case he had an altered sensation in the C6
19 dermatome, so again, it gave me a clue that something is going
20 on at the C6 nerve root level.

21 Q And you also -- we're going to get into the MRI's, you
22 were provided with his diagnostic films to review; correct?

23 A Yes, yes.

24 Q Based on -- can you give us a short summary of the what
25 the diagnostic films showed, what were you concerned about in

1 these films?

2 A Certainly. In this case I reviewed an MRI. An MRI is
3 an imaging study that highlights the soft tissue or the disk
4 components as it relates to the nerves. In this case I noticed
5 that he had herniations at several levels all of which were
6 pushing against the nerve.

7 MR. PANEK: Your Honor, I have a marked exhibit
8 for the witness.

9 THE COURT: Mr. Feehan, you have seen this
10 already; haven't you?

11 MR. FEEHAN: Yes, I have, your Honor.

12 Q Doctor, would that exhibit be helpful in terms of
13 explaining what a herniated disk to the jury and helping them
14 identify on the MRI films which we are about to look at?

15 A Yes.

16 Q Would it be helpful in explaining the anatomy of the
17 neck, and more specifically, the disk and nerve structures?

18 A Yes.

19 Q And the notations on that anatomical exhibit, are they
20 fair and accurate meaning they reflect the actual structures
21 that they are purporting to reflect?

22 A Yes.

23 MR. PANEK: Your Honor, with the Court's
24 permission I would offer Plaintiff's Exhibit 19 into
25 evidence.

1 THE COURT: Any objection?

2 MR. FEEHAN: No objection, Judge.

3 THE COURT: 19 for identification is now 19 in
4 evidence.

5 Q And Doctor, I am going to have copies of these handed
6 out to the jury so they could follow along before we start
7 looking at the films and then once they get them I am just going
8 to ask that you give them an overview based on that document of
9 what they are looking at.

10 A So what you are staring at is on the left-hand side of
11 the page is a diagram that shows the full cervical lumbar
12 thoracic spine similar to the model I held up earlier. The
13 picture to the right of that shows the spinal cord and it's
14 relationship to the bony elements of the spine. You'll also
15 note that the spine is marked where you have C2, C3, C4, C5, C6,
16 C7, those are those segments that I describe related to the
17 dermatome that's going back to the fuse panel that gets switched
18 on and off.

19 In this case if you they're between number C5 and C6,
20 you'll see what is labelled as herniated disk. That shows the
21 relationship between an injured disk and the cervical spine
22 itself. In this image you can see that the nerve is compressed
23 meaning that something is actually pushing against the spine.
24 You can also see that there is a tear in the disk which is
25 causing that jelly substance to escape the disk and to push

1 against the spine.

2 If I may just go through the other two images that you
3 have to the right of that.

4 Q Sure.

5 A To the right we have what we describe as an axial image
6 and that shows a relationship in a normal version of the disk.
7 The image below that shows an abnormal relationship where you
8 can see the actual herniation, again pushing and compressing on
9 the nerve root.

10 Q And what does it mean for a disk to herniate, how does
11 that happen, what is the process, what does it take to do that
12 so to speak?

13 A For a disk to herniate there has to be a hole or
14 something that allows it to escape its usual encapsulated
15 position. I like to describe it as a jelly doughnut with
16 something inside, but when there's a hole the jelly escapes the
17 doughnut.

18 Q Can trauma cause the disk to tear and have a hole in it
19 and deteriorate?

20 A Yes.

21 Q Can you explain the process in the body of a herniated
22 disk, what is the -- when it happens as a result of a trauma or
23 an accident or injury, what happens, what is the course so to
24 speak?

25 A Certainly. The disk is soft, so similar to a water

1 balloon or something that is encapsulated, when it's squeezed
2 there is going to be a tension and a failure.

3 In this case the tension occurs on one side, the
4 failure typically occurs on the other side where the hole
5 develops. The jelly inside escapes and it causes two things
6 initially. The first thing is a chemical phenomena where it's
7 caustic. It's essentially a substance that does not belong on
8 the nerve, so it irritates the nerve. That's usually when the
9 patient gets the pain or altered sensation.

10 The next stage is compression. When that jelly sits on
11 the nerve and forces the nerve into an uncomfortable position.

12 Q And Doctor, would it be fair to say moving ahead that
13 on the films the jurors are going to be looking at herniated
14 disks in Mr. Decayette's neck?

15 A Yes.

16 Q Now, before we get there I just want you to assume
17 certain testimony that we heard here in the courtroom;
18 Mr. Decayette has testified on multiple occasions that the
19 accident occurred as follows; he's on the third step of the
20 ladder, he is installing sheetrock overhead and his arms are up
21 in the fashion that I am holding this board up, but he is on the
22 ladder and he is putting a screw onto his screw gun and then
23 from above a 40 pound board of sheetrock which was approximately
24 40 by 50 inches strikes him from the left on the left side of
25 his head and then strikes him on the shoulder and then knocks

1 him off the ladder where he lands on the concrete ground onto
2 his right wrist. You with me on that?

3 A Yes.

4 Q That mechanism.

5 A Yes.

6 MR. PANEK: Your Honor, with the Court's
7 permission I would ask that the doctor come down and review
8 the MRI films.

9 THE COURT: Just be careful going down the steps.

10 Q Doctor, I am going to ask we have three MRI films you
11 start chronologically with the September 6, 2019 cervical spine
12 MRI.

13 THE COURT: When she records even though she looks
14 down sometimes if she sees your mouth it helps her
15 understand the words with your back to her. We can try it
16 this way, she might ask you to move.

17 THE WITNESS: Will do.

18 A So what we're looking at on the left side of the screen
19 is an axial image of the spine. On the right side we're looking
20 at something called a sagittal image. For point of reference
21 sagittal begins with "S", side, we're looking at the neck from
22 the side profile. Along the side profile I'll walk you through
23 it, we have here the back of the occiput which is the back of
24 your head. So you have your cervical spine in the middle. So
25 if you reference the sheet that you are all looking at the image

1 on the left-hand side actually.

2 So beginning on the sagittal image I can see that he
3 has herniations extending from C3-4, 4-5, 5-6. Now, there are
4 varying sizes, they're not all the same going down the C3-4 disk
5 what we're looking at, going down 4-5 and then 5-6. On this
6 image the C5-6 is going to be more impressive. It shows it's
7 pushing, again that's compressing force against the spine. Also
8 on the axial image. This is a like a loaf of bread, we're
9 slicing a loaf of bread going through it little by little.
10 Here's the spinal cord. Here's that impressive herniation
11 pressing on the C5-6 nerve root. Again, the left side
12 predominantly. The right side is open, the nerve has space to
13 move.

14 Q Are those normal findings for at this point in time a
15 31 year old, Doctor?

16 A No, sir. This is an acute herniation.

17 Q You said the word "acute," what does that mean in this
18 context?

19 A Well, this context, acute herniation, in the sense that
20 it's not a degenerative herniation because the rest of the spine
21 elements are free of any degenerative change. I would not
22 expect to see degenerative change in a person in their early
23 thirties or late twenties.

24 Q Can you take the jurors through the film and explain
25 what you mean when you say that there are no degenerative

1 changes in this gentleman's spine?

2 A Certainty. As we all age our body deteriorates, that's
3 degeneration. In this case looking at the posterior elements of
4 the spine he does not have any significant arthritis. Overall
5 the spine looks healthy with the exception of the disk
6 protrusions and herniations the remainder of the spine is
7 essentially that of a young man.

8 Q Doctor, looking at the exhibit would you expect the
9 curvature of his spine to be similar to the normal anatomy if he
10 did not have these problems?

11 A I would, yes.

12 Q What is causing his spine to -- if I am characterizing
13 or just look different than what normal is?

14 A Certainly. He has lost his lordosis, meaning the
15 normal curvature of the cervical spine. It has a little bow to
16 it. In this case the reason he doesn't have that significant
17 bow, there is muscle spasm here which is what I palpated when I
18 put my hand against his spine.

19 If you recall I mentioned that when there is a rupture
20 in the disk two things happen, a chemical irritation and a
21 compression. The chemical irritation, what typically causes
22 muscle spasm or basically something that allows you not to let
23 your head hang, pull tense and pull your head back, that's why
24 he has lost his lordosis in this image.

25 Q Doctor, I want you to go back to the example I gave you

1 of a 40 pound board striking Mr. Decayette and for clarification
2 he's wearing a hardhat, it strikes him on the left side and he
3 testifies that it forces his head towards the right, meaning his
4 head goes toward his shoulder when he is struck suddenly by the
5 board. Can you explain that to the jury in the context of the
6 pattern of injury so to speak that we see?

7 A Certainly. In this case he has a left-sided herniation
8 so it fits the profile of a head being pushed forcibly to the
9 right. If you recall I mentioned there is tension and failure.
10 So the tension is on the right side, but the failure of the disk
11 rupture is on the left causing it to push out.

12 Q Would you be able to show that to the jury using the
13 model?

14 A So this is similar how it would be left side, right
15 side. Something that strikes the right side causes it to do
16 this. Excuse me, something that strikes the left side causes it
17 forcibly to the right. If something strikes you on the opposite
18 side it forces you to the opposite. You have a tension side and
19 a failure side.

20 Q Just to be clear on the film I am looking at it and the
21 herniation you were pointing at as I am visualizing on the
22 right, what do those notations mean there?

23 A Well, because when you are doing an MRI you are laying
24 flat and the scanner is actually scanning you the opposite way.
25 You would think you are laying flat like this so that's for you

1 guys. It seems it's on the right-hand side, we're talking about
2 the left side of the spine.

3 Q Doctor, within a reasonable degree of medical certainty
4 do you have an opinion as to whether or not the exact injury
5 pattern in Mr. Decayette's spine is consistent with the
6 mechanism of injury that you recorded?

7 A I believe so. I believe the strike caused the
8 herniation on the left side.

9 Q And just to be clear, Doctor, for the purposes of the
10 record did all three of the herniations have that same
11 left-sided push?

12 A Yes.

13 Q Now, Doctor, this MRI was also taken in September of
14 2019 which was a year and two months after the trauma and the
15 accident; correct?

16 A Yes.

17 Q Can you explain temporally, meaning in terms of time
18 what the relationship of this film bears to when his accident
19 happened and how that might affect your opinion?

20 A Certainly. As I mentioned the disk is a soft
21 structure. So think of a grape going to a raisin, over time if
22 it loses its water content, so initially this probably started
23 out like a good size grape, but your body tries to take the
24 water out of it, desiccate it to shrink it in size. So I can
25 tell though it still has a water content meaning that there is

1 still, you know, this dark line to it shows that it still has a
2 component, it's not an old injury. It's on its progression to
3 becoming completely desiccated and over time I had the advantage
4 of looking at his images all the way through the surgical images
5 in 2023 and you see the progression from the disk desiccation.

6 Q This is taken a year after, a year and two months or a
7 year, two months and/or a year month and a half and a couple of
8 days after the accident, when you said old injury, how old do
9 you think this pattern of injury is on this film, could you give
10 a guess as to when this happened?

11 A Certainly.

12 MR. FEEHAN: Objection. He said "give a guess".

13 THE COURT: I'll allow it, to a degree of
14 certainty.

15 A Because there is still water content. It's certainly
16 less than a year and a half mark.

17 Q So is it consistent with an accident that happened in
18 July of 2018?

19 A Yes.

20 Q And Doctor, you also said you had the benefit of
21 reviewing later films; correct?

22 A Yes.

23 Q We'll get there, and before we do, within a reasonable
24 degree of medical certainty does this appear to be a picture of
25 an injury that's about somewhere between a year and a year and a

1 half old?

2 A Yes, it does.

3 Q Doctor, within a reasonable degree of medical certainty
4 do the later films also support that notion that this film is
5 documenting an injury that's a year to a year and a half old?

6 A Yes.

7 Q Now, Doctor, is there anything else you would like to
8 show on this initial film or would you like to move to the next
9 one?

10 A I would like to move to the next one to show the
11 progression.

12 Q Sure.

13 A So that was an image from September of 2019. The next
14 available image was from March of 2021. So again, we're looking
15 at the sagittal image, that's the side and then back to the
16 axial on the other screen. In this case the disk herniation is
17 now much lighter, it's getting lighter, which means that the
18 content of water is being extracted from it, that is how his
19 body is attempting to heal it. We still see the same herniation
20 except it's a little more broad now. There it is. And the
21 color has changed again because the water content is being
22 extracted from the disk now.

23 Q Doctor, at this point in time Mr. Decayette has been
24 back to work fairly consistently with missed time for his broken
25 wrist, but it was suggested that the work of a carpenter was

1 generally degenerating his spine. Does this film reflect
2 whether or not he was experiencing facet degeneration or a
3 general degeneration as a result of working?

4 A When I look at the spine, again, I always go back to
5 the facet joints. The term that it's a degenerative process
6 meaning an old age process, again, the facet joints were wide
7 open. So this is not a degenerative process in the sense of
8 advancing the age of the spine. This is less of a problem than
9 with the age of the spine than a problem at the level of the
10 disk, the injured disk.

11 Q Did the injured disks get worse?

12 A Yes.

13 Q What causes the injured disks to get worse?

14 A Because again, once you have that hole in the disk the
15 desiccation occurs rapidly.

16 Q Would working as a carpenter make the injured disk get
17 worse over time?

18 A Yes.

19 Q Why?

20 A Because the functional jelly essentially is squeezed
21 out of the disk and now the disk and the bones are getting
22 closer and closer.

23 Q Just to be clear, Doctor, the facet joints, the age and
24 appearance of the spine, it looked good in 2019, looked good
25 again in 2021 and the only thing that got worse were the

1 herniations; is that fair?

2 A Yes.

3 Q What does that tell you?

4 A He's had progression of the injured disks likely more
5 symptomatic at this point.

6 Q Doctor, if Mr. Decayette said after he fell off the
7 ladder my neck hurts, I am never going back to work would his
8 herniations progress like this if he just kind of like laid in
9 bed and said I am going to call --

10 MR. FEEHAN: Objection.

11 THE COURT: I am sustaining the objection so
12 disregard the question. Don't answer it, Doctor.

13 Please, Mr. Panek.

14 MR. PANEK: Sure.

15 Q If he sustained herniations in the accident and as you
16 saw on that 2019 film, but just did not go back to work, said I
17 have pain I am not returning to work and I am going to limit my
18 activities as much as possible, how would you expect that within
19 a reasonable degree of medical certainty to affect the spine as
20 opposed to what we see?

21 A So if he did nothing?

22 Q Correct.

23 A At all?

24 Q He said I am not going to go back to work, I am going
25 to stay home.

Ashley Simela, M.D. - Plaintiff - Direct

1 A I think the injured disk would continue to desiccate.

2 Q Would they progress as much as they did on the films
3 being that he went back to work?

4 MR. FEEHAN: Objection.

5 THE COURT: What are you objecting to? The form
6 of the question?

7 MR. FEEHAN: The form and the hypothetical aspect
8 of it.

9 THE COURT: He can ask the hypothetical.

10 MR. FEEHAN: It's not a hypothetical, Judge.

11 THE COURT: The form is a little -- rephrase it
12 and then you ask it, Mr. Panek.

13 MR. PANEK: Okay.

14 Q Within a reasonable degree of medical certainty is the
15 progression of the injured disk consistent with someone who did,
16 in fact, go back to work?

17 A Yes.

18 Q And why is that?

19 A Because the interval with which we've had this much
20 progression is shortened. If he did nothing I would expect it
21 to occur over a longer period of time.

22 Q So fair to say working actually accelerates the process
23 and causes the disk injury to advance and get worse?

24 A Yes.

25 MR. FEEHAN: Objection. That's leading.

1 THE COURT: That is leading.

2 MR. PANEK: I am just trying to --

3 THE COURT: I know you are just trying, but you
4 can't lead. You know, you are an experienced trial
5 attorney. Strike the question and the answer. Strike it
6 from your mind, jurors, and let's continue.

7 Q Doctor, I want you to assume that Mr. Decayette reports
8 that his pain and his symptoms are getting progressively worse
9 over time, based on the MRI's that you are seeing can you tell
10 the jury whether you think that's consistent or inconsistent
11 with his reports of increasing and advancing pain?

12 A I think over the course of time any injured disk
13 becomes more symptomatic.

14 Q Anything else with the 2021 film or should we turn to
15 2023?

16 A I would like to turn to 23. So I am opening
17 February 28th of 2023, cervical spine MRI. So again, starting
18 with the sagittal image the disk is certainly worsened.

19 THE COURT: Is there a question? Please ask a
20 question. This is extremely interesting, he needs to ask a
21 question, then answer.

22 Q Doctor, can you explain to the folks what they're
23 seeing on this image as it relates to the progression of the
24 injured disks that we're talking about?

25 A So looking from the 2019 cervical image, the 2021 image

1 and now the 2023 image there is interval progression of the
2 cervical disk herniations.

3 Q What does interval progression mean?

4 A Meaning each successive year the disk is actually
5 protruding more and the disk space height is lost.

6 Q Let's take a look back at the facets, the other areas
7 of the spine, is the spine generally degenerating during this
8 time or is it just the disks that are getting worse?

9 A So again, looking at the sagittal image, the facet
10 joints appear the same. There is no progression in terms of the
11 degeneration of the spine, meaning the age related changes, but
12 there is progression with respect to the injured segments of the
13 disk specifically C5-6 and 4-5.

14 Q So again just to be clear, this image here is showing
15 that the disks that were injured in the accident were getting
16 worse, the rest of the spine is generally maintaining its good
17 condition?

18 A Yes.

19 Q Now, Doctor, this is the most recent film that
20 Mr. Decayette had before he saw you in May of 2023. Can you
21 explain to the jurors based on your review of records, based on
22 your physical examination and based on this film what your
23 conclusions and assessments were for Mr. Decayette on that first
24 day you saw him?

25 A Certainly. After a comprehensive history and physical

1 examination of the patient and review of the film and imaging I
2 determined that he had symptomatic cervical disk herniation with
3 radiculopathy meaning that the cervical spine disk was injured.
4 It was now pushing and compresses the nerve root causing him
5 symptoms more so on the left side of the arm with numbness and
6 tingling in the hand. At that point I recommended and suggested
7 surgery.

8 Q Just to go back and be clear, Doctor, we talked about
9 the left side herniations in terms of context of being
10 consistent with a mechanism of having the head compressed
11 towards the right. What about those disks in terms of
12 Mr. Decayette's report from the first time he reported his neck
13 symptoms, that everything was primarily travelling down his left
14 side, can you talk about that in the context of that pattern
15 injury and the way those disks look?

16 A Certainly. The symptoms always remain predominantly on
17 the left side with numbness and tingling. The disk herniation
18 is essentially obliterating the exiting nerve root also on the
19 left side, so it is consistent with his imaging as well as his
20 clinical exam.

21 Q So when he's saying my left arm hurts that's an image
22 that makes sense?

23 A Yes.

24 Q You can take your seat, Doctor, thank you.

25 Doctor within a reasonable degree of medical certainty

1 do these images show a progression of a traumatically induced
2 herniation related to the accident that took place on July 12th
3 of 2018?

4 A Yes.

5 Q Doctor, referencing these sheets the jurors have in
6 front of them can you just show us, you know, why is it not as
7 detailed, why do we not see everything that we see on the sheets
8 as opposed to the MRI, like what is the difference?

9 A So we're seeing spot images on the sheet that you have
10 in your hand versus you are seeing the entire cervical spine on
11 the MRI picture. What I am highlighting are the disks that were
12 most pronounced which were at C5-6 certain and the adjacent disk
13 or the C4-5 disk as well.

14 Q So Doctor, you indicated Mr. Decayette for surgery at
15 that first visit; correct?

16 A At the first visit we discussed surgery, but it wasn't
17 I think until my following visit that we began to talk
18 significantly about surgery.

19 Q Okay. It says in your note that the patient has
20 symptomatic cervical radiculopathy, no improvement despite
21 physical therapy and pain management injections; why is that
22 important?

23 A Because a patient typically comes to see me at the
24 point in time where they fail conservative treatment, when
25 surgery is the next step and in this case he was referred to me

Ashley Simela, M.D. - Plaintiff - Direct

1 for evaluation for surgery.

2 Q Now, I think it was actually a bit of time, you saw
3 Mr. Decayette again before you actually indicated the surgery,
4 that would have been on the next visit which is October 10th of
5 2023; correct?

6 A Yes.

7 Q Can you turn to that note, Doctor?

8 A Yes.

9 Q What was Mr. Decayette complaining of when you saw him
10 on that date?

11 A On my evaluation of him on October 10th of 2023 he
12 offered complaints of neck and arm pain.

13 Q Before we get there, Doctor, you had Mr. Decayette's
14 records; correct?

15 A Yes.

16 Q You had his City MD records?

17 A Yes.

18 Q Dr. Levine?

19 A Yes.

20 Q Dr. Kyriakides?

21 A Yes.

22 Q And those records reflect the first time that
23 Mr. Decayette reported neck pains to a doctor was to Dr. Levine
24 sometime before he went back to work around September or October
25 of 2018, which would have been two or three months after the

1 accident; correct?

2 A Yes.

3 Q In the context of these specific injuries and in the
4 context more broadly of the fact that Mr. Decayette had also
5 broken his hand in the fall does that surprise you that it took
6 a little bit of time for him to report the neck pain?

7 MR. FEEHAN: Objection.

8 THE COURT: You could answer it.

9 A No, not surprised at all.

10 Q Why?

11 A Someone that treats traumatic injuries, we have a term
12 in trauma called a distraction injury. Meaning typically when
13 you break something that's what you focus on and as you start to
14 heal or get treatment it's completely normal for patients to say
15 oh, but this hurts and that hurts.

16 Q And can you specifically talk about this type of injury
17 meaning a herniated disk as opposed to, you know, a broken spine
18 or something else, why would a herniated disk not be a
19 distracting injury if you break your hand?

20 A Primarily because it's an insidious injury meaning it
21 doesn't hurt you right then and there. It hurts over time
22 because of two phenomenons. The chemical extraction that is
23 happening at the disk level and also the compression that's
24 happening at the nerve level.

25 Q So from a medical perspective that should kind of make

1 sense that that wasn't his primary complaint; isn't that fair?

2 A Fair. He didn't break the bone of the cervical spine,
3 if he broke the bone we would have known it. He would have been
4 paralyzed that day.

5 Q Doctor, Mr. Decayette also says that once he went back
6 to work that's when the pain really became concerning for him,
7 can you speak to these specific injuries in terms of going back
8 to work and why they might become more painful once he returned
9 to physical activity?

10 A Certainly. Because he's more active now returning to
11 work, the disk herniation, the disk material is now forcibly
12 pushing out more and more.

13 Q So Doctor, does it make sense to you that the first
14 time he sought therapy or medical intervention was about a month
15 after he went back to work?

16 A That's in line.

17 Q Why is that?

18 A Because again, he didn't fracture the bone of the
19 cervical spine, he had a disk injury with the resultant tear in
20 the disk which takes time to have compression against the nerve.

21 Q So, is there anything about the records where you look
22 at them as a spinal surgeon and you say the pattern of the
23 injury, the time it took him to report it it doesn't make sense,
24 is there anything that has you thinking that as you reviewed his
25 entire medical chart?

Ashley Simela, M.D. - Plaintiff - Direct

1 A No, not at all.

2 Q Doctor, do you have an opinion within a reasonable
3 degree of medical certainty as to cause of the symptomatic
4 herniations in Mr. Decayette's neck?

5 A Not at all.

6 MR. PANEK: Your Honor, may we take a two minute
7 recess, so I could sort the technology.

8 THE COURT: Sure. Well, is it really two minutes
9 or it's going to be more?

10 MR. PANEK: It should be two to five minutes, we
11 could take a quick break.

12 THE COURT: Okay, you guys can take a break for
13 the next five, probably closer to ten minutes, and I will
14 see you back here in a few minutes.

15 COURT OFFICER: All rise. Jury exiting.

16 (Jury exiting.)

17 THE COURT: You are directed not to converse.

18 (A recess was taken.)

19 COURT OFFICER: All rise. Jury entering.

20 (Jury entering.)

21 THE COURT: Please be seated: Welcome back.

22 Mr. Panek will continue.

23 MR. PANEK: Thank you, your Honor.

24 Q Doctor, as a result of his injuries to his spine and
25 more specifically the disks to the cervical spine you indicated

1 or recommended to Mr. Decayette surgery; correct?

2 A Yes.

3 Q What type of surgery did you recommend to address
4 Mr. Decayette's spine injuries?

5 A An anterior cervical diskectomy with fusion.

6 Q Can you explain to these folks what an anterior
7 cervical diskectomy and fusion is, please?

8 A Certainly. The term diskectomy means to remove, so we
9 remove the entire injured disk and essentially put a prosthesis
10 in to fuse or meld the two bones together so there is no more
11 pressure against the nerve.

12 Q Is that a minor or major procedure, Doctor?

13 A This is a major procedure.

14 Q Why is that?

15 A Because we have to put the patient to sleep, so the
16 patient has to undergo general anesthesia. Following general
17 anesthesia an incision, a cut alongside of the neck has to be
18 made, the muscles have to be moved out of the way to expose the
19 spine, another instrument is used to remove the disk in its
20 entirety. We have to stimulate the spine to make sure that
21 we're not compromising the spinal cord while we're doing the
22 surgery so we have a separate team to monitor the nerves, the
23 neurospinal team, and then once the disk is completely removed
24 we have to measure and insert a prosthesis.

25 Q What are the risks of this type of surgery?

Ashley Simela, M.D. - Plaintiff - Direct

1 A As discussed with the patient the risk include
2 bleeding, infection, paralysis and even death.

3 Q And this was all communicated to Mr. Decayette when the
4 surgery was recommended; correct?

5 A Yes.

6 Q Doctor, I want you to assume that Mr. Decayette
7 reported that around the time that he decided that he needed to
8 have this surgery, even though he didn't want it, his life kind
9 of consisted of going to work and then coming home, showering
10 and laying in bed and ignoring his family due to pain. Are the
11 injuries that you treated him for, are they capable of producing
12 that type of results after someone goes to work with the
13 herniations you observed?

14 A Yes.

15 MR. FEEHAN: Objection.

16 THE COURT: He already asked it? It's fine.

17 MR. FEEHAN: What would have been the ruling?

18 THE COURT: Have a seat.

19 Q Is that reported, that level of incredible pain, is it
20 consistent or inconsistent with the progression of the disks
21 that you saw in his neck over time?

22 MR. FEEHAN: Objection as to the.

23 THE COURT: Sustained.

24 Don't answer that, please.

25 Q Did Mr. Decayette report to you that he was getting

1 worse as you saw him?

2 A Yes.

3 Q And in fact, before the surgery, but while you were
4 still discussing it, Mr. Decayette on his examination on
5 November 21, 2023, in that test on that day he had a positive
6 Spurling's bilaterally. Just to remind the jurors on your
7 initial evaluation he had a positive on the left Spurling's, can
8 you explain the significance of what is going on here, the
9 progression?

10 A Certainly. The disk is now encroaching upon both nerve
11 roots as noted in the MRI. As noted in the MRI it was starting
12 to displace and become a broad based herniation.

13 Q Getting worse?

14 A Yes.

15 Q And eventually Mr. Decayette agreed to have the
16 surgery; is that correct?

17 A Yes, he did.

18 Q Did Mr. Decayette want to have the surgery as reflected
19 in your notes?

20 A No, he did not.

21 Q And is that uncommon?

22 A It varies by patient, it depends on the threshold, the
23 pain threshold for each individual patient. In his case he's a
24 very stoic guy, was trying to hold off on any surgical
25 intervention as long as he could.

1 Q As you treat a patient over time do you get a sense as
2 a patient and what their pain threshold is relative to all of
3 the information in front of you so to speak?

4 A Yes.

5 Q Do you have an opinion as to Mr. Decayette's pain
6 threshold as a patient?

7 MR. FEEHAN: Objection.

8 THE COURT: No, I will allow it.

9 A He has a high pain threshold.

10 Q Now, Doctor, you did, in fact, perform this surgery;
11 correct?

12 A Yes.

13 Q Do you have your operative report in front of you?

14 A I do.

15 Q What procedure did you actually perform for
16 Mr. Decayette?

17 A Just let me turn to that page. In this case I
18 performed an anterior cervical discectomy at the C5-6 vertebral
19 disk segment along with an anterior fusion, a partial vertebral
20 corpectomy where I removed a portion of the bone so we could
21 free the tethered spine nerves and then I inserted a prosthesis.

22 Q Doctor, on the MRI, I am not going to plug it back in,
23 we'll save on the technology. On the MRI that we looked at
24 there were three herniated disks that were of concern to you,
25 three injured herniations in his neck that were of concern to

Ashley Simela, M.D. - Plaintiff - Direct

1 you; correct?

2 A Yes.

3 Q You operated on one of those disks; correct?

4 A That is correct.

5 Q Can you explain to the jury why if Mr. Decayette had
6 three herniated disks in his neck, three injured disks that were
7 progressively getting worse the operation was indicated for just
8 one?

9 A The most symptomatic disk was the C5-6 disk, it was
10 producing a large majority of his symptoms and as I often tell
11 patients surgery is a last resort, but we try to minimize the
12 impact on your spine because if we fuse multiple levels at once
13 the likelihood he would return to his employment would
14 essentially be zero.

15 Q This is an attempt to preserve function by addressing
16 the worst one?

17 A Yes.

18 Q Did you address the other injured broken progressive
19 disks in this surgery?

20 A We looked at the disk above and below and at that time
21 during surgery I felt as though it was encapsulated enough that
22 we could hold off on the surgical treatment.

23 Q Now, Doctor, with the Court's permission I am going to
24 have you step down. We looked at when I met with you a medical
25 illustration of your operative report; correct?

1 A Yes.

2 Q Would that be helpful in explaining to the jury the
3 actual process that took place?

4 A Yes, it would be.

5 THE COURT: What exhibit number is this?

6 MR. PANEK: It is Exhibit 15 in evidence, your
7 Honor. Your Honor, may the Doctor step down?

8 THE COURT: Yes.

9 You are best off if your back is not completely to
10 Lucille. That's perfect, Doctor. This way you could put
11 your neck this way to Mr. Panek and this way to Lucille,
12 back to Lucille, back to the jury.

13 THE WITNESS: Certainly.

14 Q Doctor, please take the jurors through the procedure
15 pointing out the relevant procedures and anatomy as the surgery
16 was performed on January 22, 2024?

17 A Certainly. The left side of the board here you'll see
18 the location of the incision site. So essentially make a cut to
19 the surgical incision overlying the disk space and clear the
20 muscles that overlap the spine.

21 Once the musculature is moved we then address the disk
22 herniation itself, that's the diskectomy portion of the
23 procedure. Here it's an illustration of the removing that disk
24 herniation that was compressing the spine. What you see here
25 are metal retractors that help us keep things open and spread.

1 I use a microscope to do this because these are very small
2 structures. So the microscope illuminates so it makes the
3 vision a little bit better. Once we remove the disk we then use
4 you a burr or a drill type device to clear the endplates, those
5 are the cartilage structures where the disk is adhered to. I
6 did remove some portion of the bone, that's the corpectomy
7 portion because my goal is to get back here to relieve the
8 pressure on the spinal cord.

9 Once that was complete and I completely clear the disk
10 space I then inserted this prosthesis, this is a peak or a
11 polyether ketone spacer with metal titanium anchors.

12 This is a postoperative x-ray which shows the implant
13 in place, these metal anchors will remain in that location for a
14 lifetime.

15 Q Just to be clear while we're looking at this, that is
16 the x-ray of Mr. Decayette's neck in April of 2025; correct?

17 A Yes, that is his x-ray.

18 Q Now, Doctor, when you perform this type of procedure
19 what happens to the motion at this segment of the neck, meaning
20 the area where -- between C5 and C6 where you perform the
21 fusion?

22 A We are fusing or connecting those two so the motion is
23 lost at that segment.

24 Q Thank you, Doctor.

25 Doctor, is that fusion, meaning that loss of motion,

1 meant to be permanent following the surgery?

2 A Yes.

3 Q Now, the jurors have heard a lot about recovery and the
4 time lapse of things, but fair to say there is a recovery
5 process after the surgery; correct?

6 A Yes.

7 Q Mr. Decayette has a drain placed in his neck
8 postoperatively; correct?

9 A Yes.

10 Q What is the purpose of the drain?

11 A Because it is a closed surgical wound meaning after we
12 open the skin we have to close it, it's potentially a space
13 where fluid or blood can accumulate. That is a very sensitive
14 piece of real estate in the neck as you would imagine. We don't
15 want to have any problem with compression of the vocal cords or
16 any of the surrounding structures. So that drain is there to
17 remove any blood that may accumulate.

18 Q We heard testimony from Mr. Decayette immediately
19 following the surgery he only took Percocet for the first
20 48 hours; do you remember that?

21 A I do.

22 Q Can you tell the jury what you remember about that?

23 A My typical routine is to prescribe a narcotic pain
24 medication for anywhere from ten to fourteen days, in this case
25 this patient did not want pain medications, very stoic

1 gentleman.

2 Q And what's the reason you prescribe narcotics for ten
3 to fourteen days following this type of procedure?

4 A Because it hurts.

5 Q Painful recovery?

6 A Very much so.

7 Q How painful is the recovery without the narcotics?

8 MR. FEEHAN: Objection.

9 THE COURT: Sustained.

10 Q Mr. Decayette also had to undergo physical therapy when
11 he was able to over some time; correct?

12 A Yes.

13 Q And you followed him postoperatively; correct?

14 A I did.

15 Q Now, you said that the reason you didn't address all
16 three disks, if you did he would have a zero percent chance of
17 returning back to work essentially; correct?

18 A That is correct.

19 Q That would take him out of the workforce permanently
20 for the rest of his life?

21 A Yes.

22 Q So you tried doing one; right?

23 A Yes.

24 Q In an ideal world if you did that one disk and it went
25 perfectly and the recovery was as expected what would you have

Ashley Simela, M.D. - Plaintiff - Direct

1 hoped for Mr. Decayette in terms of his ability to get back to
2 some work?

3 A If the one disk was the only thing we treated and we
4 were able to avoid a multilevel fusion my anticipation is
5 anywhere from six months to a year this patient could return to
6 work.

7 Q That hasn't happened; right?

8 A No.

9 Q What's gone on in the follow-up after the surgery, what
10 has your treatment consisted of? What's happening with his neck
11 postoperatively that's preventing him from going back to work,
12 Doctor?

13 A He's had continue continued progression of the other
14 disk levels.

15 Q Is that concerning?

16 A It is.

17 Q And he's had continued progression of the other disk
18 levels even though he's not back to work; correct?

19 A Yes.

20 Q In fact, Doctor, you have his May, 2025 EMG?

21 A I do.

22 Q And what did that May, 2025 EMG report?

23 A Bilateral cervical radiculopathy.

24 Q Now, did Mr. Decayette tell you like the surgery didn't
25 do anything for me, it didn't help at all? What did he tell

1 you?

2 A Initially he was progressing. He had less arm pain and
3 he had some stiffness, but overall he was moving in a good
4 direction.

5 Q And that was in the initial postoperative course he was
6 saying this helped, I feel better from the surgery; correct?

7 A Yes.

8 Q And that started to decline over time; correct?

9 A It did.

10 Q What is the significance of him having a positive EMG
11 after having a fusion surgery in his neck?

12 A The adjacent segments or the other disk levels are now
13 becoming symptomatic.

14 Q And currently in your treatment of Mr. Decayette where
15 you are at so to speak in terms of diagnosing the next steps,
16 what is the plan?

17 A Ideally he would will need advanced imaging, likely a
18 CT scan and an updated MRI.

19 Q You took a postoperative x-ray; correct?

20 A Yes.

21 Q And the radiologist report reflects that he has
22 something called spondylodesis going on in his neck after the
23 surgery, with the Court's permission can you come down here and
24 point out what the concern is postoperatively now?

25 A Certainly. So the few segments is between C5 and C6,

1 unfortunately the adjacent segments, the segment above is now
2 becoming symptomatic and that disk is further collapsed. So
3 it's moving the bone which is causing irritation of the spinal
4 segment at C4-5.

5 Q Thank you, Doctor.

6 What is adjacent segments disease or adjacent segment
7 degeneration; what is that?

8 A It's a term that we've coined in the spine field to
9 describe the phenomena that occurs when you stiffen one segment
10 or fuse a segment. Unfortunately, the disk either above or the
11 disk below take on a little bit more stress or a little bit more
12 motion and as a result there is an increase in breakdown.

13 Q Is this showing adjacent segment disease or adjacent
14 segment degeneration postoperatively?

15 A Yes.

16 Q Is that a stable condition or a progressive condition
17 or something else, Doctor?

18 A It's a progressive condition.

19 Q That means gets worse overtime?

20 A It will.

21 Q And to be clear, this was a disk and this is an x-ray
22 so it doesn't show the disk, but this is a disk that is already
23 injured and compromised in the accident that has gotten worse
24 over time?

25 A Yes.

1 MR. FEEHAN: Objection.

2 THE COURT: The objection is sustained. Strike
3 the question. Strike the answer. Disregard it from your
4 mind. Thank you.

5 Q Doctor, do you have an opinion within a reasonable
6 degree of medical certainty as to whether or not Mr. Decayette
7 is going to require further major surgery on his neck as a
8 result of the July 12, 2018 accident?

9 A Within a reasonable degree of medical certainty I
10 believe he will need an adjacent segment either fusion or disk
11 replacement in the near future.

12 Q When you say in the near future what are you talking
13 about in terms of when he's going to need his next surgery?

14 A Depends on his symptomology.

15 Q Can you give us a rough ballpark what year you were
16 thinking or talking about?

17 A Certainly within a two year period we are going to have
18 to address the adjacent level.

19 Q When you say, "address the adjacent level," what would
20 the procedure entail to address what is going on now?

21 A I disk replacement is a very good option that's now
22 available.

23 Q What is a disk replacement?

24 A We essentially remove the disk and insert a prosthesis
25 which is no longer fused that can have motion. So the

1 prosthesis that we once used have now been replaced depending on
2 insurance with the disk replacement that does not have the same
3 level adjacent segment problem.

4 Q Doctor, does Randy Decayette remain a patient under
5 your active care?

6 A Yes.

7 Q Do you have an opinion within a reasonable degree of
8 medical certainty as to whether or not this gentleman's neck is
9 going to cause him lifelong pain?

10 A I do.

11 Q And what is your opinion regarding that, Doctor?

12 A In my opinion he will have lifelong pain and stiffness
13 with respect to his cervical spine.

14 Q And what is the basis of that opinion?

15 A We've already had one level fused, so even if we do go
16 in and address the other injured disk he will still have
17 multiple surgeries on the spine. He will have residual
18 stiffness and pain.

19 Q Do you have an opinion within a reasonable degree of
20 medical certainty as to whether or not Mr. Decayette can return
21 to work as a carpenter?

22 A I do.

23 Q And what is your opinion, Doctor?

24 A It is my opinion that he will not return to work as a
25 carpenter.

Ashley Simela, M.D. - Plaintiff - Cross

1 Q And why is that?

2 A Given the cervical fusion and the adjacent segments
3 that are already deteriorating he will not return to life as a
4 carpenter.

5 MR. PANEK: I have no further questions. Thank
6 you, your Honor.

7 THE COURT: Okay.

8 MR. FEEHAN: Your Honor, I just need to --
9 something came to my attention, I need just to review his
10 chart. I just need five minutes.

11 THE COURT: This time we're really going to take
12 five minutes, maybe ten tops. We'll be back.

13 COURT OFFICER: All rise. Jury exiting.

14 (Jury exiting.)

15 COURT OFFICER: All rise. Jury entering.

16 (Jury entering.)

17 THE COURT: Please be seated.

18 Mr. Feehan, are you ready?

19 MR. FEEHAN: May I inquire?

20 THE COURT: Please continue, Mr. Feehan.

21 MR. FEEHAN: Thank you.

22 CROSS EXAMINATION

23 BY MR. FEEHAN:

24 Q Good morning, Dr. Simela. How are you?

25 A Good morning.

Ashley Simela, M.D. - Plaintiff - Cross

1 Q Dr. Simela, you are licensed to practice medicine in
2 New Jersey and in New York; correct?

3 A Yes.

4 Q And you mentioned your affiliations and your offices
5 were New York locations, you said Brooklyn, New York, Queens;
6 correct?

7 A Yes.

8 Q Mr. Decayette is a Brooklyn resident; correct?

9 A Yes.

10 Q Can you explain to us why you did not have the surgery
11 in a New York Hospital instead chose to go to New Jersey for his
12 surgery?

13 A Certainly. For two reasons, number one I did this as
14 an ambulatory procedure and I work very well with an anesthesia
15 group that specializes in outpatient cervical spine surgery.

16 Q Ambulatory surgery means in and out the same day?

17 A Correct.

18 Q So Mr. Detective checked in the morning and checked out
19 in the afternoon?

20 A Yes.

21 Q And you are affiliated with another facility in
22 New Jersey known as the Newark Rehabilitation Center?

23 A No longer affiliated.

24 Q You separated with them; correct?

25 A Correct.

Ashley Simela, M.D. - Plaintiff - Cross

1 Q And your separation resulted in a lawsuit; correct?

2 A It did.

3 MR. PANEK: Objection.

4 THE COURT: Overruled.

5 MR. PANEK: Can we approach?

6 THE COURT: You want to approach?

7 MR. PANEK: Yes.

8 (A bench conference was held.)

9 THE COURT: Are you ready to continue, Mr. Feehan?

10 MR. FEEHAN: Yes, I am.

11 THE COURT: Thank you.

12 Q Dr. Simela, as a result of your separation from your
13 prior employer a lawsuit was filed against you and another,
14 during that lawsuit the court found that certain documents were
15 not preserved due to negligence by you and the court awarded a
16 sum of money to your adversary as a result; correct?

17 MR. PANEK: Just noting my objection.

18 THE COURT: And it's overruled.

19 You may answer that question.

20 A That's not exactly what happened, but yes.

21 Q Now, Dr. Simela, with respect to Mr. Decayette's
22 treatment and care, your initial involvement was in May of 2023;
23 correct?

24 A Yes.

25 Q And your initial report has that you reviewed certain

1 documents; correct?

2 A Yes.

3 Q I see your folder in front of you, but I don't see
4 documents that you reviewed in that folder. Do you have another
5 file or folder where you keep the documents you reviewed?

6 A This was primarily my notes and the imaging.

7 Q So, do you have other documents of another file for
8 Mr. Decayette?

9 A There is an electronic about medical record.

10 Q Is the electronic medical record one subpoenaed, the
11 electronic medical record, were those other records that you
12 reviewed in that subpoena?

13 A The other records that I reviewed? I am not sure if
14 they transmit the other records, I think they transmit primarily
15 my records.

16 Q But if the other records are in your file should that
17 be the whole file should be exchanged; correct?

18 A I think, if I remember correctly the way the electronic
19 record is setup the progresses reports and then there are
20 additional documents that we may receive from other treating
21 physicians.

22 Q And Doctor, I am just curious, what is a normal range
23 of motion for a cervical extension?

24 A It can vary, but typically 60 degrees.

25 Q Your normal in your exam is 60; correct?

Ashley Simela, M.D. - Plaintiff - Cross

1 A Correct.

2 Q You mentioned before about an acute injury can cause a
3 hole or a herniation, excuse me, that trauma can cause a hole or
4 a herniation in a disk; correct?

5 A Angular tear, yes.

6 Q Angular tear. Can degeneration, the degenerative
7 process, that can also cause a herniation; correct?

8 A Yes.

9 Q Now, with respect to the review of films, the initial
10 film that you reviewed was the September 6, 2019; correct?

11 A Yes, September 6, 2019.

12 Q And that showed multiple herniations at multiple
13 levels; correct?

14 A Yes.

15 Q And multiple herniations on multiple levels,
16 approximately, 14 months after the accident, would you agree
17 with me that's more consistent with evidence of degenerative
18 changes rather than a traumatic acute event?

19 A It would depend on the scenario.

20 MR. PANEK: Just objection, are we talking
21 generally or with respect to Mr. Decayette?

22 THE COURT: Overruled. No speeches. You asked
23 it. You already answered it. Let's move on.

24 Q And with respect to the 2019 MRI report, on C6-7 that's
25 a normal finding; correct?

Ashley Simela, M.D. - Plaintiff - Cross

1 A It was unremarkable, correct.

2 Q Then there is a 2023 MRI that you have that shows C6-7
3 there is a herniation; correct?

4 A If you just allow me a moment to get to that page. And
5 you are referring to the March 31st of 2021?

6 Q I apologize. Well, let's go to that one. I'll
7 withdraw that previous question.

8 I want to draw your attention now to the March 31,
9 2021. There is a C6-7 is when the herniation appears on March,
10 2021; correct?

11 A At the C6-7 level there is reported herniation.

12 Q And that's the same level where there is no herniation
13 in 2019; correct?

14 A It was unremarkable.

15 Q No herniation; correct? If there was a herniation it
16 would stay there is a herniation; correct?

17 A Correct, yes.

18 Q So, I have two years passed and he has a herniation on
19 another level which is most likely due to degeneration; correct?

20 A Again, it would depends on the scenario.

21 Q But this scenario, Mr. Decayette, he has an incident
22 that happens, fourteen months later he has multilevel
23 herniations and then two years after that in 2021 we find a new
24 herniation that develops on a completely different level, that's
25 more indicative of degeneration than the acute trauma from the

Ashley Simela, M.D. - Plaintiff - Cross

1 initial injury; correct?

2 A I think I classify it slightly differently than that.
3 I would not describe it as degeneration, I would describe it as
4 a new finding.

5 Q Now, your involvement starts about five years after the
6 accident; correct?

7 A Yes.

8 Q And with respect to causation you're basing that on
9 what Mr. Decayette mentioned to you as well as some of the
10 records you reviewed; correct?

11 A Correct.

12 Q With respect to with the day of the surgery for
13 Mr. Decayette, you registered a BMI, body mass index of 36.02,
14 it's in the surgical records, do you have his --

15 A I have my operative report, it may be in the surgical
16 centers's reports.

17 Q It's in the Surgicore records, we have it here, 36.02.

18 A Okay.

19 Q That's the foundation question. Doctor, a BMI over 30
20 is classified as obese; correct?

21 A Yes.

22 Q Obesity is recognized as an accelerated risk factor for
23 degenerative disk disease; correct?

24 A I don't think it's the sole factor, there is others,
25 smoking and diabetes.

Ashley Simela, M.D. - Plaintiff - Cross

1 Q It is a fact.

2 A Okay.

3 Q And you are aware that he was working in a physical
4 capacity as a full-time carpenter; correct?

5 A Yes.

6 Q Are you aware that he was working over 2,000 hours and
7 2,100 hours between 2018 up until the time you did surgery in
8 2024; correct?

9 A I understand that he was a full-time carpenter.

10 Q Now, spondylodesis and facet sclerosis that you saw, I
11 messed that up, Doctor.

12 A It's okay.

13 Q That you observed in the April, 2025 x-ray, those are
14 signs of degeneration; correct?

15 A It depends on which term. I think you described you
16 kind of pushed three terms together for now.

17 Q I apologize. I will stick with facet sclerosis for
18 now.

19 A That's a radiologic term that is used when people
20 describe degeneration, yes.

21 Q And it's also, degeneration is also arthritic; correct?

22 A Yes, it can be.

23 Q So we have arthritic facet joints in this x-ray;
24 correct?

25 A No, the facet joints were cartilage filled.

Ashley Simela, M.D. - Plaintiff - Cross

1 Q One second, Doctor. I want to get to the day of the
2 surgery. The surgery of January 22nd of 2024; correct?

3 A Yes.

4 Q And on the date of the surgery the preoperative
5 assessment was taken and Mr. Decayette pain scale was a four out
6 of ten; are you aware of that?

7 A I don't recall the exact number.

8 Q And four out of ten would characterize that as moderate
9 pain; correct?

10 A Typically.

11 Q Are you aware that Mr. Decayette worked in the 20 days
12 presiding his surgery he worked 152 hours in the month of
13 January, 2024?

14 A I don't know the exact number of hours that he worked.

15 Q But you understand he was full-time at that time;
16 correct?

17 A Yes.

18 Q And a four out of ten would not be categorized as
19 severe; correct?

20 A Moderate as you mentioned.

21 Q Now, your treatment records postsurgical have flexion
22 and extension, rotation, ranges of motion, and his rotation in
23 April 21, 2025 he has 60 out of 60, that's normal; correct?

24 A Please specify which note you are referring to so I can
25 look at it.

Ashley Simela, M.D. - Plaintiff - Cross

1 Q Rotation --

2 A Which date of service?

3 Q April 21, 2025. We can start with the August of 2024
4 when the rotations are normal. So August 19, 2024, it's 60 out
5 of 60?

6 A Yes.

7 Q Flexion is 40, extension is 40?

8 A The rotation is actually 60 out of 80.

9 Q I apologize, Doctor, I misread your notes. And your
10 findings you have him 75% temporary disabled during the 2024 and
11 2025 visits; correct?

12 A Yes.

13 Q And the April 21, 2025 visit you have a negative
14 Hoffman and a negative Spurling's test; correct?

15 A Yes, that is correct.

16 Q And those tests indicate that the surgery was
17 successful; correct?

18 A Those tests indicate that there is no symptomatic nerve
19 compression during that visit.

20 Q And Mr. Decayette also mentioned that the radiating
21 pain in his left arm got better after the surgery; correct?

22 A He have did note improvement.

23 Q Now, the EMG that you looked at from 2025 from
24 Livingston, you had positive for radiculopathy, what level is
25 that positive finding on, is that C5-C 6, the cervical level?

Ashley Simela, M.D. - Plaintiff - Redirect

1 A If you allow me to reference it.

2 Q Yes, please.

3 A Yes.

4 Q So it's not the adjacent level, it's the surgical level
5 that you have radiculopathy; correct?

6 A Yes.

7 Q Do you ever recommend Mr. Decayette for a vocational
8 functional examination?

9 A Not to my recollection.

10 Q You mentioned that Mr. Decayette can't return to work
11 as a carpenter, but can he return to any type of work?

12 A Yes.

13 Q So he can work full-time job; correct?

14 A I would like to see the type of job he could do, but he
15 can return to some level of work, yes.

16 Q You are saying heavy labor like a carpenter is probably
17 not good for him; correct?

18 A Correct.

19 Q But other type of work he can do; correct?

20 A Yes.

21 Q Doctor, I appreciate your time. I have no further
22 questions.

23 A Thank you.

24 REDIRECT EXAMINATION

25 BY MR. PANEK:

Ashley Simela, M.D. - Plaintiff - Redirect

1 Q Doctor, I am not going to ask generally can something
2 be degenerative, the herniations that you observed in
3 Randy Decayette's neck that appeared to be between a year and a
4 year and a half old, were they degenerative or were they
5 traumatically induced?

6 A Traumatically induced.

7 Q Please explain to the jury all of the evidence that we
8 went over in detail about --

9 THE COURT: We don't need to free handle, just ask
10 the question.

11 Q Please explain all the evidence that these herniations
12 were traumatically induced and not degenerative and I am
13 speaking about this specific case, not generally?

14 A Given the lack of facet hypertrophy, which is typically
15 what you would see in a degenerative spine, it's a step wise
16 approach. There is some sort of injury to the disk level, the
17 disk desiccates over time. The bones get closer, the bones
18 start to rub. There is hypertrophy, they become bigger because
19 there is no cartilage separating them. That's the cascade for
20 degeneration.

21 Q And fair to say when a spine degenerates you don't have
22 a sixty year old spine in one spot, you have a sixty year old
23 spine; correct?

24 A Correct.

25 Q Mr. Decayette had areas of his spine that were a thirty

Ashley Simela, M.D. - Plaintiff - Redirect

1 year old spine and areas of his spine that were grossly
2 abnormal; is that correct?

3 A Yes.

4 Q And with respect to this C6-C7 herniation, the finding
5 that progressed, what happens when you herniate, he herniated
6 three levels of his neck, 3-4, 4-5, 5-6; correct?

7 A Yes.

8 Q What happens to someone in the interval anatomically
9 after they sustain that herniation?

10 A Well, the question about C6-7 is a little bit unfair so
11 without a gallium MRI scan there may have been a hole there or
12 small annular tear that just progressed over time. So you know,
13 if you have three symptomatic disks which are moving abnormally
14 you can certainly have the most inferior disk, C6-7 disk,
15 abnormal motion with advanced acceleration and to change.

16 Q Doctor, for unremarkable he's referring to the
17 radiologist's report; correct?

18 A Correct.

19 Q I would like you to take a look at the 2019 film.

20 MR. PANEK: Officer Sanchez, can you please
21 approach the Doctor with the laptop? I am not going to
22 attach it here because it's not going to work.

23 Q What is your take on that disk in 2019, Doctor?

24 A Just allow me a minute to scroll through it.

25 MR. FEEHAN: I going to object to this question.

Ashley Simela, M.D. - Plaintiff - Redirect

1 Beyond the scope of his -- the foundation for his ability
2 to testify as to this.

3 THE COURT: No, no. This was brought up on cross,
4 he can get redirected. You may not like the form of the
5 question, but asking about the subject matter he can do
6 because it was brought up on cross.

7 Do you want to rephrase the question so it's
8 proper for redirect?

9 MR. PANEK: Sure.

10 Q Can you take a look at the film and speak to the jury
11 about what you are seeing, if anything, Doctor?

12 THE COURT: Did you review these films before
13 this?

14 THE WITNESS: Es.

15 THE COURT: Okay. So he's seen this before. He
16 can testify about his observations.

17 A So you are referring to the C6- level?

18 Q Correct.

19 A Based on this MRI from 2019 there is no overt
20 herniation at C6-7.

21 Q Can you take a look at 2021 and tell us what you are
22 seeing?

23 A This would be the March 31st of 2021?

24 Q Yes.

25 A So at the C6- level there is disk displacement.

Ashley Simela, M.D. - Plaintiff - Redirect

1 Q What causes that disk displacement in that two year
2 interval?

3 MR. FEEHAN: Objection.

4 THE COURT: What caused it in this case?

5 MR. PANEK: Yes.

6 THE COURT: Or what generally caused it?

7 Q What caused it in this case?

8 THE COURT: Do you know what caused it in this
9 case?

10 MR. FEEHAN: Judge, it's impossible for him to
11 know.

12 THE COURT: He could say it's impossible for me to
13 know. Let him answer the question.

14 A Without a gallium MRI I would not be able to tell with
15 certainty that there was not a small, narrow tear here from
16 2019.

17 THE COURT: Okay, he answered the question. Let's
18 move on.

19 Q Doctor, with respect to the MRI there are certain
20 injuries that are even below the specificity of the MRI that
21 could progress later on; correct?

22 A Correct.

23 Q Is that herniation also consistent with the initial
24 injury to the three levels above, meaning its pattern, its
25 appearance, et cetera?

Ashley Simela, M.D. - Plaintiff - Redirect

1 A Yes.

2 Q Is the progression of that Odisk at that level
3 consistent with the progression of the only other three disks
4 that were injured in this accident?

5 A Yes.

6 Q So they all kind of moved together over that two year
7 period?

8 A There is noted progression over that period.

9 Q Would that indicate that they are all traumatically
10 induced at the same time?

11 A Yes.

12 MR. PANEK: No further questions.

13 THE COURT: Anything further, Mr. Feehan?

14 MR. FEEHAN: No, your Honor.

15 THE COURT: Okay, thank you very much, Dr. Simela.

16 THE WITNESS: Should I leave these up here?

17 THE COURT: Yes, please. Be careful walking down
18 the steps.

19 THE WITNESS: Thank you.

20 THE COURT: Mr. Panek, is there anything further
21 for today?

22 MR. PANEK: No, your Honor.

23 THE COURT: So as I indicated, as I indicated to
24 you'll probably have this afternoon off. You do. You may
25 have to work, you may have to do other obligations so it

Ashley Simela, M.D. - Plaintiff - Redirect

1 may not feel like being off, but at least you don't have to
2 be in court.

3 You know the admonition. Do not decide this case.
4 You haven't heard all the evidence. You haven't heard each
5 other. You haven't heard my instructions on the law. You
6 haven't heard the summations of the lawyers. Keep an open
7 mind. Don't discuss it with each other. You can discuss
8 coming to court, lunch, all those other things. You can't
9 discuss the case with each other until you are deliberating
10 in the jury room.

11 Also, don't visit the scene and you should be okay
12 and we will see you tomorrow at a quarter to 10:00. Okay.
13 Have a nice afternoon and evening.

14 COURT OFFICER: All rise. Jury exiting.

15 (Jury exiting.)

16 MR. PANEK: Your Honor, counsel endeavored to ask
17 what plaintiff verily believed to be wholly improper
18 questions that intended to mischaracterize the findings of
19 several documents in a wholly collateral and unrelated
20 civil litigation as between a former company where the
21 doctor used to work and the doctor and another person.
22 Plaintiff was forced to immediately object and we spent an
23 extensive amount of time in the hallway discussing these
24 documents which counsel gave to us for the very first time
25 then and there and counsel was after a nearly 15 to 20

Ashley Simela, M.D. - Plaintiff - Redirect

1 minute delay where the jury sat in the box after I was
2 forced to object was permitted to ask at that question as
3 to whether or not the doctor engaged in --

4 THE COURT: Forced to ask the question. Did you
5 say forced to ask the question?

6 MR. PANEK: Counsel was -- defense counsel was
7 permitted to ask the question as to whether or not, and
8 again, I am going to be roughly paraphrasing, I don't have
9 it written down the way he did, whether the doctor was
10 found to have engaged in behavior in failing to preserve
11 documents in a negligent fashion that resulted in him
12 having to pay a sum of money. I understand and we did have
13 extensive discussion about the Court fashioning that remedy
14 based on the available documents to review. Plaintiff's
15 position is that this is wholly collateral and the question
16 actually misstates or fails to presume the actual findings
17 and the actual conduct engaged in or alleged to have been
18 engaged in. There is actually no discussion of negligence
19 in the documents themselves and plaintiff believes that
20 what counsel provided did not impugn the doctor or his
21 credibility or his conduct in any capacity, but rather he
22 was impugned with the conduct of the codefendant in that
23 action.

24 I do understand that it was limited to one
25 question and plaintiff nonetheless finds that question to

Ashley Simela, M.D. - Plaintiff - Redirect

1 be prejudicial and I am just preserving it for the record
2 at this point.

3 THE COURT: Mr. Feehan, I'll hear from you.

4 MR. FEEHAN: Are Judge, credibility is never
5 collateral and the Court found a form of pattern of
6 deception in sworn proceedings type of evidence that has
7 bearing on the character for truthfulness and it is open to
8 exploration. There is a money judgment issued against him.
9 I limited my question to what I believe was the actions
10 taken by Dr. Simela himself. I separated Ms. Gonzalez's
11 actions as best as I could. The lawsuit was against the
12 Doctor and Ms. Gonzalez. The allegations are theft of
13 proceeds, theft of clients and during the litigation that
14 was there there was a fake employee Angelina Polonio
15 (Phonetic), some of the motion papers before said that.
16 The judge found it hard to imagine that Dr. Simela himself
17 didn't know that, have any contact information for a person
18 with respect to how they paid them, you don't know the name
19 or address. They used this e-mail of Angelina Polonio to
20 communicate with lawyers and patients.

21 There was a quick testimony where Dr. Simela
22 acknowledges the receipt of payment for surgeries performed
23 while in this practice and that he kept the payment rather
24 than giving it to the practice. I did not get into
25 Polonio, I did not get into the actual allegation of theft

Ashley Simela, M.D. - Plaintiff - Redirect

1 which is the basis of the lawsuit. I limited it to the
2 actions that I found that I believe were dealt directly
3 with his character and his credibility and as I said early
4 on it was just going to be one or two questions and it was
5 limited to one question. I think I needed to get that out
6 based on the doctor's -- he's the one who's going to
7 basically link this whole case up with everything and I
8 just needed the jury to have some information about this
9 doctor available to him.

10 THE COURT: First of all, I am making it a Court
11 exhibit, both the certification of the decision and the
12 order on motion. It's document number 1800961 from
13 Manhattan, and also the money judgment which is a three
14 page document, number 1800965.

15 And okay, you know, Mr. Panek, when you talk about
16 negligence. We talked about willful and contumacious
17 behavior on behalf of this witness and you didn't want
18 wilfulness. So in the world of civil litigation negligence
19 is a lot less intentional, a lot less serious in terms of
20 people's behavior than wilfulness and contumacious
21 behavior. That's how we got to negligence, just so the
22 record is clear. If it's not in the papers it's only
23 because what's in the paper is wilfulness and contumacious
24 behavior. I am going to read from the document provided to
25 me in the hallway. I would have appreciated having it not

Ashley Simela, M.D. - Plaintiff - Redirect

1 when the witness is on the stand, not right before lunch
2 and not in the hallway.

3 However, I gave the lawyers, and this is very
4 important, I gave you, Mr. Panek, an opportunity and you
5 Mr. Feehan an opportunity to adjourn for further
6 proceedings so Mr. Feehan could find paperwork and you
7 could find paperwork and we could have a more fulsome
8 conversation. Neither of you wanted a further adjournment.

9 The other thing I offered to both of you was out
10 of the hearing of the jury having a voir dire of this
11 witness under oath to get more details. That you didn't
12 want either. So in weighing the probative value of
13 something that I think does impugn credibility against the
14 prejudice of going into a collateral issue. I decided that
15 that if he went and fashioned the question, which by the
16 way, Mr. Panek, you had a hand in fashioning. You didn't
17 want his first suggestion, you didn't want the suggestion,
18 you didn't want the third. I am not saying you waived an
19 objection, I just want the record to be clear that you
20 fashioned the question that had negligence in it. My first
21 suggestion was willful contumacious behavior which
22 definitely would have had more probative value than
23 impugning his credibility. And I gave you those options,
24 nobody wanted the option of the voir dire, nobody wanted
25 the option of adjourning it so we went on.

Ashley Simela, M.D. - Plaintiff - Redirect

1 I do want to read from the document because this
2 is what swayed me. Yes, maybe Gonzalez was mentioned more
3 than Mr. Simela, but Dr. Simela was specifically spoken
4 about in the order and I am going to read from it. This is
5 the quote from the Court's order right before the decretal
6 paragraphs. "Defendants' position," and defendants', "S"
7 apostrophe, so speaking about both defendants in a
8 possessive way. "Defendants'," apostrophe, "Positions,"
9 also pleural, "in this lawsuit including their Jackson
10 affidavits establish a pattern of deception and lack of
11 candor. Therefore, this Court finds the defendants have
12 behaved in contumacious, willful and dilatory fashion such
13 that money sanctions in the form of attorney's fees in
14 addition to the two aforementioned adverse inferences are
15 appropriate".

16 So, looking at the Court's finding about
17 Dr. Simela, and there is some discussion about what Simela
18 did and what Gonzalez did in the context of this order, she
19 specifically, Judge Crane, specifically referred to
20 Dr. Simela's behavior as pattern of deception, lack of
21 candor and willful, contumacious and dilatory tactic. And
22 that to me directly impugns his credibility and I did not
23 allow defendant to go into those words because of the late
24 disclosure of this. I don't know if he had an obligation
25 to disclose it, you know, it's cross examination, but

1 forcing the Court to make a decision like this in the
2 hallway while the witness is on the stand, I didn't allow
3 more fulsome conversation about it. So while he had no
4 obligation he also suffered the penalty of not being able
5 to ask the question exactly how he wanted to quoting from
6 this paragraph of the order. So I am making these Court
7 exhibits.

8 What am I up to? The Court exhibits were -- yes,
9 we had Court exhibits, the motions in limine, 1 and 2 were
10 the motion in limine. So now we're going to have 3 and 4.
11 You'll correct the record. I have Court exhibit motion in
12 limine, plaintiff's motion in limine as court Exhibit 1 and
13 defendant's motion in limine Court Exhibit 2. That's what
14 I have.

15 So that's my ruling. I know you have an
16 objection, Mr. Panek. I think I gave you my ruling in
17 light of the balance of prejudice versus probative in the
18 light most favorable to you once I decided something was
19 going to be asked and if negligence comes out it's only
20 because I wanted to do willful contumacious dilatory and
21 those words were too strong for you, that's why we alighted
22 on negligence, whether negligence was mentioned here or not
23 we alighted on it as a much less standard of scienter.
24 That's it. Anything else?

25 MR. PANEK: No, your Honor.

Ashley Simela, M.D. - Plaintiff - Redirect

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: We're good until tomorrow, a quarter to 10:00. If there is anything you need to raise with me come at 930.

MR. PANEK: I think it might be too late now, I anticipate the to be short tomorrow. I was going to suggest bring the jury in at 10: 30 or --

MR. FEEHAN: My cross is short.

THE COURT: It will be short, that's what I wanted to do, the economist and life planner tomorrow.

CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT OF THE ORIGINAL
STENOGRAPHIC MINUTES TAKEN OF THIS PROCEEDING.

Lucille Cravotta

LUCILLE CRAVOTTA
Senior Court Reporter

\$	324:17, 325:1, 325:20, 328:5, 328:11, 334:5, 348:22, 351:2	7	351:25 Adams [1] - 294:9 addition [4] - 305:11, 307:3, 309:7, 367:14 additional [1] - 349:20 address [12] - 296:15, 299:24, 300:2, 332:3, 336:18, 337:21, 340:15, 344:18, 344:19, 344:20, 345:16, 364:19 addressed [1] - 297:13 addressing [1] - 336:15 adhered [1] - 338:5 adjacent [13] - 327:12, 342:12, 343:1, 343:6, 343:13, 344:10, 344:18, 344:19, 345:3, 346:2, 356:4 adjourn [1] - 366:5 adjourning [1] - 366:25 adjournment [1] - 366:8 admonition [1] - 362:3 advance [2] - 296:21, 323:23 advanced [2] - 342:17, 358:15 advancing [2] - 321:8, 324:11 advantage [1] - 319:3 adversary [1] - 348:16 adverse [1] - 367:14 affect [2] - 318:19, 322:19 affidavits [1] - 367:10 affiliated [2] - 347:21, 347:23 affiliations [1] - 347:4 affirm [1] - 299:19 aforementioned [1] - 367:14 afternoon [5] - 303:12, 303:13, 347:19, 361:24, 362:13 age [6] - 316:2, 321:6, 321:8, 321:9, 321:23, 325:11 agency [1] - 295:15 ago [1] - 298:9 agree [1] - 350:16 agreed [1] - 334:15 ahead [1] - 313:12 alert [1] - 299:14	alighted [2] - 368:21, 368:23 allegation [1] - 364:25 allegations [1] - 364:12 alleged [1] - 363:17 allow [7] - 319:13, 335:8, 351:4, 356:1, 358:24, 367:23, 368:2 allows [4] - 300:14, 300:15, 312:14, 316:22 alongside [1] - 332:17 altered [4] - 309:3, 309:4, 309:18, 313:9 ambulatory [2] - 347:14, 347:16 amount [2] - 308:3, 362:23 anatomical [1] - 310:19 anatomically [1] - 358:8 anatomy [4] - 306:5, 310:16, 316:9, 337:15 anchors [2] - 338:11, 338:13 AND [1] - 369:10 anesthesia [3] - 332:16, 332:17, 347:14 Angelas [1] - 301:22 Angelina [2] - 364:14, 364:19 angular [1] - 350:5 Angular [1] - 350:6 ANNE [1] - 294:12 annular [1] - 358:12 answer [14] - 296:4, 296:16, 297:23, 300:12, 300:13, 322:12, 324:5, 324:21, 329:8, 333:24, 344:3, 348:19, 360:13 answered [2] - 350:23, 360:17 anterior [4] - 332:5, 332:6, 335:18, 335:19 anticipate [2] - 300:13, 369:5 anticipation [1] - 341:4 apologize [3] - 351:6, 353:17, 355:9 apostrophe [2] - 367:7, 367:8
\$15,000 [1] - 303:11 \$9,500 [1] - 303:11	2024 [7] - 337:16, 353:8, 354:2, 354:13, 355:3, 355:4, 355:10	8		
0	2025 [9] - 338:16, 341:20, 341:22, 353:13, 354:23, 355:3, 355:11, 355:13, 355:23	9		
Odisk [1] - 361:2	2026 [1] - 294:10	A		
1	20th [1] - 304:14	ability [2] - 341:1, 359:1 able [6] - 305:1, 317:12, 340:11, 341:4, 360:14, 368:4 abnormal [3] - 312:7, 358:2, 358:15 abnormality [1] - 307:14 abnormally [2] - 307:24, 358:13 accelerated [1] - 352:22 accelerates [1] - 323:22 acceleration [1] - 358:15 accident [16] - 304:16, 312:23, 313:19, 318:15, 318:18, 319:8, 319:17, 322:15, 325:15, 327:2, 329:1, 343:23, 344:8, 350:16, 352:6, 361:4 accumulate [2] - 339:13, 339:17 ACCURATE [1] - 369:10 accurate [1] - 310:20 acknowledges [1] - 364:22 action [1] - 363:23 actions [3] - 364:9, 364:11, 365:2 active [2] - 330:10, 345:5 activities [1] - 322:18 activity [1] - 330:9 actual [6] - 310:20, 312:8, 337:3, 363:16, 363:17, 364:25 acute [6] - 315:16, 315:17, 315:19, 350:2, 350:18,		
1 [2] - 368:9, 368:12 10 [1] - 369:6 10005 [1] - 294:17 10006 [1] - 294:21 10:00 [2] - 362:12, 369:2 10th [2] - 328:4, 328:11 11201 [1] - 294:9 11412 [1] - 300:3 12 [1] - 344:8 12th [1] - 327:2 14 [1] - 350:16 15 [3] - 297:25, 337:6, 362:25 152 [1] - 354:12 16 [1] - 294:10 1800961 [1] - 365:12 1800965 [1] - 365:14 19 [6] - 298:12, 298:18, 310:24, 311:3, 355:4	21 [4] - 334:5, 354:23, 355:3, 355:13 2132 [1] - 300:2 22 [1] - 337:16 22nd [1] - 354:2 23 [1] - 324:16 28th [1] - 324:17			
2	3			
2 [2] - 368:9, 368:13 2,000 [1] - 353:6 2,100 [1] - 353:7 20 [3] - 298:8, 354:11, 362:25 2018 [6] - 304:17, 319:18, 327:3, 328:25, 344:8, 353:7 2019 [14] - 314:11, 318:14, 320:13, 321:24, 322:16, 324:25, 350:10, 350:11, 350:24, 351:13, 358:19, 358:23, 359:19, 360:16 202 [1] - 294:20 2021 [10] - 320:14, 321:25, 324:14, 324:25, 351:5, 351:9, 351:10, 351:23, 359:21, 359:23 2023 [11] - 304:14, 319:5, 324:15,	3 [1] - 368:10 3-4 [1] - 358:6 30 [2] - 352:19, 369:6 31 [2] - 315:15, 351:8 31st [2] - 351:5, 359:23 36.02 [2] - 352:13, 352:17 360 [1] - 294:9 38th [1] - 294:16			
2	4			
2 [2] - 368:9, 368:13 2,000 [1] - 353:6 2,100 [1] - 353:7 20 [3] - 298:8, 354:11, 362:25 2018 [6] - 304:17, 319:18, 327:3, 328:25, 344:8, 353:7 2019 [14] - 314:11, 318:14, 320:13, 321:24, 322:16, 324:25, 350:10, 350:11, 350:24, 351:13, 358:19, 358:23, 359:19, 360:16 202 [1] - 294:20 2021 [10] - 320:14, 321:25, 324:14, 324:25, 351:5, 351:9, 351:10, 351:23, 359:21, 359:23 2023 [11] - 304:14, 319:5, 324:15,	4 [1] - 368:10 4-5 [4] - 315:3, 315:5, 325:13, 358:6 40 [5] - 313:23, 313:24, 317:1, 355:7 48 [1] - 339:20			
2	5			
2 [2] - 368:9, 368:13 2,000 [1] - 353:6 2,100 [1] - 353:7 20 [3] - 298:8, 354:11, 362:25 2018 [6] - 304:17, 319:18, 327:3, 328:25, 344:8, 353:7 2019 [14] - 314:11, 318:14, 320:13, 321:24, 322:16, 324:25, 350:10, 350:11, 350:24, 351:13, 358:19, 358:23, 359:19, 360:16 202 [1] - 294:20 2021 [10] - 320:14, 321:25, 324:14, 324:25, 351:5, 351:9, 351:10, 351:23, 359:21, 359:23 2023 [11] - 304:14, 319:5, 324:15,	5-6 [3] - 315:3, 315:5, 358:6 50 [2] - 294:6, 313:24 523486/2018 [1] - 294:4 55 [1] - 294:20			
2	6			
2 [2] - 368:9, 368:13 2,000 [1] - 353:6 2,100 [1] - 353:7 20 [3] - 298:8, 354:11, 362:25 2018 [6] - 304:17, 319:18, 327:3, 328:25, 344:8, 353:7 2019 [14] - 314:11, 318:14, 320:13, 321:24, 322:16, 324:25, 350:10, 350:11, 350:24, 351:13, 358:19, 358:23, 359:19, 360:16 202 [1] - 294:20 2021 [10] - 320:14, 321:25, 324:14, 324:25, 351:5, 351:9, 351:10, 351:23, 359:21, 359:23 2023 [11] - 304:14, 319:5, 324:15,	6 [4] - 314:11, 350:10, 350:11, 355:25 60 [7] - 349:24, 349:25, 354:23, 355:4, 355:5, 355:8			

<p>appear [2] - 319:24, 325:10</p> <p>appearance [2] - 321:24, 360:25</p> <p>APPEARANCES [1] - 294:14</p> <p>appeared [1] - 357:3</p> <p>application [1] - 295:4</p> <p>appreciate [1] - 356:21</p> <p>appreciated [1] - 365:25</p> <p>apprise [1] - 298:15</p> <p>approach [4] - 348:5, 348:6, 357:16, 358:21</p> <p>appropriate [1] - 367:15</p> <p>approved [2] - 295:7, 295:23</p> <p>April [5] - 338:16, 353:13, 354:23, 355:3, 355:13</p> <p>area [2] - 309:17, 338:20</p> <p>areas [3] - 325:6, 357:25, 358:1</p> <p>argue [1] - 297:20</p> <p>arguing [1] - 296:7</p> <p>arm [5] - 326:5, 326:21, 328:12, 342:2, 355:21</p> <p>arms [1] - 313:20</p> <p>arthritic [2] - 353:21, 353:23</p> <p>arthritis [1] - 316:4</p> <p>ASHLEY [1] - 300:1</p> <p>Ashley [3] - 299:18, 299:25, 300:1</p> <p>aspect [1] - 323:7</p> <p>assessment [1] - 354:5</p> <p>assessments [1] - 325:23</p> <p>assume [3] - 313:16, 324:7, 333:6</p> <p>assumed [1] - 295:5</p> <p>asymmetry [2] - 307:12</p> <p>attach [1] - 358:22</p> <p>attempt [1] - 336:15</p> <p>attempting [1] - 320:19</p> <p>attention [2] - 346:9, 351:8</p> <p>attorney [3] - 295:18, 296:9, 324:5</p> <p>attorney's [1] - 367:13</p> <p>Attorneys [2] - 294:16, 294:20</p>	<p>August [2] - 355:3, 355:4</p> <p>available [5] - 305:1, 320:14, 344:22, 363:14, 365:9</p> <p>Avenue [1] - 300:2</p> <p>avoid [1] - 341:4</p> <p>award [1] - 302:2</p> <p>awarded [2] - 301:21, 348:15</p> <p>aware [5] - 304:15, 353:3, 353:6, 354:6, 354:11</p> <p>axial [4] - 312:5, 314:19, 315:8, 320:16</p>	<p>366:21, 367:20</p> <p>believes [1] - 363:19</p> <p>belong [1] - 313:7</p> <p>below [4] - 312:7, 336:20, 343:11, 360:20</p> <p>bench [1] - 348:8</p> <p>benefit [1] - 319:20</p> <p>BERNSTEIN [1] - 294:22</p> <p>best [2] - 337:9, 364:11</p> <p>better [3] - 338:3, 342:6, 355:21</p> <p>between [8] - 311:19, 311:21, 319:25, 338:20, 342:25, 353:7, 357:3, 362:20</p> <p>beyond [1] - 359:1</p> <p>big [1] - 298:1</p> <p>bigger [1] - 357:18</p> <p>bilateral [1] - 341:23</p> <p>bilaterally [1] - 334:6</p> <p>biology [1] - 301:13</p> <p>bit [8] - 295:11, 301:8, 328:2, 329:6, 338:3, 343:11, 358:10</p> <p>bleeding [1] - 333:2</p> <p>blood [2] - 339:13, 339:17</p> <p>BMAC [3] - 295:6, 295:23, 295:24</p> <p>BMI [2] - 352:13, 352:19</p> <p>board [7] - 302:15, 302:16, 313:21, 313:23, 317:1, 317:5, 337:17</p> <p>body [9] - 295:15, 306:19, 309:11, 309:12, 312:21, 316:2, 318:23, 320:19, 352:13</p> <p>bone [9] - 302:6, 306:15, 307:1, 330:2, 330:3, 330:18, 335:20, 338:6, 343:3</p> <p>bones [6] - 302:7, 307:15, 321:21, 332:10, 357:17</p> <p>bony [2] - 306:23, 311:14</p> <p>bow [2] - 316:15, 316:17</p> <p>box [2] - 309:12, 363:1</p> <p>bread [2] - 315:8, 315:9</p> <p>break [5] - 329:13, 329:19, 330:2,</p>	<p>331:11, 331:12</p> <p>breakdown [1] - 343:12</p> <p>breaker [1] - 309:14</p> <p>briefly [1] - 306:20</p> <p>bring [2] - 299:4, 369:6</p> <p>bringing [1] - 296:9</p> <p>broad [2] - 320:20, 334:12</p> <p>broadly [1] - 329:4</p> <p>Broadway [1] - 294:20</p> <p>broke [1] - 330:3</p> <p>broken [4] - 320:24, 329:5, 329:17, 336:18</p> <p>Bronx [1] - 302:13</p> <p>Brooklyn [7] - 294:9, 300:2, 302:11, 303:15, 305:7, 347:5, 347:8</p> <p>brought [2] - 359:3, 359:6</p> <p>burr [1] - 338:4</p> <p>business [2] - 299:24, 300:1</p> <p>BY [7] - 294:17, 294:18, 294:21, 294:22, 300:25, 346:23, 356:25</p>	<p>candor [2] - 367:11, 367:21</p> <p>capable [1] - 333:11</p> <p>capacity [2] - 353:4, 363:21</p> <p>care [6] - 296:3, 297:19, 304:2, 345:5, 348:22</p> <p>careful [2] - 314:9, 361:17</p> <p>Carlos [1] - 305:5</p> <p>carpenter [9] - 320:25, 321:16, 345:21, 345:25, 346:4, 353:4, 353:9, 356:11, 356:16</p> <p>cartilage [3] - 338:5, 353:25, 357:19</p> <p>cascade [1] - 357:19</p> <p>case [22] - 308:2, 308:18, 309:18, 310:2, 310:4, 311:19, 313:3, 316:3, 316:16, 317:7, 320:16, 327:25, 334:23, 335:17, 339:24, 357:13, 360:4, 360:7, 360:9, 362:3, 362:9, 365:7</p> <p>categorized [1] - 354:18</p> <p>causation [1] - 352:8</p> <p>caused [5] - 318:7, 360:4, 360:6, 360:7, 360:8</p> <p>causes [8] - 309:16, 313:5, 316:21, 317:15, 317:16, 321:13, 323:23, 360:1</p> <p>causing [6] - 307:17, 311:25, 316:12, 317:11, 326:4, 343:3</p> <p>caustic [1] - 313:7</p> <p>Cedar [1] - 301:21</p> <p>Center [2] - 301:22, 347:22</p> <p>centers's [1] - 352:16</p> <p>certain [7] - 307:20, 308:24, 313:17, 327:12, 348:14, 348:25, 360:19</p> <p>certainly [29] - 299:25, 300:20, 301:11, 301:25, 302:11, 306:7, 306:23, 307:10, 308:16, 309:7, 310:2, 312:25, 316:14,</p>
	B			
	<p>bachelors [1] - 301:13</p> <p>background [1] - 301:9</p> <p>balance [1] - 368:17</p> <p>ball [1] - 307:17</p> <p>balloon [1] - 313:1</p> <p>ballpark [1] - 344:15</p> <p>based [12] - 296:23, 303:10, 309:24, 311:8, 324:9, 325:21, 325:22, 334:12, 359:19, 363:14, 365:6</p> <p>basing [1] - 352:8</p> <p>basis [4] - 295:18, 297:18, 345:14, 365:1</p> <p>bathroom [2] - 309:13, 309:14</p> <p>BE [1] - 369:10</p> <p>bearing [1] - 364:7</p> <p>bears [1] - 318:18</p> <p>became [1] - 330:6</p> <p>become [3] - 330:8, 334:12, 357:18</p> <p>becomes [1] - 324:13</p> <p>becoming [3] - 319:3, 342:13, 343:2</p> <p>bed [2] - 322:9, 333:10</p> <p>BEFORE [1] - 294:11</p> <p>began [1] - 327:17</p> <p>beginning [2] - 307:10, 315:2</p> <p>begins [2] - 306:10, 314:21</p> <p>behalf [3] - 303:16, 303:19, 365:17</p> <p>behaved [1] - 367:12</p> <p>behavior [7] - 363:10, 365:17, 365:20, 365:21, 365:24,</p>			
			C	
			<p>C2 [1] - 311:15</p> <p>C3 [1] - 311:15</p> <p>C3-4 [2] - 315:3, 315:4</p> <p>C4 [1] - 311:15</p> <p>C4-5 [2] - 327:13, 343:4</p> <p>C5 [4] - 311:15, 311:19, 338:20, 342:25</p> <p>C5-6 [6] - 315:6, 315:11, 325:13, 327:12, 335:18, 336:9</p> <p>C5-C [1] - 355:25</p> <p>C6 [11] - 309:4, 309:5, 309:10, 309:18, 309:20, 311:15, 311:19, 338:20, 342:25, 359:17, 359:25</p> <p>C6-7 [7] - 350:24, 351:2, 351:9, 351:11, 358:10, 358:14, 359:20</p> <p>C6-C7 [1] - 358:4</p> <p>C7 [1] - 311:16</p> <p>cage [1] - 306:10</p>	

<p>317:7, 318:20, 319:11, 319:15, 324:18, 325:25, 326:16, 330:10, 332:8, 334:10, 337:13, 337:17, 342:25, 344:17, 347:13, 358:14 certainty [14] - 316:2, 318:3, 319:14, 319:24, 320:3, 322:19, 323:14, 326:25, 331:3, 344:6, 344:9, 345:8, 345:20, 360:15 certification [2] - 302:16, 365:11 CERTIFIED [1] - 369:10 certified [1] - 302:15 cervical [29] - 302:19, 305:18, 306:9, 306:16, 306:18, 311:11, 311:21, 314:11, 314:24, 316:15, 324:17, 324:25, 325:2, 326:2, 326:3, 327:10, 327:20, 330:2, 330:19, 331:25, 332:5, 332:7, 335:18, 341:23, 345:13, 346:2, 347:15, 349:23, 355:25 cetera [2] - 302:19, 360:25 chance [1] - 340:16 change [3] - 315:21, 315:22, 358:15 changed [1] - 320:21 changes [3] - 316:1, 325:11, 350:18 character [2] - 364:7, 365:3 characterize [1] - 354:8 characterizing [1] - 316:12 chart [4] - 304:5, 304:9, 330:25, 346:10 checked [2] - 347:18 chemical [4] - 313:6, 316:20, 316:21, 329:22 chose [1] - 347:11 chronologically [1] - 314:11 City [2] - 305:4,</p>	<p>328:16 CIVIL [1] - 294:1 civil [2] - 362:20, 365:18 clarification [1] - 317:1 classified [1] - 352:20 classify [1] - 352:2 clear [14] - 299:23, 300:7, 317:20, 318:9, 321:23, 325:14, 326:8, 337:19, 338:4, 338:9, 338:15, 343:21, 365:22, 366:19 CLERK [2] - 299:19, 299:23 Cleveland [1] - 301:20 client [2] - 297:21, 297:22 clients [1] - 364:13 clinical [1] - 326:20 close [1] - 339:12 closed [1] - 339:11 closer [4] - 321:22, 331:13, 357:17 clue [2] - 308:11, 309:19 coccyx [1] - 306:15 codefendant [1] - 363:22 coined [1] - 343:8 collapsed [1] - 343:2 collateral [4] - 362:19, 363:15, 364:5, 366:14 colloquial [1] - 306:16 color [1] - 320:21 coming [5] - 299:13, 303:22, 308:12, 333:9, 362:8 communicate [1] - 364:20 communicated [1] - 333:3 company [1] - 362:20 compensated [1] - 303:5 compensation [1] - 303:8 complaining [1] - 328:9 complaint [1] - 330:1 complaints [2] - 308:7, 328:12 complete [2] - 302:1, 338:9 completed [3] - 301:11, 301:15,</p>	<p>301:18 completely [6] - 319:3, 329:14, 332:23, 337:9, 338:9, 351:24 completion [2] - 301:16, 301:20 component [1] - 319:2 components [3] - 306:24, 310:4 comprehensive [1] - 325:25 compressed [2] - 311:22, 326:10 compresses [1] - 326:4 compressing [3] - 312:8, 315:7, 337:24 compression [6] - 313:10, 316:21, 329:23, 330:20, 339:15, 355:19 compromise [1] - 308:17 compromised [1] - 343:23 compromising [1] - 332:21 concern [3] - 335:24, 335:25, 342:24 concerned [1] - 309:25 concerning [2] - 330:6, 341:15 conclusions [1] - 325:23 concrete [1] - 314:1 condition [4] - 325:17, 343:16, 343:18 conduct [5] - 296:24, 297:2, 363:17, 363:21, 363:22 conference [1] - 348:8 connecting [1] - 338:22 conservative [1] - 327:24 consider [1] - 296:14 considerable [1] - 308:17 consisted [2] - 333:9, 341:10 consistent [10] - 318:5, 319:17, 323:15, 324:10, 326:10, 326:19, 333:20, 350:17, 360:23, 361:3 consistently [1] - 320:24</p>	<p>CONSTRUCTION [1] - 294:6 contact [1] - 364:17 contained [1] - 305:10 content [5] - 318:22, 318:25, 319:15, 320:18, 320:21 context [9] - 295:13, 315:18, 315:19, 317:5, 326:9, 326:14, 329:3, 329:4, 367:18 continue [7] - 300:21, 323:1, 324:6, 331:22, 341:13, 346:20, 348:9 continued [3] - 295:1, 341:13, 341:17 contumacious [7] - 365:16, 365:20, 365:23, 366:21, 367:12, 367:21, 368:20 conversation [2] - 366:8, 368:3 converse [1] - 331:17 copies [2] - 298:19, 311:5 copy [1] - 298:16 cord [4] - 311:13, 315:10, 332:21, 338:8 cords [1] - 339:15 Cornell [1] - 301:14 corpectomy [2] - 335:20, 338:6 CORPORATION [1] - 294:6 correct [96] - 298:23, 304:5, 304:6, 304:17, 304:20, 306:17, 306:18, 309:22, 318:15, 319:21, 322:22, 327:15, 328:5, 328:14, 329:1, 332:1, 333:4, 334:16, 335:11, 336:1, 336:3, 336:4, 336:25, 338:16, 339:5, 339:8, 340:11, 340:13, 340:17, 340:18, 341:18, 342:6, 342:8, 342:19, 347:2, 347:6, 347:8, 347:17, 347:24, 347:25, 348:1, 348:16, 348:23, 349:1, 349:17,</p>	<p>349:25, 350:1, 350:4, 350:7, 350:10, 350:13, 350:25, 351:1, 351:3, 351:10, 351:13, 351:15, 351:16, 351:17, 351:19, 352:1, 352:6, 352:10, 352:11, 352:20, 352:23, 353:4, 353:8, 353:14, 353:21, 353:24, 354:2, 354:9, 354:16, 354:19, 354:23, 355:11, 355:14, 355:15, 355:17, 355:21, 356:5, 356:13, 356:17, 356:18, 356:19, 357:23, 357:24, 358:2, 358:6, 358:17, 358:18, 359:18, 360:21, 360:22, 368:11 correctly [1] - 349:18 corresponding [2] - 306:19, 309:15 counsel [6] - 362:16, 362:24, 362:25, 363:6, 363:20 COUNTY [1] - 294:1 couple [1] - 319:7 course [3] - 312:23, 324:12, 342:5 court [11] - 298:23, 303:6, 303:10, 303:16, 303:19, 303:22, 348:14, 348:15, 362:2, 362:8, 368:12 COURT [79] - 294:1, 295:1, 295:25, 297:1, 297:9, 298:17, 298:21, 298:24, 299:2, 299:4, 299:8, 299:10, 299:12, 300:4, 300:6, 300:21, 302:25, 303:2, 306:2, 310:9, 311:1, 311:3, 314:9, 314:13, 319:13, 322:11, 323:5, 323:9, 323:11, 324:1, 324:3, 324:19, 329:8, 331:8, 331:12, 331:15, 331:17,</p>
---	--	---	--	---

<p>331:19, 331:21, 333:16, 333:18, 333:23, 335:8, 337:5, 337:8, 340:9, 344:2, 346:7, 346:11, 346:13, 346:15, 346:17, 346:20, 348:4, 348:6, 348:9, 348:11, 348:18, 350:22, 357:9, 359:3, 359:12, 359:15, 360:4, 360:6, 360:8, 360:12, 360:17, 361:13, 361:15, 361:17, 361:20, 361:23, 362:14, 363:4, 364:3, 365:10, 369:1, 369:8 Court [19] - 294:13, 294:25, 295:6, 298:15, 299:20, 302:22, 303:3, 363:13, 364:5, 365:10, 367:11, 368:1, 368:6, 368:8, 368:9, 368:11, 368:13, 369:13 Court's [7] - 305:22, 310:23, 314:6, 336:23, 342:23, 367:5, 367:16 Courthouse [1] - 294:8 courtroom [3] - 299:6, 300:8, 313:17 Crane [1] - 367:19 CRAVOTTA [2] - 294:24, 369:13 credibility [7] - 298:1, 363:21, 364:4, 365:3, 366:13, 366:23, 367:22 cross [4] - 359:3, 359:6, 367:25, 369:7 CROSS [1] - 346:22 CT [1] - 342:18 curative [8] - 295:9, 296:5, 296:11, 296:15, 296:22, 297:7, 297:9, 297:13 curious [1] - 349:22 curl [1] - 307:17 current [1] - 302:9 curriculum [1] - 302:2 curvature [2] - 316:9, 316:15 cut [2] - 332:17, 337:18</p>	<p style="text-align: center;">D</p> <p>dark [1] - 319:1 date [6] - 304:15, 305:12, 307:5, 328:10, 354:4, 355:2 DAVID [1] - 294:21 days [4] - 319:8, 339:24, 340:3, 354:11 deal [1] - 298:2 dealt [1] - 365:2 death [1] - 333:2 DECAYETTE [1] - 294:2 Decayette [50] - 303:24, 304:1, 304:13, 305:2, 305:12, 307:3, 308:7, 313:18, 317:1, 320:23, 322:6, 324:7, 325:20, 325:23, 327:14, 328:3, 328:9, 328:23, 329:4, 330:5, 332:1, 333:3, 333:6, 333:25, 334:4, 334:15, 334:18, 335:16, 336:5, 339:7, 339:18, 340:10, 341:1, 341:24, 342:14, 344:6, 345:4, 345:20, 347:8, 349:8, 350:21, 351:21, 352:9, 352:13, 354:5, 354:11, 355:20, 356:7, 356:10, 357:25 Decayette's [11] - 308:1, 313:14, 318:5, 326:12, 328:13, 331:4, 332:4, 335:5, 338:16, 348:21, 357:3 deception [3] - 364:6, 367:10, 367:20 decide [1] - 362:3 decided [3] - 333:7, 366:14, 368:18 decision [2] - 365:11, 368:1 declared [1] - 303:2 decline [1] - 342:8 deceased [1] - 308:2 decretal [1] - 367:5 dedicated [2] - 302:2,</p>	<p>302:3 deemed [2] - 295:8, 295:15 defendant [1] - 367:23 defendant's [1] - 368:13 defendants [2] - 367:7, 367:11 Defendants [2] - 294:7, 294:20 defendants' [3] - 367:6, 367:8 defense [1] - 363:6 deficit [1] - 309:9 definitely [1] - 366:22 definition [1] - 302:5 degenerates [1] - 357:21 degenerating [2] - 321:1, 325:7 degeneration [14] - 316:3, 321:2, 321:3, 325:11, 343:7, 343:14, 350:6, 351:19, 351:25, 352:3, 353:14, 353:20, 353:21, 357:20 degenerative [13] - 315:20, 315:21, 315:22, 315:25, 321:5, 321:7, 350:6, 350:17, 352:23, 357:2, 357:4, 357:12, 357:15 degree [12] - 318:3, 319:13, 319:24, 320:3, 322:19, 323:14, 326:25, 331:3, 344:6, 344:9, 345:7, 345:19 degrees [1] - 349:24 delay [1] - 363:1 deliberating [1] - 362:9 dermatomal [1] - 309:5 dermatome [6] - 309:9, 309:10, 309:17, 309:19, 311:17 describe [11] - 306:12, 306:13, 309:13, 311:16, 312:5, 312:15, 343:9, 352:3, 353:20 described [2] - 306:23, 353:15 desiccate [2] - 318:24, 323:1</p>	<p>desiccated [1] - 319:3 desiccates [1] - 357:17 desiccation [2] - 319:5, 321:15 despite [1] - 327:20 detail [1] - 357:8 detailed [1] - 327:7 details [1] - 366:11 detective [1] - 347:18 deteriorate [1] - 312:19 deteriorates [1] - 316:2 deteriorating [1] - 346:3 determine [1] - 309:8 determined [1] - 326:2 DEVELOPMENT [1] - 294:6 develops [2] - 313:5, 351:24 device [2] - 307:22, 338:4 diabetes [1] - 352:25 diagnosing [1] - 342:15 diagnostic [2] - 309:22, 309:25 diagram [1] - 311:11 difference [1] - 327:8 different [2] - 316:13, 351:24 differently [1] - 352:2 dilatory [3] - 367:12, 367:21, 368:20 diplomat [1] - 302:16 dire [2] - 366:10, 366:24 DIRECT [1] - 300:24 directed [1] - 331:17 direction [1] - 342:4 directly [2] - 365:2, 367:22 disabled [1] - 355:10 disclose [1] - 367:25 disclosure [1] - 367:24 discuss [4] - 303:23, 362:7, 362:9 discussed [2] - 327:16, 333:1 discussing [2] - 334:4, 362:23 discussion [3] - 363:13, 363:18, 367:17 disease [3] - 343:6, 343:13, 352:23 disk [90] - 306:25,</p>	<p>307:1, 310:3, 310:13, 310:17, 311:20, 311:21, 311:24, 311:25, 312:6, 312:10, 312:13, 312:18, 312:22, 312:25, 315:4, 316:5, 316:20, 317:10, 318:20, 319:5, 320:16, 320:22, 321:10, 321:14, 321:16, 321:21, 323:1, 323:15, 323:23, 324:12, 324:18, 325:2, 325:4, 325:5, 325:13, 326:2, 326:3, 326:17, 327:12, 327:13, 329:17, 329:18, 329:23, 330:11, 330:19, 330:20, 332:9, 332:19, 332:23, 334:10, 335:19, 336:9, 336:20, 337:19, 337:21, 337:23, 338:3, 338:5, 338:9, 340:24, 341:3, 341:14, 341:17, 342:12, 343:2, 343:10, 343:11, 343:21, 343:22, 344:10, 344:21, 344:23, 344:24, 345:2, 345:16, 350:4, 352:23, 357:16, 357:17, 358:14, 358:23, 359:25, 360:1 diskectomy [5] - 332:5, 332:7, 332:8, 335:18, 337:22 disks [21] - 306:21, 313:14, 321:11, 321:13, 322:4, 324:24, 325:8, 325:15, 326:11, 326:15, 327:11, 331:25, 333:20, 335:24, 336:3, 336:6, 336:19, 340:16, 358:13, 361:3 displace [1] - 334:12 displacement [2] - 359:25, 360:1 disregard [3] - 296:17, 322:12, 344:3</p>
---	--	---	--	---

<p>distracting [1] - 329:19</p> <p>distraction [1] - 329:12</p> <p>distribution [1] - 309:5</p> <p>Doctor [53] - 298:14, 303:12, 303:16, 304:1, 304:4, 304:7, 304:12, 305:9, 305:20, 306:1, 306:4, 306:20, 307:2, 307:7, 311:5, 313:12, 314:10, 315:15, 318:9, 318:13, 319:20, 320:7, 321:23, 322:12, 325:19, 326:8, 326:24, 327:14, 328:7, 328:13, 330:13, 332:12, 335:10, 336:23, 337:7, 337:10, 338:18, 338:24, 341:12, 341:20, 343:5, 343:17, 345:11, 345:23, 349:22, 352:19, 353:11, 354:1, 355:9, 358:21, 358:23, 359:11, 364:12</p> <p>doctor [37] - 301:8, 301:23, 302:15, 302:18, 306:16, 310:12, 314:7, 316:8, 316:25, 318:3, 320:3, 320:23, 322:6, 324:7, 324:22, 326:25, 327:5, 328:23, 330:5, 331:2, 331:24, 333:6, 335:22, 337:14, 338:25, 344:5, 345:4, 356:21, 357:1, 358:16, 360:19, 362:21, 363:3, 363:9, 363:20, 365:9</p> <p>doctor's [1] - 365:6</p> <p>doctors [1] - 298:11</p> <p>document [5] - 311:8, 365:12, 365:14, 365:24, 367:1</p> <p>documenting [1] - 320:5</p> <p>documents [11] - 348:14, 349:1, 349:4, 349:5, 349:7,</p>	<p>349:20, 362:19, 362:24, 363:11, 363:14, 363:19</p> <p>done [2] - 298:8, 300:6</p> <p>doom [1] - 308:22</p> <p>doughnut [2] - 312:15, 312:17</p> <p>down [15] - 300:15, 306:1, 308:4, 308:24, 314:7, 314:9, 314:14, 315:4, 315:5, 326:13, 336:24, 337:7, 342:23, 361:17, 363:9</p> <p>Dr [25] - 295:5, 299:7, 299:18, 300:1, 300:4, 301:1, 301:3, 302:22, 303:5, 304:16, 305:4, 328:18, 328:20, 328:23, 346:24, 347:1, 348:12, 348:21, 361:15, 364:10, 364:16, 364:21, 367:3, 367:17, 367:20</p> <p>drain [3] - 339:7, 339:10, 339:16</p> <p>draw [1] - 351:8</p> <p>drill [1] - 338:4</p> <p>due [3] - 333:10, 348:15, 351:19</p> <p>during [7] - 305:3, 325:7, 336:21, 348:14, 355:10, 355:19, 364:13</p>	<p>EMG [4] - 341:20, 341:22, 342:10, 355:23</p> <p>employee [1] - 364:14</p> <p>employer [1] - 348:13</p> <p>employment [1] - 336:13</p> <p>encapsulated [3] - 312:14, 313:1, 336:21</p> <p>encased [1] - 302:7</p> <p>encompass [1] - 306:25</p> <p>encompassed [1] - 302:7</p> <p>encroaching [2] - 308:25, 334:10</p> <p>end [1] - 295:21</p> <p>endeavored [1] - 362:16</p> <p>endplates [1] - 338:4</p> <p>ends [1] - 306:10</p> <p>engaged [4] - 363:3, 363:10, 363:17, 363:18</p> <p>entail [1] - 344:20</p> <p>entails [1] - 301:24</p> <p>enter [1] - 299:7</p> <p>entering [6] - 299:10, 299:11, 331:19, 331:20, 346:15, 346:16</p> <p>entire [4] - 306:7, 327:10, 330:25, 332:9</p> <p>entirety [1] - 332:20</p> <p>equipped [1] - 305:24</p> <p>es [1] - 359:14</p> <p>escape [2] - 311:25, 312:14</p> <p>escapes [2] - 312:16, 313:5</p> <p>ESQ [4] - 294:17, 294:18, 294:21, 294:22</p> <p>essentially [10] - 309:10, 313:7, 316:7, 321:20, 326:18, 332:9, 336:14, 337:18, 340:17, 344:24</p> <p>establish [1] - 367:10</p> <p>established [1] - 303:9</p> <p>estate [1] - 339:14</p> <p>et [2] - 302:19, 360:25</p> <p>evaluation [5] - 304:14, 305:3, 328:1, 328:11, 334:7</p> <p>evening [2] - 299:13,</p>	<p>362:13</p> <p>event [1] - 350:18</p> <p>eventually [1] - 334:15</p> <p>evidence [12] - 295:6, 304:8, 304:9, 305:10, 310:25, 311:4, 337:6, 350:17, 357:7, 357:11, 362:4, 364:6</p> <p>exact [3] - 318:4, 354:7, 354:14</p> <p>exactly [2] - 348:20, 368:5</p> <p>exam [4] - 307:15, 309:7, 326:20, 349:25</p> <p>examination [9] - 304:23, 307:4, 307:8, 307:11, 325:22, 326:1, 334:4, 356:8, 367:25</p> <p>EXAMINATION [3] - 300:24, 346:22, 356:24</p> <p>examine [1] - 307:13</p> <p>examined [1] - 307:16</p> <p>example [1] - 316:25</p> <p>except [1] - 320:20</p> <p>exception [1] - 316:5</p> <p>exchanged [1] - 349:17</p> <p>excuse [2] - 317:16, 350:3</p> <p>Exhibit [4] - 310:24, 337:6, 368:12, 368:13</p> <p>exhibit [10] - 298:18, 306:21, 308:25, 310:7, 310:12, 310:19, 316:8, 337:5, 365:11, 368:11</p> <p>exhibits [4] - 298:17, 368:7, 368:8, 368:9</p> <p>exists [1] - 296:10</p> <p>exit [1] - 299:6</p> <p>exiting [7] - 326:18, 331:15, 331:16, 346:13, 346:14, 362:14, 362:15</p> <p>expect [5] - 303:12, 315:22, 316:8, 322:18, 323:20</p> <p>expected [1] - 340:25</p> <p>experienced [1] - 324:4</p> <p>experiencing [1] - 321:2</p> <p>experimental [5] - 295:7, 295:8,</p>	<p>295:13, 295:16, 297:24</p> <p>expert [3] - 302:22, 302:23, 303:2</p> <p>explain [18] - 301:23, 305:23, 306:4, 306:20, 308:14, 309:5, 312:21, 315:24, 317:5, 318:17, 324:22, 325:21, 332:6, 334:8, 336:5, 347:10, 357:7, 357:11</p> <p>explained [2] - 295:3, 298:13</p> <p>explaining [3] - 310:13, 310:16, 337:2</p> <p>exploration [1] - 364:8</p> <p>expose [1] - 332:18</p> <p>extending [1] - 315:3</p> <p>extension [3] - 349:23, 354:22, 355:7</p> <p>extensive [2] - 362:23, 363:13</p> <p>extracted [2] - 320:18, 320:22</p> <p>extraction [1] - 329:22</p> <p>extremely [1] - 324:20</p> <p>extremities [1] - 305:19</p>
F				
			<p>facet [10] - 321:2, 321:5, 321:6, 321:23, 325:9, 353:10, 353:17, 353:23, 353:25, 357:14</p> <p>facets [1] - 325:6</p> <p>facility [1] - 347:21</p> <p>fact [9] - 295:11, 295:20, 295:23, 323:16, 329:4, 334:3, 335:10, 341:20, 353:1</p> <p>factor [2] - 352:22, 352:24</p> <p>facts [1] - 295:5</p> <p>fail [1] - 327:24</p> <p>failing [1] - 363:10</p> <p>fails [1] - 363:16</p> <p>failure [5] - 313:2, 313:4, 317:9, 317:10, 317:19</p> <p>fair [11] - 303:22, 304:1, 304:19,</p>	

<p>310:20, 313:12, 322:1, 323:22, 330:1, 330:2, 339:4, 357:21</p> <p>fairly [1] - 320:24</p> <p>faith [1] - 295:18</p> <p>fake [1] - 364:14</p> <p>fall [1] - 329:5</p> <p>falling [1] - 305:18</p> <p>family [1] - 333:10</p> <p>fashion [3] - 313:21, 363:11, 367:12</p> <p>fashioned [2] - 366:15, 366:20</p> <p>fashioning [2] - 363:13, 366:16</p> <p>favorable [1] - 368:18</p> <p>FDA [5] - 295:7, 295:8, 295:20, 295:23, 296:4</p> <p>February [1] - 324:17</p> <p>fee [1] - 303:9</p> <p>FEEHAN [30] - 294:21, 299:3, 299:9, 303:1, 310:11, 311:2, 319:12, 322:10, 323:4, 323:7, 323:10, 323:25, 329:7, 333:15, 333:17, 333:22, 335:7, 340:8, 344:1, 346:8, 346:19, 346:21, 346:23, 348:10, 358:25, 360:3, 360:10, 361:14, 364:4, 369:7</p> <p>Feehan [18] - 295:4, 295:14, 296:23, 297:7, 297:15, 298:4, 298:12, 298:16, 299:2, 302:25, 310:9, 346:18, 346:20, 348:9, 361:13, 364:3, 366:5, 366:6</p> <p>fees [1] - 367:13</p> <p>fell [1] - 322:6</p> <p>fellowship [3] - 301:21, 301:24, 302:2</p> <p>felt [1] - 336:21</p> <p>FERETIC [1] - 294:19</p> <p>few [2] - 331:14, 342:25</p> <p>field [2] - 302:23, 343:8</p> <p>file [4] - 349:5, 349:7, 349:16, 349:17</p> <p>filed [1] - 348:13</p> <p>filled [1] - 353:25</p>	<p>film [15] - 315:24, 317:20, 318:18, 319:9, 320:4, 320:8, 321:1, 322:16, 324:14, 325:19, 325:22, 326:1, 350:10, 358:19, 359:10</p> <p>films [13] - 309:22, 309:25, 310:1, 310:14, 311:7, 313:13, 314:8, 314:10, 319:21, 320:4, 323:2, 350:9, 359:12</p> <p>finally [1] - 300:17</p> <p>findings [4] - 315:14, 355:10, 362:18, 363:16</p> <p>fine [1] - 333:16</p> <p>first [17] - 299:25, 300:6, 300:14, 304:12, 306:8, 313:6, 325:23, 326:12, 327:15, 327:16, 328:22, 330:13, 339:19, 362:24, 365:10, 366:17, 366:20</p> <p>fits [1] - 317:8</p> <p>five [7] - 301:19, 301:25, 331:10, 331:13, 346:10, 346:12, 352:5</p> <p>flat [2] - 317:24, 317:25</p> <p>flexion [2] - 354:21, 355:7</p> <p>flip [1] - 309:14</p> <p>Floor [1] - 294:16</p> <p>flow [2] - 300:14, 300:15</p> <p>fluid [1] - 339:13</p> <p>focus [1] - 329:13</p> <p>focussed [1] - 298:2</p> <p>folder [3] - 349:3, 349:4, 349:5</p> <p>folks [4] - 301:23, 302:9, 324:22, 332:6</p> <p>follow [2] - 311:6, 341:9</p> <p>follow-up [1] - 341:9</p> <p>followed [4] - 306:9, 307:13, 307:19, 340:13</p> <p>following [7] - 301:12, 301:14, 327:17, 332:16, 339:1, 339:19, 340:3</p> <p>follows [1] - 313:19</p>	<p>force [1] - 315:7</p> <p>forced [4] - 362:22, 363:2, 363:4, 363:5</p> <p>forces [3] - 313:11, 317:3, 317:18</p> <p>forcibly [3] - 317:8, 317:17, 330:11</p> <p>forcing [1] - 368:1</p> <p>forearm [1] - 309:5</p> <p>form [8] - 297:18, 307:17, 323:5, 323:7, 323:11, 359:4, 364:5, 367:13</p> <p>former [1] - 362:20</p> <p>forth [1] - 295:12</p> <p>fortunate [1] - 308:18</p> <p>forward [4] - 304:10, 305:11, 305:24, 306:6</p> <p>foundation [3] - 298:19, 352:19, 359:1</p> <p>four [4] - 301:15, 354:5, 354:8, 354:18</p> <p>fourteen [3] - 339:24, 340:3, 351:22</p> <p>fracture [1] - 330:18</p> <p>free [4] - 305:10, 315:21, 335:21, 357:9</p> <p>front [5] - 304:4, 327:6, 335:3, 335:13, 349:3</p> <p>full [6] - 303:10, 311:11, 353:4, 353:9, 354:15, 356:13</p> <p>full-time [4] - 353:4, 353:9, 354:15, 356:13</p> <p>fulsome [2] - 366:7, 368:3</p> <p>function [2] - 309:16, 336:15</p> <p>functional [3] - 308:3, 321:20, 356:8</p> <p>fuse [7] - 309:12, 309:13, 309:14, 311:17, 332:10, 336:12, 343:10</p> <p>fused [2] - 344:25, 345:15</p> <p>fusing [1] - 338:22</p> <p>fusion [9] - 332:5, 332:7, 335:19, 338:21, 338:25, 341:4, 342:11, 344:10, 346:2</p> <p>future [2] - 344:11, 344:12</p>	<p style="text-align: center;">G</p> <p>gallium [2] - 358:11, 360:14</p> <p>general [3] - 321:3, 332:16</p> <p>generally [7] - 321:1, 325:7, 325:16, 350:21, 357:1, 357:13, 360:6</p> <p>generator [1] - 308:12</p> <p>gentleman [2] - 303:23, 340:1</p> <p>gentleman's [2] - 316:1, 345:8</p> <p>gentlemen [1] - 299:8</p> <p>gild [1] - 297:11</p> <p>gilding [1] - 297:11</p> <p>given [2] - 346:2, 357:14</p> <p>goal [1] - 338:7</p> <p>Gonzalez [3] - 364:12, 367:2, 367:18</p> <p>Gonzalez's [1] - 364:10</p> <p>governmental [2] - 295:15, 296:25</p> <p>graduate [2] - 301:14, 301:15</p> <p>graduation [1] - 301:17</p> <p>grape [2] - 318:21, 318:23</p> <p>grossly [1] - 358:1</p> <p>ground [1] - 314:1</p> <p>group [1] - 347:15</p> <p>guess [1] - 319:10</p> <p>guess" [1] - 319:12</p> <p>guidelines [1] - 295:21</p> <p>gun [1] - 313:22</p> <p>guy [1] - 334:24</p> <p>guys [2] - 318:1, 331:12</p>	<p>handle [1] - 357:9</p> <p>hang [1] - 316:23</p> <p>HANNUM [1] - 294:19</p> <p>happy [1] - 296:1</p> <p>hard [1] - 364:16</p> <p>hardhat [1] - 317:2</p> <p>harvesting [1] - 295:24</p> <p>head [12] - 306:8, 307:12, 308:4, 308:24, 313:25, 314:24, 316:23, 317:3, 317:4, 317:8, 326:10</p> <p>heal [2] - 320:19, 329:14</p> <p>Health [1] - 301:18</p> <p>healthy [1] - 316:5</p> <p>hear [4] - 295:11, 300:8, 300:9, 364:3</p> <p>heard [11] - 297:20, 298:1, 305:20, 305:21, 313:17, 339:3, 339:18, 362:4, 362:5, 362:6</p> <p>hearing [1] - 366:10</p> <p>heavy [1] - 356:16</p> <p>height [1] - 325:5</p> <p>held [3] - 307:12, 311:12, 348:8</p> <p>help [2] - 337:25, 341:25</p> <p>helped [1] - 342:6</p> <p>helpful [3] - 310:12, 310:16, 337:2</p> <p>helping [1] - 310:13</p> <p>helps [1] - 314:14</p> <p>herniate [3] - 312:10, 312:13, 358:5</p> <p>herniated [9] - 310:13, 311:20, 312:21, 313:13, 329:17, 329:18, 335:24, 336:6, 358:5</p> <p>herniation [33] - 312:8, 315:10, 315:16, 315:19, 315:20, 317:7, 317:21, 318:8, 320:16, 320:19, 326:2, 326:17, 327:2, 330:11, 334:12, 337:22, 337:24, 350:3, 350:4, 350:7, 351:3, 351:9, 351:11, 351:12, 351:15, 351:16, 351:18, 351:24, 358:4, 358:9, 359:20,</p>
			<p style="text-align: center;">H</p> <p>half [5] - 319:7, 319:16, 320:1, 320:5, 357:4</p> <p>hallway [4] - 362:23, 365:25, 366:2, 368:2</p> <p>hand [11] - 298:23, 309:4, 311:10, 315:1, 316:18, 318:1, 326:6, 327:10, 329:5, 329:19, 366:16</p> <p>handed [1] - 311:5</p> <p>handheld [1] - 307:22</p>	

<p>360:23</p> <p>herniations [18] - 302:19, 310:5, 315:3, 316:6, 318:10, 322:1, 322:8, 322:15, 325:2, 326:9, 331:4, 333:13, 335:25, 350:12, 350:15, 351:23, 357:2, 357:11</p> <p>high [1] - 335:9</p> <p>highlighting [1] - 327:11</p> <p>highlights [1] - 310:3</p> <p>Hill [1] - 305:6</p> <p>himself [2] - 364:10, 364:16</p> <p>history [4] - 305:12, 305:15, 305:18, 325:25</p> <p>Hoffman [2] - 308:18, 355:14</p> <p>Hoffman's [3] - 308:13, 308:16, 308:19</p> <p>hold [3] - 298:14, 334:24, 336:22</p> <p>holding [1] - 313:21</p> <p>hole [8] - 312:13, 312:16, 312:18, 313:4, 321:14, 350:3, 358:11</p> <p>home [3] - 309:12, 322:25, 333:9</p> <p>Honor [24] - 295:3, 299:1, 299:3, 299:6, 299:17, 300:20, 300:22, 302:21, 303:4, 306:1, 310:7, 310:11, 310:23, 314:6, 331:6, 331:23, 337:7, 346:6, 346:8, 361:14, 361:22, 362:16, 368:25</p> <p>HONORABLE [1] - 294:12</p> <p>honors [1] - 301:13</p> <p>hope [1] - 299:12</p> <p>hoped [1] - 341:1</p> <p>Hospital [2] - 305:7, 347:11</p> <p>hospitals [1] - 301:19</p> <p>hours [5] - 339:20, 353:6, 353:7, 354:12, 354:14</p> <p>hurt [1] - 329:21</p> <p>hurts [6] - 322:7, 326:21, 329:15,</p>	<p>329:21, 340:4</p> <p>hypertrophy [2] - 357:14, 357:18</p> <p>hypothetical [3] - 323:7, 323:9, 323:10</p> <p style="text-align: center;">I</p> <p>ID [1] - 298:12</p> <p>ideal [1] - 340:24</p> <p>ideally [1] - 342:17</p> <p>identification [1] - 311:3</p> <p>identify [1] - 310:14</p> <p>ignoring [1] - 333:10</p> <p>illuminates [1] - 338:2</p> <p>illustration [2] - 336:25, 337:23</p> <p>image [21] - 311:22, 312:5, 312:7, 314:19, 314:20, 314:25, 315:2, 315:6, 315:8, 316:24, 320:13, 320:14, 320:15, 324:18, 324:23, 324:25, 325:1, 325:9, 325:14, 326:21</p> <p>images [5] - 312:2, 319:4, 327:1, 327:9</p> <p>imagine [2] - 339:14, 364:16</p> <p>imaging [5] - 310:3, 326:1, 326:19, 342:17, 349:6</p> <p>immediately [2] - 339:18, 362:22</p> <p>impact [1] - 336:12</p> <p>impeded [1] - 297:25</p> <p>impending [1] - 308:21</p> <p>implant [1] - 338:12</p> <p>important [2] - 327:22, 366:4</p> <p>impossible [2] - 360:10, 360:12</p> <p>impressive [2] - 315:6, 315:10</p> <p>improper [1] - 362:17</p> <p>improvement [2] - 327:20, 355:22</p> <p>impugn [2] - 363:20, 366:13</p> <p>impugned [1] - 363:22</p> <p>impugning [1] - 366:23</p> <p>impugns [1] - 367:22</p> <p>inches [1] - 313:24</p> <p>incident [1] - 351:21</p>	<p>incision [3] - 332:17, 337:18, 337:19</p> <p>include [1] - 333:1</p> <p>including [1] - 367:9</p> <p>inconsistent [2] - 324:10, 333:20</p> <p>increase [1] - 343:12</p> <p>increasing [1] - 324:11</p> <p>incredible [1] - 333:19</p> <p>INDEX [1] - 294:4</p> <p>index [1] - 352:13</p> <p>indicate [3] - 355:16, 355:18, 361:9</p> <p>indicated [6] - 327:14, 328:3, 331:25, 336:7, 361:23</p> <p>indicative [1] - 351:25</p> <p>individual [1] - 334:23</p> <p>induced [5] - 327:1, 357:5, 357:6, 357:12, 361:10</p> <p>infection [1] - 333:2</p> <p>inferences [1] - 367:14</p> <p>inferior [1] - 358:14</p> <p>information [3] - 335:3, 364:17, 365:8</p> <p>initial [10] - 304:14, 305:3, 320:8, 334:7, 342:5, 348:22, 348:25, 350:9, 352:1, 360:23</p> <p>injections [1] - 327:21</p> <p>injured [20] - 311:21, 321:10, 321:11, 321:13, 321:16, 322:4, 323:1, 323:15, 324:12, 324:24, 325:12, 325:15, 326:3, 332:9, 335:25, 336:6, 336:18, 343:23, 345:16, 361:4</p> <p>injuries [12] - 302:6, 302:14, 302:18, 302:24, 305:19, 329:3, 329:11, 330:7, 331:24, 332:4, 333:11, 360:20</p> <p>injury [22] - 305:17, 312:23, 317:6, 318:4, 318:6, 319:2, 319:8, 319:9, 319:25, 320:5, 323:23, 326:15, 329:12, 329:16, 329:19, 329:20,</p>	<p>330:19, 330:23, 350:2, 352:1, 357:16, 360:24</p> <p>inquire [1] - 346:19</p> <p>insert [2] - 332:24, 344:24</p> <p>inserted [2] - 335:21, 338:10</p> <p>inside [2] - 312:16, 313:5</p> <p>insidious [1] - 329:20</p> <p>installing [1] - 313:20</p> <p>instead [1] - 347:11</p> <p>Institute [1] - 301:16</p> <p>instruction [4] - 295:9, 296:5, 296:11, 296:15</p> <p>instructions [2] - 297:10, 362:5</p> <p>instrument [1] - 332:19</p> <p>insurance [1] - 345:2</p> <p>integrity [1] - 308:16</p> <p>intended [1] - 362:18</p> <p>intentional [1] - 365:19</p> <p>interesting [2] - 297:17, 324:20</p> <p>internship [1] - 301:17</p> <p>interval [5] - 323:19, 325:1, 325:3, 358:8, 360:2</p> <p>intervention [2] - 330:14, 334:25</p> <p>intravertebral [1] - 306:21</p> <p>involvement [2] - 348:22, 352:5</p> <p>involves [1] - 295:24</p> <p>irritates [1] - 313:8</p> <p>irritation [3] - 316:20, 316:21, 343:3</p> <p>Island [1] - 301:18</p> <p>issue [1] - 366:14</p> <p>issued [1] - 364:8</p> <p>item [1] - 298:11</p> <p>itself [2] - 311:22, 337:22</p> <p style="text-align: center;">J</p> <p>Jackson [1] - 367:9</p> <p>January [3] - 337:16, 354:2, 354:13</p> <p>jelly [6] - 311:25, 312:15, 312:16, 313:5, 313:10, 321:20</p> <p>Jersey [3] - 347:2, 347:11, 347:22</p>	<p>job [2] - 356:13, 356:14</p> <p>joint [1] - 302:6</p> <p>joints [6] - 321:5, 321:6, 321:23, 325:10, 353:23, 353:25</p> <p>judge [2] - 360:10, 364:16</p> <p>Judge [4] - 311:2, 323:10, 364:4, 367:19</p> <p>judgment [2] - 364:8, 365:13</p> <p>July [4] - 304:17, 319:18, 327:2, 344:8</p> <p>June [1] - 294:10</p> <p>jurors [9] - 300:23, 313:13, 315:24, 324:6, 325:21, 327:5, 334:6, 337:14, 339:3</p> <p>jury [37] - 295:10, 296:5, 297:19, 297:20, 298:2, 298:7, 298:13, 298:23, 299:4, 299:10, 300:8, 301:8, 305:24, 307:7, 308:15, 310:13, 311:6, 317:5, 317:12, 324:10, 331:15, 331:19, 336:5, 337:2, 337:12, 339:22, 346:13, 346:15, 357:7, 359:10, 362:10, 362:14, 363:1, 365:8, 366:10, 369:6</p> <p>Jury [7] - 294:13, 299:11, 331:16, 331:20, 346:14, 346:16, 362:15</p> <p>jury's [1] - 296:10</p> <p>Justice [1] - 294:13</p> <p style="text-align: center;">K</p> <p>keep [3] - 337:25, 349:5, 362:6</p> <p>kept [1] - 364:23</p> <p>ketone [1] - 338:11</p> <p>kind [5] - 322:8, 329:25, 333:8, 353:16, 361:6</p> <p>KINGS [1] - 294:1</p> <p>knocks [1] - 313:25</p> <p>known [2] - 330:3, 347:22</p>
--	--	---	---	---

<p>Kolb [1] - 305:6 Kyriakides [2] - 295:5, 328:20 Kyriakides' [1] - 304:16</p>	<p>321:8, 342:2, 365:19, 368:23 level [22] - 309:20, 321:9, 329:23, 329:24, 333:19, 344:18, 344:19, 345:3, 345:15, 351:11, 351:12, 351:19, 351:24, 355:24, 355:25, 356:4, 356:15, 357:16, 359:17, 359:25, 361:2 levels [9] - 310:5, 336:12, 341:14, 341:18, 342:12, 350:13, 350:15, 358:6, 360:24 Levine [3] - 305:4, 328:18, 328:23 LEX [1] - 294:6 licensed [2] - 301:3, 347:1 life [4] - 333:8, 340:20, 346:3, 369:9 lifelong [2] - 345:9, 345:12 lifetime [1] - 338:14 light [2] - 368:17, 368:18 lighter [2] - 320:17 likelihood [1] - 336:13 likely [3] - 322:4, 342:17, 351:19 lilly [2] - 297:11 limine [5] - 368:9, 368:10, 368:12, 368:13 limit [1] - 322:17 limitation [2] - 308:3, 308:5 limited [4] - 363:24, 364:9, 365:1, 365:5 line [2] - 319:1, 330:16 link [1] - 365:7 litigation [3] - 362:20, 364:13, 365:18 Livingston [2] - 305:5, 355:24 LLC [2] - 294:6, 294:19 loaf [2] - 315:8, 315:9 location [5] - 308:11, 309:11, 309:16, 337:18, 338:13 locations [1] - 347:5 look [11] - 305:1, 310:14, 316:13, 321:4, 325:6, 326:15, 330:21,</p>	<p>354:25, 358:19, 359:10, 359:21 looked [6] - 321:24, 335:23, 336:20, 336:24, 355:23 looking [22] - 307:11, 308:4, 308:5, 311:7, 311:9, 313:13, 314:18, 314:19, 314:21, 314:25, 315:5, 316:3, 316:8, 317:20, 319:4, 320:14, 324:25, 325:9, 338:15, 367:16 looks [2] - 314:13, 316:5 lordosis [2] - 316:14, 316:24 Los [1] - 301:22 loses [1] - 318:22 loss [1] - 338:25 lost [4] - 316:14, 316:24, 325:5, 338:23 loud [2] - 299:23, 300:7 low [2] - 306:12, 306:13 lower [1] - 306:11 LUCILLE [2] - 294:24, 369:13 Lucille [3] - 337:10, 337:11, 337:12 lumbar [2] - 306:11, 311:11 lunch [2] - 362:8, 366:1</p>	<p>311:15 mass [1] - 352:13 material [1] - 330:11 matter [1] - 359:5 MD [2] - 305:4, 328:16 mean [5] - 312:10, 315:17, 315:25, 317:22, 325:3 meaning [21] - 306:14, 308:2, 308:17, 308:25, 310:20, 311:23, 316:14, 317:3, 318:17, 318:25, 321:6, 325:4, 325:11, 326:3, 329:12, 329:17, 329:20, 338:19, 338:25, 339:11, 360:24 means [6] - 308:23, 309:6, 320:17, 332:8, 343:19, 347:16 meant [1] - 339:1 measure [1] - 332:24 mechanism [3] - 314:4, 318:6, 326:10 medical [24] - 301:15, 301:17, 304:4, 304:20, 305:4, 305:20, 318:3, 319:24, 320:3, 322:19, 323:14, 326:25, 329:25, 330:14, 330:25, 331:3, 336:24, 344:6, 344:9, 345:8, 345:20, 349:9, 349:10, 349:11 Medical [1] - 301:21 medication [1] - 339:24 medications [1] - 339:25 medicine [3] - 301:3, 302:22, 347:1 Medicine [1] - 305:5 meld [1] - 332:10 mentioned [11] - 316:19, 317:9, 318:20, 347:4, 350:2, 352:9, 354:20, 355:20, 356:10, 367:2, 368:22 MEREDITH [1] - 294:22 MERLINO [1] - 294:19 messed [1] - 353:11 met [2] - 303:23,</p>	<p>336:24 metal [3] - 337:25, 338:11, 338:13 Methodist [1] - 305:7 microscope [2] - 338:1, 338:2 middle [1] - 314:24 might [5] - 296:10, 314:16, 318:19, 330:8, 369:4 mind [6] - 296:10, 296:17, 297:19, 324:6, 344:4, 362:7 minimize [1] - 336:11 minor [1] - 332:12 minute [3] - 331:6, 358:24, 363:1 minutes [8] - 298:6, 298:9, 331:8, 331:10, 331:13, 331:14, 346:10, 346:12 MINUTES [1] - 369:11 mischaracterize [1] - 362:18 misread [1] - 355:9 missed [1] - 320:24 misstates [1] - 363:16 model [4] - 305:23, 306:7, 311:12, 317:13 moderate [2] - 354:8, 354:20 moment [3] - 295:25, 296:6, 351:4 momentarily [1] - 299:15 money [5] - 348:16, 363:12, 364:8, 365:13, 367:13 monitor [1] - 332:22 month [3] - 319:7, 330:14, 354:12 months [8] - 302:1, 318:14, 319:6, 319:7, 328:25, 341:5, 350:16, 351:22 MOORE [1] - 294:18 morning [8] - 300:4, 300:5, 300:23, 301:1, 301:2, 346:24, 346:25, 347:18 most [8] - 306:12, 309:12, 325:19, 327:12, 336:9, 351:19, 358:14, 368:18 motion [20] - 307:21,</p>
<p style="text-align: center;">L</p>				
<p>labelled [1] - 311:20 labor [1] - 356:16 lack [3] - 357:14, 367:10, 367:20 ladder [5] - 305:18, 313:20, 313:22, 314:1, 322:7 laid [1] - 322:8 lands [1] - 314:1 lapse [1] - 339:4 laptop [1] - 358:21 large [1] - 336:10 largely [1] - 302:13 last [2] - 306:15, 336:11 late [3] - 315:23, 367:23, 369:4 law [1] - 362:5 lawsuit [6] - 348:1, 348:13, 348:14, 364:11, 365:1, 367:9 lawyers [6] - 295:1, 300:10, 300:17, 362:6, 364:20, 366:3 lay [1] - 298:19 laying [3] - 317:23, 317:25, 333:10 lead [1] - 324:4 leading [2] - 323:25, 324:1 least [1] - 362:1 leave [1] - 361:16 left [28] - 308:4, 308:5, 308:14, 309:2, 309:4, 311:10, 313:24, 314:18, 315:1, 315:11, 317:2, 317:7, 317:11, 317:14, 317:16, 318:2, 318:8, 318:11, 326:5, 326:9, 326:13, 326:17, 326:19, 326:21, 334:7, 337:17, 355:21 left-hand [2] - 311:10, 315:1 left-sided [2] - 317:7, 318:11 Lenox [1] - 305:6 less [6] - 319:16,</p>	<p>321:8, 342:2, 365:19, 368:23 level [22] - 309:20, 321:9, 329:23, 329:24, 333:19, 344:18, 344:19, 345:3, 345:15, 351:11, 351:12, 351:19, 351:24, 355:24, 355:25, 356:4, 356:15, 357:16, 359:17, 359:25, 361:2 levels [9] - 310:5, 336:12, 341:14, 341:18, 342:12, 350:13, 350:15, 358:6, 360:24 Levine [3] - 305:4, 328:18, 328:23 LEX [1] - 294:6 licensed [2] - 301:3, 347:1 life [4] - 333:8, 340:20, 346:3, 369:9 lifelong [2] - 345:9, 345:12 lifetime [1] - 338:14 light [2] - 368:17, 368:18 lighter [2] - 320:17 likelihood [1] - 336:13 likely [3] - 322:4, 342:17, 351:19 lilly [2] - 297:11 limine [5] - 368:9, 368:10, 368:12, 368:13 limit [1] - 322:17 limitation [2] - 308:3, 308:5 limited [4] - 363:24, 364:9, 365:1, 365:5 line [2] - 319:1, 330:16 link [1] - 365:7 litigation [3] - 362:20, 364:13, 365:18 Livingston [2] - 305:5, 355:24 LLC [2] - 294:6, 294:19 loaf [2] - 315:8, 315:9 location [5] - 308:11, 309:11, 309:16, 337:18, 338:13 locations [1] - 347:5 look [11] - 305:1, 310:14, 316:13, 321:4, 325:6, 326:15, 330:21,</p>	<p>354:25, 358:19, 359:10, 359:21 looked [6] - 321:24, 335:23, 336:20, 336:24, 355:23 looking [22] - 307:11, 308:4, 308:5, 311:7, 311:9, 313:13, 314:18, 314:19, 314:21, 314:25, 315:5, 316:3, 316:8, 317:20, 319:4, 320:14, 324:25, 325:9, 338:15, 367:16 looks [2] - 314:13, 316:5 lordosis [2] - 316:14, 316:24 Los [1] - 301:22 loses [1] - 318:22 loss [1] - 338:25 lost [4] - 316:14, 316:24, 325:5, 338:23 loud [2] - 299:23, 300:7 low [2] - 306:12, 306:13 lower [1] - 306:11 LUCILLE [2] - 294:24, 369:13 Lucille [3] - 337:10, 337:11, 337:12 lumbar [2] - 306:11, 311:11 lunch [2] - 362:8, 366:1</p>	<p>311:15 mass [1] - 352:13 material [1] - 330:11 matter [1] - 359:5 MD [2] - 305:4, 328:16 mean [5] - 312:10, 315:17, 315:25, 317:22, 325:3 meaning [21] - 306:14, 308:2, 308:17, 308:25, 310:20, 311:23, 316:14, 317:3, 318:17, 318:25, 321:6, 325:4, 325:11, 326:3, 329:12, 329:17, 329:20, 338:19, 338:25, 339:11, 360:24 means [6] - 308:23, 309:6, 320:17, 332:8, 343:19, 347:16 meant [1] - 339:1 measure [1] - 332:24 mechanism [3] - 314:4, 318:6, 326:10 medical [24] - 301:15, 301:17, 304:4, 304:20, 305:4, 305:20, 318:3, 319:24, 320:3, 322:19, 323:14, 326:25, 329:25, 330:14, 330:25, 331:3, 336:24, 344:6, 344:9, 345:8, 345:20, 349:9, 349:10, 349:11 Medical [1] - 301:21 medication [1] - 339:24 medications [1] - 339:25 medicine [3] - 301:3, 302:22, 347:1 Medicine [1] - 305:5 meld [1] - 332:10 mentioned [11] - 316:19, 317:9, 318:20, 347:4, 350:2, 352:9, 354:20, 355:20, 356:10, 367:2, 368:22 MEREDITH [1] - 294:22 MERLINO [1] - 294:19 messed [1] - 353:11 met [2] - 303:23,</p>	<p>336:24 metal [3] - 337:25, 338:11, 338:13 Methodist [1] - 305:7 microscope [2] - 338:1, 338:2 middle [1] - 314:24 might [5] - 296:10, 314:16, 318:19, 330:8, 369:4 mind [6] - 296:10, 296:17, 297:19, 324:6, 344:4, 362:7 minimize [1] - 336:11 minor [1] - 332:12 minute [3] - 331:6, 358:24, 363:1 minutes [8] - 298:6, 298:9, 331:8, 331:10, 331:13, 331:14, 346:10, 346:12 MINUTES [1] - 369:11 mischaracterize [1] - 362:18 misread [1] - 355:9 missed [1] - 320:24 misstates [1] - 363:16 model [4] - 305:23, 306:7, 311:12, 317:13 moderate [2] - 354:8, 354:20 moment [3] - 295:25, 296:6, 351:4 momentarily [1] - 299:15 money [5] - 348:16, 363:12, 364:8, 365:13, 367:13 monitor [1] - 332:22 month [3] - 319:7, 330:14, 354:12 months [8] - 302:1, 318:14, 319:6, 319:7, 328:25, 341:5, 350:16, 351:22 MOORE [1] - 294:18 morning [8] - 300:4, 300:5, 300:23, 301:1, 301:2, 346:24, 346:25, 347:18 most [8] - 306:12, 309:12, 325:19, 327:12, 336:9, 351:19, 358:14, 368:18 motion [20] - 307:21,</p>
		M		
		<p>mail [1] - 364:19 main [1] - 302:11 maintaining [1] - 325:16 major [3] - 332:12, 332:13, 344:7 majority [1] - 336:10 man [1] - 316:7 management [1] - 327:21 Manhattan [2] - 302:12, 365:13 March [5] - 320:14, 351:5, 351:8, 351:9, 359:23 mark [2] - 304:7, 319:16 marked [4] - 298:17, 298:18, 310:7,</p>		

<p>307:22, 307:25, 308:2, 308:3, 308:8, 338:19, 338:22, 338:25, 343:12, 344:25, 349:23, 354:22, 358:15, 364:15, 365:12, 368:10, 368:11, 368:12, 368:13</p> <p>motions [1] - 368:9</p> <p>motor [1] - 309:16</p> <p>mouth [1] - 314:14</p> <p>move [7] - 304:8, 314:16, 315:13, 320:8, 320:10, 350:23, 360:18</p> <p>moved [4] - 301:14, 332:18, 337:21, 361:6</p> <p>moving [5] - 307:24, 313:12, 342:3, 343:3, 358:13</p> <p>MR [69] - 295:3, 296:21, 297:6, 298:11, 298:18, 298:22, 299:1, 299:3, 299:6, 299:9, 299:17, 300:22, 300:25, 302:21, 303:1, 303:4, 306:1, 310:7, 310:11, 310:23, 311:2, 314:6, 319:12, 322:10, 322:14, 323:4, 323:7, 323:10, 323:13, 323:25, 324:2, 329:7, 331:6, 331:10, 331:23, 333:15, 333:17, 333:22, 335:7, 337:6, 340:8, 344:1, 346:5, 346:8, 346:19, 346:21, 346:23, 348:3, 348:5, 348:7, 348:10, 348:17, 350:20, 356:25, 358:20, 358:25, 359:9, 360:3, 360:5, 360:10, 361:12, 361:14, 361:22, 362:16, 363:6, 364:4, 368:25, 369:4, 369:7</p> <p>MRI [24] - 298:14, 310:2, 310:14, 314:8, 314:10, 314:12, 317:23, 318:13, 324:17,</p>	<p>327:8, 327:11, 334:11, 335:22, 335:23, 342:18, 350:24, 351:2, 358:11, 359:19, 360:14, 360:19, 360:20</p> <p>MRI's [2] - 309:21, 324:9</p> <p>multilevel [2] - 341:4, 351:22</p> <p>multiple [8] - 302:1, 313:18, 336:12, 345:17, 350:12, 350:15</p> <p>muscle [5] - 307:14, 307:16, 307:17, 316:17, 316:22</p> <p>muscles [2] - 332:18, 337:20</p> <p>musculature [1] - 337:21</p> <p>myelopathic [1] - 308:21</p>	<p>needs [1] - 324:20</p> <p>negative [3] - 308:13, 355:13, 355:14</p> <p>negligence [9] - 348:15, 363:18, 365:16, 365:18, 365:21, 366:20, 368:19, 368:22</p> <p>negligent [1] - 363:11</p> <p>nerve [23] - 306:19, 308:17, 308:21, 309:1, 309:20, 310:6, 310:17, 311:22, 312:9, 313:8, 313:11, 315:11, 315:12, 326:4, 326:18, 329:24, 330:20, 332:11, 334:10, 355:18</p> <p>nerves [4] - 309:15, 310:4, 332:22, 335:21</p> <p>nervy [1] - 306:25</p> <p>neural [1] - 308:16</p> <p>neurologic [1] - 309:9</p> <p>neurospinal [1] - 332:23</p> <p>never [2] - 322:7, 364:4</p> <p>new [2] - 351:23, 352:4</p> <p>NEW [2] - 294:1, 294:6</p> <p>New [18] - 294:9, 294:17, 294:21, 300:2, 301:4, 301:12, 301:16, 305:6, 305:7, 347:2, 347:5, 347:11, 347:22</p> <p>Newark [1] - 347:22</p> <p>next [10] - 307:21, 313:10, 320:8, 320:10, 320:13, 327:25, 328:4, 331:13, 342:15, 344:13</p> <p>nice [1] - 362:13</p> <p>nobody [2] - 366:24</p> <p>nonetheless [1] - 363:25</p> <p>normal [11] - 312:6, 315:14, 316:9, 316:13, 316:15, 329:14, 349:22, 349:25, 350:25, 354:23, 355:4</p> <p>normally [1] - 307:24</p> <p>Northwell [1] - 301:18</p> <p>notation [1] - 309:3</p>	<p>notations [3] - 308:13, 310:19, 317:22</p> <p>note [6] - 304:22, 311:15, 327:19, 328:7, 354:24, 355:22</p> <p>noted [4] - 307:15, 334:11, 361:8</p> <p>notes [4] - 304:9, 334:19, 349:6, 355:9</p> <p>nothing [3] - 299:21, 322:21, 323:20</p> <p>notice [1] - 306:9</p> <p>noticed [1] - 310:4</p> <p>noting [1] - 348:17</p> <p>notion [1] - 320:4</p> <p>November [1] - 334:5</p> <p>NUMBER [1] - 294:4</p> <p>number [7] - 311:19, 337:5, 347:13, 354:7, 354:14, 365:12, 365:14</p> <p>numbness [2] - 326:5, 326:17</p>	<p>occasions [1] - 313:18</p> <p>occiput [2] - 306:8, 314:23</p> <p>occur [1] - 323:21</p> <p>occurred [2] - 304:14, 313:19</p> <p>occurs [4] - 313:3, 313:4, 321:15, 343:9</p> <p>October [3] - 328:4, 328:11, 328:24</p> <p>OF [6] - 294:1, 294:1, 294:6, 369:10, 369:11</p> <p>offer [7] - 295:14, 296:22, 297:4, 297:16, 297:17, 302:21, 310:24</p> <p>offered [2] - 328:12, 366:9</p> <p>office [3] - 302:11, 303:9, 304:16</p> <p>officer [2] - 298:23, 358:20</p> <p>Officer [1] - 299:4</p> <p>OFFICER [6] - 299:10, 331:15, 331:19, 346:13, 346:15, 362:14</p> <p>offices [3] - 302:12, 347:4</p> <p>often [1] - 336:10</p> <p>old [11] - 315:15, 319:2, 319:8, 320:1, 320:5, 321:6, 357:4, 357:22, 358:1</p> <p>once [11] - 311:7, 321:14, 330:5, 330:8, 332:23, 336:12, 337:21, 338:3, 338:9, 345:1, 368:18</p> <p>one [23] - 297:1, 297:4, 298:11, 313:3, 320:9, 320:10, 336:3, 336:8, 336:16, 340:22, 340:24, 341:3, 343:9, 345:15, 347:13, 349:10, 351:6, 354:1, 357:22, 363:24, 365:4, 365:5, 365:6</p> <p>open [7] - 296:11, 315:12, 321:7, 337:25, 339:12, 362:6, 364:7</p> <p>opening [1] - 324:16</p> <p>operated [1] - 336:3</p>
	N		O	
<p>name [3] - 299:24, 299:25, 364:18</p> <p>narcotic [1] - 339:23</p> <p>narcotics [2] - 340:2, 340:7</p> <p>narrow [1] - 360:15</p> <p>native [1] - 301:12</p> <p>near [2] - 344:11, 344:12</p> <p>nearly [1] - 362:25</p> <p>necessarily [1] - 297:2</p> <p>neck [32] - 305:19, 306:17, 306:18, 307:20, 307:24, 308:1, 308:8, 310:17, 313:14, 314:21, 322:7, 326:12, 328:12, 328:23, 329:6, 331:4, 332:17, 333:21, 335:25, 336:6, 337:11, 338:16, 338:19, 339:7, 339:14, 341:10, 342:11, 342:22, 344:7, 345:8, 357:3, 358:6</p> <p>need [9] - 305:11, 342:17, 344:10, 344:13, 346:8, 346:9, 346:10, 357:9, 369:2</p> <p>needed [3] - 333:7, 365:5, 365:8</p>				

<p>operation [1] - 336:7 operative [3] - 335:13, 336:25, 352:15 opinion [12] - 318:4, 318:19, 331:2, 335:5, 344:5, 345:7, 345:11, 345:12, 345:14, 345:19, 345:23, 345:24 opportunity [4] - 300:19, 305:3, 366:4, 366:5 opposed [3] - 322:20, 327:8, 329:17 opposite [3] - 317:17, 317:18, 317:24 option [3] - 344:21, 366:24, 366:25 options [1] - 366:23 order [6] - 307:21, 365:12, 367:4, 367:5, 367:18, 368:6 ORIGINAL [1] - 369:10 Orthopedic [1] - 305:8 orthopedic [8] - 301:7, 301:9, 301:19, 301:25, 302:4, 302:7, 302:23, 307:10 orthopedics [4] - 301:7, 302:5, 302:14, 302:17 outpatient [1] - 347:15 overall [2] - 316:4, 342:3 overhead [1] - 313:20 overlap [1] - 337:20 overlying [1] - 337:19 overruled [4] - 300:12, 348:4, 348:18, 350:22 overt [1] - 359:19 overtime [1] - 343:19 overview [1] - 311:8</p>	<p>327:21, 328:12, 329:6, 330:6, 333:10, 333:19, 334:23, 335:2, 335:5, 335:9, 339:23, 339:25, 342:2, 345:9, 345:12, 345:18, 354:5, 354:9, 355:21 painful [3] - 330:8, 340:5, 340:7 pains [1] - 328:23 palpate [1] - 307:14 palpated [1] - 316:17 Pamela [1] - 305:4 PANEK [42] - 294:15, 294:17, 295:3, 296:21, 297:6, 298:11, 298:18, 298:22, 299:1, 299:6, 299:17, 300:22, 300:25, 302:21, 303:4, 306:1, 310:7, 310:23, 314:6, 322:14, 323:13, 324:2, 331:6, 331:10, 331:23, 337:6, 346:5, 348:3, 348:5, 348:7, 348:17, 350:20, 356:25, 358:20, 359:9, 360:5, 361:12, 361:22, 362:16, 363:6, 368:25, 369:4 Panek [11] - 299:16, 300:21, 322:13, 323:12, 331:22, 337:11, 361:20, 365:15, 366:4, 366:16, 368:16 panel [2] - 309:14, 311:17 paper [1] - 365:23 papers [2] - 364:15, 365:22 paperwork [2] - 366:6, 366:7 paragraph [1] - 368:6 paragraphs [1] - 367:6 paralysis [1] - 333:2 paralyzed [1] - 330:4 paraphrasing [1] - 363:8 PART [1] - 294:1 part [2] - 297:23, 303:10 part-time [1] - 303:10 partial [1] - 335:19</p>	<p>parts [2] - 306:5, 309:7 passed [1] - 351:18 patient [22] - 303:17, 303:19, 304:2, 305:17, 307:13, 307:16, 309:8, 313:9, 326:1, 327:19, 327:23, 332:15, 332:16, 333:1, 334:22, 334:23, 335:1, 335:2, 335:6, 339:25, 341:5, 345:4 patients [4] - 308:20, 329:14, 336:11, 364:20 pattern [9] - 317:6, 318:5, 319:9, 326:14, 330:22, 360:24, 364:5, 367:10, 367:20 pay [1] - 363:12 payment [2] - 364:22, 364:23 peak [1] - 338:10 penalty [1] - 368:4 people [3] - 306:12, 309:12, 353:19 people's [1] - 365:20 percent [1] - 340:16 Percocet [1] - 339:19 perfect [1] - 337:10 perfectly [2] - 296:1, 340:25 perform [5] - 307:4, 335:10, 335:15, 338:18, 338:20 performed [3] - 335:18, 337:16, 364:22 period [4] - 323:21, 344:17, 361:7, 361:8 permanent [1] - 339:1 permanently [1] - 340:19 permission [5] - 305:22, 310:24, 314:7, 336:23, 342:23 permitted [2] - 363:2, 363:7 person [3] - 315:22, 362:21, 364:17 perspective [1] - 329:25 pertinences [1] - 295:23 pertinent [2] - 306:5, 307:8</p>	<p>phenomena [2] - 313:6, 343:9 phenomenons [1] - 329:22 Phonetic [1] - 364:15 phrased [1] - 295:12 physical [10] - 307:4, 307:8, 307:10, 309:7, 325:22, 325:25, 327:21, 330:9, 340:10, 353:3 Physical [2] - 305:5, 305:6 physically [1] - 307:13 physician [1] - 302:5 physicians [1] - 349:21 picture [3] - 311:13, 319:24, 327:11 piece [1] - 339:14 Pine [1] - 294:16 pine [1] - 306:15 place [4] - 304:16, 327:2, 337:3, 338:13 placed [1] - 339:7 plaintiff [5] - 299:17, 362:17, 362:22, 363:19, 363:25 Plaintiff [2] - 294:3, 294:16 plaintiff's [1] - 368:12 Plaintiff's [3] - 298:12, 310:24, 363:14 plan [1] - 342:16 planes [1] - 308:6 planner [1] - 369:9 pleasant [1] - 299:13 pleural [1] - 367:9 plug [1] - 335:22 point [9] - 307:9, 314:20, 315:14, 320:23, 322:5, 326:6, 327:24, 342:24, 364:2 pointing [2] - 317:21, 337:15 Polonio [3] - 364:14, 364:19, 364:25 polyether [1] - 338:11 portion [4] - 335:20, 337:22, 338:6, 338:7 portions [1] - 307:8 position [5] - 308:24, 312:15, 313:11, 363:15, 367:6 Positions [1] - 367:8 positive [10] - 308:14, 308:18, 308:19, 308:23, 309:2, 334:5, 334:7,</p>	<p>342:10, 355:24, 355:25 possessive [1] - 367:8 possible [1] - 322:18 posterior [1] - 316:3 postoperative [3] - 338:12, 342:5, 342:19 postoperatively [5] - 339:8, 340:13, 341:11, 342:24, 343:14 postsurgical [1] - 354:21 posture [1] - 307:12 potentially [1] - 339:12 pound [2] - 313:23, 317:1 practice [6] - 301:3, 302:10, 303:6, 347:1, 364:23, 364:24 predominantly [2] - 315:12, 326:16 prejudice [2] - 366:14, 368:17 prejudicial [1] - 364:1 premarked [1] - 298:12 PRENDERGAST [1] - 294:19 preoperative [1] - 354:4 Presbyterian [1] - 305:7 prescribe [2] - 339:23, 340:2 preserve [2] - 336:15, 363:10 preserved [1] - 348:15 preserving [1] - 364:1 presiding [1] - 354:12 pressing [1] - 315:11 pressure [2] - 332:11, 338:8 presume [1] - 363:16 preventing [1] - 341:11 previous [1] - 351:7 primarily [4] - 326:13, 329:20, 349:6, 349:14 primary [1] - 330:1 print [1] - 295:20 printouts [1] - 298:13 probative [3] - 366:12, 366:22, 368:17 problem [4] - 321:8, 321:9, 339:15, 345:3</p>
P				
<p>paces [2] - 298:4, 298:5 Paces [1] - 301:12 page [4] - 311:11, 335:17, 351:4, 365:14 paid [1] - 364:18 pain [28] - 307:20, 308:7, 308:11, 308:12, 308:25, 313:9, 322:17, 324:8, 324:11,</p>				

<p>problems [1] - 316:10</p> <p>procedure [13] - 295:16, 295:23, 295:24, 298:22, 332:12, 332:13, 335:15, 337:14, 337:23, 338:18, 340:3, 344:20, 347:14</p> <p>procedures [3] - 295:7, 295:22, 337:15</p> <p>PROCEEDING [1] - 369:11</p> <p>proceedings [2] - 364:6, 366:6</p> <p>proceeds [1] - 364:13</p> <p>process [9] - 312:11, 312:21, 321:5, 321:6, 321:7, 323:22, 337:3, 339:5, 350:7</p> <p>produce [1] - 295:20</p> <p>producing [2] - 333:11, 336:10</p> <p>professionals [1] - 304:23</p> <p>profile [3] - 314:22, 317:8</p> <p>program [1] - 301:15</p> <p>progress [3] - 322:8, 323:2, 360:21</p> <p>progressed [2] - 358:5, 358:12</p> <p>progresses [1] - 349:19</p> <p>progressing [1] - 342:2</p> <p>progression [19] - 319:2, 319:5, 320:11, 322:4, 323:15, 323:20, 324:23, 325:1, 325:3, 325:10, 325:12, 327:1, 333:20, 334:9, 341:13, 341:17, 361:2, 361:3, 361:8</p> <p>progressive [3] - 336:18, 343:16, 343:18</p> <p>progressively [2] - 324:8, 336:7</p> <p>pronounced [1] - 327:12</p> <p>proof [5] - 295:14, 296:22, 297:4, 297:16, 297:17</p> <p>proper [1] - 359:8</p> <p>propose [2] - 296:2,</p>	<p>296:22</p> <p>prosthesis [6] - 332:9, 332:24, 335:21, 338:10, 344:24, 345:1</p> <p>protected [1] - 307:1</p> <p>protractor [1] - 307:23</p> <p>protruding [1] - 325:5</p> <p>protrusions [1] - 316:6</p> <p>provided [4] - 304:22, 309:22, 363:20, 365:24</p> <p>providers [1] - 304:20</p> <p>PT [1] - 305:5</p> <p>pull [2] - 316:23</p> <p>purporting [1] - 310:21</p> <p>purpose [1] - 339:10</p> <p>purposes [1] - 318:9</p> <p>push [3] - 311:25, 317:11, 318:11</p> <p>pushed [4] - 307:19, 308:24, 317:8, 353:16</p> <p>pushing [6] - 310:6, 311:23, 312:8, 315:7, 326:4, 330:12</p> <p>put [6] - 308:4, 308:24, 316:18, 332:9, 332:15, 337:10</p> <p>putting [1] - 313:22</p>	<p>radiologic [1] - 353:19</p> <p>radiologist [1] - 342:21</p> <p>radiologist's [1] - 358:17</p> <p>Radiology [2] - 305:6</p> <p>raise [1] - 369:2</p> <p>raisin [1] - 318:21</p> <p>Ralph [1] - 300:2</p> <p>Randy [5] - 303:24, 304:1, 304:12, 345:4, 357:3</p> <p>RANDY [1] - 294:2</p> <p>range [6] - 307:21, 307:22, 307:25, 308:2, 308:8, 349:22</p> <p>ranges [3] - 303:9, 303:11, 354:22</p> <p>rapidly [1] - 321:15</p> <p>rate [1] - 303:8</p> <p>rather [4] - 304:7, 350:18, 363:21, 364:23</p> <p>ray [7] - 338:12, 338:16, 338:17, 342:19, 343:21, 353:13, 353:23</p> <p>RAYMOND [1] - 294:17</p> <p>read [3] - 365:24, 367:1, 367:4</p> <p>ready [3] - 299:8, 346:18, 348:9</p> <p>real [1] - 339:14</p> <p>really [3] - 330:6, 331:8, 346:11</p> <p>reason [4] - 305:16, 316:16, 340:2, 340:15</p> <p>reasonable [11] - 318:3, 319:23, 320:3, 322:19, 323:14, 326:25, 331:2, 344:5, 344:9, 345:7, 345:19</p> <p>reasons [1] - 347:13</p> <p>receipt [1] - 364:22</p> <p>receive [1] - 349:20</p> <p>received [1] - 304:19</p> <p>receiving [1] - 307:3</p> <p>recent [1] - 325:19</p> <p>recess [2] - 331:7, 331:18</p> <p>recognized [1] - 352:22</p> <p>recollection [1] - 356:9</p> <p>recommend [2] - 332:3, 356:7</p> <p>recommended [3] -</p>	<p>326:6, 332:1, 333:4</p> <p>record [13] - 295:10, 296:1, 296:12, 296:20, 318:10, 349:9, 349:10, 349:11, 349:19, 364:1, 365:22, 366:19, 368:11</p> <p>recorded [1] - 318:6</p> <p>records [23] - 304:8, 304:22, 304:25, 305:4, 305:5, 305:9, 305:11, 307:4, 314:13, 325:21, 328:14, 328:16, 328:22, 330:21, 349:11, 349:13, 349:14, 349:15, 349:16, 352:10, 352:14, 352:17, 354:21</p> <p>recovery [5] - 339:3, 339:4, 340:5, 340:7, 340:25</p> <p>REDIRECT [1] - 356:24</p> <p>redirect [1] - 359:8</p> <p>redirected [1] - 359:4</p> <p>refer [1] - 304:9</p> <p>reference [5] - 296:2, 305:10, 314:20, 314:25, 356:1</p> <p>references [1] - 297:13</p> <p>referencing [1] - 327:5</p> <p>referred [3] - 304:15, 327:25, 367:19</p> <p>referring [5] - 297:8, 351:5, 354:24, 358:16, 359:17</p> <p>reflect [5] - 304:22, 310:20, 310:21, 321:1, 328:22</p> <p>reflected [1] - 334:18</p> <p>reflects [1] - 342:21</p> <p>regarding [1] - 345:11</p> <p>regions [1] - 306:14</p> <p>registered [1] - 352:13</p> <p>Rehabilitation [2] - 305:8, 347:22</p> <p>related [3] - 311:16, 325:11, 327:2</p> <p>relates [2] - 310:4, 324:23</p> <p>relationship [5] - 311:14, 311:21, 312:6, 312:7, 318:18</p> <p>relative [1] - 335:2</p> <p>relevant [2] - 297:22, 337:15</p>	<p>relieve [1] - 338:7</p> <p>remain [3] - 326:16, 338:13, 345:4</p> <p>remainder [1] - 316:6</p> <p>remedy [2] - 296:23, 363:13</p> <p>remember [3] - 339:20, 339:22, 349:18</p> <p>remind [1] - 334:6</p> <p>remove [7] - 332:8, 332:9, 332:19, 338:3, 338:6, 339:17, 344:24</p> <p>removed [2] - 332:23, 335:20</p> <p>removing [1] - 337:23</p> <p>repeat [1] - 300:18</p> <p>rephrase [2] - 323:11, 359:7</p> <p>replaced [1] - 345:1</p> <p>replacement [4] - 344:11, 344:21, 344:23, 345:2</p> <p>report [12] - 326:12, 329:6, 330:23, 333:25, 335:13, 336:25, 341:22, 342:21, 348:25, 350:24, 352:15, 358:17</p> <p>reported [5] - 326:12, 328:23, 333:7, 333:19, 351:11</p> <p>reporter [1] - 300:15</p> <p>Reporter [2] - 294:25, 369:13</p> <p>reports [4] - 324:7, 324:11, 349:19, 352:16</p> <p>represent [1] - 296:24</p> <p>represented [2] - 295:15, 303:20</p> <p>request [1] - 296:19</p> <p>require [1] - 344:7</p> <p>research [2] - 295:21, 295:22</p> <p>residency [3] - 301:19, 301:20, 302:1</p> <p>resident [1] - 347:8</p> <p>residual [1] - 345:17</p> <p>resort [1] - 336:11</p> <p>respect [13] - 296:4, 308:1, 325:12, 345:13, 348:21, 350:9, 350:21, 350:24, 352:8, 352:12, 358:4, 360:19, 364:18</p>
	Q			
	<p>quarter [2] - 362:12, 369:1</p> <p>Queens [2] - 302:13, 347:5</p> <p>questioning [1] - 295:5</p> <p>questions [9] - 296:20, 297:12, 300:10, 300:17, 346:5, 356:22, 361:12, 362:18, 365:4</p> <p>QUIANA [1] - 294:18</p> <p>quick [2] - 331:11, 364:21</p> <p>quote [1] - 367:5</p> <p>quoting [1] - 368:5</p>			
	R			
	<p>radiating [1] - 355:20</p> <p>radiculopathy [5] - 326:3, 327:20, 341:23, 355:24, 356:5</p>			

<p>rest [3] - 315:20, 325:16, 340:20</p> <p>result [8] - 296:8, 312:22, 321:3, 331:24, 343:12, 344:8, 348:12, 348:16</p> <p>resultant [1] - 330:19</p> <p>resulted [3] - 305:19, 348:1, 363:11</p> <p>results [1] - 333:12</p> <p>resume [1] - 307:2</p> <p>retractors [1] - 337:25</p> <p>return [8] - 336:13, 341:5, 345:20, 345:24, 346:3, 356:10, 356:11, 356:15</p> <p>returned [1] - 330:8</p> <p>returning [3] - 322:17, 330:10, 340:17</p> <p>reveal [1] - 307:25</p> <p>revealed [1] - 295:22</p> <p>review [9] - 305:4, 309:22, 314:7, 325:21, 326:1, 346:9, 350:9, 359:12, 363:14</p> <p>reviewed [9] - 310:2, 330:24, 348:25, 349:4, 349:5, 349:12, 349:13, 350:10, 352:10</p> <p>reviewing [1] - 319:21</p> <p>rib [1] - 306:10</p> <p>right-hand [1] - 318:1</p> <p>rise [6] - 299:10, 331:15, 331:19, 346:13, 346:15, 362:14</p> <p>risk [2] - 333:1, 352:22</p> <p>risks [1] - 332:25</p> <p>room [1] - 362:10</p> <p>root [5] - 309:20, 312:9, 315:11, 326:4, 326:18</p> <p>roots [1] - 334:11</p> <p>rotation [4] - 354:22, 355:1, 355:8</p> <p>rotations [1] - 355:4</p> <p>rough [1] - 344:15</p> <p>roughly [1] - 363:8</p> <p>routine [1] - 339:23</p> <p>rub [1] - 357:18</p> <p>ruling [4] - 300:11, 333:17, 368:15, 368:16</p> <p>rupture [2] - 316:19, 317:11</p>	<p style="text-align: center;">S</p> <p>sacrum [1] - 306:15</p> <p>sagittal [6] - 314:20, 314:21, 315:2, 320:15, 324:18, 325:9</p> <p>Sanchez [1] - 358:20</p> <p>sanction [4] - 297:6, 297:7, 297:16, 297:18</p> <p>sanctionable [3] - 296:24, 297:2, 297:3</p> <p>sanctioning [2] - 297:3, 297:4</p> <p>sanctions [1] - 367:13</p> <p>Santos [1] - 299:5</p> <p>sat [1] - 363:1</p> <p>satellite [1] - 302:12</p> <p>save [1] - 335:23</p> <p>saw [12] - 304:12, 305:1, 305:13, 305:17, 322:16, 325:20, 325:24, 328:2, 328:9, 333:21, 334:1, 353:10</p> <p>scale [1] - 354:5</p> <p>scan [2] - 342:18, 358:11</p> <p>scanner [1] - 317:24</p> <p>scanning [1] - 317:24</p> <p>scenario [3] - 350:19, 351:20, 351:21</p> <p>scene [1] - 362:11</p> <p>scheduled [2] - 303:13, 303:14</p> <p>school [4] - 301:14, 301:15, 301:17, 307:23</p> <p>scienter [1] - 368:23</p> <p>sclerosis [2] - 353:10, 353:17</p> <p>scope [1] - 359:1</p> <p>screen [2] - 314:18, 320:16</p> <p>screw [2] - 313:22</p> <p>scroll [1] - 358:24</p> <p>seat [3] - 307:2, 326:24, 333:18</p> <p>seated [5] - 299:12, 299:23, 303:23, 331:21, 346:17</p> <p>second [1] - 354:1</p> <p>see [23] - 296:1, 296:12, 311:20, 311:22, 311:24, 312:8, 315:2, 315:22, 317:6, 319:5, 320:19,</p>	<p>322:20, 327:7, 327:23, 331:14, 337:17, 337:24, 349:3, 356:14, 357:15, 362:12</p> <p>seeing [8] - 304:20, 305:16, 324:9, 324:23, 327:9, 327:10, 359:11, 359:22</p> <p>seeking [1] - 297:6</p> <p>sees [1] - 314:14</p> <p>segment [13] - 306:11, 335:19, 338:19, 338:23, 343:1, 343:4, 343:6, 343:9, 343:10, 343:13, 343:14, 344:10, 345:3</p> <p>segments [9] - 306:9, 306:15, 311:16, 325:12, 342:12, 342:25, 343:1, 343:6, 346:2</p> <p>Senior [2] - 294:25, 369:13</p> <p>sensation [5] - 309:3, 309:4, 309:16, 309:18, 313:9</p> <p>sense [8] - 307:24, 315:19, 321:7, 326:22, 330:1, 330:13, 330:23, 335:1</p> <p>sensitive [1] - 339:13</p> <p>separate [1] - 332:22</p> <p>separated [2] - 347:24, 364:10</p> <p>separating [1] - 357:19</p> <p>separation [2] - 348:1, 348:12</p> <p>September [6] - 314:11, 318:13, 320:13, 328:24, 350:10, 350:11</p> <p>serious [1] - 365:19</p> <p>service [1] - 355:2</p> <p>setup [1] - 349:19</p> <p>seven [1] - 306:19</p> <p>several [2] - 310:5, 362:19</p> <p>severe [1] - 354:19</p> <p>sheet [2] - 314:25, 327:9</p> <p>sheetrock [2] - 313:20, 313:23</p> <p>sheets [2] - 327:5, 327:7</p> <p>short [4] - 309:24,</p>	<p>369:5, 369:7, 369:8</p> <p>shortened [1] - 323:20</p> <p>shoulder [2] - 313:25, 317:4</p> <p>show [7] - 306:21, 317:12, 320:8, 320:10, 327:1, 327:6, 343:22</p> <p>showed [3] - 298:12, 309:25, 350:12</p> <p>showering [1] - 333:9</p> <p>showing [2] - 325:14, 343:13</p> <p>shows [9] - 311:11, 311:13, 311:20, 312:6, 312:7, 315:6, 319:1, 338:12, 351:2</p> <p>shrink [1] - 318:24</p> <p>side [31] - 311:10, 313:3, 313:4, 313:24, 314:18, 314:19, 314:21, 314:22, 315:1, 315:11, 315:12, 317:2, 317:10, 317:14, 317:15, 317:16, 317:18, 317:19, 318:1, 318:2, 318:8, 320:15, 326:5, 326:9, 326:14, 326:17, 326:19, 337:17</p> <p>sided [2] - 317:7, 318:11</p> <p>sign [1] - 308:18</p> <p>significance [3] - 298:3, 334:8, 342:10</p> <p>significant [2] - 316:4, 316:16</p> <p>significantly [1] - 327:18</p> <p>signs [1] - 353:14</p> <p>SIMELA [1] - 300:1</p> <p>Simela [20] - 299:7, 299:18, 300:1, 300:4, 301:1, 301:3, 302:22, 303:5, 346:24, 347:1, 348:12, 348:21, 361:15, 364:10, 364:16, 364:21, 367:3, 367:17</p> <p>Simela's [1] - 367:20</p> <p>similar [5] - 307:22, 311:12, 312:25, 316:9, 317:14</p> <p>Sinai [1] - 301:21</p> <p>site [1] - 337:18</p> <p>sits [1] - 313:10</p>	<p>six [1] - 341:5</p> <p>sixty [2] - 357:22</p> <p>size [2] - 318:23, 318:24</p> <p>sizes [1] - 315:4</p> <p>skin [1] - 339:12</p> <p>sleep [1] - 332:15</p> <p>slicing [1] - 315:9</p> <p>slightly [1] - 352:2</p> <p>slower [1] - 300:14</p> <p>small [4] - 306:13, 338:1, 358:12, 360:15</p> <p>smoking [1] - 352:25</p> <p>soft [3] - 310:3, 312:25, 318:20</p> <p>softer [1] - 306:24</p> <p>sole [1] - 352:24</p> <p>someone [4] - 323:15, 329:11, 333:12, 358:8</p> <p>sometime [1] - 328:24</p> <p>sometimes [2] - 300:11, 314:14</p> <p>somewhere [1] - 319:25</p> <p>sort [3] - 306:10, 331:7, 357:16</p> <p>sought [1] - 330:14</p> <p>sounds [1] - 298:24</p> <p>space [5] - 315:12, 325:5, 337:19, 338:10, 339:12</p> <p>spacer [1] - 338:11</p> <p>spasm [5] - 307:14, 307:16, 307:18, 316:17, 316:22</p> <p>speaking [3] - 309:10, 357:13, 367:7</p> <p>specializes [1] - 347:15</p> <p>specialty [1] - 301:6</p> <p>specific [4] - 309:11, 329:3, 330:7, 357:13</p> <p>specifically [9] - 302:2, 302:6, 310:17, 325:13, 329:16, 331:25, 367:3, 367:19</p> <p>specificity [1] - 360:20</p> <p>specify [1] - 354:24</p> <p>speeches [1] - 350:22</p> <p>spend [2] - 296:18, 298:6</p> <p>spending [1] - 298:8</p> <p>spent [1] - 362:22</p> <p>spinal [6] - 311:13, 315:10, 330:22, 332:21, 338:8, 343:3</p> <p>spine [85] - 301:7,</p>
--	---	--	---	---

<p>301:9, 301:21, 301:24, 302:1, 302:3, 302:4, 302:6, 302:7, 302:10, 302:13, 302:15, 302:18, 302:23, 302:24, 305:18, 305:21, 305:23, 305:25, 306:5, 306:7, 306:9, 306:10, 306:11, 306:16, 306:18, 306:24, 308:25, 311:12, 311:14, 311:15, 311:21, 311:23, 312:1, 314:11, 314:19, 314:24, 315:7, 315:20, 316:1, 316:4, 316:5, 316:6, 316:9, 316:12, 316:15, 316:18, 318:2, 318:5, 321:1, 321:4, 321:8, 321:9, 321:24, 322:19, 324:17, 325:7, 325:11, 325:16, 326:3, 327:10, 329:17, 330:2, 330:19, 331:24, 331:25, 332:4, 332:19, 332:20, 335:21, 336:12, 337:20, 337:24, 343:8, 345:13, 345:17, 347:15, 357:15, 357:21, 357:22, 357:23, 357:25, 358:1</p> <p>spoken [1] - 367:3</p> <p>spondylodosis [2] - 342:22, 353:10</p> <p>sports [1] - 302:14</p> <p>spot [2] - 327:9, 357:22</p> <p>spread [1] - 337:25</p> <p>Spurling's [5] - 308:14, 308:23, 334:6, 334:7, 355:14</p> <p>squeezed [2] - 313:1, 321:20</p> <p>stable [1] - 343:16</p> <p>stage [1] - 313:10</p> <p>stand [2] - 366:1, 368:2</p> <p>standard [1] - 368:23</p> <p>standpoint [1] - 309:9</p> <p>staring [1] - 311:10</p> <p>start [6] - 307:11, 311:6, 314:11,</p>	<p>329:13, 355:3, 357:18</p> <p>started [3] - 299:14, 318:22, 342:8</p> <p>starting [3] - 306:8, 324:17, 334:11</p> <p>starts [1] - 352:5</p> <p>STATE [1] - 294:1</p> <p>state [1] - 299:24</p> <p>State [1] - 301:4</p> <p>stay [2] - 322:25, 351:16</p> <p>STENOGRAPHIC [1] - 369:11</p> <p>step [7] - 306:1, 307:14, 313:19, 327:25, 336:24, 337:7, 357:15</p> <p>steps [3] - 314:9, 342:15, 361:18</p> <p>stick [1] - 353:17</p> <p>stiffen [1] - 343:9</p> <p>stiffness [3] - 342:3, 345:12, 345:18</p> <p>still [7] - 318:25, 319:1, 319:15, 320:19, 334:4, 345:16</p> <p>stimulate [1] - 332:20</p> <p>stoic [2] - 334:24, 339:25</p> <p>stop [1] - 295:25</p> <p>Street [2] - 294:9, 294:16</p> <p>stress [1] - 343:11</p> <p>stricken [4] - 295:10, 295:13, 296:14, 297:12</p> <p>strike [5] - 318:7, 324:5, 344:2, 344:3</p> <p>strikes [6] - 313:24, 313:25, 317:2, 317:15, 317:16, 317:17</p> <p>striking [4] - 296:3, 296:4, 296:16, 317:1</p> <p>strong [1] - 368:21</p> <p>struck [2] - 296:13, 317:4</p> <p>structure [3] - 306:25, 307:1, 318:21</p> <p>structures [5] - 310:17, 310:20, 338:2, 338:5, 339:16</p> <p>study [1] - 310:3</p> <p>subject [1] - 359:5</p> <p>subpoena [1] - 349:12</p> <p>subpoenaed [1] - 349:10</p> <p>subsequent [1] -</p>	<p>301:18</p> <p>substance [2] - 311:25, 313:7</p> <p>successful [1] - 355:17</p> <p>successive [1] - 325:4</p> <p>suddenly [1] - 317:4</p> <p>suffered [1] - 368:4</p> <p>suggest [1] - 369:6</p> <p>suggested [2] - 320:25, 326:6</p> <p>suggestion [3] - 366:17, 366:21</p> <p>Suite [1] - 294:20</p> <p>sum [2] - 348:16, 363:12</p> <p>summarize [1] - 305:15</p> <p>summary [1] - 309:24</p> <p>summations [1] - 362:6</p> <p>support [1] - 320:4</p> <p>SUPREME [1] - 294:1</p> <p>Supreme [2] - 294:8, 294:13</p> <p>surgeon [4] - 301:7, 301:10, 302:10, 330:22</p> <p>surgeries [2] - 345:17, 364:22</p> <p>Surgery [1] - 305:8</p> <p>surgery [57] - 301:19, 301:21, 301:24, 302:1, 302:3, 302:4, 302:6, 302:8, 302:13, 302:15, 302:23, 303:13, 303:14, 308:20, 326:7, 327:14, 327:16, 327:18, 327:25, 328:1, 328:3, 332:1, 332:3, 332:22, 332:25, 333:4, 333:8, 334:3, 334:16, 334:18, 335:10, 336:11, 336:19, 336:21, 337:15, 339:1, 339:5, 339:19, 341:9, 341:24, 342:6, 342:11, 342:23, 344:7, 344:13, 347:10, 347:12, 347:15, 347:16, 352:12, 353:7, 354:2, 354:4, 354:12, 355:16, 355:21</p> <p>surgical [8] - 319:4, 334:24, 336:22,</p>	<p>337:19, 339:11, 352:14, 352:15, 356:4</p> <p>Surgicore [1] - 352:17</p> <p>surprise [1] - 329:5</p> <p>surprised [1] - 329:9</p> <p>surrounding [1] - 339:16</p> <p>sustain [1] - 358:9</p> <p>sustained [5] - 300:12, 322:15, 333:23, 340:9, 344:2</p> <p>sustaining [1] - 322:11</p> <p>swayed [1] - 367:2</p> <p>swear [1] - 299:19</p> <p>SWERN [1] - 294:12</p> <p>switch [1] - 309:16</p> <p>switched [1] - 311:17</p> <p>sworn [1] - 364:6</p> <p>symptomatic [10] - 322:5, 324:13, 326:2, 327:20, 331:3, 336:9, 342:13, 343:2, 355:18, 358:13</p> <p>symptomology [1] - 344:14</p> <p>symptoms [5] - 324:8, 326:5, 326:13, 326:16, 336:10</p>	<p>313:3, 317:9, 317:10, 317:18</p> <p>term [6] - 321:5, 329:11, 332:8, 343:8, 353:15, 353:19</p> <p>TERM [1] - 294:1</p> <p>terminology [1] - 305:23</p> <p>terms [14] - 297:7, 305:25, 306:17, 310:12, 318:17, 325:10, 326:9, 326:11, 330:7, 341:1, 342:15, 344:13, 353:16, 365:19</p> <p>test [3] - 308:16, 334:5, 355:14</p> <p>tested [1] - 308:8</p> <p>testified [4] - 298:11, 303:16, 303:19, 313:18</p> <p>testifies [1] - 317:3</p> <p>testify [2] - 359:2, 359:16</p> <p>testimony [7] - 295:11, 299:20, 305:20, 305:24, 313:17, 339:18, 364:21</p> <p>testing [1] - 307:25</p> <p>tests [2] - 355:16, 355:18</p> <p>tethered [1] - 335:21</p> <p>tethering [1] - 309:1</p> <p>THE [86] - 294:1, 295:1, 295:25, 297:1, 297:9, 298:17, 298:21, 298:24, 299:2, 299:4, 299:8, 299:12, 299:19, 299:22, 299:23, 299:25, 300:4, 300:5, 300:6, 300:20, 300:21, 302:25, 303:2, 306:2, 306:3, 310:9, 311:1, 311:3, 314:9, 314:13, 314:17, 319:13, 322:11, 323:5, 323:9, 323:11, 324:1, 324:3, 324:19, 329:8, 331:8, 331:12, 331:17, 331:21, 333:16, 333:18, 333:23, 335:8, 337:5, 337:8,</p>
T				
			<p>T-spine [1] - 306:24</p> <p>tactic [1] - 367:21</p> <p>TAKEN [1] - 369:11</p> <p>team [2] - 332:22, 332:23</p> <p>tear [7] - 311:24, 312:18, 330:19, 350:5, 350:6, 358:12, 360:15</p> <p>Technology [1] - 301:16</p> <p>technology [2] - 331:7, 335:23</p> <p>temporally [1] - 318:17</p> <p>temporary [1] - 355:10</p> <p>ten [8] - 298:6, 331:13, 339:24, 340:2, 346:12, 354:6, 354:8, 354:18</p> <p>tenderness [1] - 307:19</p> <p>tenor [1] - 295:17</p> <p>tense [2] - 307:17, 316:23</p> <p>tension [5] - 313:2,</p>	

<p>337:13, 340:9, 344:2, 346:7, 346:11, 346:17, 346:20, 348:4, 348:6, 348:9, 348:11, 348:18, 350:22, 357:9, 359:3, 359:12, 359:14, 359:15, 360:4, 360:6, 360:8, 360:12, 360:17, 361:13, 361:15, 361:16, 361:17, 361:19, 361:20, 361:23, 363:4, 364:3, 365:10, 369:1, 369:8, 369:10</p> <p>theft [3] - 364:12, 364:13, 364:25</p> <p>themselves [1] - 363:19</p> <p>Therapy [1] - 305:6</p> <p>therapy [3] - 327:21, 330:14, 340:10</p> <p>therefore [1] - 367:11</p> <p>thinking [3] - 296:6, 330:24, 344:16</p> <p>third [2] - 313:19, 366:18</p> <p>thirties [1] - 315:23</p> <p>thirty [1] - 357:25</p> <p>THIS [1] - 369:11</p> <p>thoracic [2] - 306:10, 311:12</p> <p>three [14] - 314:10, 318:10, 328:25, 335:24, 335:25, 336:6, 340:16, 353:16, 358:6, 358:13, 360:24, 361:3, 365:13</p> <p>threshold [5] - 334:22, 334:23, 335:2, 335:6, 335:9</p> <p>throughout [1] - 301:25</p> <p>tingling [2] - 326:6, 326:17</p> <p>TISHMAN [1] - 294:6</p> <p>tissue [1] - 310:3</p> <p>titanium [1] - 338:11</p> <p>title [1] - 299:24</p> <p>TO [1] - 369:10</p> <p>today [2] - 303:6, 361:21</p> <p>together [3] - 332:10, 353:16, 361:6</p> <p>tomorrow [4] - 362:12, 369:1, 369:5, 369:9</p>	<p>took [11] - 296:3, 297:19, 304:16, 305:15, 327:2, 329:5, 330:23, 337:3, 339:19, 342:19</p> <p>tops [1] - 346:12</p> <p>touch [1] - 307:13</p> <p>touching [1] - 309:8</p> <p>toward [1] - 317:4</p> <p>towards [2] - 317:3, 326:11</p> <p>training [1] - 301:9</p> <p>TRANSCRIPT [1] - 369:10</p> <p>transmit [2] - 349:14</p> <p>trauma [7] - 302:14, 312:18, 312:22, 318:14, 329:12, 350:3, 351:25</p> <p>traumatic [4] - 302:18, 302:24, 329:11, 350:18</p> <p>traumatically [5] - 327:1, 357:5, 357:6, 357:12, 361:9</p> <p>travelling [1] - 326:13</p> <p>treat [2] - 302:18, 335:1</p> <p>treated [2] - 333:11, 341:3</p> <p>treating [1] - 349:20</p> <p>treatment [9] - 302:24, 303:23, 327:24, 329:14, 336:22, 341:10, 342:14, 348:22, 354:21</p> <p>treatments [1] - 304:20</p> <p>treats [2] - 302:5, 329:11</p> <p>TRIAL [1] - 294:5</p> <p>trial [4] - 295:1, 296:9, 297:7, 324:4</p> <p>tried [1] - 340:22</p> <p>tries [1] - 318:23</p> <p>TRUE [1] - 369:10</p> <p>truth [3] - 299:21</p> <p>truthfulness [1] - 364:7</p> <p>try [2] - 314:15, 336:11</p> <p>trying [3] - 324:2, 324:3, 334:24</p> <p>turn [4] - 324:14, 324:16, 328:7, 335:17</p> <p>turns [1] - 309:14</p> <p>twenties [1] - 315:23</p> <p>two [23] - 306:15, 308:13, 312:2,</p>	<p>313:5, 316:20, 318:14, 319:6, 319:7, 328:25, 329:22, 331:6, 331:8, 331:10, 332:10, 338:22, 344:17, 347:13, 351:18, 351:23, 360:1, 361:6, 365:4, 367:14</p> <p>type [11] - 329:16, 332:3, 332:25, 333:12, 338:4, 338:18, 340:3, 356:11, 356:14, 356:19, 364:6</p> <p>typical [1] - 339:23</p> <p>typically [8] - 308:11, 313:4, 316:21, 327:23, 329:12, 349:24, 354:10, 357:14</p>	<p>366:22</p> <p>Vargas [1] - 305:5</p> <p>varies [1] - 334:22</p> <p>various [3] - 304:19, 304:20, 305:25</p> <p>vary [1] - 349:24</p> <p>varying [1] - 315:4</p> <p>verily [1] - 362:17</p> <p>version [1] - 312:6</p> <p>versus [3] - 303:10, 327:10, 368:17</p> <p>vertebral [3] - 306:19, 335:18, 335:19</p> <p>vestibule [1] - 306:13</p> <p>vision [1] - 338:3</p> <p>visit [7] - 327:15, 327:16, 327:17, 328:4, 355:13, 355:19, 362:11</p> <p>visits [1] - 355:11</p> <p>visualizing [1] - 317:21</p> <p>vocal [1] - 339:15</p> <p>vocational [1] - 356:7</p> <p>voice [2] - 299:24, 300:7</p> <p>voir [2] - 366:10, 366:24</p>	<p>WITNESS [10] - 299:22, 299:25, 300:5, 300:20, 306:3, 314:17, 337:13, 359:14, 361:16, 361:19</p> <p>witness [6] - 300:7, 310:8, 365:17, 366:1, 366:11, 368:2</p> <p>word [1] - 315:17</p> <p>words [3] - 314:15, 367:23, 368:21</p> <p>workforce [1] - 340:19</p> <p>world [2] - 340:24, 365:18</p> <p>worse [13] - 321:11, 321:13, 321:17, 321:25, 323:23, 324:8, 325:8, 325:16, 334:1, 334:13, 336:7, 343:19, 343:23</p> <p>worsened [1] - 324:18</p> <p>worst [1] - 336:16</p> <p>wound [1] - 339:11</p> <p>wrist [2] - 314:2, 320:25</p> <p>write [1] - 300:15</p> <p>written [1] - 363:9</p>
		U		
		<p>unapproved [1] - 295:16</p> <p>uncomfortable [1] - 313:11</p> <p>uncommon [1] - 334:21</p> <p>under [3] - 304:2, 345:4, 366:11</p> <p>undergo [2] - 332:16, 340:10</p> <p>undergraduate [2] - 301:11, 301:13</p> <p>unfair [1] - 358:10</p> <p>unfortunately [2] - 343:1, 343:10</p> <p>university [1] - 301:19</p> <p>University [2] - 301:12, 301:14</p> <p>unrelated [1] - 362:19</p> <p>unreliable [1] - 295:16</p> <p>unremarkable [3] - 351:1, 351:14, 358:16</p> <p>up [13] - 296:10, 308:4, 311:12, 313:20, 313:21, 341:9, 353:7, 353:11, 359:3, 359:6, 361:16, 365:7, 368:8</p> <p>updated [1] - 342:18</p> <p>usual [1] - 312:14</p>		
		W		
		<p>wait [1] - 300:11</p> <p>waiting [1] - 298:7</p> <p>waived [1] - 366:18</p> <p>walk [1] - 314:22</p> <p>walking [1] - 361:17</p> <p>water [7] - 312:25, 318:22, 318:24, 318:25, 319:15, 320:18, 320:21</p> <p>wearing [1] - 317:2</p> <p>weighing [1] - 366:12</p> <p>welcome [2] - 299:12, 331:21</p> <p>whole [3] - 299:21, 349:17, 365:7</p> <p>wholly [3] - 362:17, 362:19, 363:15</p> <p>wide [1] - 321:6</p> <p>wilfulness [3] - 365:18, 365:20, 365:23</p> <p>willful [5] - 365:16, 366:21, 367:12, 367:21, 368:20</p> <p>willing [1] - 297:11</p> <p>wired [1] - 309:11</p> <p>wise [1] - 357:15</p> <p>withdraw [1] - 351:7</p> <p>withdrawn [1] - 295:9</p>		
			X	
			<p>x-ray [7] - 338:12, 338:16, 338:17, 342:19, 343:21, 353:13, 353:23</p>	
			Y	
			<p>year [25] - 301:15, 301:19, 301:25, 315:15, 318:14, 319:6, 319:7, 319:16, 319:25, 320:5, 325:4, 341:5, 344:15, 344:17, 357:3, 357:4, 357:22, 358:1, 360:1, 361:6</p> <p>years [4] - 297:25, 351:18, 351:23, 352:5</p> <p>yesterday [1] - 295:4</p> <p>YORK [2] - 294:1, 294:6</p> <p>York [14] - 294:9, 294:17, 294:21, 300:2, 301:4, 301:16, 305:6, 305:7, 347:2, 347:5, 347:11</p>	
		V		
		<p>value [2] - 366:12,</p>		

Yorker [1] - 301:12 young [1] - 316:7
Z
zero [2] - 336:14, 340:16