

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS : CIVIL TERM: PART 99

- - - - -X
DJHIERRY GOUSSE,

Plaintiff,

- against - INDEX NUMBER:
500574/2021
TRIAL

BEDFORD 2150 LLC, LITTLELEAF PROPERTY MANAGEMENT LLC,
HALT MANAGEMENT INC., ROSEWOOD REALTY GROUP INC.,
NIEUW AMSTERDAM PROPERTY MANAGEMENT LLC & BLACK SPRUCE
MANAGEMENT LLC,

Defendants.

- - - - -X

Supreme Courthouse
360 Adams Street
Brooklyn, New York 11201

July 16, 2026

BEFORE:

HONORABLE RICHARD J. MONTELIONE,
Justice of the Supreme Court
(And a Jury)

APPEARANCES:

LAW OFFICE OF NICHOLAS E. TZANETEAS
Attorney for the Plaintiff
1392 Coney Island Avenue
Brooklyn, New York 11230
BY: NICHOLAS E. TZANETEAS, ESQ.

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One Batter Park Plaza, 34th Floor
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BY: KENNETH BUFFALOE, ESQ.

LUCILLE CRAVOTTA
Senior Court Reporter

Proceedings

1 THE CLERK: Good morning, your Honor.

2 This is the matter of Djhierry Gousse vs. Bedford
3 2150 LLC, Index 500574 of 2021.

4 Counsel, please state your appearances.

5 MR. TZANETEAS: Nick Tzaneteas for the plaintiff.
6 Good morning.

7 THE COURT: Good morning.

8 MR. BUFFALOE: Kenneth Buffaloe for the
9 defendants.

10 THE COURT: All right. Good morning.

11 All right, so do we have all jurors?

12 COURT OFFICER: Yes.

13 THE COURT: We do?

14 COURT OFFICER: Yes.

15 THE COURT: And you have your witness?

16 MR. TZANETEAS: Yes, your Honor.

17 THE COURT: Okay. And it's your expert, we're
18 going to take him out of order; is that correct?

19 MR. TZANETEAS: Yes, your Honor.

20 THE COURT: So the issue of the W2's and the work
21 records we'll deal with that at a later point in time.

22 MR. BUFFALOE: Understood, you Honor.

23 THE COURT: Do you need that for his testimony?

24 MR. TZANETEAS: No, your Honor, but we'll deal
25 with it at a later time, it's fine.

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1 I do have another issue that I want to put on the
2 record, your Honor.

3 THE COURT: Is it fast? I definitely want to get
4 your witness in now.

5 MR. TZANETEAS: I have to make a record because
6 it's going to affect the way I ask my expert certain
7 questions I would not normally ask him.

8 THE COURT: Which expert is it?

9 MR. TZANETEAS: Thomas Scilaris.

10 THE COURT: He's an expert in which field?

11 MR. TZANETEAS: Orthopedic surgery, he did the
12 surgery to the knee and the shoulder.

13 THE COURT: All right. Go ahead.

14 MR. TZANETEAS: Your Honor, I did make a motion
15 that your Honor denied talking about any outstanding bills
16 and one of the avenues that they will -- that I can address
17 it since your Honor ruled that way which is by asking my
18 client his ability to pay which I understand is allowed,
19 but also of insurance. Last night as your Honor did, I got
20 charges, the charges from the defendant and two of the
21 charges, number one, interested witnesses of all the
22 doctors which is ridiculous, but I'll fight that another
23 day, but since he made that. And the other one is
24 mitigation of damages. Now, both charges are very much
25 constructed very differently than what they say, but even

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1 the mitigation charge says if plaintiff can show lack of
2 insurance or financial difficulty. Now, I know these are
3 proposed charges and I don't know how your Honor is going
4 to rule --

5 THE COURT: I don't want to discuss the proposed
6 charges at this point. Let's just get down to the nitty
7 gritty.

8 MR. TZANETEAS: Being that the defendant is asking
9 the Court to tell -- to have the doctors that have -- that
10 might have any outstanding bills being asked as interested
11 witnesses interested in the case.

12 THE COURT: All right. I am not going to discuss
13 interested witness, that will be at a later point in time.

14 MR. TZANETEAS: I understand that, Judge.

15 THE COURT: Make your record. I think you already
16 made a record, but make your record.

17 MR. TZANETEAS: Being the fact that the mitigation
18 charge you are asking, I am not saying we're discussing it
19 now, but in the mitigation charge it says the plaintiff can
20 disprove it by saying lack of insurance and not being able
21 to pay it. So that's why I want to renew my motion now,
22 Judge, to not allow -- I can understand if you said there
23 was open bills, but it should be no further than asking
24 that question, no further questions about why they weren't
25 paid or they're outstanding, because I would like to ask my

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1 doctor why they weren't paid and why they're outstanding.

2 THE COURT: Your doctor has no idea why they
3 weren't paid. All he knows is that they weren't paid. He
4 could say they put them in for insurance, but he has no
5 idea of the financial ability of your client to pay or not.
6 That all comes from the testimony.

7 MR. TZANETEAS: That being said, your Honor, I am
8 just making my record, because the questions I am going to
9 ask him based on your Honor's ruling I wouldn't ask these
10 questions, but since I have to, based on your ruling I have
11 to proceed strategically or not.

12 THE COURT: What questions would you ask or not
13 ask based on my ruling.

14 MR. TZANETEAS: I wouldn't ask any questions about
15 the bills, your Honor, I wouldn't ask any questions about
16 open bills. I wouldn't ask any questions about anything
17 about it. I would just ask him about medicine, that's it.

18 THE COURT: All right. So, you reserve your right
19 to any objection you think is improper during the course of
20 the examination, that's it. You want to make a further
21 record put it in papers and we could file it as a court
22 exhibit.

23 All right. So what do you want to say,
24 Mr. Buffaloe?

25 MR. BUFFALOE: I don't have anything to say

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1 regarding that. The Court already ruled on this issue.

2 THE COURT: I am going to handout a written
3 decision on motions in limine, they do nothing more than
4 what is already placed on the record.

5 MR. TZANETEAS: Can I get my witness, Judge?

6 THE COURT: Yes, absolutely.

7 Can you give me the name and the exact spelling of
8 the doctor so I can write it down?

9 MR. TZANETEAS: Thomas, T-H-O-M-A-S, Scilaris,
10 S-C-I-L-A-R-I-S.

11 THE COURT: And he is an orthopedic surgeon?

12 MR. TZANETEAS: Yes, your Honor.

13 THE COURT: Thank you.

14 COURT OFFICER: All rise. Jury entering.

15 (Jury entering.)

16 THE COURT: Good morning, everyone. Please sit
17 down. Thank you.

18 Mr. Tzaneteas, and forgive me if I am
19 mispronouncing your name, do you have a witness to call?

20 MR. TZANETEAS: Yes, your Honor. As per
21 permission of your Honor I am calling Dr. Thomas Scilaris
22 to the stand out of turn.

23 THE COURT: Thank you. The Court is accommodating
24 the doctor because of his schedule and so we're taking him
25 out of turn. It doesn't mean anything other than

Thomas Scilaris, M.D. - Plaintiff - Direct

1 accomodation. That's all. Thank you.

2 THE CLERK: Good morning.

3 THE WITNESS: Good morning.

4 THE CLERK: Please raise your right hand. Do you
5 solemnly swear or affirm that the testimony you are about
6 to give there court is the truth and nothing but the truth.

7 THE WITNESS: Yes.

8 THE CLERK: Thank you. Please be seated.

9 In a loud, clear voice please state your name,
10 your title and your business address.

11 THE WITNESS: Yes. Thomas Scilaris, orthopedic
12 surgeon, 39 East 69the Street, New York, New York 10021.

13 THE CLERK: Please spell your name.

14 THE WITNESS: S-C-I-L-A-R-I-S.

15 THE CLERK: Okay, thank you.

16 MR. TZANETEAS: May I inquire, your Honor?

17 THE COURT: Yes, please.

18 DIRECT EXAMINATION

19 BY MR. TZANETEAS:

20 Q Good morning, Dr. Scilaris.

21 A Good morning.

22 Q Besides meeting on Zoom the first time we met was
23 today?

24 A Yes.

25 Q Okay. I am sitting back here to keep your voice up,

1 talk to the microphone, talk slowly.

2 A Yes.

3 Q Are you a physician duly licensed to practice medicine
4 in the State of New York?

5 A Yes, I am.

6 Q When were you so licensed?

7 A 1999.

8 Q Can you tell the jurors a little bit about your
9 educational background?

10 A Yes, college was the University of Richmond, medical
11 school was Georgetown University.

12 After that Lennox Hill Hospital, general surgery.
13 Orthopedic surgeon residency at the University of Missouri in
14 Kansas City, and then a sports medicine fellowship in Perth,
15 Australia. Then I moved to New York and I've been here since
16 1999.

17 Q What is a fellowship?

18 A A fellowship is an extra year following your residency
19 where you can specialize in another field of orthopedics.

20 Q What field was that?

21 A It was sports medicine, really arthroscopic surgery of
22 knees and shoulders and ankles and wrists.

23 Q And what is your field of specialty?

24 A Orthopedic surgery.

25 Q What is orthopedic surgery?

1 A Orthopedic surgery is the treatment of the
2 musculoskeletal bones, ligaments, tendons of the whole body.

3 Q And are you board certified?

4 A Yes, I am.

5 Q What does it mean to be board certified?

6 A Board certification is something that is performed,
7 there is two parts to it, there is a part one where you take a
8 test during your last year of residency and if you pass the
9 written test then you go out and practice and then for two years
10 you are keeping count of patients and surgeries that you do and
11 then you present that to your peers, other orthopedic surgeons
12 and then to see if you pass that then you are board certified in
13 that field.

14 Q And Doctor, as part of your training do you review and
15 examine neuroimaging taken of your patients?

16 A I do.

17 Q What type of training did you receive in that?

18 A I mean throughout, all the way through residency I look
19 at patient's MRI's.

20 Q Let's go into a little bit about your private practice
21 or your practice after you graduated in your fellowship, tell us
22 a little bit about your employment history?

23 A Yes, I've been pretty much in the same practice since
24 1999 and I am in private practice. So I treat patients in my
25 office and other offices and I treat patients, I operate on

1 patients.

2 Q Do you have any hospital affiliations?

3 A I do. Lennox Hill which is Northwell and Mount Sinai
4 Beth Israel.

5 Q Do you also perform surgeries at any surgery
6 facilities?

7 A Yes.

8 Q What surgery facilities?

9 A Yes. One of them is Surgicare Manhattan, in the city,
10 and then the other one is Health East Medical Center in
11 Englewood, New Jersey.

12 Q Do you own an interest in both?

13 A I do.

14 Q What is the name of your practice, your private
15 practice?

16 A Park West Surgical.

17 Q How many offices are there?

18 A I have one on the east side, one on the west side and
19 then some satellite offices that I go see patients in.

20 Q How many doctors are part of your practice?

21 A Parkway Surgical is just me.

22 Q What about the other practice?

23 A There is another practice, Health Needs Medical
24 Alliance that I am part of that has offices in Brooklyn, also in
25 New Jersey.

1 Q And how many doctors are in that practice,
2 approximately?

3 A I would say about four doctors.

4 Q Doctor, as part of your practice do you come in to
5 testify for your patients on occasion?

6 A Yes.

7 Q About how many -- how long have you been in practice?

8 A Since 27 years now.

9 Q And in the 27 years about how many times have you come
10 to testify on behalf of your patients, approximately?

11 A I would say it's in the sixties, 65, somewhere around
12 there.

13 Q On average per year how many times do you find yourself
14 in court testifying like today?

15 A Maybe two or three times a year.

16 Q As part of your practice do you specialize in certain
17 body parts as an orthopedic surgeon?

18 A I do treat everything, I do treat the neck and back,
19 but I refer that to like a spine doctor. But I would say knees
20 and shoulders is probably the predominant part of my practice.

21 Q About how many surgeries to shoulders have you done
22 over your career?

23 A Okay. I would say if I do between 60 surgeries a month
24 that's about 700 surgeries a year, so I've been practicing for
25 about 25, 27 years, so quite a few.

1 Q What about knees?

2 A I would say knees are a little more common than
3 shoulders.

4 Q Okay, why so?

5 A They're sporting injuries and whatnot, I just think
6 knee injuries are a little more common.

7 Q Doctor, did you have office hours today?

8 A Yes.

9 Q Did you cancel your office hours to be here?

10 A Yes.

11 Q As a result of cancelling office hours are you being
12 compensated for your time being here today?

13 A Yes.

14 Q At what rate?

15 A My usual charge, it's \$10,000 for the full day, \$5,000
16 for half a day.

17 Q Do you know if you got paid yet?

18 A That I don't know, I don't.

19 Q Who handles that in your office?

20 A My office does the billing.

21 Q Doctor, when is the last time you testified before
22 today on behalf of your patients?

23 A I would say it's over a year to maybe two years ago,
24 been awhile.

25 Q Okay. Now, did you bring your medical file of your

1 reports today here with you?

2 A Yes, I did.

3 Q Do you have that in front of you?

4 A Yes.

5 Q And Doctor, are those reports and notes in that folder
6 and that medical folder taken in the regular course of business
7 of your practice in treating that particular patient, Mr.
8 Gousse?

9 A Yes.

10 Q And the reports that you elicited in there, they are
11 generated from your office from the examinations of Mr. Gousse?

12 A That's correct.

13 MR. TZANETEAS: Your Honor, at this time I would
14 like to move this will file into evidence subject to
15 redaction.

16 MR. BUFFALOE: I need to see it.

17 THE COURT: All right, why don't you.

18 MR. BUFFALOE: I do have an objection.

19 THE COURT: All right. So that's an issue I could
20 probably deal with at a later point in time; is that
21 correct?

22 MR. TZANETEAS: I didn't hear what he said.

23 THE COURT: What he said was he has objections to
24 part of the record.

25 MR. TZANETEAS: If I know what part it shouldn't

1 be a problem. Subject to redaction, I am not going to
2 admit certain reports in evidence.

3 MR. BUFFALOE: Okay. Well, you have --

4 THE COURT: Well, okay. At this point in time
5 nothing is going to be published to the jury, why don't you
6 proceed, the next time we have a break we'll get into the
7 specifics.

8 MR. TZANETEAS: Okay, but he's going to refer to
9 it during his testimony, Judge.

10 THE COURT: If he needs his memory refreshed he
11 can refer to it. I don't understand.

12 MR. TZANETEAS: Some of the records are going to
13 be in evidence and he can read from some of the records,
14 that's why I want to --

15 THE COURT: I'll do it point by point; all right?
16 You are going to ask him what he refers to, you are either
17 going to raise an objection or not raise an objection. I
18 will make a determination at that point.

19 MR. BUFFALOE: Okay. I do think what I am
20 objecting to is relatively straightforward and plaintiff
21 might agree.

22 THE COURT: You know what, let's take this
23 outside.

24 (A bench conference was held outside the presence
25 of the jury.)

1 THE COURT: All right. What specific part do you
2 have an objection to?

3 MR. TZANETEAS: We agreed to it.

4 MR. BUFFALOE: We already agreed.

5 THE COURT: So I don't have to make a further
6 record. Okay. Thank you.

7 (Proceedings held in open court with the jury
8 present.)

9 MR. TZANETEAS: Judge, can we mark it as an
10 exhibit please?

11 THE COURT: Yes, I think we are up to Exhibit 5.

12 THE CLERK: This is plaintiff's?

13 THE COURT: Yes.

14 THE CLERK: 5.

15 THE COURT: All right. So Exhibit 5. It's going
16 to be in evidence. It will be marked doctor's office file,
17 Dr. Scilaris' office file.

18 Please proceed.

19 MR. TZANETEAS: Thank you.

20 Q Now, Doctor, as part of your examination of patients do
21 you also review medical records from other doctors?

22 A Yes.

23 Q Do you also review MRI's?

24 A Yes.

25 Q And in this case do you review MRI's of the right knee

1 and right shoulder?

2 A Yes.

3 MR. TZANETEAS: At this point, your Honor, I
4 submit the CD of the MRI's of Mr. Gousse from Kolb
5 Radiology dated 6/17 2020 of the right knee and the right
6 shoulder.

7 THE COURT: Any objection?

8 MR. BUFFALOE: Yes, your Honor. No foundation.

9 MR. TZANETEAS: I exchanged a 4532, your Honor.

10 THE COURT: Let me just take a look at. Do you
11 have the information on the jacket of the CD?

12 MR. TZANETEAS: Yes.

13 THE COURT: Why don't you just hand it up? Show
14 it to Mr. Buffalo first.

15 All right. So what is the section of the CPLR to
16 save me a little time?

17 MR. TZANETEAS: Section 4532, your Honor. I have
18 the 4532 that's exchanged with the defendant based on
19 providing them the film --

20 THE COURT: Do you have the notice with you?

21 MR. TZANETEAS: Yes, I do, your Honor.

22 THE COURT: Why don't you hand it up.

23 MR. TZANETEAS: Your Honor, it's based on their
24 own doctor examining it and the exchange of the CD with
25 them under 4532, so it's not a surprise.

1 THE COURT: I want specifically the ground for
2 your objection.

3 MR. BUFFALOE: Taken by a third-party not present
4 in court, the 4532 is insufficient and there is no
5 autointoxication of those, they weren't subpoenaed directly
6 to the courthouse.

7 THE COURT: All right, let's go in the back.
8 Thank you.

9 (Bench conference held outside the presence of the
10 jury.)

11 THE COURT: All right. It seems to me that you
12 really have to get into the CD to make sure that the MRI
13 contains certain information, the date it was taken and
14 additional identifying information.

15 MR. TZANETEAS: Your Honor, as an officer of the
16 court this is a CD that was provided by Kolb Radiology
17 provided to the defendant. In addition, the defendant's
18 doctor has reviewed this MRI, so I know my adversary
19 said --

20 THE COURT: Just give me one moment. Well, I mean
21 this is for the future, not for now, but it's always a good
22 idea to put in your notice of intention that it's available
23 for inspection.

24 MR. TZANETEAS: I put that, that I exchanged it
25 with him, I attached the CD and I sent it to them.

1 THE COURT: I am just saying for future.

2 MR. TZANETEAS: I would rather send it to them and
3 there is no confusion, Judge. You know how I know they
4 have it? They reviewed it and they put pictures.

5 THE COURT: No, you mentioned that before. I am
6 going to let it in. I want to understand your objection
7 though. I got a 4532(a) notice in front of me, it's
8 purported to have been reviewed by your own doctors.

9 MR. BUFFALOE: Well, the 4532 has certain very
10 specific requirements including the certification from the
11 radiologist supposedly reviewed them what is contained
12 therein has all the identifying information in his 4532,
13 doesn't contain any of that.

14 MR. TZANETEAS: Your Honor, it is. There is a
15 part two, and with all respect to counsel, I've asked him
16 beforehand if he's going to stipulate to anything, he's
17 not. So I have to go through this each and every time,
18 which is fine, Judge. And I don't really feel like doing
19 it in front of the jury every time and waste time, but I
20 will do it because it's not agreed.

21 And Mr. Buffaloe has been doing this for a long
22 time, 4532 says affirmation or the other means of
23 exchanging it or making it available.

24 THE COURT: Let me ask you, was this incorporated
25 into the doctor's owns records?

1 MR. TZANETEAS: The MRI.

2 THE COURT: Yes.

3 MR. TZANETEAS: He's a treating doctor, he
4 reviewed the MRI's, he knows what the MRI's say, yes.

5 THE COURT: Is it part of his records?

6 MR. TZANETEAS: Yes, but either way he reviewed
7 it, Judge. The reports were in his file that we took them
8 out because reports are improper to come in, Judge. That's
9 why I agreed to take them out, you have his file.

10 The CD's, they don't hold onto the CD's because
11 ultimately it's not their record, but he reviewed the
12 films, Judge.

13 MR. BUFFALOE: My recollection is that the only
14 time he indicates he reviewed the films is when he saw the
15 plaintiff in 2025 in connection with the narrative report.

16 THE COURT: I am going to read in section 2(a),
17 it's got to contain the name of the injured party, the date
18 when the information constituting the graphic was taken,
19 such additional identifying information, and then it goes
20 on, and the representation has been previously received or
21 examined by the party or parties against whom it is being
22 offered. All right. There is another or, the other or is
23 at least ten days before the date of the trial.

24 So my question to you is, Mr. Buffaloe, were you
25 given a copy of this and its just been represented to me

1 that you have been or your office has been?

2 MR. TZANETEAS: Not his office, the previous
3 attorney's office, Judge. He's trial counsel. Well,
4 recent counsel.

5 THE COURT: So, Mr. Buffalo, can you represent to
6 the Court that the prior office did not receive a copy of
7 the CD because if you can't I am not going to sustain your
8 objection, we're going to go forward. If we do have to do
9 this on every occasion there is going to be a problem.

10 MR. BUFFALOE: Well, I just want to point out I
11 just stipulated in evidence the doctor's medical reports
12 without any objection whatsoever.

13 THE COURT: Please, that's a ridiculous argument.
14 If you're not stipulating to the CD's which is probably
15 crucial to this case, who cares you agreed to other things
16 that would have gone into evidence anyway.

17 MR. BUFFALOE: You just said if I do it every time
18 it's going to be a problem. I just didn't do it for
19 something else. I am specifically doing it for this.

20 THE COURT: Look, Mr. Buffalo, have the ground
21 for your objection. If your office already received
22 information and it meets all the requirements, all I am
23 saying is don't raise objections unless you have a ground
24 for it, that's all. That's all I am saying. So it's in
25 evidence. Thank you.

1 MR. TZANETEAS: Thank you, Judge.

2 (Proceedings held in open court, jury present.)

3 THE COURT: All right. The CD is in evidence.

4 THE CLERK: Plaintiff's 6?

5 THE COURT: Yes.

6 Please proceed when you are ready.

7 Q Doctor, did there come a time that you initially saw
8 Mr. Djhierry Gousse as part of your practice for an accident
9 that he was involved in back on May 14, 2020?

10 A Yes, I saw the patient June 26th of 2020.

11 Q Your file in front of you has been admitted in
12 evidence, you can refer to it, read from it, refresh your
13 recollection; okay?

14 A Yes. Thank you.

15 Q I am sorry, when was the first time you saw him?

16 A June 26th of 2020.

17 Q Do you know who referred him to you?

18 A Yes, Dr. Hanan.

19 Q Have you worked with Dr. Hanan before?

20 A Yes.

21 Q Do you know what type of doctor Dr. Hanan is?

22 A Yes, he's a rehab physiatrist.

23 Q When he was referred to you what areas were you
24 specifically looking at when Mr. Gousse spoke to you?

25 A The right knee and the right shoulder.

1 Q And was that the only body parts you were dealing with?

2 A Yes.

3 Q He had other complaints, but we're going to deal with
4 the knee and the shoulder; correct?

5 A Correct.

6 Q When he came to you on that day, the initial visit, did
7 he give you any type of history of what happened to him?

8 A Yes, he stated on 5/14 of 2020 he was using a bathroom
9 and a piece of a ceiling fell onto his head. He fell to the
10 ground, there was a lot of water on the ground. He had been
11 treating with Dr. Hanan. He was having difficulties sleeping on
12 his right side, his right shoulder. He noted also that his
13 right knee was crackling and buckling, giving way. He had
14 difficulties going up and down stairs. He had denied previous
15 injuries to these to the right shoulder, right knee and he was
16 working intermittently as a security officer due to the
17 pandemic.

18 Q Now, you said a lot, why is a history -- is a history
19 important?

20 A Yes.

21 Q Why?

22 A Well, you want to find out, you know, what exactly
23 happened trying to piece together the mechanism and examine the
24 body parts that are injured.

25 Q And why is the fact that he had no previous pain in his

1 or issues with his knee or shoulder important that you put it in
2 there?

3 A Well, looking at a 25 year old to see, you know, why
4 he's having this knee and shoulder pain. Is it acute onset,
5 what was the mechanism, how did he, you know, what to better
6 treat the patient.

7 Q Now, at that some point you reviewed all the records of
8 Dr. Hanan?

9 A Yes.

10 Q You reviewed his narrative?

11 A Yes.

12 Q Okay. At that point when he came up to you was the
13 treatment reasonable?

14 MR. BUFFALOE: Objection.

15 THE COURT: Sustained.

16 MR. TZANETEAS: Sure.

17 Q Could you tell me about the treatment up until he came
18 up to you and how does that affect your examination of him?

19 MR. BUFFALOE: Objection.

20 THE COURT: Sustained. Rephrase the question.

21 MR. TZANETEAS: Sure.

22 Q Did you know about his treatment before coming to you?

23 A When he showed up I did ask and I found out that he --
24 when his injury was, that he was in physical therapy, but more
25 importantly he was really having instability of the knee

1 buckling and giving way.

2 MR. BUFFALOE: Objection. It's not responsive.

3 THE COURT: Sustained.

4 Just disregard the last answer.

5 Q The therapy that he was receiving, do you know if it
6 was helping him?

7 MR. BUFFALOE: Objection.

8 THE COURT: Lay a foundation for whether those
9 questions were asked by the Doctor.

10 Q Doctor, did you ask the patient if the therapy was
11 helping him?

12 A When he presented he was not doing well.

13 MR. BUFFALOE: Objection.

14 THE COURT: The specific question was what you
15 learned from the patient. So why don't you ask another
16 question.

17 Q Doctor, at the point when he saw you you said he was in
18 pain; correct?

19 A Correct.

20 Q Can you describe what pain he was feeling in his knee;
21 you said buckling and crackling, what does that mean?

22 A That means that -- a crackling is usually crepitus and
23 it's usually a sound that the knee makes when there is an
24 injury. Your knee responds, the synovium, the tissue by trying
25 to protect, so certain motions can cause sounds, cracking,

1 popping.

2 Q And what about his shoulder, what pain was he in?

3 A Yes, the shoulder was having -- really difficulties
4 sleeping on the shoulder. On that date the bigger I believe his
5 knee was the bigger complaint.

6 Q Doctor, after reviewing the medical records of prior,
7 reviewing the records before he came to see you and reviewing
8 them after with a reasonable degree of medical certainty was the
9 therapy that he received reasonable?

10 MR. BUFFALOE: Objection.

11 THE COURT: Be very specific, from what doctor.

12 Q Doctor Dr. Hanan?

13 MR. BUFFALOE: Objection.

14 THE COURT: Lay a foundation for asking those
15 questions. I have no idea what he's basing it on and it's
16 a general question.

17 Q Doctor, did you read Dr. Hanan's records?

18 A I have, yes.

19 MR. BUFFALOE: Objection.

20 THE COURT: Overruled.

21 Q When you reviewed Dr. Hanan's records after reviewing
22 his records was the treatment he received from Dr. Hanan
23 reasonable before you seeing him?

24 MR. BUFFALOE: Objection.

25 Q With a reasonable degree of medical certainty?

1 MR. BUFFALO: Objection.

2 THE COURT: All right. You can answer the
3 question.

4 A Yes.

5 Q And what do you base that on?

6 A Base it on the fact he did receive therapy, Dr. Hanan
7 sent the patient to me because there were injuries that needed
8 an orthopedic surgeon to evaluate.

9 Q And what is a clinical examination?

10 A A clinical examination is when an orthopedic surgeon or
11 a physician examines the actual body parts, the knee and the
12 shoulder.

13 Q And tell me what was your clinical examination of
14 Mr. Gousse on June 26, 2020?

15 A Yes. The right shoulder revealed forward flexion of
16 140 degrees, which is about this high, normal is 180 which is
17 all the way up. Abduction is reaching to the side. He was at
18 90 which is to the shoulder level. Again, normal is 180.
19 Internal rotation was 50 degrees, reaching behind your back,
20 normal was about 70. So that was restricted. External rotation
21 was 60 degrees, normal was 90, so restricted as well.

22 He had a positive speed's test which is a test really
23 looking for the biceps. So he had some injury to the biceps ,
24 inflammation, and there was also some weakness of the rotator
25 cuff and the rotator cuff is four muscles in his shoulder which

1 form a tendon, the tendon attaches to the bone. When you're
2 brain sends a signal to lift the arm up it's a cable and if it's
3 fully intact it lifts up fully and with strength. If it's
4 limited in strength it's either due to a tear or due to some
5 swelling or limitation within his shoulder.

6 The right knee revealed flexion which is bending the
7 knee back. He went to about 115 degrees, normal is about 140
8 degrees. He had tenderness along the medial lateral joint line
9 which is the inside and outside part of the knee.

10 He had a positive McMurray's test which is a test which
11 you elicit trying to see if there is a tear in the meniscus and
12 the meniscus is the kind of cushion between the big femur bone
13 and the tibia bone, we have one on the inside, one on the
14 outside. So he did have a positive test there. The anterior
15 cruciate ligament, that was intact, that was fine.

16 Q Now, did you also review imaging at that visit?

17 A Yes, I reviewed the right shoulder and right knee MRI.

18 Q And what, by the way, what are MRI's?

19 A MRI's, well, x-rays is a test you take to look at the
20 bones, MRI look at the ligaments and the cartilage within the
21 knee. It's better for inside the knee, soft tissue.

22 Q Part of your practice do you generally usually use
23 MRI's before you consider surgery?

24 A Yes, it could be a roadmap, it could help you out.

25 Q By the way, the MRI's, can they be interpreted

1 different ways?

2 A Yes.

3 Q Okay. So why do you look at them instead of relying on
4 interpretations?

5 A Well, because I am actually examining the patient so I
6 am looking at what clinically what I think the patient has and
7 then I try and validate with the MRI and see how we can get the
8 patient better.

9 Q What did you see on the MRI in terms of the right
10 shoulder?

11 A The right shoulder did you have a labral tear and a
12 tear along the labrum is the part of the shoulder where the
13 bicep comes up and attaches, it's the socket part.

14 Q What did you find in the right knee?

15 A The right knee had tearing of the medial meniscus, but
16 also some tearing I thought in the lateral meniscus as well.

17 Q What was your initial impression after that first visit
18 of seeing Mr. Gousse?

19 A Right shoulder labral tear and the right knee
20 derangement with meniscal tear.

21 MR. TZANETEAS: With your Honor's permission I
22 would like Dr. Scilaris to look at demonstrative evidence
23 of a knee and a shoulder and I want to ask him some
24 questions about it.

25 THE COURT: Any objection?

1 MR. BUFFALOE: No, your Honor.

2 THE COURT: All right.

3 MR. TZANETEAS: Doctor, if you could step down
4 with your Honor's permission?

5 THE COURT: Yes.

6 Q Doctor, we'll start with the knee, is that anatomical
7 model a reasonable representation of a human knee?

8 A Yes.

9 Q Okay. Could you tell the jury a little bit about
10 different body parts and explain specifically to Mr. Gousse what
11 you found upon the MRI and your examination?

12 A Yes. So this is the knee. It's made up of the big
13 bone, the femur bone.

14 Q You have to speak up.

15 A It's made up of a big bone with the femur bone and the
16 tibia bone. There is the patella which is the kneecap, you have
17 a quadricept tendon which is the tendon down here. The patella,
18 inside the knee you have a ligaments crisscrossing ligaments
19 inside the knee. The anterior cruciate ligament and the
20 posterior ligament which keep the knee from sliding forward and
21 backwards and really gives stability with rotation.

22 And then in between the big bone you have the meniscus
23 which is the cushion, you have one on the outside and one on the
24 inside. And these when they are torn can cause pain, clicking
25 and the knee giving way usually when it's bent, when it's bent

1 and you are twisting, getting up out of a chair, twisting you
2 can feel a click or a pop.

3 Q Now, could you show us where you saw on the MRI the
4 tear?

5 A Yes, the lateral meniscus there was signal within the
6 body of the meniscus which is this part, the outside part, and
7 the medial meniscus was in the back, this area way in the back
8 on the inside.

9 Q Okay. Doctor, I want to show you the shoulder, is this
10 a reasonable anatomical model of the shoulder?

11 Again keep your voice up, please.

12 A Yes.

13 Q Could you tell us a little bit about the anatomy of the
14 shoulder and what you found on the MRI and examination of
15 Mr. Gousse on that first visit?

16 A Yes, the shoulder, again it's a ball and socket. The
17 humerus forms the ball, the socket, the scapula bone, the wing
18 bone in the back and it sits together around the socket is the
19 labrum. It gives you stability, it's where the biceps comes up
20 and attaches.

21 This was torn on MRI where the biceps attached and this
22 could cause problems when you are lifting up, if you are trying
23 to throw a ball, anything over your head can cause pain and
24 clicking sensation and it really gives you stability. It stops,
25 sometimes when it's torn you feel unstable, you feel like you

1 don't have control of it.

2 Q And thank you, Doctor.

3 MR. TZANETEAS: May he sit down, your Honor?

4 THE COURT: Please.

5 Q Doctor, I am going to go over visits with you, just so
6 we are on the subject you performed surgery on the right knee
7 and the right shoulder?

8 A I did.

9 Q And did the surgery, were you able to look into the
10 shoulder and the knee?

11 A Yes.

12 Q Did you confirm these tears?

13 A Yes.

14 Q And did you take pictures of these tears?

15 A I did.

16 Q And are they in your file?

17 A Yes, they are.

18 Q Now, Doctor, why as a doctor would you take photos of
19 someone's knee or shoulder while you are doing surgery?

20 A Well, it's good to document what you did and to show
21 the patient and to also, you know, remind so I can go over with
22 the patient and get a plan afterwards of physical therapy.

23 Q Now, have you had MRI's, have you had MRI's where they
24 show one thing and you go in and find another?

25 A Yes.

1 MR. BUFFALOE: Objection.

2 THE COURT: Overruled. You could answer the
3 question.

4 A Yes. I am sorry.

5 Q In this case did you find anything different?

6 A No, the actual MRI did correlate with my examination
7 and with the surgical finding.

8 Q Are they -- who is in a better position to determine
9 what is wrong with somebody in terms of MRI or actually looking
10 into the body part?

11 MR. BUFFALOE: Objection.

12 THE COURT: Ask him if he's got an opinion on
13 this.

14 Q Do you have an opinion with a reasonable degree of
15 medical certainty whether just looking at the MRI or actually
16 operating on someone and looking in is in a better position to
17 determine what is wrong with that body part?

18 A I believe clearly looking in is going to give you the
19 best indication what is wrong and to fix it.

20 Q Okay. Why is that?

21 A Because you are actually looking at it. Again, the
22 MRI's is a roadmap, it should correlate with your physical
23 examination.

24 Q Okay. So on that first visit on June 26, 2020 did you
25 come up with a treatment plan?

1 A Yes. We had discussed arthroscopic surgery of his
2 knee.

3 Q And what would involve arthroscopic surgery to his
4 knee, tell me what that is?

5 A It is surgery that is performed where we look inside
6 with a camera, you can perform it with two little incisions, and
7 you evaluate as a surgeon the entire knee. You take pictures of
8 it and you actually fix the problem.

9 Q Okay. And what would that type of surgery to his knee
10 do to help fix that problem that he was having?

11 A Yes. The feeling of buckling and giving way. The goal
12 is to go inside and actually fix the problem that is causing
13 that. In his case he did have tearing of the meniscus.

14 Q Okay. And did you discuss the pros and the cons of
15 surgical intervention to his knee at that point?

16 MR. BUFFALOE: Objection, leading.

17 THE COURT: Overruled. Well, it's preliminary.

18 A Yes, I did go over it.

19 Q What was discussed with him?

20 A Pros and cons were discussed, anesthetic complications,
21 including but not limited to death, surgical complications,
22 continued pain, stiffness, weakness, need for more surgery,
23 infection, development of nerve injuries, bleeding, thrombosis
24 and even death.

25 Q And why was the knee chosen -- strike that.

1 With a reasonable degree of medical certainty did you
2 also examine the shoulder that day; correct?

3 A Yes.

4 Q And why did you choose the knee to operate on first?

5 A Because he was experiencing the buckling and giving way
6 and I believe that, I believe was the bigger problem.

7 Q What did you recommend at that point for the shoulder?

8 A Well, the shoulder was continued therapy.

9 Q Okay. And Doctor, did after consulting with you did
10 you perform the surgery?

11 A Yes, I did.

12 Q When was the surgery performed?

13 A August 11th of 2020.

14 Q And you have the operative report in your file?

15 A Yes, sir.

16 Q Where was the operation, where did it take place?

17 A Health East Ambulatory Surgical Center.

18 Q Where?

19 A In New Jersey.

20 Q Is that one of your offices that you are a part of?

21 A Yes, that's one of the surgical, that's a surgical
22 center.

23 Q Okay. Who chose that office?

24 A The patient gets a choice, so when I indicated surgery
25 then depending on what date or where they want to have the

1 surgery, Tuesdays I operate in New Jersey, Wednesdays I am in
2 the city, and then once a month I am in the hospital.

3 Q Okay. Could you tell us the surgery, a little bit
4 about the procedure that you did on 8/11 2020?

5 A Yes. So, surgery was performed. When I first went in
6 there was significant amount of inflammation, synovitis. As I
7 mentioned earlier the synovium is part of the knee and even in
8 the shoulder, that again if there is something that is injured
9 it becomes hyperactive or it thickens and it starts producing
10 fluid, that's why you get a fusion from swelling sometimes, so
11 there was quite a bit of inflammation.

12 The cartilage itself looked good, 25 year old guy, no
13 real signs of arthritis. He did have a tear on the inside
14 meniscus and that was in an area, so the meniscus, excuse me,
15 the front part of the meniscus does not have blood supply so
16 once it tears it stays torn. The back part it does have blood
17 supply, so sometimes those can kind of heal up because there is
18 blood there. So when you go in and you have to fix a meniscus
19 in what we call -- it's really called the white white zone
20 because there is no blood supply. So that part you have to take
21 the torn piece out so it doesn't progress.

22 If you keep falling and buckling and giving way the
23 tear can get bigger and then later on you might lose all of your
24 meniscus which we know is not a good thing. So, medial meniscus
25 I had to take out about 20% of that meniscus. There was also

1 some scar tissue in the front of the ligament, the
2 intra-cruciate ligament, so I debrided that and there was a tear
3 on the lateral outside meniscus, about 30% of that was -- had to
4 be taken out, again that was also in the area where there is no
5 blood supply.

6 Q Doctor, you talk about arthritis, what is the term
7 degenerative mean in terms of knees?

8 A Yes, degenerative it means that it's wear and tear over
9 time. He had really no signs of any cartilage injury or any
10 arthritis in his knee.

11 Q And what would that indicate to you three months after
12 the accident?

13 A I would say that the meniscal tear is the cause of his
14 pain and his giving way.

15 Q And I want you to assume that the defendants are going
16 to bring in a doctor that's going to testify that the knee
17 meniscus tears were caused by a degenerative condition; do you
18 agree with that?

19 A I do not.

20 Q Why not?

21 A Twenty-five year old guy does not get a degenerative
22 meniscal tear. I was in there, I looked at it. I actually took
23 the torn -- there was a torn meniscus, it he wasn't a
24 degenerative meniscus tear of a 70 old. This was an acute
25 traumatic meniscal tear in a young man.

1 Q Now, you reviewed a bunch of records, I want you to
2 assume that the plaintiff testified that he did not go to the
3 emergency room after and he complained the next day of shoulder,
4 knee, neck and back pain. I am just concentrating on the knee
5 for now. Is that any significance to you with a reasonable
6 degree of medical certainty that he didn't have complaints
7 immediately after the accident?

8 MR. BUFFALOE: Objection.

9 THE COURT: Sustained.

10 Q I want you to assume plaintiff testified that he had no
11 knee pain immediately after the accident, is that significant to
12 you?

13 A Is that --

14 THE COURT: Is that what? I am sorry.

15 Q Significant to you?

16 MR. BUFFALOE: Objection.

17 THE COURT: Overruled.

18 A I think, you know, when you get injured especially if
19 something hits your head you have the fight or flight syndrome,
20 your adrenalin is pumping, you are worried about probably your
21 head more than anything else.

22 MR. BUFFALOE: Objection.

23 THE COURT: Sustained. The question calls for a
24 yes or a no.

25 MR. TZANETEAS: It does not, Judge.

1 THE COURT: You asked is it significant.

2 MR. TZANETEAS: Okay.

3 Q When you said yes, you said no, why is it not
4 significant to you?

5 A Because there are times when people get injured that
6 especially if something hits your head you are --

7 MR. BUFFALOE: Objection.

8 THE COURT: Sustained.

9 MR. TZANETEAS: What is the objection, your Honor?

10 THE COURT: Ask a question that can be where the
11 response is appropriate.

12 Counsel, I know it's unintentional, but any facial
13 expressions you have to forgive me, but if you have any
14 objection you raise it, you need to make a record you make
15 a record, but facial expressions.

16 MR. TZANETEAS: Your Honor, I feel my questions
17 are appropriate. I feel that there is just --

18 THE COURT: Yes, and we disagree sometimes.

19 MR. TZANETEAS: This is just prolonging the
20 situation.

21 THE COURT: I am so sorry you feel that way.
22 Please ask your next question.

23 MR. TZANETEAS: Okay.

24 Q Doctor, I want you to assume that the plaintiff did not
25 complain about his knee immediately after the accident, but he

1 complained the next day --

2 MR. BUFFALOE: Objection.

3 THE COURT: He didn't complete his question.

4 MR. BUFFALOE: Sorry, sorry, Judge.

5 Q Is that of any significance to you?

6 MR. BUFFALOE: Objection.

7 Q Yes or no, and then I will follow-up?

8 THE COURT: Overruled.

9 A It is not significant.

10 Q Why not?

11 A Because people can experience aches and pains even the
12 following day, a couple of days later, it doesn't have to be
13 immediately especially if your adrenalin is pumping.

14 MR. BUFFALOE: Objection.

15 THE COURT: Overruled.

16 Q Is that true also with the shoulder?

17 A Yes.

18 Q Okay. Is that true of any body part?

19 MR. BUFFALOE: Objection.

20 THE COURT: Overruled.

21 A Yes.

22 Q Okay, thank you.

23 Now, when the surgery was completed did you make any
24 recommendation to Mr. Gousse?

25 A Yes. Saw the patient back three days after the

1 surgery. Went over the pictures with the patient and we
2 together developed a plan of therapy and to rehab the knee.

3 Q Okay. What type of rehab of the knee did you recommend
4 for Mr. Gousse?

5 A Yes, so the meniscus surgery, again unfortunately I had
6 to take out the meniscus so therapy can start immediately. So I
7 like to get the patient off the cane usually within three or
8 four days and start therapy pretty quickly because you want to
9 get motion and strength.

10 MR. BUFFALOE: Objection.

11 Q Did you prescribe a cane?

12 THE COURT: I am sorry, what was the question and
13 answer?

14 (The record was read back.)

15 THE COURT: Forget about the last answer, it was
16 not responsive to what was asked.

17 You can ask your next question.

18 Q What type of therapy did you prescribe for Mr. Gousse
19 after the surgery?

20 A Range of motion, modalities, strengthening of the
21 quadriceps.

22 Q Why you did you recommend that type of rehab for
23 Mr. Gousse?

24 A Because he just had surgery and you really want to
25 rebuild the muscle and the strength to get him strong again.

1 Q Now, you said you removed part of the meniscus, what
2 effect, if any, does that have on Mr. Gousse's knee?

3 A Yes. Removing the meniscus, when you lose the meniscus
4 it unfortunately initially it will really help with the buckling
5 and the giving way, but down the road when you lose the cushion
6 you increase really the pressure, the contact pressure that the
7 big femur bone does to the tibia. So you are susceptible to
8 injuring the remainder of the meniscus and causing even some
9 arthritis.

10 THE COURT: I just need some clarity. Before you
11 testified that you removed 20% I think of the interior or
12 exterior of the meniscus and then 30% either of the
13 interior or exterior, but you testified you removed the
14 meniscus, can you just clarify?

15 THE WITNESS: Yes. The medial meniscus, there is
16 one on the inside, one on the outside. The inside I
17 removed 20% of the meniscus and in the medial, the lateral
18 was 30, so 20 on one side, 30 on the other.

19 THE COURT: It wasn't the full meniscus?

20 THE WITNESS: No.

21 THE COURT: Thank you.

22 Please continue.

23 Q Did you continue following up with Mr. Gousse after the
24 accident, I mean after the knee surgery?

25 A Yes.

1 Q When was the next visit you saw him?

2 A Next visit was October 9th of 2020.

3 Q On October 9, 2020 did you examine Mr. Gousse?

4 A Yes.

5 Q Could you tell me at that visit did you ask Mr. Gousse
6 about any complaints he had to his right knee?

7 A Yes. He felt much improved from his right knee
8 surgery.

9 Q Did you do a physical examination on him at that point?

10 A Yes.

11 Q What was the physical examination and what did it
12 consist of?

13 A His right knee revealed healed incisions, he had
14 flexion of 125 degrees, so that had improved. Extension was
15 zero degrees which was normal. He did not have any tenderness
16 on the medial or lateral part of the knee, so the meniscus
17 surgery helped him.

18 Q At that point did you make any follow-up
19 recommendations for the knee?

20 A The knee again was just continue therapy.

21 Q And at that point did you have any recommendations for
22 the shoulder, the right shoulder?

23 A Yes. The shoulder he continued to have some
24 apprehension, clicking and pain and surgery was discussed with
25 the patient.

1 Q Okay. And why was surgery discussed with the patient
2 on the right shoulder?

3 A He continued -- on examination he continued to have
4 some apprehension and apprehension of the shoulder is when you
5 have a tear in the labrum. You can usually do things below the
6 level of the shoulder, it's when you lift up and you try and
7 reach like throwing a ball, if the labrum is torn the ball tends
8 to slide a little bit and it can be you painful so people feel
9 apprehension about using it overhead.

10 Q The surgery that you recommend, what type of surgery
11 was that?

12 A It was arthroscopic surgery of the shoulder with
13 anticipation of a labral repair.

14 Q Did you perform that surgery?

15 A I did.

16 Q When was the surgery performed?

17 A 11/12 of 2020.

18 Q Where was it performed?

19 A Health East Surgical Center.

20 Q And could you tell us the procedure that you performed
21 on that day?

22 A Yes. It's arthroscopic surgery. Patient comes in, he
23 has a block, the arm is -- anesthesia numbs the arm, you don't
24 go to sleep completely. And then with a camera I make an
25 incision, I look in and I can visualize the joint. So I look

1 inside the joint and then above the tendon as well.

2 Q Okay. And what did you find when you looked in and saw
3 the joint and the tendons?

4 A Yes. There was a torn labrum which is again where the
5 bicep comes up. He tore the labrum here and extended inferiorly
6 which is kind of down in the front, a little bit in the back.
7 There was a lot of really inflammation, synovitis as well. So
8 that was -- that was debrided. The tear, I did not have to
9 stitch the tear up, it was just the top part that was torn. So
10 I debrided that and tightened up the remainder of the labrum.

11 Q And let's talk about arthritis and degeneration again,
12 when you looked into his shoulder tell us what you found, if
13 anything?

14 A Yes, there is no arthritis. Again, a 25 year old
15 shoulder. There was a tear in the labrum and synovitis
16 consistent with an acute tear.

17 Q And Doctor, did you -- after the surgery, by the way,
18 both these surgeries did he have to stay overnight at all?

19 A No, they're outpatient.

20 Q Okay. And after the surgery did you have a
21 recommendation for him after you finished the surgery?

22 A Yes. The patient was seen back, surgery was the 12th,
23 so I saw him back on the 20th. At that time he was feeling
24 better. I discussed the surgery and the plan moving forward
25 which was to begin aggressive therapy.

1 Q Doctor, with a reasonable degree of medical certainty
2 was the May 14, 2020 accident a competent producing cause of the
3 tear of the meniscus in his right knee?

4 MR. BUFFALOE: Objection.

5 THE COURT: I think that was asked before; wasn't
6 that?

7 MR. TZANETEAS: It was not, Judge.

8 THE COURT: All right, I am going to overrule it.

9 A Yes.

10 Q What do you base that on?

11 A I base it on the fact that there was no prior injuries,
12 complaints of the right knee. He had an injury, had surgery,
13 finding consistent with the meniscal tear on a 25 year old.

14 Q I want you to assume that plaintiff testified and he
15 will testify that on May 14, 2020 a ceiling fell on top of his
16 head and right shoulder. As a result he slipped, hit his right
17 knee against the wall, fell backwards and his body twisted and
18 snapped backwards hitting the floor. With a reasonable degree
19 of medical certainty was the right knee meniscus tear, the
20 accident of May 14th caused the condition that caused the tear?

21 MR. BUFFALOE: Objection.

22 THE COURT: Overruled.

23 A I believe so.

24 Q What do you base that on?

25 A Again, based on no prior history of an injury, had this

1 mechanism, had surgery, had clinical examination, MRI findings
2 and surgical findings, putting all that together I would say it
3 is.

4 Q Okay. Now, the shoulder, the labral tear that you
5 found in the shoulder, I want you to assume the same facts, the
6 ceiling hitting him on his head and right shoulder as a result
7 twisted his body, hit his knee against the wall and falling
8 backwards snapping his neck and torso. With a reasonable degree
9 of medical certainty was the labral tear caused by the May 14,
10 2020 accident?

11 A Yes.

12 Q What do you base that on?

13 A Based on no prior, once again no prior injuries, there
14 is that mechanism and clinical examination with MRI, with
15 surgery I believe it is.

16 Q By the way, we talked about the degenerative condition
17 in the knee and the shoulder, could you tell us with a
18 reasonable degree of medical certainty whether degenerative
19 condition in the knee is always painful?

20 MR. BUFFALOE: Objection.

21 MR. TZANETEAS: How about this, I'll withdraw it.

22 Q Could you tell us in medical terms what asymptomatic
23 means?

24 A Asymptomatic is when something doesn't bother you.

25 Q Could you relate it to what a degenerative condition is

1 in the knee first and then the shoulder?

2 A Yes, if someone has arthritis in the knee there could
3 be flare ups, some people do fine and some people have swelling,
4 pain.

5 Q And did you find records that contained any prior
6 swelling, flare ups of Mr. Gousse to his right knee?

7 A No.

8 Q What about his right shoulder, what is an asymptomatic
9 degenerative condition of the right shoulder? What is it?

10 A An asymptomatic --

11 THE COURT: The question is what is an
12 asymptomatic tear of the right shoulder?

13 MR. TZANETEAS: Degenerative condition of the
14 right shoulder.

15 A If someone has --

16 THE COURT: I am sorry, ask the question again.

17 MR. TZANETEAS: Sure.

18 Q Doctor, could you explain to the jury what asymptomatic
19 degenerative condition is in a shoulder?

20 THE COURT: Overruled.

21 A Okay. Degenerative condition would be arthritic. If
22 someone has arthritis in the shoulder there are times when you
23 could have pain and swelling and you could have some limitations
24 in motion, asymptomatic means you are not having any symptoms.

25 Q Okay. And did you continue to see Mr. Gousse for a

1 period of time after your shoulder surgery?

2 A Yes.

3 Q When was the next time you saw him?

4 A I saw him November 20th postop and then January 8th of
5 2021.

6 Q And what about the next time after January, 2021, when
7 was the next time you saw him at?

8 A March 30th of 2021.

9 Q After that?

10 A At that point I had done all that I could in terms of
11 surgery and now the postop care --

12 THE COURT: What was the last question? I am
13 sorry.

14 (The record was read back.)

15 THE COURT: All right. I think, well, was there
16 any further treatment after March 30, 2021?

17 THE WITNESS: I --

18 THE COURT: That's a yes or no.

19 THE WITNESS: Well, by me or --

20 THE COURT: Yes, by you.

21 THE WITNESS: By me? No, he was referred back.

22 THE COURT: All right. Thank you.

23 All right, you could ask your next question
24 request.

25 Q Why in March of 2021 did you stop seeing him?

1 A Because at that point I was going to send him back
2 to -- we have doctors who sent him to me to continue with the
3 rehab.

4 Q And could you tell us on March, 2021 was he -- could
5 you tell me his symptomology on -- what was the date, March --

6 A March 30th.

7 Q -- of 2021, could you tell us the complaints he made to
8 you on that day?

9 A Yes, the right shoulder still complaints of some
10 stiffness, but the shoulder was improving slowly.

11 Q And what about the right knee?

12 A You know, the right knee I think I concentrated on his
13 shoulder at that time.

14 Q Okay. Last visit to his right knee, how was he doing
15 with his right knee?

16 MR. BUFFALOE: Objection.

17 THE COURT: I am sorry, at 3/30, on 3/30 2021 I
18 think.

19 Q On 3/30 2021 did you examine his knee?

20 MR. BUFFALOE: Asked and answered.

21 THE COURT: I will let you answer it again.

22 A No.

23 Q Okay. When was the last time you examined his knee?

24 A I believe in October, October 9th I did examine the
25 knee.

Thomas Scilaris, M.D. - Plaintiff - Direct

1 THE COURT: That was 2020?

2 THE WITNESS: Yes, sir.

3 THE COURT: Thank you.

4 Q In October 9, 2020 could you tell me what complaints he
5 had of his knee?

6 A He was feeling much improved from his knee on that
7 date.

8 Q Did he still have pain?

9 MR. BUFFALOE: Objection.

10 THE COURT: Is there an indication in the records
11 that the patient indicated whether he was suffering from
12 pain?

13 THE WITNESS: I don't have anything about pain.

14 Q Okay. My question, Doctor, on my office's request, the
15 attorney's office requested that you conduct an examination of
16 Mr. Gousse on 10/9 2025?

17 A Yes.

18 Q And did you generate a report?

19 A Yes.

20 Q Okay.

21 MR. TZANETEAS: Can I show my Doctor the report,
22 Judge, and admit it into evidence, Judge? I am going to
23 have to refresh his memory.

24 THE COURT: Well, it could be marked for ID, if he
25 needs his memory refreshed you can refresh it.

1 MR. TZANETEAS: Okay.

2 THE COURT: So that will be Plaintiff's 7 for
3 identification. Go ahead.

4 Q Doctor, when you performed an examination of Mr. Gousse
5 on, sorry, 10/9 2025, did you perform tests to the right knee at
6 that point four years later after the you saw him?

7 A Yes.

8 Q And could you tell us the complaints he made to you
9 four years later when he saw you about his right knee, if any?
10 If you need to refresh your memory, look at it, and
11 then look up and tell me what is refreshed. Please don't read
12 from it.

13 A Okay.

14 THE COURT: Would you mind turning it over? Do
15 you need your memory refreshed? Do you remember?

16 THE WITNESS: I have to look at it.

17 THE COURT: Okay, why don't you take a look at it.

18 THE WITNESS: Thank you. All right.

19 Q Could you tell us the complaints he had on that day
20 when he saw you four years later, approximately, four years
21 later?

22 A Yes, I examined the knee. I used a goniometer which is
23 an instrument to try to get the most accurate motion. He had
24 pain of the kneecap. When I flexed the knee he flexed, bent the
25 knee about 120 degrees and he extended out to zero. There was

1 pain and tenderness along the patella, the kneecap. There was a
2 negative McMurray's, so there was no sign of any recurrent
3 meniscal tear which is good. I also used a tape measure to see
4 about the girth or the size of the quadriceps of his right knee
5 versus his left knee. He had about a half inch less strength or
6 muscle of the right knee.

7 Q And what is the significance of that, if any?

8 A That tends to say that there is still a little bit of
9 atrophy or you haven't gotten your strength completely back.

10 Q And you said the restriction of the bending, could you
11 tell us what normal is?

12 A Yes, normal is 140, 140, 140 degrees, he was at 120 on
13 this date.

14 Q And four years later is that significant?

15 A Yes, because it's not -- you would hope it would be a
16 little more than that.

17 MR. BUFFALOE: Objection.

18 THE COURT: Sustained.

19 Just disregard the last answer. Thank you.

20 Q What is the significance, if any, that it was
21 restricted four years later twenty degrees?

22 A That tells me that sometimes this is his new normal
23 motion.

24 Q With a reasonable degree of medical certainty is a
25 permanent restriction?

Thomas Scilaris, M.D. - Plaintiff - Direct

1 A Yes.

2 Q And why so?

3 A Because it's four years after surgery, you would have
4 expected more motion?

5 Q And did he make any complaints of pain to you on that
6 day?

7 A Just when the kneecap was pressed.

8 Q Okay. And strike.

9 Any other examination to the knee at that point?

10 A I am sorry, can you repeat that?

11 Q Any further examination to the knee at that point --

12 MR. BUFFALOE: Objection.

13 Q -- besides what you already told us?

14 A No.

15 Q Now, with a reasonable degree of medical certainty upon
16 your visit four years later does Mr. Gousse need any future
17 treatment to the right knee?

18 MR. BUFFALOE: Objection.

19 THE COURT: Do you have an opinion as to treatment
20 at this point in time? That's yes or no.

21 THE WITNESS: Yes.

22 THE COURT: All right. So why don't you go on.

23 Q What is your opinion?

24 A My opinion --

25 Q Just for the knee for now.

1 A My opinion is he had the surgery, the meniscus surgery
2 was successful, but unfortunately one of the problems can be
3 limitations in motion, some starting of some arthritis or other
4 things within the knee. So I do believe he's going to need
5 treatment of this knee.

6 Q With a reasonable degree of medical certainty is
7 Mr. Gousse going to need any future surgery as a result of this
8 accident, May 14, 2020?

9 MR. BUFFALOE: Objection.

10 THE COURT: Lay a foundation for the doctor being
11 able to answer that question.

12 MR. BUFFALOE: Judge, can we approach on this?

13 THE COURT: Yes .

14 (Proceedings held outside the presence of the
15 jury.)

16 MR. BUFFALOE: I am going to show you the
17 narrative report that Dr. Scilaris prepared in October,
18 2025. His recommendation into the future treatment is set
19 forth there, they do not include surgeries.

20 THE COURT: Give me just a moment. You want me to
21 look at the conclusion; is that right?

22 MR. BUFFALOE: Yes.

23 MR. TZANETEAS: Look at the last sentence, Judge.

24 THE COURT: I'll read the whole thing, I will get
25 to the last sentence.

1 All right. Well, the last sentence does say quote
2 "due to his age and response to treatment and injections to
3 a reasonable degree of medical certainty he would be
4 indicated for revision surgery to the right knee and right
5 shoulder." End quote. All right. I am going to overrule
6 the objection.

7 MR. BUFFALOE: Judge, that is contingent upon
8 failure of the treatment that he actually recommends so
9 that is speculative in nature.

10 THE COURT: Well, I am implying in the last
11 sentence that the response to treatment was negative.

12 MR. BUFFALOE: But he's recommending treatment in
13 the two paragraphs prior, then he says depending on how he
14 responds to that treatment.

15 THE COURT: Well, you'll be able to cross examine
16 him and you'll be able to indicate whether or not the jury
17 accepts this as being inconsistent or not. All right,
18 thank you.

19 (Proceedings held in open court, jury present.)

20 THE COURT: You can proceed.

21 MR. TZANETEAS: The objection has to be ruled
22 upon.

23 THE COURT: The objection is overruled. You could
24 either ask the question or I will have the reporter read it
25 back.

1 MR. TZANETEAS: I will ask the question again.

2 Q To a degree of medical certainty is Mr. Gousse going to
3 need future surgery for his right knee in the future?

4 A Yes.

5 Q And what type of right knee surgery will he need in the
6 future?

7 MR. BUFFALOE: Objection.

8 THE COURT: Sustained.

9 Q With a reasonable degree of medical certainty what type
10 of surgery will Mr. Gousse need?

11 MR. BUFFALOE: Objection.

12 THE COURT: Why don't you ask the question in a
13 way that indicates what conditions would be required for
14 such procedures to occur.

15 Counsel, I know, let me -- I am sorry, let me
16 speak. I know it's involuntary, but I am telling you stop
17 with the expressions. Stop. Just don't do it and I
18 promise you when I say something that I think is
19 inappropriate or whatever I won't make any expression
20 either. I'll be deadpan.

21 MR. TZANETEAS: Your Honor, I apologize, it's my
22 face, I am trying. I am looking down.

23 THE COURT: It's not your face, it's the
24 expressions on your face.

25 MR. TZANETEAS: I don't think there is anything

1 inappropriate. I am asking my doctors questions and every
2 question is a problem.

3 THE COURT: He has a right to raise objections,
4 the Court makes a decision and then you abide by them.
5 That's how it works, no facial expressions at all.

6 MR. TZANETEAS: I will try my best, Judge. I am
7 trying to move this along. I am sorry if I am making
8 facial expressions.

9 THE COURT: Members of the jury, you are going to
10 make a determination on the evidence, not what is said
11 between the Judge and the attorneys and the attorneys and
12 the Judge. You are the deciders and the judges of the fact
13 facts here, so don't take any of this into consideration,
14 it shouldn't be. We're all human. We make expressions,
15 sometimes they're involuntary. You hear a joke, you can't
16 help laughing. So let's move on.

17 Q What are the conditions that he will need to have the
18 surgery?

19 A Yes, when a young person 25 years of age has surgery,
20 meniscus surgery and you remove the cushion you increase
21 stresses so you are susceptible to arthritis and more stress on
22 the meniscus. So, usually by the third, the fourth and fifth
23 decade when someone is in their forties and fifties there is a
24 progression of meniscal tearing, more arthritis.

25 MR. BUFFALOE: Objection.

1 THE COURT: Overruled.

2 A So, the types of surgery, treatments would be
3 injections, therapy. If those don't work then there are times
4 when a revision arthroscopy is needed and ultimately if the
5 arthritis wasn't sometimes a knee replacement.

6 MR. BUFFALOE: Objection.

7 THE COURT: Overruled.

8 Q Now, with a reasonable degree of medical certainty will
9 Mr. Gousse eventually need the surgery because of his age?

10 MR. BUFFALOE: Objection.

11 THE COURT: Sustained.

12 Q Will Mr. Gousse need this surgery in the future with a
13 reasonable degree of medical certainty?

14 MR. BUFFALOE: Objection.

15 THE COURT: Can you answer that question?

16 THE WITNESS: Yes.

17 THE COURT: Is it contingent on any particular
18 factors?

19 THE WITNESS: Depending on what type of --

20 THE COURT: So why don't you answer the question?

21 A So, again, depending on the progression of increased
22 meniscal problems and arthritis revision arthroscopy would be
23 more likely.

24 MR. BUFFALOE: Objection.

25 A And then --

1 THE COURT: Overruled.

2 A And then if that fails and it keeps progressing and
3 there is problems then the knee replacement is the last option.

4 Q Is that with a reasonable degree of medical certainty?

5 MR. BUFFALOE: Objection.

6 THE COURT: Overruled.

7 A Yes.

8 Q Now, the shoulder that you examined on 10/9/25, could
9 you tell us the complaints and problems and findings you had
10 with the right shoulder on that date, please?

11 A Yes. There was pain of six out of ten of the shoulder.
12 Motion of the shoulder was 160 degrees, I am sorry, for flexion,
13 so improved a bit from the first time I saw him. Abduction was
14 110 degrees, internal rotation was 60 degrees, external rotation
15 was 65 degrees. There was impingement of the shoulder. And I
16 like to add the patient did have a cortisone injection by
17 Dr. Hanan prior to coming to see me.

18 Q Okay. And with a reasonable medical certainty is
19 Mr. Gousse a candidate for any type of surgery to his right
20 shoulder in the future?

21 MR. BUFFALOE: Objection.

22 THE COURT: Are you talking about now or in the
23 future?

24 Q Based on your last examination of 10/9/25 with a
25 reasonable degree of medical certainty is Mr. Gousse going to

1 need any type of future shoulder surgery as a result of the
2 5/14 2020 accident?

3 MR. BUFFALOE: Objection.

4 THE COURT: Overruled.

5 A I believe based on his findings he has what we call
6 adhesive capsulitis, when the capsule around the shoulder
7 tightens up. So he doesn't have his full motion, he even had a
8 recent cortisone treatment and that's a treatment, cortisone and
9 therapy, if that doesn't work there are times you consider what
10 we call a manipulation which is breaking through the scar tissue
11 and releasing some of the tissue in the front to get the full
12 motion back. So I do believe he's a candidate for that.

13 Q With a reasonable degree of medical certainty what type
14 of surgery in the future will he need to his shoulder, right
15 shoulder?

16 A I believe --

17 MR. BUFFALOE: Objection.

18 THE COURT: Overruled.

19 A I believe based on his adhesive capsulitis, did have a
20 cortisone injection, that he is a candidate for the
21 manipulation, the arthroscopy component.

22 Q With a reasonable degree of medical certainty --

23 THE COURT: I am so sorry, I don't know whether
24 that means he's going to have to, you believe he's going to
25 have surgery or he's a candidate for having surgery? I

1 don't know what you mean by that.

2 THE WITNESS: I think he is going to have surgery.

3 THE COURT: Thank you.

4 Please ask your next question.

5 MR. BUFFALOE: Objection.

6 THE COURT: Overruled.

7 Q Is that with a reasonable degree of medical certainty,
8 Doctor?

9 A Yes.

10 Q With a reasonable degree of medical certainty are these
11 future surgeries that Mr. Gousse is going to have or will have,
12 was the May 14, 2020 accident a competent producing cause for
13 the need of these surgeries?

14 A Yes.

15 MR. BUFFALOE: Objection.

16 THE COURT: Please read back.

17 (The record was read back.)

18 THE COURT: All right, there's already been
19 testimony. So I am going to allow it because I don't think
20 it does anything, the testimony is no different than it was
21 before, it's causation.

22 MR. TZANETEAS: Your Honor.

23 THE COURT: I just said the witness can answer the
24 question.

25 Go ahead.

1 A Yes.

2 THE COURT: The answer is yes. Ask your next
3 question.

4 Q What do you base that on?

5 A Based on no prior injuries, the injury on that date
6 with treatment, examination, surgery, intraoperative findings.

7 Q Now, with a reasonable degree of medical certainty what
8 does the future hold for Mr. Gousse's right knee besides the
9 surgery and treatment?

10 A The right knee has stiffness. He has flare ups, he
11 will need treatment, medications, injections, physical therapy
12 and surgery.

13 Q With a reasonable degree of medical certainty is the
14 pain that Mr. Gousse feels in his right knee, was the May 14,
15 2020 accident competent producing cause of his pain?

16 A Yes.

17 Q With a reasonable degree of medical certainty will
18 Mr. Gousse continue to have pain in his right knee as a result
19 of the May 14, 2020 accident?

20 MR. BUFFALOE: Objection.

21 THE COURT: Can you answer that question?

22 A Can you rephrase.

23 Q Doctor, I want you to assume that Mr. Gousse continues
24 to complain of pain in his right knee.

25 THE COURT: Rephrase the question.

1 MR. TZANETEAS: I am using a hypothetical, Judge,
2 subject to connection with my client.

3 THE COURT: Rephrase the question. I am not going
4 to allow that hypothetical.

5 Q Dr. Scilaris --

6 THE COURT: For the record, considering that you
7 are making another facial expression --

8 MR. TZANETEAS: I am not making a face, I am
9 thinking.

10 THE COURT: Yes, I believe that's your position.

11 MR. TZANETEAS: Can I make a record on this,
12 Judge, please.

13 THE COURT: Let me make a record first.

14 MR. TZANETEAS: No, Judge, not in front of the
15 jury. It's inappropriate, Judge. It's inappropriate.

16 THE COURT: All right. So we're going to take a
17 ten minute break. Thank you.

18 COURT OFFICER: All rise. Jury exiting.

19 (Jury exiting.)

20 THE COURT: I am going to ask you to wait in the
21 hallway and just ask everybody in the courtroom to just
22 wait in the hallway for a moment. Thank you.

23 All right why don't you make your record first.

24 MR. TZANETEAS: Yes, your Honor. I am asking
25 questions that are appropriate. They have foundation. I

1 am not saying all my questions should not be objected, but
2 every single one of my questions is being objected to and
3 your Honor is thinking about it and sustaining them and you
4 are claiming I am making faces I can't control. I am
5 trying to look away. I am looking away from the jury. I
6 am trying to understand why my questions are wrong. I
7 don't want to keep wasting the Court's time, wasting the
8 jury's time, but since this trial has started with
9 defendant he's objecting to go everything, which is fine.
10 He has a right to object to everything. At some point,
11 your Honor, it can't go on everything I ask is objection.
12 He told you there was no surgery in the report and there is
13 surgery in the report. He told you objection to the MRI
14 saying it wasn't -- well, it's not properly foundation and
15 it was, you had to read the charge. He's been doing this
16 for a long time, Judge. So it's hard to imagine that he
17 doesn't know what he's doing as far as that, it's
18 impossible. It's fine. He wants to object the entire
19 time, I can't help it if I am making faces, I apologize,
20 Judge. I don't realize I am. I am trying to look away
21 from you because maybe I am doing it involuntary. I am not
22 doing it on purpose. I have no idea what I am doing, the
23 faces. I do apologize. I am trying to look down and not
24 look at you. I don't know if I am looking at you and
25 making a face, I have no idea. You are right. I shouldn't

1 be making faces, if I am I apologize. But a lot of these
2 questions, Judge, are perfectly fine questions. The other
3 day when I said, you asked me do you want him here the
4 whole day, yes, this is why, Judge. This is obstruction.
5 This is a problem and I am trying to ask the right
6 question. I am trying to rephrase it. I feel a lot of my
7 questions are correct. And just for the record if I am
8 making a face, Judge, I am sorry. I am trying my best. I
9 don't realize I am doing it. I am trying to look away from
10 you, look down, look behind the TV. If you want me to
11 apologize to the jury I will, Judge, but I don't do it on
12 purpose. I am just trying to figure out, you know, how to
13 ask the next question without objecting. I don't think
14 there is anything wrong with my questions. So I apologize
15 for that, Judge, but it's really difficult to keep getting
16 objected to which is of his right. He wants to do it this
17 way no problem, the jury sees that. All I need to do is
18 try to get the next question out and try to save the Court
19 time. I am trying to cut down my questions, too, Judge,
20 it's impossible.

21 THE COURT: When an objection and it's overruled
22 it doesn't play well in front of a jury. There is a
23 justice at the end of the day given that your perception is
24 that the objections are inappropriate or unfounded or meant
25 to harass or meant to interrupt, so there is a price to be

1 paid before the jury when you are doing that and you are
2 getting overruled constantly. So, that's an issue that I
3 think takes care of itself over the course of the trial.

4 Mr. Buffaloe, what do you want to say?

5 MR. BUFFALOE: Judge, I believe we're having this
6 conference about not the objections themselves, but
7 plaintiff responding to those objections with facial
8 expressions that the jury can see. He's been doing that
9 throughout. He did it during my opening statement. You
10 instructed him to refrain and he refuses to refrain.
11 Whether or not my objections are appropriate or
12 inappropriate, whether or not they're sustained or not
13 sustained is irrelevant to that. Appropriate conduct in
14 the courtroom and that courtroom should be abided by and
15 Mr. Tzaneteas, this is not his first time doing this so.
16 He clearly knows this and the idea that this is completely
17 involuntary as opposed to him a way of expressing his
18 disdain to the jury nonverbally defies belief.

19 I do want to add regarding my objections,
20 Dr. Scilaris mentions in his report the possibility of
21 revision surgery sometime down the road if other
22 conservative treatment doesn't succeed. He is now
23 testified on the stand about a knee replacement in the
24 future, that's nowhere in his report. This witness should
25 be confined to the four corners of the report because

1 that's what I am on notice of. I am not on notice of knee
2 replacement speculatively testified to about some point in
3 the future. There is no mention of that in the report. So
4 my objections are valid. He's eliciting testimony that
5 goes beyond what his doctor actually told me that he was
6 going to say.

7 MR. TZANETEAS: Your Honor, may I address that?

8 THE COURT: Yes.

9 MR. TZANETEAS: I have never in how many years
10 have anybody object to MRI films coming into evidence
11 saying that you need an affirmation when the second part
12 clearly says something that your Honor read, read on the
13 record, and now he's saying that my treating doctor can't
14 testify to future surgeries if it's not in the report.
15 There is so much caselaw that says my treating doctor can
16 testify to future surgery, just because I did a narrative
17 or 3101(d) doesn't take away his right as a treating
18 doctor.

19 THE COURT: He is here as a treating physician.

20 MR. TZANETEAS: Yes. This is the type of motions
21 that he's making objections to when he knows the law is not
22 that, that's why it's wasting time.

23 As far as making faces on your opening, I was
24 sitting behind you. Unless you have eyes in the back of
25 your head it's ridiculous.

1 THE COURT: All right. So, I think we should get
2 the jury back.

3 You didn't having anything else to add; did you?

4 MR. BUFFALOE: I did.

5 THE COURT: Make it fast.

6 MR. BUFFALOE: Judge, his doctor cannot get up on
7 the stand and just testify as to anything which seems to be
8 what he's suggesting. There is a requirement on the
9 3101(d) that I get notice on what he intends on his doctor
10 testifying. For the first time I am hearing about a knee
11 replacement, speculative testimony. So I could object to
12 that. I have a right to object to it.

13 THE COURT: There are different rules that apply
14 with a treating physician than there are with an expert
15 witness.

16 MR. BUFFALOE: He was disclosed as an expert so he
17 could testify about future care, when he's a treating
18 physician he's confined to his notes and his reports that
19 have been disclosed to me.

20 MR. TZANETEAS: He's not.

21 MR. BUFFALOE: About future care and the need for
22 future care, that's different.

23 THE COURT: I am not quite so sure you are correct
24 about that, when it comes to a treating physician
25 testifying, but we're going to leave it there. We're going

1 to take a break.

2 (A recess was taken.)

3 COURT OFFICER: All rise. Jury entering.

4 (Jury entering.)

5 THE COURT: Please, everybody sit down. Thank
6 you. Let me impart to all of you that, you know, the
7 attorneys and the judge we all respect one another,
8 sometimes we disagree. And there is no such thing of a
9 perfect trial, but what I am here for and really what you
10 are here for is that there is a fair trial, that's what
11 really counts and we're going to move on and questions will
12 be asked, the witness will give answers and you are going
13 to hear the testimony of all the various witnesses and you
14 are going to consider all the exhibits at the end of this
15 trial and then you are going to deliberate. Let's move
16 forward. Thank you.

17 MR. TZANETEAS: Thank you, Judge.

18 Q Doctor, I am taking a look at what is marked as
19 plaintiff's Exhibit 6 which is the June 16, 2020 MRI's of the
20 right knee, could you tell us on the screen what we're looking
21 at and a little bit about the picture?

22 A Yes, yes. This right here is the femur, this is the
23 tibia bone. Can you see my pointer? And then this is the
24 fibula which is the outside part of the knee.

25 So this MRI is going from the outside in, so I am

1 looking at it from the side view.

2 The meniscus here, this is the back part and this is
3 the front part of a lateral meniscus. It should be a black
4 triangle which you start to see a little fluid.

5 Q What does the fluid mean?

6 A Fluid means that anything that is white means there's
7 fluid so that means there is a tear within that part of the
8 meniscus. So if you scroll down there is a line, a white line
9 that shows that the posterior horn into the body of the meniscus
10 has a tear, and the anterior horn as well, this is the lateral
11 meniscus, you could see this is a black triangle and this is
12 flattened. It should be more of a triangle.

13 Q Could you tell me about degeneration by looking at that
14 picture?

15 A Degenerative meniscal tear will have fluid signals
16 throughout the whole meniscus and it's usually in someone older.

17 Q Did you find that here?

18 A No.

19 Q Okay.

20 A So then we come in, this is posterior cruciate
21 ligament, this is the anterior cruciate ligament right here.
22 This is the front part of the knee, that looks fine, and then we
23 come now to inside the medial meniscus, and again, the triangle
24 is here, and the other triangle is here and there is signal
25 change within the meniscus of the posterior horn. So, the MRI

1 coincided with the physical exam and the surgery.

2 Q Okay. I am going to switch to what's in Exhibit 4,
3 just using the mouse for a minute, let me get this, I got the
4 wrong one. Hold on.

5 MR. TZANETEAS: Judge, this is contained in his
6 Exhibit 4, would you like me to mark it as a separate
7 exhibit or leave it as Exhibit 4 in his file?

8 THE COURT: You can leave it as Exhibit 4 in the
9 file, but what is on the screen can you somehow identify it
10 so that anybody in the future will know exactly what we're
11 looking at.

12 Q Please identify what this is, Doctor.

13 A Yes, this is the knee. So, this is picture one. So as
14 soon as you enter the knee the camera goes in and what is
15 noticed is a lot of red, that's the synovium. So the joint was
16 inflamed. Usually a young person why is it inflamed, usually
17 from an injury, a traumatic injury, a tear.

18 MR. BUFFALOE: Objection.

19 THE COURT: Overruled.

20 MR. BUFFALOE: As to usually, Judge.

21 THE COURT: Overruled.

22 A So then this is a kneecap, the patella, so I am looking
23 up at the patella and there is a lot of synovitis here. Coming
24 down to the medial, this is the medial meniscus. This is the
25 femur bone, the tibia of the -- of the knee, and this is the

1 tibia bone down here. The meniscus is the cushion. There is a
2 tear of the posterior horn. So this, you can see here that's a
3 biter, it's an instrument that goes in and takes the torn piece
4 out so it doesn't progress. It solves -- it makes the buckling
5 go away, but again it can cause problems down the road. Then
6 this is the anterior cruciate ligament.

7 All this is a scar tissue, you can see this, he
8 developed all this scar tissue from trauma. So there was some
9 bleeding and some inflammation, so you have some scar tissue in
10 front of the ligament, I debrided that out.

11 And then there is a tear of the lateral, the outside
12 meniscus and unfortunately this one about 30% I had to take out.
13 And then looking at the end this is the knee. So everything was
14 cleaned out.

15 Q Now with a reasonable degree of medical certainty did
16 you find any degenerative condition in his knee?

17 A No.

18 Q With a reasonable degree of medical certainty, these
19 photos, do they show any degenerative meniscal tear?

20 MR. BUFFALO: Objection. Asked and answered.

21 THE COURT: Not on this particular exhibit.

22 You can answer the question.

23 Although, if we're going to cover the same
24 questions and answers before.

25 MR. TZANETAS: Just on this, Judge.

1 THE COURT: All right. Go ahead.

2 A No degenerative.

3 Q I am going to skip the MRI and go right to the other
4 shoulder and go right to the intraoperative photos. Hold on.
5 Can you identify this for the record that's part of Exhibit 4?

6 A Yes. This is the right shoulder. So, this is picture
7 one. So as soon as I go into the joint from the back the camera
8 is looking. The first thing you notice is the redness and all
9 this right here. This is along the labrum. So he had a tearing
10 of the labrum.

11 I used this shaver you can see up here on picture two,
12 this debrided the top part that was torn. So once I removed the
13 top part, the bottom part was still attached, so then I used
14 this instrument that tightens it up. It's a thermal wand. So
15 the remaining fibers I tighten them up so they don't progress
16 and tear more.

17 What's also noted here is, here, so this is the
18 undersurface of the rotator cuff as I am looking up. This is
19 where the bicep comes out, because the tear was along where the
20 biceps is. This is all -- this redness, all this inflammation,
21 so the biceps was very inflamed.

22 Then I look above, above the shoulder into the space
23 and again you can see a lot of this redness, irritation, so I
24 cleaned out a lot of this synovitis, the bursitis. And there is
25 a spur here, so I shaved that down. Cleaned up the space. The

1 rotator cuff looked just fine.

2 MR. TZANETEAS: Okay. Your Honor, could we have a
3 sidebar for two minutes?

4 THE COURT: Yes, out of the presence of the jury.
5 (Proceedings held outside the presence of the
6 jury.)

7 MR. TZANETEAS: What I would like to do, Judge, is
8 ask a hypothetical question, usually it involves I want you
9 to assume the following facts.

10 THE COURT: Well, tell me what the hypothetical
11 is.

12 MR. TZANETEAS: The hypothetical is basically I
13 want you to assume 5/14 2020 the ceiling fell down on
14 Mr. Gousse, as a result of the ceiling hitting the head and
15 shoulder twisted to the ground, fell back and sprained his
16 body. As a result of the accident he went to Dr. Hanan
17 received treatment to his knee, his shoulder, his neck, his
18 back. Took MRI's, which showed tear of the labrum, a tear
19 of the meniscus. Came under your care, performed surgery.
20 Continues to have pain, continued to have a problem, with a
21 reasonable degree of medical certainty is this all caused
22 by this accident, competent producing cause. Was the pain
23 caused by this accident, competent producing cause, and was
24 the need for the treatment competent producing cause was
25 the accident. I don't want to ask these separate

1 questions, but they objected to my hypothetical before. I
2 think a hypothetical is proper. It's assuming facts that I
3 am not going to assume any facts not are not in evidence or
4 will not be in evidence, based on the records and the
5 treatments and it will just speed up the process.

6 THE COURT: All right, Mr. Buffaloe.

7 MR. BUFFALOE: I am not sure that any part of what
8 he just posited has already been asked and answered and is
9 in fact hypothetical, right. He considered all of these
10 things in his conclusion analysis and his opinions already,
11 so I am not really sure why it needs to be asked in a
12 hypothetical form. And two, I mean unless there is some
13 records that he hasn't reviewed and is included in the
14 hypothetical that he -- that plaintiff wants him to assume
15 about, which would be improper anyway, just he's already
16 asked this question.

17 THE COURT: All right. I don't need to go back
18 and forth. Virtually everything you've just placed on the
19 record has been asked and answered. The only difference
20 was the way you phrased it. You said as a result of the
21 accident on such and such a date was there causation with
22 the knee, was there causation with regard to the shoulder.
23 I am going to go by my memory and I take notes. It's not a
24 hypothetical.

25 MR. TZANETEAS: I am talking about the pain, I was

1 asking about pain and you wouldn't let me --

2 THE COURT: No.

3 MR. TZANETEAS: Why not? I don't understand.

4 THE COURT: How does this doctor know.

5 MR. TZANETEAS: He's in continued pain. I am
6 sorry, Judge.

7 THE COURT: Thank you. How is this doctor going
8 to know what pain is being suffered by the plaintiff except
9 by what the plaintiff is telling him? How is that doctor
10 going to know?

11 MR. TZANETEAS: Judge.

12 THE COURT: You could ask him is pain --

13 MR. TZANETEAS: I thought you were finished.

14 THE COURT: You could ask him is pain something
15 that you have medical opinion of him suffering in the
16 future. You could ask him those questions, I don't have
17 any problems with that.

18 MR. TZANETEAS: Okay.

19 THE COURT: But that's it. This hypothetical no,
20 you did ask all those questions before.

21 MR. TZANETEAS: Note my objection. I think a
22 hypothetical is proper.

23 THE COURT: It's not a hypothetical.

24 MR. TZANETEAS: I did not.

25 THE COURT: Okay. I respectfully disagree with

1 you. Okay, thank you. Let's go.

2 (Following proceedings held in open court, jury
3 present.)

4 THE COURT: Proceed when you are good, counselor.

5 Q Doctor, is a torn meniscus painful?

6 A Yes.

7 Q Is a torn labrum painful?

8 A Yes.

9 Q With a reasonable degree of medical certainty will
10 Mr. Gousse experience pain into the future of his right knee and
11 his right shoulder?

12 MR. BUFFALOE: Objection.

13 THE COURT: Sustained.

14 Q Doctor, as a surgeon do you evaluate patients based on
15 their pain level?

16 MR. BUFFALOE: Objection.

17 MR. TZANETEAS: Let me withdraw it.

18 Q Doctor, do the injuries that Mr. Gousse has sustained
19 are they going -- do they cause pain in his right knee?

20 MR. BUFFALOE: Objection.

21 THE COURT: Sustained.

22 Q Do you know if Mr. Gousse the last time you saw him has
23 pain in his right knee?

24 THE COURT: Sustained.

25 Q Doctor, based on your examination of Mr. Gousse on your

1 last visit did he complain of pain in his right knee?

2 A There was a pain scale of six out of ten.

3 Q And would you say with a reasonable degree of medical
4 certainty is this pain permanent in his right knee?

5 MR. BUFFALOE: Objection.

6 THE COURT: Can you answer that question? If you
7 can't that's okay.

8 A I mean can you rephrase it?

9 Q Sure. Based on your last evaluation of Mr. Gousse,
10 based on your review of the records, based on the MRI's, the
11 surgery, will Mr. Gousse's pain in his right knee ever go away?

12 MR. BUFFALOE: Objection.

13 THE COURT: Sustained.

14 MR. TZANETEAS: Okay. Let me just review my
15 notes, Judge.

16 THE COURT: Yes.

17 MR. TZANETEAS: Thank you.

18 Q Doctor, could you tell us, the records you reviewed in
19 your last examination?

20 A My records, Dr. Hanan's records, the MRI's of the right
21 shoulder, right knee. There were records from Dr. Lattuga, FDNY
22 records from 5/14/20 and 9/23/17, Kings County Hospital 9/23/17
23 and a Dr. Baptiste.

24 Q With a reasonable degree of medical certainty the
25 records that you reviewed was the treatment reasonable that was

1 done on Mr. Gousse for the injuries he sustained in the 5/14
2 2020 accident?

3 A Yes.

4 Q What do you base that on?

5 MR. BUFFALOE: Objection.

6 THE COURT: What is the ground? If you can't
7 articulate it it's overruled.

8 MR. BUFFALOE: I can't articulate it in one or
9 two words.

10 THE COURT: Why don't you try.

11 MR. BUFFALOE: Can we have a quick sidebar?

12 THE COURT: Okay.

13 (A bench conference was held.)

14 MR. TZANETEAS: May I rephrase with the question,
15 Judge?

16 THE COURT: Yes.

17 Q Doctor, your review of those records just as it
18 pertains to his knee and shoulder, with a reasonable degree of
19 medical certainty was the treatment reasonable?

20 A Yes.

21 Q In your opinion with a reasonable degree of medical
22 certainty is there anything different that Mr. Gousse could have
23 done that you saw he didn't do in your opinion?

24 MR. BUFFALOE: Objection.

25 THE COURT: I don't understand the question.

1 MR. TZANETEAS: Sure.

2 Q Is there anything that Mr. Gousse failed to do that you
3 saw on the record that he didn't do that would affect your
4 opinion?

5 MR. BUFFALOE: Objection.

6 THE COURT: Sustained. I am sorry, I still don't
7 understand.

8 Q Is there anything in those records -- strike that.

9 Did Mr. Gousse in your opinion do everything medical
10 necessary to get his knee and his shoulder better?

11 MR. BUFFALOE: Objection.

12 THE COURT: Sustained.

13 MR. TZANETEAS: Your Honor, can we approach on
14 this, please? I would like a sidebar and put a record on
15 it, Judge.

16 THE COURT: If you want to make a record you can
17 do it.

18 (Proceedings held outside the presence of the
19 jury.)

20 THE COURT: The form of the question is did
21 Mr. Gousse do everything he had to do, that's my
22 interpretation of the question. This doctor has no idea
23 whether he did everything he was supposed to do or not do.
24 The question was in the form of is there any indication
25 that he didn't follow the advise of the other physicians,

1 that's a different question. But this doctor has no basis
2 to know what this patient did or did not do. So that's the
3 basis of my decision. Now, what is the record that you
4 want to make?

5 MR. TZANETEAS: The record I want to make, your
6 Honor, last night I received a jury charges, I know we
7 didn't discuss it, but one of the tenets they want, one of
8 the charges they want is failure to mitigate which is a
9 burden. I am trying to ask my doctor is there anything he
10 didn't do that would date change or make it worse, I will
11 phrase it anyway you want it. But as far as their charge I
12 have to ask the doctor an opinion, even though it's not my
13 burden, I want to be able to ask the doctor if you are
14 saying that my doctor can't say that then he can't ask his
15 doctors that and I ask you to withdraw.

16 THE COURT: I am asking you to ask your doctor did
17 he do everything that he was instructed by this doctor to
18 do, that's what you can ask him.

19 MR. TZANETEAS: I don't want to ask that question,
20 Judge. I know what the question that should be asked, that
21 is not the question I am asking. I am asking is there
22 anything you see in the records that would indicate to you
23 that he didn't do what he was supposed to do or is there
24 anything more he could have done.

25 THE COURT: That was my suggestion to you in terms

1 of rephrasing the question.

2 MR. TZANETEAS: Can I see upon your review of the
3 records is there anything more he could have done; is that
4 okay?

5 THE COURT: I don't understand the question.

6 MR. TZANETEAS: Is there anything else he could
7 have done to make his knee or his shoulder better.

8 THE COURT: No.

9 MR. TZANETEAS: Any other treatment he could have
10 received.

11 THE COURT: You could ask that question.

12 MR. TZANETEAS: Just so I can make sure so I don't
13 get objection, is there any other treatment that he could
14 have received to make him better.

15 THE COURT: That he did not receive?

16 MR. TZANETEAS: That he did not receive.

17 THE COURT: You could ask that question.

18 MR. TZANETEAS: To his knee and his shoulder.

19 MR. BUFFALOE: Even that question I have a problem
20 with because that's beyond the scope of the knowledge of
21 this doctor, whether he reviewed the records of other
22 doctors or not, he can only discuss his treatment, what he
23 determined was medically necessary and whether or not the
24 plaintiff did that. It also calls for the plaintiff's
25 state of mind, whether he could have done more or less. I

1 am not even sure the nature of how this doctor could come
2 to a conclusion regarding that beyond what he said he
3 should do and whether or not he did it or not.

4 THE COURT: You could ask him anything that he
5 personally knows or you could ask him anything reflected in
6 the records.

7 MR. TZANETEAS: I said based on those records, is
8 there anything else that he could have done to make him
9 better based on the records.

10 MR. BUFFALOE: Could have done anything to make
11 him better, followed the recommended treatment prescribed
12 to him by X doctor, based on the records that he reviewed
13 whether or not he followed recommendations.

14 MR. TZANETEAS: You could ask that question.

15 MR. BUFFALOE: Whether he could have done more or
16 less.

17 THE COURT: I agree with you, I think that's what
18 my ruling is, yes. You can't -- I don't know and neither
19 does this witness know what he could have done or did do
20 afterwards. All he can go on --

21 MR. TZANETEAS: Based on the review of the
22 records.

23 THE COURT: We've all made a record here.

24 MR. TZANETEAS: Okay, thank you.

25 (Following proceedings in open court, jury

Thomas Scilaris, M.D. - Plaintiff - Direct

1 present.)

2 THE COURT: Proceed when you are ready.

3 MR. TZANETEAS: Sure.

4 Q Based on those records that you reviewed in your
5 report could Mr. Gousse have done anything else to make him
6 better in regard to his knee or his shoulder beyond what he
7 already did?

8 MR. BUFFALOE: Objection.

9 THE COURT: Sustained.

10 MR. TZANETEAS: Okay, no further questions.

11 Thank you, Doctor.

12 THE COURT: Okay. We're going to take a ten
13 minute break and then we're going to go through cross
14 examination and we're going to take it to about ten minutes
15 of 1:00. We're going to break for lunch. Then I am going
16 to ask you to return for 2:15 so we can start again. I am
17 sorry, if you could return at 2:10 and then we'll start at
18 2:15. But right now we're going to take about a five
19 minute break. Thank you.

20 COURT OFFICER: All rise. Jury exiting.

21 (Jury exiting.)

22 THE COURT: Dr. Scilaris, I will just ask that you
23 not discuss your testimony between now and the resumption
24 of your testimony in about five or ten minutes. Thank you
25 so much.

Thomas Scilaris, M.D. - Plaintiff - Cross

1 (A recess was taken.)

2 COURT OFFICER: All rise. Jury entering.

3 (Jury entering.)

4 THE COURT: Please, everybody sit down. Thank
5 you. Mr. Buffalo, please proceed when you are ready.

6 MR. BUFFALOE: Thank you.

7 CROSS EXAMINATION

8 BY MR. BUFFALOE:

9 Q Afternoon, Dr. Scilaris.

10 A Good afternoon.

11 Q By the way, you and I have never met before today?

12 A No.

13 Q Good morning or otherwise; correct?

14 A I don't think so.

15 THE COURT: Would you like a podium?

16 MR. BUFFALOE: No, I am okay.

17 Q So Dr. Scilaris, the first time you examined the
18 plaintiff was on June 26, 2020; correct?

19 A Yes, sir.

20 Q And on that day, that same day you recommended surgery;
21 correct?

22 A Correct.

23 Q Now, having said that did you have the films in your
24 possession at that time?

25 A I do review MRI's.

1 Q Did you have them in your possession on June 26, 2020
2 is what I am asking?

3 A I review them before surgery. Did I have them that
4 date, I know I had 100% had the results, but I do review MRI's.

5 Q That's not what I asked you, sir. I asked you did you
6 have those films on June 26, 2020; yes or no?

7 MR. TZANETEAS: Asked and answered.

8 THE COURT: You could be answer it again.

9 A I reviewed radiographs of the knee and shoulder.

10 THE COURT: I am sorry, I can't hear. You
11 reviewed --

12 THE WITNESS: I reviewed radiographs of the right
13 shoulder and right knee. The MRI reports were reviewed.

14 THE COURT: . Okay. Concentrate. Did you actually
15 see the film or are you basing it on a report?

16 THE WITNESS: I would say this is the report.

17 THE COURT: Okay, that's fine. That's the answer.

18 It was a report.

19 Q So when was the first time you saw the films, the MRI's
20 that you testified to?

21 A Before the surgery.

22 Q Before the surgery?

23 A Yes, sir.

24 Q Was it the day before, when it was scheduled, Health
25 East in New Jersey?

1 A No, when a surgery, when a surgery is on the week
2 before I review all images and all x-rays before surgery.

3 Q Where did you get them from?

4 A Where did I get the --

5 Q Yes, where did you get the films from, the MRI?

6 A I would say I got it from the radiology.

7 Q Are you guessing?

8 A No.

9 MR. TZANETEAS: Objection.

10 THE COURT: When there is an objection you have to
11 wait until I rule on it. The objection is sustained. The
12 last question stricken.

13 Ask another question.

14 Q You said I would say I got them from radiology, do you
15 know where you got them from?

16 A I get them from the radiology place.

17 Q Which radiology place?

18 A I believe it's Kolb Radiology.

19 Q You believe you got it directly from there or do you
20 have a specific recollection? Is it noted anywhere in your
21 report where you got it from?

22 A The MRI's are reviewed before the surgery.

23 Q That's not what I asked you, sir. I asked you where
24 did you get them from?

25 MR. TZANETEAS: Asked and answered.

1 THE COURT: Overruled.

2 A It's from the radiology place, the MRI's were taken.

3 Q Where were the MRI's taken?

4 MR. TZANETEAS: Your Honor.

5 THE COURT: Did you complete your last answer?

6 I believe the last question was where were the
7 films received from that you received.

8 A Well, the MRI report was taken off of here, but I
9 believe it's Kolb Radiology.

10 THE COURT: All right, ask your next question.

11 Q Do you remember receiving the films from Kolb Radiology
12 or some other source?

13 A My standard protocol is reviewing MRI's.

14 Q That's not what I asked you, sir. You were answering a
15 different question than the one I asked you.

16 MR. TZANETEAS: Objection, your Honor.

17 THE COURT: Sustained. No commentary. You ask a
18 question or you direct a question to me in terms of how to
19 direct a witness.

20 Q Do you know where you got the films from, the MRI's?

21 MR. TZANETEAS: Objection.

22 THE COURT: Overruled.

23 A MRI's are sent by the place where the MRI is taken.

24 Q Is that a yes or a no?

25 MR. TZANETEAS: Objection, your Honor.

1 Q Do you remember?

2 THE COURT: Overruled.

3 A I do not have written down the exact date that the
4 MRI's were reviewed.

5 Q Again, do you remember where you got them from, is
6 there a note as to where you received them? Did you get them
7 from Kolb Radiology or some other source?

8 A There is nothing in my notes about the exact date.

9 Q Now, by the way, you saw the plaintiff a grand total
10 over the last five years how many times, nine times, and that's
11 including the two surgeries, correct?

12 A Let me count, the 26th, the surgery is two, postop is
13 three, four, five, six, seven, eight, nine times, correct.

14 Q Right. And of those nine times there was one before
15 you did the surgery on August was it 11th of 2020?

16 A Surgery was 8/11 2020, correct.

17 Q So there was one time before you did the surgery to his
18 right shoulder, right knee; correct?

19 A Correct, his knee.

20 Q Right. And without seeing any films, you recommended
21 he have surgery; correct?

22 A Yes.

23 Q By the way, you mentioned that when you saw him in 2025
24 at the request of plaintiff's counsel you measured his range of
25 motion using a goniometer; correct?

1 A Yes.

2 Q When you saw him back in August, in June of 2026, 2020,
3 sorry, you did not use a goniometer; correct?

4 A That's correct.

5 Q You used basically based on your observation you were
6 measuring him; correct?

7 A Correct.

8 Q By the way, on that note, range of motion testing is
9 subjective; correct? It depends on the participation and the
10 active motion of the patient; correct?

11 A Yes.

12 Q Okay. Unlike an MRI say for example which is
13 objective, plaintiff doesn't have any control over what the MRI
14 shows, it shows what it shows; correct?

15 A Correct.

16 Q Now, by the way, and also complaints of pain are
17 subjective as well; correct?

18 A Yes.

19 Q Now, over the time that you have seen plaintiff those
20 nine times including the two surgeries, right, so let's say you
21 examined him seven times; correct?

22 A Correct.

23 Q It was in your office at Park West; correct?

24 A Yes.

25 Q Now, by the way, there were four times in 2020;

1 correct?

2 A Okay, yes.

3 Q Once postsurgical follow-up on August 14, 2020 and then
4 an evaluation on October 9, 2020, then by the way, so he was
5 back in your office three days after you did the arthroscopic
6 surgery on his knee; correct?

7 A Yes.

8 Q Right? By the way, so the arthroscopic surgery when
9 you say outpatient he was at that facility in New Jersey for
10 approximately what, an hour?

11 A No. I would say if someone comes in and they have to
12 come in at least an hour or so before the surgery, get pre op'd
13 by the nurses, getting put in, go to preop, then I have to
14 consent, the knee, anesthesiology has to see the patient, get
15 consent and then if the room is ready the patient goes into the
16 room, anesthesia is administered. Then the surgery is
17 performed, then they go back to the recovery room. So I would
18 say four or five hours --

19 Q So how long is the presurgical process that you just
20 mentioned?

21 A Presurgical?

22 Q Yes, before he actually goes in and gets the anesthesia
23 administered?

24 A I would say if I have a 7:00 surgery they'll come until
25 around 5:00, 5:30, if they go in at 7:00, it depends on when

1 they go in. Anesthesia probably takes about 15 minutes maybe to
2 prep and to get him ready.

3 Q So you are saying the presurgical part is what, an hour
4 and a half?

5 A It could be.

6 Q Okay. And 15 minutes for the anesthesia and then what,
7 half an hour for the scope?

8 A It depends on complexity, sometimes it's less and
9 sometimes it's more.

10 Q So by the way, and then the post scope procedure, the
11 recovery is what, an hour you have him sit there?

12 A It depends how they recover, if there is a lot of pain
13 they have to stay in the recovery room, the nurses have to give
14 pain medication. They have to be aware, alert. Then they have
15 to be able to get up move around with the cane. If they're not
16 steady they stay a little longer.

17 Q By the way, you mentioned cane a couple of times now,
18 there's no notation in your record the patient ever used a cane;
19 correct?

20 A No. When you leave the surgical center you have to use
21 a cane.

22 Q There is no notation in your records that he ever used
23 a cane; correct? There is no reference in your records --

24 A He --

25 Q There is no reference in your records --

1 THE COURT: You have to let him answer.

2 A He did not have a cane when he saw me initially, after
3 surgery he has a cane, he is discharged with the cane.

4 Q Is that in your records?

5 A I am sure it's in the Health East records.

6 Q Is it?

7 MR. TZANETEAS: Objection, your Honor. Health
8 East is part of his records.

9 A The surgical center.

10 THE COURT: All right, that's his answer.

11 Ask your next question.

12 Q Point that out to me in your records from Health East
13 where it mentions cane?

14 A I am sorry.

15 Q Can you show me in your records from Health East, you
16 said you are sure it says it?

17 A Everybody, my postop orders, so I have to look up, we
18 have to get the surgical center records. It's not part of my
19 chart. It's from the surgical center where the surgery is done.

20 MR. TZANETEAS: That's not the surgical chart he
21 has in front of him.

22 THE WITNESS: This is a surgical chart.

23 THE COURT: The records before you, it's not in
24 there, but they're in other records?

25 THE WITNESS: Yes, sir.

1 Q Those are records that haven't been produced today?

2 MR. TZANETEAS: Objection, your Honor. They're in
3 subpoenaed records.

4 THE COURT: You use the word objection. If it's
5 more than that and one word and then if it's more than that
6 it goes onto the sidebar.

7 MR. TZANETEAS: Objection. Not true, Judge.

8 THE COURT: As far as you know you don't have
9 those records in front of you?

10 THE WITNESS: I do not have those records in front
11 of me.

12 THE COURT: What was the last question?

13 (The record was read back.)

14 THE COURT: All right. That question is stricken.

15 Q Do you have those records with you, Dr. Scilaris?

16 A I just have my chart. I don't have the surgical chart
17 with me.

18 Q So there is other separate records from Health East
19 Ambulatory that -- did you review those before you came here
20 today?

21 A I have the operative report. If you are asking about
22 the postoperative, I have a sheet, my postop sheet says for
23 every knee scope weightbearing with cane, you are discharged
24 with the cane and that is the hospital policy, every hospital
25 has a policy after a surgery.

1 MR. BUFFALO: Move to strike as not responsive.

2 THE COURT: All right. That part is stricken.

3 The part of the testimony that indicates that those records
4 are not before the witness, that remains.

5 All right, ask your next question.

6 Q So Dr. Scilaris, you saw him one more time before you
7 did your surgery on his shoulder; correct?

8 A October 9th we discussed surgery, correct.

9 Q So and then you did the surgery to his shoulder on,
10 what was it, 11/12 2020; correct?

11 A Yes, sir.

12 Q In the process was the same, it was outpatient, it was
13 anesthesia administered and he was released to go home, correct,
14 the same day?

15 A Yes, sir.

16 Q By the way, the anesthesia we're talking about, it was
17 local; correct? He wasn't unconscious; correct?

18 A No, it's a regional anesthetic. So they're giving
19 sedation in one arm, makes you a little sleepy, then anesthesia
20 numbs or deadens the arm so you don't have to put you a tube in
21 the mouth. It's regional sedation.

22 Q He's awake during the procedures; correct?

23 A He's not. There is no tube in his mouth, but you are
24 given medication that you really are kind of asleep.

25 Q And so that's the reason for the recovery; correct? He

1 recovers from the anesthesia, the affect of the anesthesia
2 before he can be released; correct?

3 A With knee arthroscopy you are under a general, so it
4 takes longer to recover for the knee. The shoulder it's a
5 regional so you don't have the problem vomiting and whatnot.
6 You recover quicker from a shoulder than a knee.

7 Q What I asked you, Dr. Scilaris, that is the reason for
8 the postsurgical recovery so that he can recover from the
9 affects of the anesthesia; correct?

10 A From anesthesia and surgery, yes.

11 Q Now, after you did the shoulder scope, you did the knee
12 scope did you instruct the plaintiff to -- withdrawn.

13 You didn't instruct the plaintiff to receive any
14 further MRI's; correct?

15 A I did not to the best of my knowledge.

16 Q And to the best of your knowledge the only MRI's that
17 the plaintiff has had in the last five years and change was in
18 2020; correct?

19 A That I see, that's correct.

20 Q Now, you saw him one more time, you saw him again
21 January, 2021; correct?

22 A Yes, sir.

23 Q And by the way, you recommended that he continue
24 therapy; correct?

25 A Yes.

1 Q Do you know if he actually continued therapy?

2 A From what date?

3 Q From any date.

4 A On January 8th he had surgery, two months before, so
5 prescription was written for therapy. So, I don't have therapy
6 notes in front of me.

7 Q So you don't know, is that a yes, you do not know?

8 A I don't have Dr. Hanan's notes in front of me about the
9 therapy he had.

10 Q As you sit here right now you don't know one way or the
11 other; is that correct?

12 A I do not have them in my chart.

13 Q I am not asking if you have them in your chart. I am
14 asking you as you sit here right now giving testimony before
15 this jury do you know if he continued with the therapy one way
16 or the other?

17 A I don't have any records in front of me.

18 Q By the way, do you know if the plaintiff was
19 recommended to do exercises at home?

20 A Yes.

21 Q Did you ask him if he did those exercises at home?

22 A So he on January 8th was given, continued therapy, home
23 exercise program and return in eight weeks, continued therapy,
24 continue therapy with Dr. Hanan. So on March 30th he had some
25 improvements slowly of the shoulder, complained of stiffness so

1 his motion had improved. So he was doing -- so he was
2 improving.

3 Q Dr. Scilaris, do you know if he was doing the home
4 exercises, did you ask him?

5 A I do not have that in my note on March 30th.

6 Q Do you have in your notes what therapy he was
7 receiving?

8 A I do not have Dr. Hanan's therapy notes.

9 Q Do you have in your notes what therapy he was
10 receiving?

11 A He was doing therapy at Dr. Hanan's office.

12 Q I understand that.

13 A So he would --

14 Q Did you ask him what therapy he was receiving?

15 A I wrote a prescription for therapy and it's given to
16 Dr. Hanan and then --

17 Q Did you ask him what therapy he was receiving,
18 Dr. Scilaris?

19 A I do not have anything about me asking him about
20 therapy.

21 MR. TZANETEAS: Your Honor, just objection. At
22 what point? I might have missed it and I apologize.

23 Q At any point after the surgery, before the surgery, at
24 any point?

25 THE COURT: At any point.

1 A Did I ask him if he had therapy?

2 Q No, when he had therapy what therapy he was receiving.
3 You wrote a prescription for therapy; right?

4 A Correct.

5 Q By the way, that prescription is not in your notes;
6 correct?

7 A They're not here, but a prescription is written. But
8 yes.

9 Q All right. So as we sit here right now you don't know,
10 well, let me ask you a question. Did you just say continue
11 physical therapy in your prescription or you did you delineate
12 specific therapy in your prescription?

13 A When I fill out a therapy note I put the patient's
14 name, the surgery they had, the date they had it and what I want
15 the therapist to perform.

16 Q So you specified what therapy he should receive?

17 A I always put yes, range of motion, modalities,
18 strengthening.

19 Q But that's not in your records though?

20 A I just have my notes.

21 Q Right. So it's not in your records, what you brought
22 here today that you put in evidence?

23 A My prescription for physical therapy is not here,
24 correct.

25 Q So, you see Doctor, I mean you see the plaintiff, last

1 time March 20, 2021; correct?

2 A Yes.

3 Q Then you don't see him again until, what is it, until
4 October 9, 2025; right? Four years later; right?

5 A Yes.

6 Q When you see him four years later that was at the
7 specific request of plaintiff's counsel; correct?

8 A Yes.

9 Q By the way, do you know how he got to New Jersey?

10 A To New Jersey?

11 Q Yes, to the facility in New Jersey before the knee
12 surgery?

13 A I -- I don't -- either he made his way there, I don't
14 know.

15 Q I am not asking you to guess, only if you know.

16 A In my record I don't have how he got there.

17 Q Do you know how he got home from New Jersey?

18 A I do not.

19 Q You didn't provide transportation for him; did you?

20 A Me? No, I did not.

21 Q Do you know if he was accompanied by anybody when he
22 went to New Jersey?

23 A Usually you have to be accompanied by -- you have to
24 have somebody.

25 Q I didn't ask you usually, I asked you do you know?

1 A I would have to look at the surgical center charts.

2 Q As you sit here right now you do not know?

3 A Protocol is you have to have somebody with you.

4 Q I didn't ask you about protocol, sir.

5 MR. TZANETEAS: Objection, your Honor.

6 Q I asked you about Mr. --

7 THE COURT: Overruled.

8 Q Mr. Gousse specifically, do you know if he was
9 accompanied by anybody?

10 A I don't have anything in my note about that.

11 Q So you don't know?

12 A No, not in my note, no.

13 Q By the way, let's take the first one, August 11, 2020,
14 do you know how many scopes you did at Health East that day?

15 A I do not.

16 Q How many scopes do you do after that, let's say in
17 2020?

18 A 2020, I believe it was COVID time so I don't remember.
19 I know this week I did twelve surgeries on Tuesday and three on
20 Wednesday.

21 Q Okay. Now, that said, by the way, when Mr. Gousse went
22 to your facility in New Jersey was he the only patient there?

23 A Was he the only patient?

24 Q Was he the only patient in the facility?

25 A I don't recall.

1 Q Well, did you see other patients that day? Did you --
2 back in August of 2020 were you scheduling like one person who
3 would travel all the way out to New Jersey because that was your
4 day to do surgeries in New Jersey; right?

5 A Did I schedule one person?

6 Q Yes, just one person, only one person, travel all the
7 way to New Jersey, one arthroscopic surgery?

8 A I have no idea, if I book a surgery and it's done a
9 short date, if it's scheduled then I know when I do surgery.

10 Q So you don't recall one way or the other?

11 A Five, six years ago, I don't remember how many
12 surgeries I did that day.

13 Q Well, let me ask you this question; in the time you
14 have been running Health East how many days was it that you went
15 and did only one scope?

16 A I don't remember. I don't even have a recollection.

17 Q It never happened; right?

18 MR. TZANETEAS: Objection, your Honor.

19 THE COURT: Overruled.

20 A I don't know if I did one, one day, two one day, ten,
21 that I don't have a recollection of.

22 Q By the way, when you saw him for the last time aside
23 from when his attorney sent him to see you right when you saw
24 him for the last time in 2021, in March of 2021, you did not
25 recommend that he come back to you; correct?

1 A Correct.

2 Q You didn't recommend any further follow-up with you;
3 correct?

4 A The follow-up was to be with Dr. Hanan.

5 Q With you, Dr. Scilaris I am asking?

6 A Yes, it was PRN with me. Dr. Hanan, if there was a
7 problem he would send him back to me.

8 Q When you said PRN that's as needed; correct?

9 A Correct.

10 Q That is up to, let me ask you a question about that.
11 You said PRN, as needed. When you spoke to the plaintiff did
12 you tell him on any occasion you saw him, when you scheduled the
13 follow-up on June 26, 2020 and came back on August 14, 2020 and
14 he came back on August 9, 2020, those appointments were made
15 with you; correct? They were not made through Dr. Hanan's
16 office; correct?

17 A Dr. Hanan originally sent the patient to me, then I was
18 his treating doctor for his knee and shoulder, so any follow-ups
19 would be through me setting it up, right.

20 THE COURT: We're going to stop there. I am just
21 going to ask one question so I have some clarity and then
22 we are going to break for lunch.

23 PRN, what does that stand for?

24 THE WITNESS: As need be.

25 THE COURT: As needed.

1 THE WITNESS: Yes.

2 THE COURT: All right. We're going to break for
3 lunch. Please return around 2:10 then we'll commence the
4 trial again at 2:15. Thank you for your attention this
5 morning.

6 COURT OFFICER: All rise. Jury exiting.

7 (Jury exiting.)

8 THE COURT: Just request that you do not discuss
9 your testimony with counsel between now and the resumption
10 of your testimony this afternoon. Thank you so much.

11 THE WITNESS: Thank you.

12 (A lunch recess was taken.)

13 THE COURT: Counsel, the jurors will be here soon.
14 Do you want to look at the subpoenaed records?

15 All right. So let's proceed. If you need more
16 time or you need to take a break to review the records
17 we'll do that at a later point.

18 MR. BUFFALOE: Okay, your Honor.

19 THE COURT: If you could put it back in the same
20 folders wherever you got that out of.

21 Let's get the jury in, thank you.

22 MR. BUFFALOE: Just a quick note, in the -- I am
23 not sure what is going on here, it appears to be records
24 from another case in here, mixed in.

25 THE COURT: Is it something that you intend to ask

1 the witness about now or something that could be addressed
2 later?

3 MR. BUFFALOE: I mean as long as --

4 THE CLERK: Another court case?

5 MR. BUFFALOE: It looks like there is records from
6 a patient named Anne Edwards in here, Anna Nelba
7 (Phonetic).

8 MR. TZANETEAS: I am not going to look to admit
9 any records that's not my client's, Judge.

10 THE COURT: I am sure that that would be the
11 situation.

12 MR. TZANETEAS: We're wasting time here, Judge.

13 MR. BUFFALOE: I am looking for these records.

14 THE COURT: Let's get the jury in. If I ask that
15 the jury be put in and counsel says something it doesn't
16 matter, unless I tell you not to bring them in they should
17 be brought in. Thank you.

18 COURT OFFICER: All rise. Jury entering.

19 (Jury entering.)

20 THE COURT: Good afternoon, everyone. Please sit
21 down. Thank you.

22 Mr. Buffaloe, when you are ready you can proceed.

23 And Dr. Scilaris, I just want to remind you you
24 are still under oath.

25 THE WITNESS: Do I get my chart?

1 THE COURT: You don't have it with you?

2 THE WITNESS: No.

3 THE CLERK: You want the folder?

4 THE COURT: Yes. Only refer to it if you need to
5 refresh your memory. Thank you.

6 THE WITNESS: Yes.

7 MR. TZANETEAS: Your Honor, I believe those are in
8 evidence.

9 THE COURT: Well --

10 MR. TZANETEAS: Exhibit 4.

11 THE COURT: All right, it's in evidence. But if
12 you need to look at it you look at it. If you don't need
13 no look at it you don't have to look at it.

14 THE WITNESS: Okay.

15 Q Dr. Scilaris, in the records that you reviewed in
16 preparation for your testimony today did you review the records
17 that were subpoenaed and delivered to the courthouse, Health
18 East Ambulatory?

19 A The only records from Health East that I have is my
20 operative report and MRI pictures.

21 Q I am asking you a specific question. Did you review
22 the records that were subpoenaed to the courthouse, delivered to
23 the courthouse in response to the subpoena from plaintiff's
24 counsel from Health East Ambulatory before coming here?

25 A No.

1 Q Do you have any reason to believe that those records
2 are actually any different from what you have in front of you?

3 A The Health, the surgical center records?

4 Q That's right.

5 A Well, the only record I have is the operative report
6 and my pictures, so the anesthesia records, the nursing records,
7 all those records would be in that chart.

8 MR. BUFFALOE: Okay. Could I have this marked as
9 Defendant's --

10 THE COURT: Yes. What are we up to --

11 THE CLERK: We only have A so far.

12 THE COURT: Is there any objection to that being
13 admitted into evidence subject to redactions?

14 MR. TZANETEAS: No, Judge.

15 THE COURT: All right. Admitted into evidence.

16 THE CLERK: What are these records?

17 MR. BUFFALOE: Health East Ambulatory.

18 THE CLERK: Your Honor, evidence or ID?

19 THE COURT: Evidence.

20 MR. TZANETEAS: Subject to redactions, I am sorry
21 you said that. Withdrawn.

22 THE COURT: Yes.

23 Q Dr. Scilaris, I want you to take a look at those
24 records we just handed you in Defendant's Exhibit B and tell me
25 if the records you just referred to, the pre and postsurgical

1 records, are in there?

2 A I do not see nursing records, it looks like it's the
3 operative report and MRI notes.

4 Q Basically, substantially the same that was marked in
5 earlier today from your chart; correct?

6 A Besides -- there is the anesthesia record of the
7 anesthetic that the anesthesia department gave, but besides that
8 there is no nursing records.

9 Q No nursing records, no pre, no post, there is no
10 notation in there whatsoever about the plaintiff using a cane
11 either?

12 A Not in this record.

13 Q Those records were provided again by Health East
14 Ambulatory, your company, in response to a subpoena from
15 plaintiff's counsel; correct?

16 A Yes.

17 Q Just so we're clear, that subpoena asked for all
18 records; correct?

19 A I have no idea.

20 Q Literally the first page of the subpoena itself says,
21 "All medical records, diagnostic tests, MRI's, x-rays, CT scan
22 films, operative and reports and certified bills," do you see
23 that?

24 A Yes.

25 Q None of those are in there; correct? According to --

1 A I mean to the best of my knowledge I see the operative
2 report, my notes, I do not see nursing records or pre and postop
3 records.

4 Q So Dr. Scilaris, could you -- the shoulder surgery you
5 performed was also outpatient; correct?

6 A Yes.

7 Q And that was also performed in Englewood, New Jersey?

8 A Both surgeries were, yes.

9 Q Performed in Englewood, New Jersey?

10 A Yes, sir.

11 Q Now, by the way, when the shoulder surgery was done did
12 you have any recollection of Mr. Gousse being the only patient
13 for that day?

14 A No.

15 Q By the way, you mentioned in the Englewood, New Jersey
16 facility there are four other doctors in addition to you or four
17 altogether?

18 A That operate there, there are probably ten.

19 Q Ten?

20 A Doctors.

21 Q And on any given day how many would you say are doing
22 surgeries?

23 A On Mondays you probably have two or three doctors doing
24 surgeries, Tuesdays it could be two, it depends on, and
25 Wednesdays it could be two or three, it depends on what

1 specialty.

2 Q On any given day each doctor would have their own
3 lineup of surgeries scheduled; correct?

4 A Not necessarily. It depends, if there is three rooms,
5 so you could have three doctors doing one room each. You could
6 have one doctor do three rooms or two doctors where one takes
7 one room and the other takes the other two rooms.

8 Q That's not what I am asking you, Dr. Scilaris. I am
9 asking you whether or not each doctor has their own patients
10 that they have scheduled their procedures with; correct?

11 A Yes, yes.

12 Q So you have your schedule of patients you are going to
13 see, the next doctor has his schedule of patients he's going to
14 perform procedures on; correct?

15 A Yes.

16 Q So there's two, three, four, each one has their own set
17 of patients that they are going to engage with on that
18 particular day; correct?

19 A Yes.

20 Q So there is no way for you to say for sure whether or
21 not there were 20 people in that facility on the day that the
22 surgery was performed to his knee; correct?

23 A That's correct.

24 Q By the way, that includes staff, correct, there would
25 be staff as well, how many people on staff on any given day

1 aside from the doctors?

2 A There are three preop nurses, three postop nurses and
3 there is quite a few people there.

4 Q So, and the same would be true when the shoulder
5 surgery is performed as well; correct?

6 A Yes.

7 Q By the way, when you saw the plaintiff for the first
8 time at Park West Surgical, did you have any other patients
9 scheduled for that day?

10 A In my office?

11 Q In New York?

12 A I -- I don't remember offhand, but probably.

13 Q And when you saw the plaintiff for -- well, withdrawn.
14 Do you know when is the -- withdrawn.

15 You don't know when the plaintiff first sought
16 treatment after this accident; do you?

17 A I know the first time I saw the patient, I do not have
18 Dr. Hanan's records in front of me.

19 Q You don't know whether or not it was the day after, a
20 week after, a month after as you sit here right now; correct?

21 A Well, I don't think it's a month after, but because the
22 MRI's were performed before I saw the patient, so I don't know
23 the exact date.

24 Q And just so the record is clear, the first MRI was
25 taken on June 17th of 2020; correct?

1 A I don't have the report in front of me. It was taken
2 out of my chart.

3 Q Fair enough. Dr. Scilaris, now, we've established that
4 the last time you examined the plaintiff in the course of his
5 treatment was in 2021, correct, May of 2021?

6 MR. TZANETEAS: Objection.

7 A I think it was March 30th of 2021.

8 Q March 30, 2021, sorry.

9 And you didn't see him again until plaintiff's counsel
10 requested that you do, correct, in 2025?

11 MR. TZANETEAS: Objection. Asked and answered.

12 THE COURT: Overruled.

13 A Correct.

14 Q Now, when you saw him at the request of plaintiff's
15 counsel in March of 2025 did you get paid for that?

16 A I don't -- I don't know. I mean I --

17 Q By the way, do you know as you sit here right now
18 whether you've gotten paid for any of the treatment you rendered
19 to the plaintiff?

20 MR. TZANETEAS: Objection. Beyond the scope.

21 THE COURT: Short sidebar.

22 (Proceedings held outside the presence of the
23 jury.)

24 THE COURT: The Court had an off the record
25 conversation with counsel that I will summarize. I asked

1 Mr. Tzaneteas whether or not questions could be asked that
2 go beyond the scope of examination in order to prevent
3 having to call this witness back on Mr. Buffalo's direct
4 case. Mr. Tzaneteas indicated that that was not
5 acceptable. I am going to allow the question to be asked
6 because I think it goes straight to the question of
7 credibility. I'll leave it at that.

8 You want to make a further record?

9 MR. TZANETEAS: Yes, your Honor. I object it's
10 beyond the scope of the direct examination. And I think at
11 this point, your Honor, every ruling that you make has been
12 against my case and I understand that, but I am following
13 the law and as I said, your Honor, at this point in trial I
14 am making my objections, I'll make my record and your Honor
15 can rule as you wish and defendant can -- I'll preserve my
16 objections.

17 THE COURT: Every ruling has been against you?

18 MR. TZANETEAS: Every ruling.

19 THE COURT: I am sorry, I am talking. I think
20 that's a ridiculous statement to make, but there will be no
21 further discussion. We have to continue to the trial.

22 MR. TZANETEAS: I have to respond to that.

23 THE COURT: No, I am not letting you.

24 MR. TZANETEAS: You are not letting me go on the
25 record?

1 THE COURT: That's correct. If you want anything
2 additional you want to do you can put it on paper and you
3 can submit it. Thank you.

4 MR. TZANETEAS: Thank you, Judge.

5 (Following proceedings held in open court, jury
6 present.)

7 THE COURT: Please proceed.

8 MR. BUFFALOE: You want me to repeat the question
9 or have it read back?

10 THE COURT: Either way.

11 Q Dr. Scilaris, as you sit here now do you know if you've
12 been paid for any of your services?

13 A To the best of my knowledge, I leave that to my office.
14 I don't really know if I have.

15 Q So as you sit here right now you may not have been paid
16 for anything?

17 A That's possible.

18 MR. TZANETEAS: Objection, your Honor. Relevance.

19 THE COURT: Overruled.

20 Q Now, you mentioned on direct that -- well, let me step
21 back for a second. The tears in the plaintiff's knee that you
22 observed, those were partial tears; correct?

23 A They -- well, they were complete tears, it wasn't the
24 whole meniscus, so it was the inner 20% that was torn.

25 Q So, it wasn't the whole meniscus?

1 A Not 100% the meniscus, correct.

2 Q So, you remove part of the meniscus; correct?

3 A The torn piece, correct.

4 Q Right. And you are saying that was what, approximately
5 what, 20% of the meniscus?

6 A Of the medial meniscus, correct, and 30% of the
7 lateral.

8 Q Now, you mentioned that in your report, how much in
9 millimeters is that?

10 A Well, if a meniscus is ten millimeters 20% would be
11 two millimeters.

12 Q Well, you were in Mr. Gousse's meniscus; correct?

13 A Yes.

14 Q You observed it yourself?

15 A Correct.

16 Q So you don't have to guess; do you? You know the
17 length of his meniscus; correct?

18 A You are asking me -- so at the time I visualize it and
19 it's 20% of his meniscus.

20 Q Right. So my question for you, so you reference that
21 if it is ten millimeters, right, but do you know how long
22 Mr. Gousse's meniscus was or is?

23 A Everyone's got about similar meniscus unless they're
24 super large, so it would probably be anymore from ten to
25 twelve millimeters.

1 Q All right. Again, when you say probably is that just
2 kind of like general public or Mr. Gousse himself?

3 A No, everybody is different, everybody's body is
4 different so the meniscus could be a millimeter bigger or
5 smaller depending on the size of the person.

6 Q I agree with you, everybody is different. My question
7 to you is you performed surgery on Mr. Gousse's knee, on his
8 meniscus, you talked about the films and photographs that you
9 took during the course of the surgery, but your report does not
10 say how long the meniscus was or the measurement as to how much
11 you actually remove, you just say 20%, how is a person to know
12 20% means when you don't give any kind of relative?

13 A I have pictures here and this is the 20% that was taken
14 out, here is the before and here is the after.

15 Q I just asked you about the photographs, what I am
16 asking you about is what the actual length of Mr. Gousse's
17 meniscus was; do you know as you sit here right now, do you
18 know?

19 A Did I measure the length of his meniscus?

20 Q Did you see the meniscus during the course of the
21 surgery?

22 A Yes, I did.

23 Q Did you record the length of his meniscus in your
24 report?

25 A I recorded the part that was torn and taken out in

1 comparison to his whole meniscus, so it's 20%.

2 Q So you did not record how long his meniscus was, at
3 all; correct?

4 A How long or are you talking about the inner part?

5 Q How long it was?

6 A Well, that's two different, long is --

7 Q The length of his meniscus?

8 A It wouldn't be -- well, this -- normal meniscus is
9 anywhere from ten to fourteen, millimeters and
10 twelve millimeters.

11 THE COURT: Counsel, you are going to have to move
12 on.

13 A He lost.

14 THE COURT: I am sorry, Doctor.

15 THE WITNESS: Sorry.

16 Q And the 30% from his -- which part of his meniscus?

17 A Lateral.

18 Q Now, did you measure that, at all?

19 A When you're looking at the meniscus --

20 Q Just yes or no.

21 MR. TZANETEAS: Objection, your Honor.

22 A Yes, because it's 30%.

23 THE COURT: You are going to have to move on from
24 this area, the testimony is that 20% and 30%. Please
25 continue.

1 Q How many millimeters is 20%?

2 MR. TZANETEAS: Objection, your Honor.

3 THE COURT: You have to move on to a different
4 area. I am not allowing any further questions on the
5 length of any meniscus.

6 Q Did your office perform any physical therapy on
7 Mr. Gousse?

8 A No, we do not perform physical therapy.

9 Q You referred him back to Dr. Hanan; correct?

10 A Yes.

11 Q Did you do any follow-up with Dr. Hanan regarding the
12 physical therapy?

13 A I do not have any records of his therapy in my chart.

14 Q So the answer is no, you did not?

15 A When I -- explain follow-up.

16 Q Did you confer with Dr. Hanan or Comprehensive Medical
17 after you saw him at any point?

18 A No.

19 Q After you saw him after you performed the surgery, the
20 procedure on his right knee, you didn't order any additional
21 diagnostic testing; did you?

22 A Of what body part?

23 Q The right knee.

24 A After I did surgery?

25 Q Correct.

1 A I wouldn't order, no, I did not.

2 Q And the same is true for the shoulder, correct, you did
3 not order any additional diagnostic testing after the procedure;
4 correct?

5 A Correct.

6 Q Now, by the way, when you saw him in October of 2025
7 you did not order or direct that the plaintiff should receive
8 any of this diagnostic testing; did you?

9 A No, I did not.

10 Q In fact, your report that you drafted in October of
11 2025 does not mention anything about knee replacement or any
12 other surgeries; correct?

13 MR. TZANETEAS: Objection.

14 THE COURT: Overruled.

15 A I do mention possible revision surgery of the right
16 knee and shoulder.

17 Q A revision surgery is not a knee replacement; is it?

18 MR. TZANETEAS: Objection, your Honor.

19 THE COURT: Overruled.

20 A A revision surgery would be -- if you did a knee
21 replacement a revision surgery is a revision of the knee
22 replacement.

23 THE COURT: I couldn't hear.

24 THE WITNESS: I am sorry, a revision surgery is if
25 I did an arthroscopy it would be an arthroscopy. It would

1 also be if I feel that arthroscopy would not help and there
2 is bone on bone arthritis then you may say a revision
3 surgery would be a knee replacement.

4 Q So literally a revision surgery could be anything?

5 A It means a second surgery, yes, a revision surgery.

6 Q Right. And but you actually make specific, as opposed
7 to the possibility of a second surgery in the future at some
8 point, you were not recommending that when you saw him in
9 October 2025, correct, you were recommending he get injections,
10 correct, and additional physical therapy; correct?

11 A Correct.

12 Q That's despite the fact that there had been four years
13 and change since the last time you saw him; correct?

14 A Correct.

15 Q Now, you mentioned that when you saw him in October,
16 '25 at the request of plaintiff's counsel you measured the
17 circumference of his legs; correct?

18 A Yes.

19 Q That was the first time you did that, correct, you did
20 not do that back when you first saw him those other eight times
21 you saw him, you did not measure the circumference of his legs,
22 at all; correct?

23 A No.

24 Q So you don't know if that was the normal for his legs;
25 correct?

1 A Well, that's why I -- I use the other side which was
2 not injured, so that's the norm.

3 Q But you don't know if that existed back two months
4 after the accident; correct?

5 A I am sorry, what existed?

6 Q When you first saw him two months after the accident
7 you don't know if that half inch difference already existed;
8 correct?

9 A Correct.

10 Q Right. It's fair to say, by the way, that just like
11 with leg length, circumference can be different from one leg to
12 the other, correct, just normally, correct?

13 A It's possible.

14 Q Dr. Scilaris, as you sit here now, do you know when was
15 the last time the plaintiff had any physical therapy?

16 A No.

17 Q Do you know when is the last time he got any treatment
18 whatsoever?

19 A When I saw the patient he did get an injection into the
20 shoulder by Dr. Hanan earlier.

21 Q But you don't know when that was; correct?

22 A I don't have the exact date, but it was mentioned to me
23 from the patient.

24 Q So, you don't have the exact date, but the plaintiff
25 didn't tell you the exact date so you don't know; correct?

Thomas Scilaris, M.D. - Plaintiff - Redirect

1 A It was right before he came in, so --

2 Q Right before, what does that mean; a month before, two
3 months before, a week before? What does that mean?

4 A It says the patient says he recently received a
5 cortisol injection to his right shoulder.

6 Q What does that mean, Mr. Scilaris?

7 A It was before he came in.

8 Q By the way, as you sit here right now do you have any
9 appointments or intention of seeing Mr. Gousse in the future, at
10 all?

11 A Do I? I do not have anything setup, but he's free to
12 come see me.

13 Q But right, which is true, right in that four year gap
14 he could have called you up and said I need to come in so you
15 could examine him; right? It was as needed; correct?

16 A Yes.

17 Q And he didn't do that, he didn't contact you, at all;
18 did he?

19 A No.

20 MR. BUFFALOE: Nothing further.

21 THE COURT: Redirect.

22 MR. TZANETEAS: Yes, your Honor.

23 REDIRECT EXAMINATION

24 BY MR. TZANETEAS:

25 Q Ultimately, Doctor, if there are open bills from

1 someone that's involved in an accident and treated with you
2 who's ultimately responsible for those bills?

3 MR. BUFFALOE: Objection.

4 THE COURT: Sustained.

5 This Doctor doesn't know if you're owed anything;
6 is that correct? You have to answer.

7 THE WITNESS: Correct, yes.

8 THE COURT: It's -- the objection is sustained.

9 Ask your next question.

10 There you go with the expressions again.

11 MR. TZANETEAS: I am trying to figure out
12 another -- I need to make a record on this, Judge.

13 THE COURT: Well, you'll make a record later. Ask
14 your next question.

15 MR. TZANETEAS: Okay.

16 Q You were asked about the date of the surgery in 2020 in
17 August, did you have COVID protocol at your office during the
18 COVID times?

19 A Yes.

20 Q And what did COVID protocol consist of?

21 A People had to wear masks, had to space.

22 Q So, to follow-up on the question you were asked about
23 how many patients you would see during -- at any time during
24 COVID, could that have been different because of COVID
25 protocols?

1 MR. BUFFALOE: Objection. Calls for speculation.

2 THE COURT: I am sorry. Could you read back the
3 last question?

4 (The record was read back.)

5 THE COURT: The objection is overruled.

6 You could be answer the question.

7 A Can you repeat it again? I am sorry.

8 MR. TZANETEAS: Can I repeat it again, Judge?

9 THE COURT: Yes.

10 Q You were asked about how many patients you would see at
11 any given time, could that have been different because of COVID
12 protocol?

13 A Yes.

14 Q Was that different because of COVID protocol?

15 A At that time, yes, there were less patients being seen
16 and spaced out.

17 Q Okay. As far as being referred to you, you said
18 Dr. Hanan would be the one to refer him to you if needed, so
19 would it be Dr. Hanan's decision to refer him to you?

20 A Yes.

21 MR. BUFFALOE: Objection.

22 THE COURT: Is the objection -- I am going to
23 allow it.

24 Go ahead, you could answer the question.

25 A Yes, Dr. Hanan would refer the patient.

1 Q What is your job as a surgeon once the surgery is done?

2 A Yes, once the surgery is done and I have to the best of
3 my ability done the best I can to fix the problem then it goes
4 back to the rehab doctor.

5 Q You were asked about a cane earlier, what is the
6 protocol in your facility back in May 14, 2020 and forward for
7 someone that has knee surgery at one of your facilities?

8 MR. BUFFALOE: Objection.

9 THE COURT: I am not quite sure what the pain
10 protocol.

11 MR. TZANETEAS: What was the protocol for someone
12 that had knee surgery in your facility in around August 11,
13 2020.

14 MR. BUFFALOE: Objection.

15 THE COURT: Can you answer the question?

16 THE WITNESS: Yes.

17 THE COURT: You could answer the question.

18 A Okay. The protocol when someone has knee surgery and
19 they have a block, any type of injection around the knee, the
20 protocol of all hospitals is patients have to leave with an
21 assistive device, be it a cane, a walker, it could be a
22 wheelchair usually or crutches, but usually it's a cane in
23 arthroscopy.

24 Q Okay. Has anything else the defendant crossed you on
25 changed your opinion on whether this accident caused the

1 injuries that you performed surgery on?

2 MR. BUFFALOE: Objection.

3 THE COURT: Overruled.

4 A No.

5 Q Why not?

6 A Because I -- I believe these injuries were caused by
7 his fall, I am sorry, his accident, and he sustained these
8 injuries, they were treated. I believe it's causally related.

9 MR. TZANETEAS: Your Honor, if we can have a
10 sidebar to discuss that matter and I might be finished.

11 THE COURT: Does it have to do with any
12 objections? Any questioning that you wanted to ask to get
13 a ruling on ahead of time, what does it have to do with?

14 MR. TZANETEAS: With a question I want to ask
15 which your Honor already sustained me.

16 THE COURT: All right, we could have a sidebar.

17 MR. TZANETEAS: Thank you.

18 (Proceedings held outside the presence of the
19 jury.)

20 MR. TZANETEAS: Judge, my question is going to be
21 a doctor that if someone is ultimately responsible for
22 bills, who is ultimately responsible for the bills. If he
23 doesn't know he can say he doesn't know.

24 THE COURT: What does that have to do with
25 anything? He doesn't even know if he has outstanding

1 bills.

2 MR. TZANETEAS: I understand that, but he is
3 making -- I know you don't want to discuss the charges, but
4 he is asking for charges that have this doctor as an
5 interested witness, so I am entitled to delve into it.

6 THE COURT: I am not going to go into the charges
7 now. I am telling you that is irrelevant. Your question
8 is irrelevant. That's my ruling. You made your record.
9 Thank you.

10 (Following proceedings held in open court, jury
11 present.)

12 MR. TZANETEAS: May I proceed, your Honor?

13 THE COURT: Please.

14 Q You were asked about ordering another MRI of the
15 shoulder or the knee, why wasn't the reason you didn't order
16 another MRI?

17 A The patient when he came back to me had some weakness,
18 some atrophy of the knee. There was pain. I did not feel that
19 there was meniscal pathology, so that's why I did not order a
20 repeat MRI.

21 Q Okay. And if based on your testimony earlier about him
22 requiring future surgeries will he need MRI's before he has
23 those future surgeries?

24 MR. BUFFALOE: Objection.

25 THE COURT: Is the question will he need an MRI if

1 there is future surgery, that's the question?

2 MR. TZANETEAS: Yes.

3 THE COURT: Yes, you could answer that question.

4 A Yes, because if he's going to require future surgery
5 there is going to be symptoms, the symptoms present. There is
6 pain associated with this and at that point then you would
7 repeat x-rays, you would repeat MRI, whatever you need to do to
8 better treat the patient.

9 Q And when you saw him last --

10 MR. BUFFALOE: Objection.

11 THE COURT: Well, it's a little late now, you've
12 got an answer already.

13 MR. BUFFALOE: I am objecting before and I am
14 objecting now.

15 THE COURT: Well, all you need to do is object
16 before, if I make a ruling before there is no objection,
17 you already preserved your record.

18 Please ask your next question.

19 Q On the last visit of October 9, 2025 did he have
20 symptoms?

21 A Did he have symptoms, yes.

22 Q And what do symptoms cause?

23 A Symptoms cause pain.

24 Q On that last visit did he have pain?

25 A Yes.

1 Q And do you have an opinion with a reasonable degree of
2 medical certainty whether he will continue to have pain?

3 MR. BUFFALOE: Objection.

4 THE COURT: Sustained.

5 MR. TZANETEAS: No further questions. Thank you.

6 THE COURT: Are you standing to ask for recross?

7 MR. BUFFALOE: Yes.

8 THE COURT: All right. So there were some
9 questions that were asked that I think you did not cover,
10 so I will allow you to ask those, but you can't ask anymore
11 than what went beyond your cross. Do you understand the
12 ruling?

13 MR. BUFFALOE: I understand.

14 THE COURT: All right. Thank you.

15 RECROSS EXAMINATION

16 BY MR. BUFFALOE:

17 Q Dr. Scilaris, at any time since March 31, 2021 has
18 Dr. Hanan referred Mr. Gousse back to you?

19 A No.

20 MR. TZANETEAS: Objection.

21 THE COURT: That was asked and answered already.

22 So ask another question.

23 Q Well, you mentioned about protocol and Hanan would
24 refer him back?

25 THE COURT: Referred back, that was answered.

1 That was covered.

2 Q Dr. Scilaris, you mentioned this, well, Health East
3 Ambulatory is not a hospital; is it?

4 A It's a surgical center.

5 Q It's not a hospital; is it?

6 MR. TZANETEAS: Objection, your Honor.

7 THE COURT: Sustained.

8 MR. TZANETEAS: Sorry, Judge. Objection.

9 MR. BUFFALOE: You made reference to hospital
10 protocol during the redirect, your Honor.

11 MR. TZANETEAS: Objection. It's a COVID protocol.

12 THE COURT: All right. All right. I reverse
13 myself. You can answer that question.

14 Q It's not a hospital; is it?

15 A No.

16 Q It's an outpatient facility; correct?

17 A Correct.

18 Q Now, your determination as to causation --

19 THE COURT: No, no. Ask your next question,
20 causation has been covered already.

21 MR. BUFFALOE: He went over it in his redirect.

22 THE COURT: That was in reference to your
23 reference to causation. Ask your next question. Recross
24 is very, very limited. So, ask your next question.

25 MR. BUFFALOE: It's just recross, Judge, in

1 response to his redirect.

2 THE COURT: This is not a debate.

3 MR. BUFFALOE: All right, your Honor.

4 Q You mentioned on redirect that when you saw him in
5 October of 2025, four years after the last time you saw him, you
6 observed symptoms; correct?

7 A Yes.

8 Q You did not order any diagnostic testing though;
9 correct?

10 A Correct.

11 Q But you said that if he evidenced symptoms that would
12 warrant additional diagnostic testing; correct?

13 A Correct.

14 Q But you didn't order any -- you didn't direct him to
15 get any, it's not in your report? You didn't direct any
16 follow-up either; correct?

17 A Correct.

18 MR. BUFFALOE: Nothing further.

19 THE COURT: All right. So you are limited. Do
20 you want any further questions or is this it?

21 MR. TZANETEAS: No, Judge.

22 THE COURT: You can step down. Thank you so much.

23 THE WITNESS: Leave this here.

24 THE COURT: Yes, you can leave it there, we'll
25 take care of it. Thank you.

Djhierry Gousse - Plaintiff - Direct

1 THE COURT: All right. We're going to take a
2 short break and then we're going to return and hopefully
3 we'll continue with the testimony from the plaintiff.
4 Thank you all.

5 COURT OFFICER: All rise. Jury exiting.
6 (Jury exiting.)

7 COURT OFFICER: All rise. Jury entering.
8 (Jury entering.)

9 THE COURT: Please, everyone sit down. Thank you.
10 Mr. Gousse, I just want to remind you you are
11 still under oath and please proceed when you are ready.

12 MR. TZANETEAS: Thank you, your Honor.

13 DIRECT EXAMINATION

14 BY MR. TZANETEAS:

15 Q Good afternoon, Mr. Gousse.

16 A Good afternoon.

17 Q We left off five days after, approximately five days to
18 a week after the accident you went to Dr. Hanan's office?

19 A Correct.

20 Q And when you went to Dr. Hanan's office about a week
21 later after the accident could you tell the jury what you were
22 complaining about when you went there?

23 A I was complaining about my neck, my shoulder, my right
24 shoulder, my right knee, my lower back.

25 Q Okay. When you saw Dr. Hanan did he examine you?

Djhierry Gousse - Plaintiff - Direct

1 A Yes.

2 Q And when he examined you did he perform any tests on
3 you that first day?

4 A Yes, he performed some kind of test on me.

5 Q Okay. After you saw Dr. Hanan did you guys come up
6 with a plan on what to do next for your injuries?

7 A He had -- because of my -- because of my complaints he
8 had stated that he's going to start me on therapy, but he need
9 to further like examine me and find out more of what goes on,
10 but he stated that I will need to start therapy as soon as I
11 can.

12 Q Did you tell him what happened to you that day?

13 A Yes, I did.

14 Q What did you tell him?

15 A I explain to him that a piece of a ceiling fell over my
16 head and I slipped, I mean I slip and then because there was
17 water and then I fell, hit my knee, hit my bottom and my head
18 snapped back and my head hit the floor. I explain it to him.

19 Q Okay. At that time after you saw Dr. Hanan for the
20 first time did he prescribe anything for you that first visit?

21 A I don't recall he prescribe me any medicine.

22 Q When you you said he's going to start you on physical
23 therapy, did you start physical therapy?

24 A Yes.

25 Q Where was the physical therapy facility that Dr. Hanan

1 prescribed for you?

2 A It was the same place that I saw him, Comprehensive,
3 something. It's Kings Highway, 30. I don't remember the
4 address, but I remember the place.

5 Q When was the last time you were there before today?

6 A Less than a month ago, a couple of weeks ago.

7 Q Did you continue to go to that facility to get physical
8 therapy?

9 A Yes.

10 Q And how would you get to the facility during the first
11 month after the accident?

12 A Driving.

13 Q Do you still drive?

14 A I still drive, yes.

15 Q How often do you drive now?

16 A It depends how I feel.

17 Q Okay. On estimate can you tell us how often you drive
18 now?

19 A I can't really tell, like if I have to do something
20 important and the driving is not that much, like getting my
21 niece from school, stuff like that, little things.

22 Q Okay. Now, when you went to go to physical therapy at
23 Dr. Hanan's office tell me the types of physical therapy they
24 did for you there?

25 A There was like electro stimulating stuff.

1 Q Tell the jury what that is, explain that.

2 A It's a certain type of pads they put on you, it depends
3 on the area they want you to work on. If like if I am doing my
4 knee they have some like sticky stuff they put on each side of
5 my knee and they put some hot towel on it and then they have the
6 machine. Like they press the button, they give you like
7 electricity going to your muscles.

8 Q What about your shoulder?

9 A It's the same thing with my shoulder, my neck and my
10 lower back.

11 Q How long was each physical therapy session the first
12 month you went to Dr. Hanan?

13 A It depends on the amount of parts that I am doing,
14 waiting time and the therapy itself, it could be one hour. It
15 depends on the amount of people that are in there, 30, 45
16 minutes.

17 Q The first few months did they have COVID protocol in
18 the office?

19 A Yes, COVID protocol.

20 Q Do you know how long COVID protocol was in the office?

21 A I wasn't paying attention to that, about a year maybe.

22 Q Now, did Dr. Hanan prescribe any medication for you?

23 A Yes, he did prescribe medication.

24 Q In the first six months what type of medication did
25 Dr. Hanan prescribe to you?

Djhierry Gousse - Plaintiff - Direct

1 A I was getting injections through Dr. Hanan, he was like
2 the one giving it to me.

3 Q Where were the injections to?

4 A It depends on where I feel the pain, like where it hits
5 me really hard. I had it in my neck, shoulder and knee.

6 Q Did those injections for the first few months help you
7 at all?

8 A They did.

9 Q How did they help you?

10 A It relieved the pain for a couple of days, sometimes
11 weeks, but later on the pain, you know.

12 Q The physical therapy that you were taking at the office
13 the first three months, did it help your pain at all?

14 A It kept it at level.

15 Q What do you mean kept it level?

16 A Means like it doesn't go worse than it is and then if I
17 don't do it it goes worse. It get bad, you know.

18 Q Okay. At that point after when you were receiving
19 therapy for the few first months were you also seeing Dr. Hanan?

20 A Yes.

21 Q How often would you see Dr. Hanan from the day of the
22 accident, let's say or the first day you went there up until a
23 year after the accident?

24 A I was being consistent with him.

25 Q How often would you see him actually?

1 A About two times, three times a week, sometimes one time
2 a week.

3 Q The physical therapy, would he give you the physical
4 therapy?

5 A No, not him.

6 Q So who would give you physical therapy?

7 A His staff.

8 Q And when you say you saw Dr. Hanan two or three times a
9 week was that -- tell us when that was?

10 A I did not see him personally. But I just feel it like
11 this, I see the staff because they were the one that perform the
12 therapy.

13 Q My question to you is how often would you actually see
14 Dr. Hanan so he could examine you?

15 A It could be in a month, sometime he give me a month to
16 month appointment, sometimes it could be in two months. It
17 depends.

18 Q You still see him up until today?

19 A Yes. I had an appointment with him today I had to
20 cancel.

21 Q The medication that he gave you, did he prescribe that
22 to you?

23 A Yes, he did prescribe it.

24 Q What kind of medication was that?

25 A I have Ibuprofen and there is a muscle relaxer. I am

1 not familiar with the name.

2 Q During the first few months after the accident how
3 often would you take the muscle relaxer?

4 A As needed.

5 Q First few months of the accident how often did you need
6 it?

7 A I would say like I wasn't familiar with the medicine
8 and I didn't know exactly what it does to me, so if I feel some
9 type of pain I will take a pill.

10 Q How would the pill make you feel?

11 A Really bad, it makes you feel sleepy, dizzy and really
12 uncomfortable.

13 Q On the times -- how often do you take Ibuprofen now?

14 A I would say like two times a month I would say.

15 Q What about the muscle relaxers?

16 A Sometime I spend like months without taking it.

17 Q Why?

18 A Because I don't like the way it makes me feel and I
19 don't want to get addicted.

20 Q Now, the first few months after starting therapy tell
21 me how your neck was feeling?

22 A The first few months?

23 Q Yes, the first few months.

24 A After getting therapy?

25 Q Yes.

1 A Again, it was a relief. It wasn't getting worse over
2 time. Like I said, it feels like it's level. Like there is
3 pain, but it wasn't like at a point where, you know. It's hard,
4 you know, it makes you really, really uncomfortable. Like you
5 can sleep through a night after getting therapy.

6 Q And did that change eventually?

7 A Yes, it did.

8 Q How did it change?

9 A Getting worse. Missing therapy, don't take my
10 medication, over time it affects you, affects the body and then
11 the pain keep coming back.

12 Q Why were you missing therapy?

13 A Missing therapy because of a lot of stuff. I had
14 personal issues, financial issues.

15 Q When you went to Dr. Hanan did you tell him about what
16 was bothering you with therapy?

17 A Yes, whenever I like miss a couple of therapy session I
18 usually -- usually when I go back to him and he like what
19 happened, how come you didn't come to therapy. I was like
20 here's what happened, here is the situation. He was like you
21 comfortable now, yeah, and I start therapy again.

22 Q Okay. As far as the therapy you were receiving how
23 about your shoulder, how did your shoulder feel after getting
24 therapy for the first few months.

25 A I feel relief, could sleep through a night. You know,

1 like without worrying about it. Kept it at the level. It
2 doesn't get any worse than, you know, the way it is.

3 Q You mentioned your knee, when you first had it it was
4 buckling and crackling, how was the buckling and crackling after
5 the first few months of therapy?

6 MR. BUFFALOE: Objection. Leading.

7 MR. TZANETEAS: I'll withdraw, Judge.

8 THE COURT: All right. Thank you.

9 Q How was the crackling and buckling?

10 A It was different because I live on the third floor, so
11 I used to get it consistently, going down, going up, and after
12 starting therapy and stuff like that you can tell like, you
13 know, my body could tell it was different. It's not the same
14 thing.

15 Q Do you know what home exercises are?

16 A Yes, I do.

17 Q Did anybody prescribe you home exercises?

18 A Yes.

19 Q Who prescribed you home exercises to do?

20 A I have three type of sheet for home exercises.

21 Q Who gave that to you?

22 A I had Dr. Hanan give me one, I had Dr. Scilaris give me
23 one and Dr. Lattuga gave me one as well.

24 Q Did you perform those home exercises?

25 A When I missed therapy and I couldn't afford to go, so

Djhierry Gousse - Plaintiff - Direct

1 that's what I do.

2 MR. BUFFALOE: Objection.

3 THE COURT: Well, it was not responsive. So at
4 this point you could ignore the last thing that was just
5 said.

6 You could ask your next question.

7 MR. TZANETEAS: Sure.

8 Q You said you had financial issues and you didn't go to
9 therapy, what does that mean?

10 MR. BUFFALOE: Objection.

11 THE COURT: Overruled.

12 Q You said you had financial issues that you couldn't go
13 to physical therapy, what do you mean by that?

14 A I have to -- due to the fact that I couldn't go back to
15 work, my surgeries. I had therapy, I was on medicine and the
16 they affect my daily activities such, so --

17 Q Those home exercises, how often did you do them?

18 A It varies when it comes to like pain. I am not taking
19 my meds, I am not going to therapy and whenever I feel like the
20 pain is aggravating and such so I try to do my exercising at
21 home.

22 Q And do you still do them today?

23 A As of today, yes, I still do them.

24 Q Tell me some of the exercises you do at home to help
25 you with let's say your neck and your shoulder?

Djhierry Gousse - Plaintiff - Direct

1 A When it comes to my neck I have to do because of
2 limitation I have in it. They had told me in the sheet to go
3 up, down, up, down and then I have to go from left to right,
4 left to right. I have to go sideways, stuff like that, you
5 know, to give it motion because of what they did to it.

6 Q What about your shoulder?

7 A My shoulder I have to do like rotation type, like up,
8 down, you know, and then from here to here. It varies.

9 Q What about your knee?

10 A My knee, I can do it sit down or I can do it like
11 laying down. You have to stretching it forward, bringing it
12 backward. Stuff like that.

13 Q Does that get rid of your pain totally?

14 A It helps.

15 MR. BUFFALOE: Objection. Leading.

16 MR. TZANETEAS: I'll withdraw it.

17 Q After you performed these exercises could you tell me
18 how you feel?

19 A It is a relief, keeps you at the level you don't feel
20 the pain the way it was before.

21 Q When you say a level, what do you mean by that, what is
22 at the level?

23 A It means it keeps it in a position where it doesn't get
24 worse from what it is.

25 Q And what is it?

Djhierry Gousse - Plaintiff - Direct

1 A It's still pain, but you can live with it, you know.

2 Q Okay. And the injections that you got to various parts
3 of your body, do you know how many you got in total up until
4 today for the injections that Hanan gave you?

5 A I do not have a number, but it's more than I can count
6 I could say, more than once.

7 Q Now, at some point did a doctor refer you to any
8 diagnostic testing?

9 A I was referred to go to for MRI's.

10 Q What parts of your body did you take MRI's to?

11 A I took -- they did my knee, my shoulder, my lower back,
12 my neck.

13 Q And have you ever taken an MRI of those parts of your
14 body before?

15 A Never in my entire life.

16 Q And do you remember where you took those MRI's?

17 A I don't remember the place, but I know it was somewhere
18 in Manhattan.

19 Q Okay. And did you ever find out the results of the
20 MRI's?

21 A I am not a doctor, but I did understand a couple of
22 stuff.

23 Q What was your understanding of what the MRI showed of
24 your neck?

25 A I have damaged tissues and I have nerve damage.

Djhierry Gousse - Plaintiff - Direct

1 MR. BUFFALOE: Objection.

2 THE COURT: Overruled. It's a layman's
3 understanding of what his condition is.

4 Q What about your right shoulder?

5 A My right shoulder I have numbness, I have pain,
6 tingling. I think I explain the other day where you feel like a
7 bunch of ants is, you know.

8 Q I am asking do you know the results of the MRI or
9 understand the results of the MRI of your right shoulder?

10 A I knew it was like, you know, a bit aggravated because,
11 you know, I am not familiar with those kinds of terms and stuff.

12 Q Okay. What about your right knee, did you find out or
13 understand the results of the MRI?

14 A Yes. Damaged tissue, buckling, pain, inflammation.
15 All of that, so --

16 Q After you took those MRI's did you discuss it with
17 Dr. Hanan?

18 A Yes. When I went back to visit him I talked to him
19 about it, somehow he probably did receive the result. We were
20 discussing about it.

21 Q Okay. Did he prescribe any other tests to you or do
22 any other tests to you?

23 A Yes, he requested that I seek Dr. Scilaris, that I see
24 him.

25 Q Before we get to that did he do any other tests in his

1 office on you?

2 A I remember he did a nerve test.

3 Q Can you explain to the jury what the nerve test is,
4 tell me what he did?

5 A There is like electrodes, I don't know what the name.
6 They place them in different parts of your body. There is like
7 this kind that goes and there's -- I don't know the names, but
8 is checking to see like making you have different set of
9 movement with your arms, checking your fingers, checking my knee
10 and stuff like that to find out like if my nerves are working
11 properly.

12 Q Did you ever find out the results of that?

13 A Yes.

14 Q And what was your understanding of the results of the
15 nerve test?

16 A That I had problem in my nerve.

17 Q Have you ever been diagnosed with problems in your
18 nerves before this accident?

19 A No.

20 MR. BUFFALOE: Objection.

21 THE COURT: Overruled.

22 Q Have you ever had any other incidents up until today --

23 THE COURT: I am so sorry, I need clarity. The
24 question was did you ever have problems with your nerves
25 before, you never had any medical need for -- did you ever

Djhierry Gousse - Plaintiff - Direct

1 have a medical need for any testing of your nerves before?

2 THE WITNESS: No.

3 THE COURT: Okay. You could ask your next
4 question.

5 MR. TZANETEAS: Okay. Thank you, Judge.

6 Q Since this accident have you had any other accidents
7 where you re-injured your neck, your shoulder, your knee or your
8 back; have you ever re-injured them again?

9 A No.

10 Q Okay. Now, after you got the results of the nerve
11 tests and MRI did Dr. Hanan come up with a plan for you?

12 A Yes.

13 Q And what did he do after you got the results of all
14 those things?

15 A He referred me to a different set of doctors outside.

16 Q I didn't hear that. Say it again.

17 A He referred me to doctors.

18 Q Okay. What's the first doctor he referred you to?

19 A I saw Dr. Scilaris.

20 Q And that was the doctor that was here today?

21 A Yes.

22 Q And what was the reason you were seeing Dr. Scilaris,
23 what part of your body?

24 A For my right shoulder and my right knee.

25 Q At the time you went to Dr. Scilaris what was bothering

Djhierry Gousse - Plaintiff - Direct

1 you more?

2 A It was my knee.

3 Q And what was bothering you about your knee more when
4 you went to Dr. Scilaris?

5 A Buckling, the sound of locking and it was coming like a
6 bit swelling and then the pain was coming like hard.

7 Q Do you remember about what month you saw Dr. Scilaris?

8 A The first time?

9 Q Yes.

10 A I do not remember.

11 Q How long after the accident; do you remember?

12 A Approximately between like six to eight weeks, that's
13 the best I have.

14 Q In those six to eight weeks did you have therapy at
15 Dr. Hanan's office?

16 A Yes, I was getting therapy.

17 Q That was for your knee and your shoulder also as well?

18 MR. BUFFALO: Objection. Leading.

19 THE COURT: Sustained.

20 Q To what parts of your body were you receiving therapy
21 in that six to eight week period in Dr. Hanan's office?

22 A I was receiving therapy to my right knee, right
23 shoulder, right -- neck and lower back.

24 Q At that moment was the therapy helping your knee and
25 your shoulder?

Djhierry Gousse - Plaintiff - Direct

1 A It was, yes.

2 Q Why did you have to see Dr. Scilaris?

3 A Because it was -- if I don't get therapy or even after
4 getting therapy at a certain point the pain just going higher,
5 you know, it doesn't stay level. You know, like sometimes it
6 varies.

7 Q When you went to Dr. Scilaris for the first time did he
8 make any recommendations to you -- strike that.

9 Did he examine you?

10 A Yes, he did some examination.

11 Q At that point what part of your body did he examine?

12 A My knee, my right knee, sorry.

13 Q Any other part?

14 A My right shoulder as well.

15 Q Did you see him, at all, for your neck or your back?

16 A No.

17 Q Okay. And after he examined your knee and your
18 shoulder did he come up with a plan?

19 A Yes, he did.

20 Q By the way, I am sorry if I missed this, did you get
21 you said injections to various parts of your body, did Dr. Hanan
22 ever give you an injection in your knee?

23 A I don't --

24 MR. BUFFALOE: Objection.

25 Q What do you mean by various parts of your body that you

1 got injections?

2 A I receive a bunch of injections, it's hard for me
3 sometimes to remember where exactly and when, but I did receive
4 a lot. I can't be very specific if I did or not, but at some
5 point I might.

6 Q Okay. After you saw Dr. Scilaris and he examined you
7 what was the recommendation for you at that point?

8 A He recommended that I had a surgery.

9 Q To what part of your body did you have surgery?

10 A My right knee.

11 Q And did he explain to you what type of surgery you had?

12 A Something about an incision where he going to make two
13 holes in my knee and then he's going to go with the robotic arm.
14 He's going to look at it and remove or fix whatever was causing
15 the issue.

16 Q Did you have that surgery?

17 A I did.

18 Q Did you get a second opinion?

19 A I didn't.

20 Q Why not?

21 A Well, I trusted him.

22 Q Okay. And after you saw Dr. Scilaris and you decided
23 to have the surgery where did you have the surgery?

24 A I had the surgery in a facility in Jersey.

25 Q Okay. How you did you get to the facility?

Djhierry Gousse - Plaintiff - Direct

1 A They had transportation.

2 Q You went by yourself in the van?

3 A No, I was with --

4 Q Transportation, sorry.

5 A I was with the driver, the driver, it was me and the
6 driver.

7 Q Okay. And when you went to the facility was there
8 COVID protocol there?

9 A Yes, there were because even before I get to the
10 facility, they had a COVID test done one or two days before.

11 Q Okay. When you had the surgery were you awake for it?

12 A When I was having it?

13 Q Yes, the knee.

14 A No, I was not.

15 Q All right. After the surgery when you woke up, how was
16 your knee feeling?

17 A Well, a bit light, you know, because of the anesthesia
18 I would say. Kind of like you couldn't feel it, but you can
19 tell it's swelling up and, you know, a little pain down there.

20 Q After you -- by the way, at this time after the knee
21 surgery where was home for you?

22 A That was in Brooklyn.

23 Q What was the address?

24 A 295 East 94th Street.

25 Q And who was living at that place when you moved back?

Djhierry Gousse - Plaintiff - Direct

1 A My mother, my dad, my sister, my niece.

2 Q What happened to your apartment that you had at the
3 time of the accident?

4 MR. BUFFALOE: Objection.

5 THE COURT: One or two words, the ground for the
6 objection.

7 MR. BUFFALOE: Relevance.

8 THE COURT: I don't see the relevance, so I am
9 sustaining it.

10 Q When you went back to your mom's house and a few days
11 after surgery how was your right knee feeling?

12 A It was swelling and pain.

13 Q Did you eventually go back to Dr. Scilaris for
14 follow-up?

15 A Yes.

16 Q Did you continue to follow-up with Dr. Scilaris after
17 that for a period of time?

18 A Yes.

19 Q And at some point did you -- well, strike that.
20 Were you still going to therapy?

21 A I think they give me like a grace period where I should
22 not go to therapy because I couldn't do certain things with my
23 knee, so I had to wait after a certain amount of time before I
24 go back.

25 Q After the surgery did you use any devices to assist

Djhierry Gousse - Plaintiff - Direct

1 you?

2 A Right after?

3 Q The knee surgery.

4 A Right after I left the facility I had a walker, they
5 had provided me with a walker.

6 Q And how -- after the walker did you use anything else?

7 A I used the knee brace.

8 Q Okay.

9 THE COURT: I didn't hear the last --

10 THE WITNESS: A knee brace.

11 THE COURT: Thank you.

12 THE WITNESS: Sorry.

13 Q How long did you use the walker for?

14 A I use it around the house to move around or outside to
15 be honest.

16 Q How often did you wear the knee brace?

17 A I wear the knee brace when I am going outside for
18 awhile and I don't remember when I took it off.

19 Q Okay. Do you still wear it, at this point in time do
20 you wear any device to assist you?

21 A I still have a knee brace at home, yes.

22 Q Do you wear that at all?

23 A I wear it when needed, yes, sometime when I cannot, you
24 know, do things properly with my right knee. I use it because
25 it helped me support it and relief.

Djhierry Gousse - Plaintiff - Direct

1 Q When is the last time you wore it before today?

2 A Walk?

3 Q Wore it, when is the last time you wore the knee brace?

4 I am sorry.

5 A That would have been on Tuesday night.

6 Q Why did you have to wear it Tuesday, the 19th?

7 A Because I've been doing a lot of sitting and standing
8 here when I came here the last time.

9 Q When you continue to follow-up with Dr. Scilaris
10 eventually come a time where he examined your shoulder?

11 A Yes, he did.

12 Q And the time he examined your shoulder what type of
13 pain were you feeling in your shoulder when you saw Dr. Scilaris
14 after the knee surgery?

15 A My complaints were numbness, pain shooting down my
16 arms.

17 Q And when you saw Dr. Scilaris and he examined your
18 shoulder what was the recommendation at that point after the
19 knee surgery?

20 A He had also accommodated that.

21 MR. BUFFALOE: Objection.

22 THE COURT: I am sorry, read back the last
23 question and answer.

24 (The record was read back.)

25 THE COURT: I don't know what the preceding

Djhierry Gousse - Plaintiff - Direct

1 question was, why don't you set it up again.

2 MR. TZANETEAS: I asked another question after
3 that.

4 (The record was read back.)

5 THE COURT: What was the ground for the objection?

6 MR. BUFFALOE: It's cumulative.

7 THE COURT: Overruled. Go ahead, ask your next
8 question.

9 MR. TZANETEAS: I'll withdraw it, if that's okay
10 with you.

11 THE COURT: All right.

12 Q After when Dr. Scilaris saw your shoulder after the
13 knee surgery what was the recommended?

14 A He recommended that I do a surgery.

15 Q Do you know what type of surgery that he wanted to do
16 on you?

17 A Incision, go with the robotic thing, with the camera
18 type thing like that and fix it.

19 Q And did you elect to have it?

20 A Can you repeat that?

21 Q Did you elect to have the surgery, did you have it?

22 A Yes, I did.

23 Q What was the reason you wanted to have the surgery?

24 A To get better.

25 Q And at that point did you seek a second opinion for

1 someone to look at your shoulder?

2 A No, I did not.

3 Q Why not?

4 A Because I trusted him. He did the first one, so why
5 not.

6 Q Okay. Now, at that point how was your knee feeling
7 when you saw Dr. Scilaris for your shoulder?

8 A It was August. It was improved.

9 Q And was it completely better?

10 A I still have linger pain and stuff, but compared to
11 before I would say it was completely different.

12 Q After you had your shoulder surgery which facility was
13 it in that you had it?

14 A Same facility in Jersey.

15 Q Do you know at that point was it still COVID protocol?

16 A I think so, yes.

17 Q Eventually after the surgery when you went home, by the
18 way, were you awake for that surgery?

19 A I wasn't.

20 Q Okay. And when you finished that surgery and went home
21 in the week or so after the accident did you continue therapy
22 again?

23 A Again, they give you like a grace period where you have
24 to stay home, I mostly doing the driving if I am going to
25 therapy and I had a right shoulder surgery, so no.

Djhierry Gousse - Plaintiff - Direct

1 Q Did they give you anything to wear on your right
2 shoulder after the surgery?

3 MR. BUFFALOE: Objection. Leading.

4 THE COURT: Sustained.

5 Q Were there any devices that you used to support your
6 shoulder after the accident?

7 A Yes, I had a brace on.

8 Q How long did you wear the brace for?

9 A Approximately, between like three to four months I
10 would say.

11 Q At some point did you go back to Dr. Hanan?

12 A Yes, I did.

13 Q And when you went back to Dr. Hanan at that point the
14 therapy, did the therapy change at all?

15 A Yes, it did.

16 Q How did it change?

17 A Because I have two different set of things that I was
18 doing.

19 Q Tell me what they were.

20 A It was a bike, a hand bike. I have to do with my hands
21 and then I also was doing something for my knee, I think
22 something to do with rotation and strengthening.

23 Q What about your neck and your back at that point?

24 A Well, I was supposed, I mean I thought that I was going
25 to get relief and stuff like that, but I still had shooting pain

1 and numbness going down my arm.

2 Q What about your actual neck at that point? I know you
3 said shooting pain, but what about your neck?

4 A Stiffness, couldn't sleep, pain, been waking me up in
5 the middle of the night, can't go back to sleep. My lower back,
6 I had numbness going down my legs, shooting pains going down my
7 legs as well.

8 Q Could you tell us, I know you said numbness, which arm
9 are you indicating the numbness is going down?

10 A The right one.

11 Q Okay. How far down the arm?

12 A The whole arm.

13 Q And how far down, to the hand.

14 A Like you wake up in the morning or you've been doing
15 something and then you just cannot move the whole arm. It's
16 like you've -- like you've been under anesthesia. It feels like
17 this part is under anesthesia, like it cannot even move your
18 finger. You have to wait awhile and then you are going to start
19 feeling sensation back in it.

20 Q How often were you feeling this type of sensation in
21 your arm?

22 A That week I would say like four, five times.

23 Q Did they do anything for it besides therapy?

24 A I do the exercises they provide me at home, and I --
25 basically that was it.

Djhierry Gousse - Plaintiff - Direct

1 Q Okay. At that point when you went to Dr. Hanan did you
2 tell him these complaints about your pain in your neck and your
3 arm after the shoulder surgery?

4 A Yes, I was still complaining about numbness, the
5 shooting pain going down my right arm. Numbness in my legs,
6 shooting pain going down my legs and stuff and he suggest that I
7 go see another doctor.

8 Q What other doctor did he suggest you see?

9 A He requested that I went to see Dr. Lattuga.

10 Q When you first went to Dr. Lattuga, what type of doctor
11 was he?

12 A A spine doctor.

13 Q Where is his office located?

14 A He had two of them, there is one Downtown and there is
15 one in Manhattan.

16 Q Do you remember the first -- where you went the first
17 time?

18 A I think it was the one in Downtown.

19 Q Do you remember what year it was, what date it was,
20 anything?

21 A The '21 probably, '22.

22 Q 2021?

23 A '21.

24 MR. BUFFALOE: Objection.

25 THE COURT: Sustained.

Djhierry Gousse - Plaintiff - Direct

1 Q Do you remember what year you saw him first?

2 A I think it was around the year '21, not 100% sure about
3 the month, but it should be around that time.

4 Q When you went to his office what doctor did you see at
5 his office the first time?

6 A I am not sure if it was him first or another doctor
7 called Mikelis.

8 MR. TZANETEAS: M-I-K-E-L-I-S.

9 Q And Dr. Mikelis, do you know what type of doctor he is?

10 A At first I don't think I did until maybe later on
11 probably.

12 Q Okay. What did you find out later on that he was?

13 A A type of spine specialist as well, stimulus,
14 explaining me about the spine and stuff like that, what is going
15 on.

16 Q The first visit did he examine you?

17 A Yes, he did.

18 Q What complaints did you make that first visit?

19 A Neck pain, I have pain shooting down my arm, numbness
20 in my right arm, lower back pain. I have pain shooting down my
21 legs and stuff, numbness in my legs.

22 Q Did they examine your neck, sorry, your shoulder or
23 your knee?

24 A No, they didn't.

25 Q Okay. After the first visit with Dr. Mikelis or

1 whatever doctor it was, what was the recommendation after that
2 first visit?

3 A They had recommended like treatment.

4 Q Okay. What type of treatment?

5 A It was a spinal injection.

6 Q Okay. And what was your understanding of the spinal
7 injection they recommended?

8 A It's a needle where they go into your spine, they
9 injected it and pure fluids to relieve you of the pain that you
10 going through.

11 Q Did you have these injections?

12 A Yes, I did.

13 Q How many injections did you have, if you remember?

14 A More than one.

15 Q Could you tell me the first one, how soon after was it
16 when you saw a doctor sometime in 2021?

17 A Can you repeat the question? Sorry.

18 Q Sure. Do you remember how soon you saw that doctor the
19 first time for the first injection?

20 A I do not remember.

21 Q Okay. Where did the injection take place? I know, not
22 the part of the body, where physically did it actually take
23 place?

24 A I think it was in the one in Downtown.

25 Q Were you awake?

Djhierry Gousse - Plaintiff - Direct

1 A Yes.

2 Q And what part of your body was it injected to?

3 A I think it was my -- like right here down my neck,
4 right here.

5 Q Okay. And when you got the injection the first time
6 how did you feel?

7 A Relief, the pain wasn't the same.

8 Q And how long did this relief last?

9 A About two or three weeks.

10 Q And then at that point what happened?

11 A The pain came back.

12 Q And at this time were you still going to physical
13 therapy?

14 A I was, yes.

15 Q And was that helping at all your neck at that point?

16 A My physical therapy?

17 Q Yes.

18 A Kept me at level.

19 Q Okay. Did it withdraw your pain at all, cure your pain
20 at all?

21 MR. BUFFALOE: Objection.

22 THE COURT: Overruled.

23 A As I mentioned, therapy keep me at level, it doesn't
24 cure anything. If I spend two days I don't go to therapy the
25 pain came back worse, so it doesn't cure me, therapy doesn't

1 cure me. My pains or anything that I have it just keep me at
2 level as I stood.

3 Q Did you tell this doctor at Lattuga's office the result
4 of how you felt after the injection?

5 A Yes. After seeing him, I think I saw him after my
6 first injection. I went back and then he explain to them what
7 happened. They said okay, we are going to keep continue
8 treatment and then they had requested me taking another one.

9 Q Did you take another one?

10 A I did.

11 Q How far after -- how soon after the first one did you
12 take the other one?

13 A I do not remember.

14 Q Okay. And was it the same place in your neck?

15 A Yes.

16 Q Okay. How did that one make you feel?

17 A Similar to the first one, makes you feel better, but it
18 doesn't last.

19 Q Did you continue at that point to see Dr. Lattuga's
20 office?

21 A Correct, I did.

22 Q Okay. How many different doctors did you see in
23 Dr. Lattuga's office?

24 A Probably two before Dr. Lattuga, I think.

25 Q One was Dr. Mikelis, Dr. Lattuga, what was the third

1 one?

2 A I don't remember the name.

3 Q Okay. After the second one did you tell the doctors
4 the result how you felt?

5 A Yes, I did.

6 Q What was the plan?

7 MR. BUFFALOE: Objection.

8 THE COURT: What's the ground?

9 MR. BUFFALOE: What was the plan, you're asking
10 what Dr. Lattuga's plan was, what any doctor's plan was?

11 THE COURT: Overruled.

12 Can you answer the question?

13 THE WITNESS: Sure.

14 THE COURT: Go ahead.

15 THE WITNESS: Thank you.

16 A The plan was because they started me on treatment and
17 it wasn't working as they hoped, so they wanted me to go for
18 surgery.

19 Q And who did you see as counsel for surgery, who did you
20 see for the surgery?

21 A That was Dr. Lattuga.

22 Q When you went to Dr. Lattuga did you tell him what was
23 bothering you about your neck?

24 A Correct.

25 Q What did you tell Dr. Lattuga was bothering you about

1 your neck?

2 A I told him I have pain in my neck, shooting pain going
3 down my arms, numbness, pain in my lower back. Numbness,
4 tingling going to my legs as well, so --

5 Q Could you tell me the first time you saw Dr. Hanan with
6 these complaints up until you saw Dr. Lattuga, could you tell me
7 how the pain was in comparison with the different times?

8 A Dr. Hanan and doctor --

9 Q You saw Dr. Hanan for the first time with the pain of
10 your neck and pain down your arm, then from the time you saw
11 Dr. Lattuga before the surgery, can you tell me how the pain was
12 from that moment up until you saw Dr. Lattuga?

13 MR. BUFFALOE: Objection to the form.

14 THE COURT: I am sorry.

15 MR. BUFFALOE: Objection to form.

16 THE COURT: Rephrase the question.

17 MR. TZANETEAS: Sure.

18 Q You saw Dr. Hanan, you had certain complaints, the
19 first time you saw Dr. Hanan you had certain complaints of your
20 neck pain going down your arm?

21 A Yes.

22 Q Then when you saw Dr. Lattuga the next year, can you
23 tell me the difference, if any, from the pain that you were
24 experiencing when you saw Dr. Hanan for the first time until you
25 saw Dr. Lattuga over a year later?

Djhierry Gousse - Plaintiff - Direct

1 A It's pain, it was just more manageable.

2 Q When was it manageable?

3 A When I go to therapy.

4 Q When you saw Dr. Lattuga was it still manageable?

5 A I would say at some point, yes.

6 Q Okay. And when you told Dr. Lattuga that did he
7 recommend anything?

8 A Because I had mention the treatment that I have been
9 through, so they wasn't working properly. So that was the
10 reason he requested I do the surgery.

11 Q And did you accept that you would do the surgery at
12 that point?

13 A At first I was skeptical, but when he explain it to me
14 and he explain to me like, you know, how this would help so I
15 did agree.

16 Q Why, sorry. And why did you decide to have the
17 surgery?

18 A Again, because I wanted to feel better.

19 Q Okay. And did you do any research on your own before
20 you did the surgery to see what type of surgery you were going
21 to have?

22 MR. BUFFALOE: Objection.

23 THE COURT: That's a yes or no answer.

24 A Yes.

25 THE COURT: The objection is overruled.

Djhierry Gousse - Plaintiff - Direct

1 A Yes, I did both.

2 Q Okay. What did you do?

3 A I did my own research.

4 THE COURT: Okay. The answer is yes you did
5 research.

6 A Yes.

7 THE COURT: Tell me how it's relevant.

8 Q Well, you were skeptical.

9 A Yes.

10 Q Did anything particularly change your mind on why to
11 have it?

12 THE COURT: Sustained. Ask your next question.

13 Q Did Dr. Lattuga provide you with any information about
14 the surgery he was going to give you?

15 A I saw a video at his office.

16 Q What type of video did you see?

17 A It's a video where they show where they going through,
18 they going to make a cut down your neck right here and they
19 going to go in. They going to remove a damaged disk that is
20 pinching your nerve, something like that, and then they going to
21 replace it with bone marrow.

22 MR. BUFFALOE: Objection.

23 THE COURT: Overruled.

24 A They going to replace it with a bone arrow and after
25 that they going to clean it up and then they going to place a

1 metal things with four screws in your spine to -- to keep it
2 sturdy.

3 Q After seeing that you decided to proceed with the
4 surgery?

5 MR. BUFFALOE: Objection.

6 THE COURT: Overruled.

7 A Yes, because at the same time --

8 THE COURT: The answer is yes.

9 A Yes, sorry.

10 Q Why?

11 A Because it shows that the nerve that was being pinched
12 is not going to be pinched and then the pain will be relieved,
13 you know.

14 Q And at that point when you decide to have the surgery
15 when was the surgery performed?

16 A I think it was in 2022, around that time.

17 Q Okay. And in 2022 when you had the surgery where did
18 the surgery take place?

19 A That was Presbyterian Hospital in Manhattan.

20 THE COURT: What was the hospital? I am sorry.

21 THE WITNESS: Presbyterian Hospital in Manhattan.

22 THE COURT: All right, thank you.

23 Q And when you went to Presbyterian Hospital and had the
24 surgery for how long were you in the hospital as a result of the
25 surgery?

Djhierry Gousse - Plaintiff - Direct

1 MR. BUFFALOE: Objection.

2 THE COURT: Sustained.

3 Q When you went to Presbyterian Hospital after the
4 surgery when is the next time you left the hospital?

5 MR. BUFFALOE: Objection.

6 THE COURT: Overruled.

7 A It was after five days.

8 Q Okay. In those five -- when you had the surgery were
9 you awake for it?

10 A No, I was not awake for the surgery.

11 Q When you woke up after the surgery what is the first
12 thing you remember?

13 A I had a -- I had a tube down my neck, attached
14 something, attached to my body. That was the first, and
15 something in my neck.

16 Q And you said you had to spend five days in the
17 hospital, why did you spend five days in the hospital?

18 MR. BUFFALOE: Objection.

19 THE COURT: Sustained.

20 Q Okay. After the first day you woke up, the second day
21 what was your status in the hospital the second day?

22 A I needed observation.

23 Q Why?

24 A I think something that have to do with blood --

25 MR. BUFFALOE: Objection.

Djhierry Gousse - Plaintiff - Direct

1 THE COURT: If you could talk maybe a little
2 slower it will be easier for me to hear.

3 THE WITNESS: Sorry.

4 THE COURT: What was the -- what is the basis of
5 the objection?

6 MR. BUFFALOE: Speculation.

7 THE COURT: All right. Sustained.

8 Q The third day you were in the hospital, why were you
9 still in the hospital?

10 MR. BUFFALOE: Objection.

11 THE COURT: Sustained.

12 Q Fourth day you were in the hospital why were you in the
13 hospital?

14 MR. BUFFALOE: Objection.

15 THE COURT: Sustained.

16 Q The fifth day you were in the hospital did they release
17 you?

18 A On the fifth day, yes.

19 Q And while you were in the hospital for those five days
20 can you describe what was on you, if anything?

21 A I had a hospital gown type, I had a bandage in my neck
22 and I had a tube connected to my neck, connecting to like a
23 small container.

24 MR. TZANETEAS: Your Honor, at this point can I
25 have a five minute break, please?

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1 THE COURT: Yes. Just so that everybody knows
2 it's 4:20. Let me just think. All right, it's probably a
3 good time to break for the day today and then resume
4 tomorrow. So, why don't we do that? If you come to the
5 courthouse tomorrow at 9:15 I will do the best I can to
6 start promptly at 9:30. Thank you all so much for your
7 attention today.

8 COURT OFFICER: All rise. Jury exiting.

9 (Jury exiting.)

10 THE COURT: Mr. Gousse, between now and the next
11 time you resume testimony please don't discuss your
12 testimony with counsel and thank you so much. You could
13 step down.

14 THE WITNESS: Thank you.

15 THE COURT: We're going to take a five minute
16 break, this will give us time to deal with any issues we
17 need to deal with.

18 MR. TZANETEAS: Can I tell my client to leave,
19 Judge? It's okay.

20 THE COURT: Yes, it's fine.

21 Counselors, we were missing Exhibit A from
22 yesterday and I don't have it and I asked for a substitute,
23 we just relabelled it and I was handed a letter dated
24 January 20, 2026, but it's my understanding that what was
25 provided to the Court yesterday is different than what is

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1 provided to the Court now.

2 THE CLERK: My apologies, it was my error. I
3 stuck it in the folder, I stuck it in here. My apologies,
4 your Honor.

5 THE COURT: Good. One less problem.

6 THE CLERK: My apologies to both side.

7 MR. BUFFALOE: So problem solved.

8 THE COURT: Let me return this to you.

9 So, the only remaining issue that I see are the
10 work records, the W2 and the work records; is that correct?

11 MR. TZANETEAS: Yes, your Honor.

12 THE COURT: All right. Mr. Buffaloe, did you ask
13 your staff whether you know these work records were
14 received or any authorizations for the work records
15 received?

16 MR. BUFFALOE: I did and they were not.

17 THE COURT: So, let me ask Mr. Tzaneteas, do you
18 have the original cover letter that accompanied the
19 authorizations?

20 MR. TZANETEAS: Your Honor, hold on a minute.

21 Yes, your Honor.

22 THE COURT: I am so sorry, I am looking at it
23 right here, that's Exhibit 1.

24 MR. TZANETEAS: You said authorization, Judge.

25 THE COURT: Actually, this isn't an authorization,

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1 it actually says subpoenaed records pursuant to 2305,
2 Public storage.

3 MR. TZANETEAS: Yes.

4 THE COURT: So if you sent according to this cover
5 letter as I am looking at it, you sent the entire record
6 over?

7 MR. TZANETEAS: Your Honor, I do have the
8 authorization that were provided to the predecessor firm.
9 I provided this authorization on June 10th, again when
10 Mr. Buffalo asked for another copy.

11 MR. BUFFALOE: June 10th?

12 MR. TZANETEAS: June 10, 2026 and March, 2026.
13 Okay?

14 Your Honor, I subpoenaed the records under 3122.
15 I got the records, were certified and the 2305 I exchanged
16 with the defendant in February of 2026, whatever date that
17 letter says on it, Judge. Before that I provided his
18 predecessor with authorizations and even though he asked
19 for new sets of authorizations they're not entitled to
20 because discovery was complete, I sent him a new set of
21 authorizations.

22 THE COURT: Let me ask you, do you have those
23 records with the authorizations? Let's mark it. And let
24 me make a decision on this.

25 MR. TZANETEAS: I just ask that they be redacted

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1 because my client's personal information, eventually.

2 THE COURT: You know what, I am going to mark it
3 as a Court Exhibit and it will be redacted.

4 MR. TZANETEAS: Three sets.

5 THE CLERK: Court exhibit or plaintiff, your
6 Honor?

7 THE COURT: Court exhibit?

8 THE CLERK: Court Exhibit 1.

9 THE COURT: There is more than one; right?

10 MR. TZANETEAS: Three.

11 THE COURT: Court Exhibit 1, 2 and 3.

12 THE CLERK: What are these?

13 THE COURT: Let's just say correspondences.

14 Were the authorizations sent to the predecessor
15 firm?

16 MR. TZANETEAS: They were sent to the predecessor
17 firm in July 10, 2023. And they were sent to
18 Mr. Buffalo's firm June 10th and March 16th of this year,
19 Judge. My client testified about it at his deposition
20 about working there.

21 THE COURT: All right. Do you have any response,
22 Mr. Buffalo?

23 MR. BUFFALOE: So I can tell you with certainty
24 that I did not receive either this March 16, 2026 response
25 or this June 10, 2026 response which indicates that it was

Proceedings

1 sent via e-mail and I did not receive that.

2 MR. TZANETEAS: You want the e-mails too?

3 THE COURT: Let's mark that as Court Exhibit 4.

4 MR. TZANETEAS: I forgot the first -- I forgot to
5 attach the first e-mail, I only attached his paralegal's
6 e-mail. But it says it in the letter, Judge, and I
7 mentioned this three days ago, again --

8 MR. BUFFALOE: And I mentioned to plaintiff's
9 counsel before we started selecting the jury that I hadn't
10 gotten the authorizations. He said I sent it to you. I
11 said I didn't receive them, just give me hard copies,
12 whatever you have so I could get it and he didn't give it
13 to me.

14 THE CLERK: This is 1, 2 and 3.

15 MR. TZANETEAS: In my June 10th letter I said, I
16 gave them to you, here's the authorizations again and I
17 exchanged them under 2305.

18 THE COURT: Do you have the e-mail for the
19 paralegal that was sent? If you send the e-mail to the
20 part clerk we'll have it printed.

21 MR. TZANETEAS: Judge, it's a long chain so I have
22 to find it.

23 THE COURT: All right, because of the hour what I
24 am going to do is ask you to just send it to the part
25 clerk, you'll get a ruling tomorrow in the morning. The

Proceedings

1 way I see it is that things are going to be admitted.

2 (Whereupon, trial adjourned to Friday, July 17,
3 2026 at 9:30 AM.)

4 *****

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

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Lucille Cravotta

LUCILLE CRAVOTTA

Senior Court Reporter

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