SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS: CIVIL TERM: PART LL1

- -X

CARLOS GARCIA,

PLAINTIFF,

-against-

NEW LINE STRUCTURES & DEVELOPMENT, LLC,

DEFENDANT.

INDEX NUMBER: 511311/2022

Trial

- -X

Supreme Court
360 Adams Street
Brooklyn, New York 11201
October 29, 2026

B E F O R E :

HONORABLE DEVIN P. COHEN,
Justice of the Supreme Court, and a jury,

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

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LAURA DELVAC
SENIOR COURT REPORTER

COURT OFFICER: All rise, Labor Law 1 is in session. The Honorable Devin P. Cohen presiding.

THE CLERK: This is new case on trial, Carlos Garcia versus New Line Structures & Development, LLC, Index Number 511311 of '22.

Counsel, please state your appearance for the record.

MS. GOLDFADEN: Good morning, your Honor, Brielle Goldfaden of Counsel of Wingate, Russotti, Shapiro & Halperin, for the Plaintiff, Carlos Garcia.

THE COURT: Good morning.

MR. BUFFALOE: Kenneth Buffaloe from Cullen & Dykman for the Defendant, New Line Structures & Development.

(Pause in the proceedings.)

COURT OFFICER: All rise, Labor Law 1 is now in session. The Honorable Devin Cohen presiding.

THE COURT: Good morning, be seated okay, let's get the jurors.

COURT OFFICER: Yes, your Honor.

(Pause in the proceedings.)

THE COURT: Good morning.

MS. GOLDFADEN: Good morning.

THE COURT: Do we have Dr. Sharma here yet?

MS. GOLDFADEN: Yes.

THE COURT: Let's get him on the stand, swear him

in and do the voir dire on the documents.

(Whereupon, Dr. Sharma took the witness stand.)

THE CLERK: Raise your right hand. Do you swear or affirm that the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: Yes.

THE CLERK: Please state and spell your name for the record?

THE WITNESS: Doctor, Siddhartha Sharma. S-I-D-D-H-A-R-T-H-A, last name S-H-A-R-M-A. My office address is 110 Duane Street, ground floor, New York, New York 10007.

THE COURT: Thank you. You can grab a seat, sir.

THE WITNESS: Thank you, your Honor.

THE COURT: We're not going to go through his entire resume now, we're going to address two exhibits, okay, we want to ask you about.

MS. GOLDFADEN: Yes, your Honor, I have, we have pre-marked the schedule medical illustrations as Plaintiff's Exhibit 16 for ID, 16.

THE CLERK: Yes.

VOIR DIRE EXAMINATION BY

MS. GOLDFADEN:

MS. GOLDFADEN: Do you want me to inquire, Judge?

THE COURT: Yes.

Q Good morning, Dr. Sharma.

A Good morning.

Q The two pages of illustrations you have in front of you, can you review those two pages and tell us if those are accurate in terms of the procedure that you performed in terms of the color on those photographs, and any other qualities of those illustrations?

A So the pictures accurate depict the surgery that took place with Mr. Garcia, they are less bloody than the actual surgery. Besides that, it's an accurate description of what took place during the surgery.

THE COURT: You said they're less bloody?

THE WITNESS: Yes, your Honor.

THE COURT: In terms of, and I know this is sort a granular question to ask, but in terms of the tone and color of blood you would have interacted with, is it brighter, duller, about the right color?

THE WITNESS: It's little duller than what the blood would be, but besides that, the anatomy is accurate.

THE COURT: Okay.

Do you have questions, sir?

MR. BUFFALOE: No, your Honor, my objection stands to the --

THE COURT: Okay, your objection is overruled.

Let's talk about the narrative question now as

well.

MS. GOLDFADEN: Yes, your Honor.

May I stay seated?

THE COURT: Yes, please.

Q Doctor at the end of your most recent note, dated September 28, 2026, in the plan section, you discussed the patient is restricted from driving long distances and working in a standing position, he can work in a sedentary position from home, patient is 100 percent disabled from his usual occupation.

The Court wants to ensure that we don't mention anything related to Workers Compensation or insurance at the trial, so those findings that you have in your note, are those observations and findings and opinions from you?

A Those are the opinions rendered by me, but that's in the context of Workers Compensation, we have to talk about.

THE COURT: For sure, so obviously we don't want you to mention Workers Compensation.

THE WITNESS: Okay.

THE COURT: We don't want you to mention any insurance.

THE WITNESS: Okay.

THE COURT: We wouldn't want you to mention, for example, that you made these findings, in connection with some Comp claim or some or to imply, for example, that some outside agency agreed with your findings and said yeah,

yeah, I thought he was completely disabled from work, and then, even if you don't use the word "insurance," then I was totally vindicated when other entities and other agencies also found him, because that's like making a pronouncement; right?

THE WITNESS: Understood.

THE COURT: Or bolstering your own testimony.

If in the context of your treatment of him you made an assessment of what his functional capability was, what work he could do, like you said, he can do some sedentary work, for example in the home, so if you made those assessments as part of your care of the patient, no problem.

THE WITNESS: Okay.

THE COURT: If you said that he was 100 percent disabled from his old job, as part of your care and assessment of him, that's fine, but if you used only as a term of art, then, right, and it would sort of imply to the jury what they have to do.

THE WITNESS: Got it.

THE COURT: Does that made sense?

THE WITNESS: That makes sense not talk about what we typically have to talk in a Workers Compensation.

THE COURT: Correct, this is not a Comp claim and the jurors are not, I mean, I think we have a fiction that the jurors don't know there's insurance in the world, but in

any event, we preserve that for instance by not mentioning insurance in front of them, not mentioning the ability of a defendant to pay or whose going to pay or anything else, we're not trying to suggest, for whatever reason, there's an unlimited pile a money, there's a limited pile of money, that the source of payment should impact how they decide whether or not to give an award, right? They're supposed to make that assessment based on the testimony that they hear, to the extent that you have your own professional opinions about his level of disabilities for work or the types of work he can do, whatever, and those are arrived at you being his treating doctor it's totally fine, you shouldn't imply it's from some outside source or some objective --

THE WITNESS: Insurance.

THE COURT: Like an insurance benchmark or something like that.

THE WITNESS: Yeah, that note what I wrote was because of Workers Compensation, so I will leave that part out.

THE COURT: You can still testify about your assessment of what work you would allow him do or recommend that he do whatever, that's no problem.

THE WITNESS: Okay.

THE COURT: You just can't say I made this assessment for Comp. I made this assessment for insurance.

THE WITNESS: Okay.

THE COURT: All right.

THE WITNESS: Yes, that makes sense, your Honor.

THE COURT: Now, back to what we were talking about amongst Counsel before, one presumes, and we will ask him, one presumes I will ask you actually.

THE WITNESS: Okay.

THE COURT: When you make an assessment for Workers Compensation or any other insurance claim or no fault, I don't know if you do any no fault, whatever, are you, how do you come to the basis of that assessment?

THE WITNESS: So, at the end of the note, we have to write down percentage of disability based on Workers Comp.

THE COURT: My question is how do you arrive at it.

THE WITNESS: Based on patient's functional capacity, their injury, their diagnostic studies.

THE COURT: Are you using the same criterion or the same basis for assessing a patient's capacity, work capability whatever, whether you are treating a patient or whether you're doing Comp?

THE WITNESS: It's different with Comp, we have to follow certain guidelines.

THE COURT: Okay.

THE WITNESS: For assessments, so it's different.

THE COURT: Do you find those guidelines to be more permissive, nor strict or something else?

THE WITNESS: They're more, they're more strict in the sense we have to really go in-depth as to the kind of micromanage their work capacity in that sense.

THE COURT: I understand that, I guess the question is, so I don't know how to say it, let's say you said hey, listen when we find that somebody, let's I used to be a power lifter, I was not, and if you said he's not a power lifter anymore; therefore, in this limited contact of power lifting ability, he's 100 percent disabled.

THE WITNESS: Yeah, correct.

THE COURT: I could never be a power lifter again, that wouldn't be a fair context for my ability to work at all; right?

THE WITNESS: Right.

THE COURT: But if the criteria for saying that I can't work at all was stricter than the criteria for finding I couldn't be a power lifter presumably there would be, there would be lots of jobs that I could do that wouldn't involve a power lifting, and yet, you found I was incapable of work, that would be meaningful?

THE WITNESS: Right.

THE COURT: On some level; right?

THE WITNESS: Right, right.

THE COURT: I guess the question I'm trying to get at, are the criteria for the assessments you make -- back up.

I understand you're being more granular when assessing for Comp, but is it based on your actual observations, your actual chart, things like that or are you putting in information, this will sounds bad, is there information that you're making up because it's for Comp or is it based on the content of your chart and personal assessment of the patient?

THE WITNESS: So I'm not making it up, I am going through the guidelines.

THE COURT: Rubric?

THE WITNESS: Rubric to guidelines to make that work assessment specifically for that.

THE COURT: Got it.

But you don't say, for example, that a patient can lift ten pounds in your chart and then say he can lift zero pounds when it's for Comp; is that correct?

THE WITNESS: Yes.

THE COURT: The basis of the data the same or did different?

THE WITNESS: The same.

THE COURT: As long as he doesn't say what the rubric is for.

MS. GOLDFADEN: Yes.

THE COURT: As long as he doesn't give an assessment that's essentially a term of art, then he can testify about findings he made that would have been the same findings whether he was treating him as a doctor or assessing him for Comp as long as they're the same physical findings, right?

MS. GOLDFADEN: Yes.

THE COURT: He cannot say one thing for Comp and then something inconsistent for his treatment of the patient; right, and I'm not suggest you ever would, that would be problematic, we know that the patients needs to find them this way in order for them to pay their benefits, whatever; therefore, as long as they hit 51 percent, we say they're fully disabled, that wouldn't be okay.

MS. GOLDFADEN: My specific concern, Judge, is the sentence says he can work from a sedentary position from home.

My understanding from the doctor's testimony and also in conversation is that the reason he wrote that in the chart is because it's specific to a Comp rubric.

THE COURT: I don't care, can he work in a sedentary position from home?

THE WITNESS: Maybe for like an hour or so, he's not going to be able to do a full-time job.

MR. BUFFALOE: That's not what the report says.

THE COURT: That's right. He's not bound by the report, because he's a treating doctor, but he can certainly be crossed about the report, right?

MR. BUFFALOE: Yes.

THE COURT: So if you said generally that he could, and this is exactly what I'm getting at, if writing in one context you're required to say that if he can work an hour a day, you know, you will have to explain that, you have to explain using insurance or Workers Comp as a justification to the jury.

THE WITNESS: Sure.

THE COURT: With those instructions, let's move forward.

Just for show, step off the stand, so we can bring the jurors back in, and we will say you have been sworn.

THE WITNESS: Can I leave my stuff here?

THE COURT: Yes.

MR. BUFFALOE: Does the Court indicate on September 20, he took an X-ray of the Plaintiff?

THE COURT: Okay.

MR. BUFFALOE: That was not disclosed to me, it wasn't marked in evidence.

THE COURT: Hold on. Do you have that X-ray?

THE WITNESS: I have that on my computer.

THE COURT: Were there any differences in the findings from the last X-ray you took?

THE WITNESS: There was no difference in findings.

THE COURT: Okay. So I will say let's not mention it, don't, now don't you say because you know he can't say it, hey, you've, you haven't taken any X-rays, you haven't treated this guy, then he will allowed to say.

It's not necessary for his testimony and imply that exam wasn't a bona fide exam with diagnostic testing and whatever else, we will leave it be, but the minute you suggest, you know, you're not really treating him anymore, you don't take any diagnostics, you don't do anything that real doctors would do, as long as you don't go down that route, that he has no need to bring up the X-ray, and you have no need to bring up the X-ray.

MR. BUFFALOE: I won't bring up the X-ray.

MS. GOLDFADEN: Understood.

THE COURT: Thanks.

(Whereupon, Dr. Sharma exited the witness stand.)

THE COURT: I guess with regard to the life care plan or anything else, as long as he doesn't discuss the contents, I don't know if you have a life care plan in the context, hey, he's still getting X-rays hears what they say and mean, whatever it's fine, you know what I mean, but you should not be talking about the contents of something he

can't see.

MS. GOLDFADEN: Understood, I won't.

THE COURT: Good. Let's get the jurors.

(Pause in the proceedings.)

COURT OFFICER: All rise, jury entering.

(Whereupon, the jury entered the courtroom.)

THE COURT: All right, folks, you can all be seated, thanks.

First of all, good morning, thank you, welcome back, we had a good productive day yesterday.

We have a full day today, and we expect, but can't promise a half a day tomorrow, we're anticipating to be clear by lunchtime, tomorrow, and I know we had at least one juror, maybe more than one that needed some time tomorrow afternoon and we were able to accommodate that, and the witness's schedule, so whoever that was, you know, plan ahead.

You're ready to call your next witness.

MS. GOLDFADEN: Yes, your Honor.

THE COURT: Thank you, please call your witness.

MS. GOLDFADEN: The Plaintiff called Siddhartha Sharma.

THE COURT: Call Siddhartha Sharma.

(Whereupon, Siddhartha Sharma took the witness stand.)

THE CLERK: Raise your right hand. Do you swear or affirm that the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: Yes, absolutely.

THE CLERK: In a loud clear voice, state your name and address for the record?

THE WITNESS: It is Siddartha Sharma, S-I-D-D-A-R-T-H-A, last name S-H-A-R-M-A.

THE CLERK: Your address?

THE WITNESS: 110 Duane Street, ground floor, New York, New York 10007. I'm located in Tribeca.

THE CLERK: Thank you, you may be seated.

THE WITNESS: Thank you.

MS. GOLDFADEN: May I inquire, your Honor?

THE COURT: Please.

DIRECT EXAMINATION BY

MS. GOLDFADEN:

Q Good morning, Dr. Sharma, how are you?

A Good. How are you?

Q Good.

Tell us what is your progression?

A I'm a podiatrist and also a foot and ankle surgeon.

Q What are those professions?

A So I only treat foot and ankle injuries, I specialized in it for over two decades now, including, you know any

reconstructive surgery, any trauma surgery, anything that involves foot and ankle.

Q Are you a licensed practicing podiatrist in the State of New York?

A Yes, I am.

Q Since when?

A Since 2005.

Q Can you tell us a little bit about your education background?

A Sure, so I went to undergraduate college at University of Toronto, I was actually 16 years old when I started it, I double majored, I have two degrees, one in cellular biology and the other one in medical anthropology, and then at age 20, I enrolled in Temple University School of Podiatric Medicine in Philadelphia, and, I graduated from there in 2005, I was the youngest graduate at age 24 from there.

I can tell you about my schooling, so in podiatry school, it's the same curriculum as an M.D., or D.O. school, the first two years, we study about the entire body, and we take the same anatomy courses, cadaver labs for the entire body from head to toe, we do same studies as pharmacology, as biochemistry, as any M.D. or D.O. would do.

Then in our third year, it is a four year school, in the third year we start doing rotations at Temple, we did the same rotations with the M.D. students, doing emergency medicine,

orthopedic surgeries, vascular, neurology, and different aspects of the entire medicine and then, and the second half of our thirds year, we start focusing more on the clinical aspect of the foot and ankle, whether it be dermatology, whether it be neurological, circulation, vascular, surgery, of course, and then in our fourth year, we get sent out to do externships, where we go to different hospitals spend a month there, doing, you know, assisting in surgeries, and then that's the four year of podiatry school.

Then after that, we do have residency, and they're surgical residents, so I -- it is a three year surgical residency, at Mount Sinai Hospital in New York, and that first year is treated as a general overview of medicine, so we are working at trauma level hospital, like Elmhurst Hospital, I'm doing orthopedic surgery with the orthopedic surgeon. Many times you see a doctor in the ER, it's a resident, and that was me for a couple of months, and training in vascular, working doing surgeries with the vascular surgeons, doing surgery, with even general surgeons.

Then in our second and third year, we are only focusing on foot and ankle surgeries, so whether that be with a podiatrist or orthopedic surgeon, and that involves doing complex surgeries, such as ankle fusions, doing fractures, doing ligament or tendon repairs, and then by third year, we're actually doing part of the surgery, that's how you learn, and,

that's how you get better, so that was my three years at Mount Sinai Hospital, but they would send us to different hospitals in New York City to help with our training.

Q Doctor, are you board certified?

A I'm double board certified, I'm board certified in podiatric medicine and I'm also board certified in foot and ankle surgery.

Q Have you published in your field?

A Oh, yes. I have, I have published many peer to peer journal articles, I'm part of a residency program, first, I was appointed as a site director for the Mount Sinai residents, so I have published articles with them, now I'm with the Hoboken University Medical Center residents, we public articles there, I've also published three books, coauthored them in the field of medicine anthropology not foot and ankle surgery, but in the medical anthropology, so that's, I also give lectures to other doctors, other, there are some unique techniques I have come up with, I teach surgeries to residents, I give lectures to cadaver labs, do presentations to various medical conferences throughout the country, that's, you know, I am also a police surgeon for the New York State Troopers. I also work with some non-profits for public health, that's pretty much the breathe of my professional career.

Q And do you currently have an office practice?

A I do. So I had my own practice, and then it became

part of New York Sports, Sports and Joints Orthopedics Specialists, as I have been with the group since 2014, and the name changed now to Motion Orthopedics, shorter name, better name, so we, you know, we have multiple offices, we have office of course, I like to say Manhattan is my main office, because I'm there twice a week, I also go to the office in Kew Gardens in Queens, Long Island, New Hyde Park, Westchester, and New Rochelle and New Jersey in Saddlebrook, New Jersey.

Q Is that the same office practice as Dr. Capiola?

A It is, yes, he joined much later our group.

Q Do you currently treat patients?

A Absolutely.

Q And what do you treat them foot?

A Foot and ankle injuries.

Q Do you perform surgeries?

A Absolutely.

Q Can you estimate either how many surgeries you perform a week or a year?

A I mean it varies, it depends on the need for surgeries, some years, it can be 300, sometimes it can be 500, it can be 400, it all depends on, sometimes.

Q Are all of those surgeries related to the foot and ankle?

A Yes.

MS. GOLDFADEN: At this time, I would offer

Siddhartha Sharma as an expert witness in the field of podiatric surgery.

MR. BUFFALOE: Objection.

THE COURT: Without objection.

Q Doctor, have you and I ever met before this case?

A We did once, you came to our office just to learn about Mr. Garcia.

MR. BUFFALOE: Objection.

THE COURT: Whether she went to his office?

MR. BUFFALOE: What they talked about.

THE COURT: Overruled, because you often ask, in general terms, not like specifics.

THE WITNESS: Sure, your Honor.

A Yes, you did come to my office to review the care.

Q Have you and I ever met in any other case before on any patient?

A Never, never.

Q Have you been compensated for your time away from your practice today?

A Not me, I work for the practice the practice cleared out my schedule today, so the practice is being, I'm sure compensated for the loss of revenue I'm not seeing patients today, I am a W-2 employee, I manage my practice, I became an employee when I merged my practice, I get paid whether I'm or seeing patients, it doesn't matter to me.

Q If you weren't here in court today, where would you be?

A I would be in the Manhattan office today seeing patients from 8:00 a.m. until 5:00 p.m.

Q And doctor, I'm going to draw your attention now to Mr. Garcia.

Did there come a point in time when Carlos presented to your office?

A Yes, I did see him, I seen him on several occasions, your Honor, may I pull out my chart just as a reference?

THE COURT: You may.

THE WITNESS: Thank you, your Honor.

Q Your chart is in evidence as Plaintiff's Exhibit 5.

If you need to reference it at all, just let us know, go ahead and do so.

When did Mr. Garcia first present to your office relating to his ankle?

A He first came to me on November 1, 2021.

Q At that time, did you take a history from him?

A I did, I took a detailed history.

Q And did you do an examination?

A Yes, absolutely.

Q Can you tell us what the history and the examination revealed?

A So Mr. Garcia came to me that day for a second opinion, he had an injury to his left foot and ankle, he indicated to me

it occurred in at his work site, and he was at an area where there was a hole, and it was, his leg and his foot and ankle went into this hole, and then there were these pipes underneath where his foot and ankle, left foot and ankle got stuck, and he also injured his knee, the left knee at that accident, and it was a direct strike to his knee he reported to me.

And then he sought care at an urgent care center, then he was diagnosed with an infection in his knee, he ended up having a severe infection in his knee that required him to go to Garnet Hospital, and he was admitted in the hospital, he had 100 cc's millimeters of pus drained from him knee.

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A He ended up getting IV antibiotics, and treatment for his wound, and then after his wound infection revolved, he was discharged from the hospital, then he sought care with an orthopedic specialist, Dr. Hecht, that's H-E-C-H-T, yes, yes, who sent him for diagnostic studies, sent him for physical therapy, but eventually his condition did not respond to any treatment when he came to see me, he reported pain, seven out of ten to nine out of ten, so severe pain he was having, he was having difficulty withstanding, with walking, putting pressure on his feet, there was swelling that persisted, he was having difficulty with activities of daily living, he could not work, he was having difficulty moving his ankle in different planes,

up down and side to side, twisting and turning his ankle.

I asked him did you have any prior injuries before this, he said no, he did not have any prior injuries, he was asymptomatic before this accident happened, and so then we proceeded to do a physical examination.

Q And can you tell us what the results of the physical examination revealed?

A Sure. I'm just going to open the chart for reference, so the physical examination is both I'm looking at his foot and ankle and also touching it, putting my hands with gloves and examining him, so he had swelling, to his foot, to his ankle, there was pain when I was pressing his ankle to the outer part of his ankle to the inner part of the ankle, there was pain along his ligaments, specifically the anterior talofibular ligament on the outer part of his ankle, pain along the peroneal tendon runs out outer part, pain on the posterior tibial tendon that runs on the inner part, there was limitation in range of motion of his ankle, the movement of his ankle, the upward movement is called dorsiflexion, which I measured to be seven degrees when normal would be 20 degrees, the downward movement plantar flexion, was 25 degrees when normal should be 40 degrees, so significant loss in his range of motion.

Q At that first examination besides taking a history and examination, did you, did you order any additional testing?

A I did, so I ordered a high definition, MRI study, and I

also ordered a CT scan, a scan, because you know, he was injured for such a long time, I want to go a full picture of his injuries.

Q And where were those scans taken?

A So I ordered them at Lenox Hill Radiology, they're the biggest radiology center with good imaging, they have about 70 locations in New York State, they're like the Starbucks of MRI.

Q Before I get these films loaded and moved into evidence, before I do that, can you, in general, explain to the jury what an MRI is, what it shows, what it doesn't show?

A So MRI does not have radiation by the way, it's magnetic resonance imaging, that's what it stands for and the benefit of the MRI is that it shows everything, it shows your bones, it shows your ligaments, and it shows your tendons, and your cartilage, so it shows everything.

A CT scan for the foot and ankle only shows really, you know bony pathology, so really shows, you know the structure of your bone, both testing are three dimensional, so they take hundreds of pictures, so I can see in a three-dimensional view from side to side, front to back, think of it like a bread that has been sliced in multiple pieces and all of these pieces, we can kind of scroll through them and complete a full picture of the patient's foot and ankle.

Q Doctor, have you brought with you some models to help explain the injuries and what we're going to see on film to the

jury?

A I do have those models.

THE WITNESS: Your Honor, if I can get permission?

THE COURT: Yes, please.

THE WITNESS: Thank you, your Honor.

A So these are models I picked up in my office, we have them in all of the different locations, so I'm just going to explain to you, like I typically explain to my patients.

THE COURT: Let me interrupt to say these are also demonstrative exhibits like the other anatomical exhibits that were shown earlier, and these, I want to clarify don't represent Mr. Garcia's ankle and foot, but only an exemplar ankle and foot?

THE WITNESS: Yes, your Honor.

THE COURT: Great.

Q Doctor, before we get to those exact models, I will ask this question to get it out of the way.

Based on your review of Mr. Garcia's history and based on your examination of him and based on the MRI films which you reviewed; is that correct?

A Yes, I did review them, I actually reviewed it with my patient, like I typically do.

Q Based on your review of all of that information, did you come to a conclusion as to a diagnosis for Mr. Garcia?

A I did, based on both examination, mechanism of injury

and the diagnostic studies, my diagnosis was that he had an injury to his Achilles tendon, there was a partial tear of the Achilles tendon, he had a tear of the ligament, the strongest ligament in your ankle called the ATFL ligament, he also sustained injury to his peroneal tendons that are on the outside, and injury to the flexor tendon on the inner side and then he also had a fracture of spur located on the back part of the heel bone, where the Achilles tendon inserts.

I would like to show the model if the images are loaded.

Q Sure. You can use the model, can you just explain you listed essentially five, I wrote down five different areas of injury to the Plaintiff.

Can you show to the jury where anatomically where those tendons an ligaments and bones are located?

A Yes, absolutely.

THE WITNESS: Your Honor, can I leave the stand?

THE COURT: As long as you understand you remain under oath.

THE WITNESS: Yes it's just easier to show.

(Whereupon, Dr. Sharma exited the witness stand.)

THE WITNESS: I'm going to give you anatomy lesson, so let's talk about first the Achilles tendon, the most strongest tendons in your body, because that's connected and this is the Achilles tendon right here, and that's on the

back part of your leg, if you put your finger on the bottom part of your heel, you feel that cord and that is the Achilles tendon, and it connects your calf muscle, which is the biggest muscle in your body. You can't see this on this model, it was much higher up, that big muscle, so that muscle turns, you know it turns into the Achilles tendon and then it attaches directly on the back part of your heel, and you can feel that on your own heel.

So the Achilles tendon is important, because it allows you to plantar flex your foot, as you walk, so when the calf muscle contracts, the Achilles actually lifts up your heel moving your foot forward, and then in the beginning when you first get up, you know it's a little struggle sometimes to get up, but when you get moving, it's effortless, why? Because the Achilles tendon is like a string or a bow string, and it, when your heel touches the ground, the energy goes into the Achilles tendon, it pulls the muscle and the pulls your heel bone up, causing your foot bones to push forward, so it allows you to go heel toe very easily, that's the important of the Achilles tendon.

The other ligament that I mentioned, the ATFL ligament, it's this one right here, that, the goal of the ligament is to connect one bone to the other bone. The ligaments are not stringy like a tendon, they're not elastic. What they are like little ropes that hold your

bones together, you will only find ligaments where there are two bones, where the two bones meet whether it be the knee, the shoulder or the ankle or your toe or finger. Their job is to stabilize the joint, and this particular ligament is this one right here connects your fibula bone to the bone in your foot, called the talus, and it prevents your ankle from rolling out.

The peroneal tends that were injured there are two peroneal tendons that run behind that ATFL ligament, behind the bones these are the two tendons, they run side by side, they go behind the fibula bone and then they attach, one of them attaches to your fifth metatarsal, which is the bone in your foot. The other one actually goes underneath the foot and attaches towards your big toe, this one has the muscles you can't see this, and I mentioned the flexor tendons, particularly the injury that we saw was the flexor hallucis tendon, this is the flexor tendon, which are on the inner part of your ankle, this tendon comes, you know, also part of a muscle, all tendons have some parts of muscles, the muscle turns into the tendons at the ankle level, then it goes down, and this tendon actually attaches to the great toe.

The goal of the flexor tendon as the muscle contracts it pushes your big toe down, it plantar flexes the big toe, that also allows you propulsion, the peroneal

tendon just like the ligament helps stabilize your foot, so when your foot goes, comes down as you're walking, it prevents your entire ankle from rolling outwards.

So both the peroneal tendon and ATFL ligament are primary stabilizer of your ankle as you're walking.

Q Doctor, you mentioned a fractured heel spur, this might be a good time to explain to the what is a heel spur and where anatomically are those located?

A The heel spur are quite common especially in the New York City population, we're always walking and standing everywhere. A heel spur is a bone spur, where it is a piece of bone that has developed and it's protruding.

There are two types of heel spurs; one heel spur is on the bottom part of the heel, and this is such a common occurrence that this can include the bottom part of the heel spur in this model, and so you have a heel spur on the bottom of the heel, because of repetitively you're walking, standing, put your heel down as you are walking, over time you can get this calcification, and that turns into a little bone spurs on the bottom of the heel.

Some patients also have a bone spur on the back part of the heel where the Achilles tendon attaches, and that is also a common finding, when people are, you know, very on their feet for extended periods of time, so posterior, meaning back part, bone spur is over here, where that Achilles tendon connects, and

then there's usually a very typical finding in the New York City population of having a plantar bottom of the heel spur, which are demonstrated over here.

Q Okay, thank you, doctor. I'm going to have you look at the films now, and your Honor, at this time I would ask that the Lenox Hill Radiology films from November 8, 2021, and December 28, 2022, and May 11, 2024, which are all contained within one CD be admitted into evidence, as Plaintiff's Exhibit 17.

MR. BUFFALOE: No objection.

THE COURT: Without objection.

Q Doctor, I'm going to hand this computer to you, this will be easier for you to do than me, and I will just swap this.

A Okay.

MR. BUFFALOE: May I, your Honor?

THE COURT: Yes.

Q Doctor, you mentioned that you sent Mr. Garcia for some testing, after your initial visit with him in November.

Can you please pull up the November 8th, 2021 CT and MRI films?

A Sure. So let's, let's go over the CT scan first.

(Pause in the proceedings.)

Q Are you trying to toggle it?

A Yes, I want to bring the sagittal view here.

Q You can drag it down to the bottom.

A Thanks.

So, remember the CT scan study shows hundreds of pictures, I'm just going to point to the most important picture, which is from the side view, so remember it's like a bread that's been sliced in multiple pieces to show the fractured spur, so remember he has a bone spur on the back part of the heel bone.

MR. BUFFALOE: Your Honor, before we proceed, can you identify the particular slide you're referring to for the record?

THE WITNESS: Oh, sure, yes. So this is the CT scan study with sagittal imaging, series six, image 38 out of 96.

A So this image shows the heel and of course the ankle, but this is for the bone, so the spur I was telling you about is on the back part of his heel, where I can see the Achilles tendon, you know this line right here, the Achilles tendon, but we can't really tell there's injury to the Achilles tendon or not, you see that it's there, and that's where it attaches down to the spur, and it spreads around.

So this is the break right here, I can see the line right here and this is the spur that structured, it broke off from where it's supposed to be attached.

Q So, doctor, let me stop you for a second, be careful, just from a layperson's perspective, can you just explain to us the white we're seeing versus the dark and what that indicates

to you?

A Sure, we're supposed to be seeing this entire white connected to the other white down here.

The fact that there's a black line over here, and you don't see any connection between those two white parts, that is the break between the bone, the white bone that there is, and because that line exists, that piece, the top piece of the spur, has broken off from the rest of the heel bone.

Q Doctor, did you, speaking of this bone spur, you say it's broken off.

Was the bone spur something that was caused by this accident or not?

A No, absolutely not, the bone spur was not caused by the accident, the fracture of the bone spur was caused by the accident.

Q Did you review Mr. Garcia's prior records, meaning before the accident, his podiatrist records?

A I did. He had sought treatment.

MR. BUFFALOE: Objection.

Can we approach?

THE COURT: Yes.

(Whereupon, an off the record bench discussion was held.)

THE COURT: The objection is overruled.

MS. GOLDFADEN: He objected.

MR. BUFFALOE: I objected.

Q So, doctor, are you familiar with Mr. Garcia's prior care?

A Yes, I am.

Q And was the bone spur that has broken off after the accident, was the bone spur present before the accident?

A Yes.

MR. BUFFALOE: Note my objection.

THE COURT: Overruled.

A Yes, it was present.

Q And can you tell the jury what significance, if any, Mr. Garcia's prior, meaning earlier podiatric records have on the bearing of this case?

MR. BUFFALOE: Objection.

THE COURT: Same objection from before.

MR. BUFFALOE: Yes.

THE COURT: It's going to be continued to be overruled.

A Yes, so he, so, yes, he had, he had the bone spur on the back part of his heel and also on the bottom part of the heel, and I reviewed those records, he went to a podiatrist to seek care for the pain that he was having on the bottom part of his heel, not the back part, the bottom part of the heel, and not really for the spur itself, but really for plantar fasciitis, there's a ligament that sits on the bottom of the

heel, and many patients in New York City, they have something called a plantar fasciitis, which is basically inflammation of the fascia of the bottom of the heel, and he went for treatment, and the treatment was appropriate, he was getting, you know, injections on the bottom of this heel, and that's where he was getting treatment by his local podiatrist.

Q Can you show the jury, using the model where in the foot an injection for plantar fasciitis is administered?

A Absolutely, so the treatment for the plantar fasciitis would be on the area of pain, which would be on the bottom part of the heel where the plantar fascia is on the bottom, so the injection is done at the bottom of the heel, you never inject into the Achilles tendon, he never had an Achilles tendon problem, I reviewed the records, there was no Achilles issue, all of the pain was on the bottom and that's where the injection would take place.

Q You answered my next question.

Anywhere in your prior records from the podiatric care, were there any complaints of Achilles ankle, his problem?

MR. BUFFALOE: Objection.

THE COURT: I'm sorry, read back the question.

(Whereupon, the question was read back by the reporter.)

MS. GOLDFADEN: I will say it again, I will withdraw it, it is a mistake.

Q In the records you reviewed for Mr. Garcia prior protect care, was there an Achilles involved, tendons, any of those things?

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A Absolutely not, there was no complaint of Achilles tendon pain. In fact the record says there's no pain on the Achilles tendon, specifically documented the pain was always on the bottom of the heel at the plantar fascia, and that's the only treatment that Mr. Garcia received at the podiatrist office.

Q Okay, doctor, do you want to show the jurors the MRI?

A Yes, that's the best one. Since we're on the topic of the Achilles tendon, let's start with that, okay, so remember the MRI shows everything, it shows, the bone the ligaments, the tendons, everything, so since we're on the topic of Achilles tendon, there's your fractured spur and you know there's the Achilles tendon, this black line, that goes from your calf muscle, you cannot see the calf muscle on this MRI.

MR. BUFFALOE: Again, can you identify the, which slide you're referring to?

THE WITNESS: This is MRI series five, sagittal view, image 17, out of 13.

MR. BUFFALOE: What is the date?

THE WITNESS: The date is November 8, 2021, it's a

3R Tesla high definition MRI.

A So we see the Achilles tendon is it an attached -- it's attached to the spur, but the spur is fractured, we see these white lines within the Achilles tendon that indicates that the tendon is not ruptured, you know, it is partially intact, there's a partial tear of the Achilles tendon, there's another picture the next picture of the MRI is image 18 out of 38, I can see some more white lines that appearing in the tendon, those are the partial tears of the Achilles tendon itself. We will move on to the outer part of the ankle.

Q When you say "outer part," can you indicate to the jury what that means?

A So the outer part, is the lateral aspect, this is the lateral aspect, this is the area that we're looking at right now, and on this image, I want to point out.

MR. BUFFALOE: Can you identify the slide again?

THE WITNESS: Sure.

MR. BUFFALOE: Please?

THE WITNESS: Sorry, it's image 13 of 38.

A And this image we're looking at is the ligament the ATFL, the ligament attaches to the fibula bone and then attaches to the talus bone, it's lighting up over here, so we see that there's some injury, we don't see the black part in that area, so that's showing there's a partial tear, there's another image I'm going to show you, it's more conclusive than this one,

there's fluid, there's -- you don't see the black line like this picture right here, this is the ligament on the back part of your ankle, this is an intact ligament right here, versus a nonimpact, a partial tear of the ligament; normal abnormal.

Q Again, doctor, just for us lay people, when you say "abnormal," how do you know just because of the blood clots on the screen?

A The white represents fluid, there is inflammation when it's bright like that, there's fluid and it's in the context of the anatomy itself, we're supposed to be seeing this entire area black, this right here is that partial ligament, that's intact, this is where it's supposed to be attached, it's torn in that area, this part right here is the normal ligament, normal abnormal.

Now we're going to move to another view on this one, so this slide nine out of 38, sagittal view again is showing your tendons on the outer part of your ankle, the peroneal tendons, I mentioned earlier that stabilize your ankle, prevent it from rolling out, these are the two tendons that run, they run together higher up on the leg, as they come down towards the foot, they diverge.

On this MRI, the tendons don't have any tears, I can see the black line, nice and clear, we don't see any, you see, we see the white stuff that's surrounding the tendons, and that is inflammation, that is scarring, and that means that the

tendons are not sliding properly, they're supposed to glide in order to move your foot up and down -- I'm sorry, side to side, so there are the peroneal tendons are scarred down, they're inflamed.

Next we will go to the inner part of the ankle, the inner part where the flexor tendon sits, slide 22 of 38, this black light is your flexor objects, there are two flexor tendons, hallucis longus and digitorumlongus, we see this, the basically is intact, that means the tendon is not torn, we see a lot of white stuff surrounding the tendons, that means that there's tenosynovitis, which is basically inflammatory, scar tissue, adhesions, along that tendon.

Q The tenosynitis and the scarring we saw on the slide before this, is that normal or abnormal findings?

A Those are abnormal findings.

Q Thank you, doctor.

A I want to show one more picture.

Q Yes.

A This is a top down view, a cross-section of the patient's ankle, goes from the top to bottom, so in this case, we're going to start from the bottom actually, so we're looking slide 29 of 35 looking at the fat pad over there, as we make our way up somewhere doctor, is that a different series?

THE WITNESS: Yes.

MS. GOLDFADEN: Series three, for the record?

THE WITNESS: Series three, yes, thank you.

A So the black image you see is your Achilles tendon, when it inserts into the heel, it fans out, as it inserts, so it's a cord when you're feeling it when it actually attaches to the heel bone on the back part, it actually fans out, and what we're seeing is, of course, that part of the spur that is fractured is not connected, but we also see all of these white things within the body of the Achilles tendon, and that represents partial tears, but also scarring, inflammation within the tendon.

On the same series of imaging we will make our way to the ligament, so, patient has that ligament ATLF, partially torn outer part of the ankle, so as we're looking at this image top down, image 1235, this black line shows that the ligament is pretty much intact it connects the fibula to the talus, but then as we go to the second image below it 1335, we see the black line disappears, it's substituted by this white matter, and that should not happen, because that indicates that there is disruption of the ligament or a tear of the ligament.

Going down one more level below, 1435, there is no basically in that area that has been replaced entirely by the white part, so the ligament is partially torn, it's intact on the top part, but on the bottom part here it's gone, it's torn, and the importance of that, once a ligament tears, it doesn't have a blood supply, so it stays torn, it does not get back

together on its own.

THE COURT: So, when you say "it heals on its own"?

THE WITNESS: It doesn't heel on its own.

THE COURT: I didn't hear it.

THE WITNESS: Okay.

Q Thank you, doctor.

(Whereupon, Dr. Sharma resumed the witness stand.)

Q Doctor, based on your review of the medical records, both the prior podiatric records, the examination of Mr. Garcia, your review of the MRI films, did you come to a diagnosis for Mr. Garcia?

A Yes, so I had a concrete diagnosis when I saw him in December of 2021, after reviewing his diagnostic studies and I showed him his pictures like I show every patient, the concrete diagnosis was that he had left ankle internal derangement, left ankle joint effusion, and left ankle fracture of the posterior calcaneus bone spur, so the beings in the back, Achilles tendinosis, inflammation, scarring with a partial tear of that tendon.

Partial tear of the anterior talofibular ligament, tenosynovitis of the flexor tendon and tenosynovitis of the peroneal tendons.

Q Are all of those opinions to a reasonable degree of medical certainty?

A Absolutely, yes.

Q What did you recommend as a course of treatment for Mr. Garcia pertaining to his left ankle ankles?

A On that visit he was having severe pain, there was also some discoloration in his ankle, and so I discussed with him that he probably needs surgery, but I'm concerned about something called CRPS, Complex Regional Pain Syndrome.

MR. BUFFALOE: Objection.

MS. GOLDFADEN: It's in his records, your Honor.

THE COURT: Overruled.

A So I thought that he has something called CRPS, known as Complex Regional Pain Syndrome, which is basically is severe form of nerve injury that affects your autonomic nervous system, so I wanted him to get some additional testing.

Q And after treating him now for, four years or so, five years or so, did you come to a conclusion leading to that CRPS?

A CRPS --

MR. BUFFALOE: Objection, can we approach?

THE COURT: Overruled.

MR. BUFFALOE: Can we approach, please?

THE COURT: No, we already discussed this, overruled.

A So after seeing him, after that visit, I saw him a few times more, and his sensitivity decreased to touch, so I felt he did not have CRPS later on the later on visits.

Q What did you recommend to him after determining he

didn't have CRPS?

A So I recommended, well, he was injured for a long time for over a year, and he had exhausted nonsurgical treatment, so I discussed that, I think at this point, you know surgery is the best option for you.

Q Did you make any recommendations to him before you were willing to perform this ankle surgery?

MR. BUFFALOE: Objection to the form.

THE COURT: Overruled.

A I'm sorry.

Q What recommendations, if any, did you make to him before having the ankle surgery?

A He had already done a tremendous amount of physical therapy, he had, he was using assistive devices such as ankle brace and cane, and he was taking pain medications, and so we made all of those recommendations, he did not respond to those recommendations, so that's why surgery was medically necessary after over a year, when he failed all of those nonsurgical treatments.

Q And when was surgery performed?

A So the surgery was performed much later on, it was actually a different surgery than what I had first discussed with him, the surgery was performed on November 15, 2024, and it was, it was still a major surgery, but it was, there was no surgery done to the fracture site, and we were planning on doing

that surgery to the fracture site, but his fracture had healed by the time, you know, he went for surgery on November 15, 2024.

Q So just doctor, real quick, can you explain to the jury why there was a delay or a gap from when you initially saw him until he had his surgery in 2024?

A Yeah, so, back in, you know, 20, I'm sorry, I'm going to review my record real quick, yes, back in 2022, the surgery that I proposed for him was to repair the ligament that was torn on the outer part, do surgery on his tendons, but also he had the fracture on the back of his heel, and to, we can't fix that fracture, because it needs to be removed, to remove that fracture fragment, but in order to remove that fracture fragment, I have to go through his Achilles tendon, I have to detach the Achilles tendon, and then remove it.

The problem is, that when you remove the Achilles tendon, you have to anchor it down with these bone anchors, you can't just make a cut and remove the fragment, the whole tendon has to be detached, so when you do that, it can fail, and Mr. Garcia was having, he had a tremendous amount of weight, he was weighing over 400 pounds when I was seeing him, and doing that surgery to detach the Achilles tendon, remove the fracture and anchor down would have been a certain failure because when he would start walking on this putting pressure on his heel, there's a high risk of those anchors pulling out and then instead of him having a partial tear, he will have a full

rupture of the Achilles tendon.

So those risks were just not acceptable for me, the risk significantly outweighed the benefits, so he was not a medical candidate at that time for the surgery I proposed.

Q What did you recommend to him?

A Continue with physical therapy, continue with the brace, continue with the cane, let's talk about weight loss, he was seeing a bariatric surgeon and was going to work on his well, which he did.

Q Did he have the bariatric surgery?

A Yes, he was motivated to get better.

Q What were the results of the bariatric surgery, is in a general sense?

A He lost a tremendous amount of weight, over 100 pounds easily by the time we ended up doing his surgery.

Q And after he went ahead and had the bariatric surgery, and loss the weight, did you order any additional tests?

A Oh, yes, absolutely I ordered while he was going through the well, I ordered a -- another MRI in 2022, and it showed the same fracture of the heels spur, it shows the ligament tear that was present, when additionally finding we found, remember those peroneal tendons on the outer part, now there was increased stress on those tendons and now the peroneus brevis had developed a tear in the middle part of that tendon.

Q And when eventually he lost enough weight to indicate

him for surgery, can you explain to the jury, did that delay in having the surgery while he underwent the weight loss change his outcome in any way?

A Well, actually, it changed for the better actually, because by the time he had the surgery, his bone spur had healed, it was no longer fractured, there was no reason to detach the Achilles tendon and reanchor it, so he still had to surgery, but I didn't have to attach the Achilles tendon in some sense the delay actually helped him out.

Q So I just want to make sure I understand that, the bone spur we saw the fractured fragment up on the screen, how did that heal?

A Well, time, you know, it was like two, three, three years later, you know, over time, the body wants to heal itself, and the bone does have a blood supply and just by time, miraculously, bone fragment came back together and may have been the immobilization, he was on for a long time, I think a lot of it had to do with the immobilization, just tremendous many years of immobilization, it took a long time, but that fracture healed which was good for him.

Q On November 15, 2024, you performed a surgery?

A Yes, I personally performed the surgery.

Q Where was the surgery performed?

A It was performed at my usual place where I operate on Fridays for the last 12 years, at Surgicore surgical center.

Q And the -- you have your operative report in front of you?

A I do.

Q And we've had medical illustrations made of the surgery, would they benefit you in your explanation to the jury in terms of the surgery that was performed?

A Yes, absolutely.

Q And do they fairly and accurately represent a model surgery?

A Yes, I reviewed those pictures, and they're an accurate depiction of what I saw during the surgery.

MS. GOLDFADEN: With your Honor's permission at this time I would display to the jury, Plaintiff's Exhibit 16 for ID.

THE COURT: It's in evidence?

MS. GOLDFADEN: Excuse me, in evidence.

THE COURT: In evidence?

MR. BUFFALOE: No, 16 was the illustration.

THE COURT: I know it was, it's subject to connection to testimony, but we discussed it earlier.

MS. GOLDFADEN: Yes, Judge, sorry, I misunderstood.

MR. BUFFALOE: It was demonstrative.

THE COURT: It's demonstrative, I mean it can be shown to the jury, let me say it that way.

MS. GOLDFADEN: Okay.

MR. BUFFALOE: Subject to my earlier objection.

THE COURT: I've ruled on your earlier objection, it can be shown to the jury.

MR. BUFFALOE: I know.

THE COURT: So it's not subject to anything, subject to connection to the doctor's testimony.

(Whereupon, the exhibit was published to the jury.)

THE COURT: Ladies and gentlemen, again, this is a demonstrative exhibit, it's an illustration, like the illustration you were shown with an earlier witness and the doctor will explain to you what it represents.

THE WITNESS: Your Honor, may I step down?

THE COURT: You may.

(Whereupon, Dr. Sharma exited the witness stand.)

THE WITNESS: May I pass this to the jury?

THE COURT: If you would just use the screen for now.

THE WITNESS: Thank you, your Honor.

THE COURT: Can everybody in the box see the illustration including my end of the box, everyone can see it okay?

A So the first part of the surgery was, something called arthroscopic debridement of the ankle joint, I take a camera which is an arthroscope, I insert that into the ankle through a small hole, and I inspect the joint for any loose bodies, any

inflammatory tissue any dried blood, any calcified fragments, so in Mr. Garcia's case the first step was to go and take a look, I saw there was a lot of inflammatory tissue, dried blood, that we see in the joint from the trauma itself, and using something called a shaver, I went and debrided it, meaning I cleaned it out, and basically, there's a suction attached, it sucks it out, there was also some bone fragments in the bone on the outer part of the ankle, where the ligament had the tear, so I went in there, and cleaned it out, that's what debridement in.

So after doing that part, the goal was to then repair that ATFL ligament and for that, it's an open repair, so made an incision on the outer part of the ankle.

Q Go to slide two.

A That's D.

Q Okay, I'm sorry.

A Part 1D.

Q Gotcha.

A And used a -- that's been described, it's as a laser, it is not a laser, but that's the best way to describe it, basically called capsular shrinkage, so we take this device that heats up and brings in those fibers together, so they can adhere, also, in order to make the ligament structurally sound, I use something called a FiberTape, which is a -- like a suture material as the pictures shows, and I inserted that where the ligament sits, and then I used those suture ends, those strings

to sew up that ligament, so there's some structural strength to that ligament, and that completed the ligament repair aspect of the surgery.

Q Doctor, I will show you slide two, which we've made --

A Okay, so this slide shows the tendon repair, the tendons that are outside the joint that cannot be pictured or repaired with a camera.

So the next part was to repair the peroneal tendons, and I had to make an incision on the outer part of the ankle where the peroneal tendon sits, once the incision was made, it's a two-surgeon job, I have an assistant surgeon retracting the soft tissues, I had to cut through the skin cut through the fascia retract the muscles, taking care to protect the nerve endings and the blood vessels that run in that area.

Once we have full protection of those structures, I had to open up the tendon sheath which revealed the tendon had partial tears, just like this picture shows, it was not ruptured, but it had tears within the tendon, so that basically, we do something called tubularization, which is a medical term, just like that picture shows, we basically wrap up that tendon with sutures, so that it can followed onto itself, and that allows it to heal, and if it doesn't heal, at least we have that cross-stitching along there so it keeps that tendon intact.

Of course, there's scar tissue along the tendons, tenosynovitis, inflammatory tissues I cleaned that up so the

tendon can glide better, that completed the repair of the peroneal tendon.

Then on the inner part of the ankle, flexor tendon, I made an incision on the inner part of the ankle again making an incision through the skin, the fascia having the assistant surgeon retract the soft tissues, the nerves, the vasculature, the flex or tendon did not have any tears, but it was, there were adhesions, there were scarring, inflammatory tissue so that tendon had to be cleaned out using a number 15 blade, a scalpel to kind of debride and scrape away all of the bad tissue, all of the bad tissue, that's on that area.

Next the patient was flipped over on their stomach and allowing access to the Achilles tendon, I make the incision just like the picture L shows of the Achilles tendon, I had to make incision through the skin where assistant retracting the soft tissues, the subcutaneous layer and the tendon did not have any tears anymore, they were adhesions, they were scar tissue, inflammatory tissue that was restricting the movement of the tendon, so then basically is it a debridement, where I took some scissors, some blade, and to remove all of that inflammatory scar tissue off of the tendon, and then I used something called a Topaz, which is basically a heating device that is -- it's a debrider as well to go through the tendon multiple times, poke small holes into it so it can bring more circulation, more blood to that tendon to allow it to heal.

Of course, we have to close the skin layer by layer, put stitches in, and put bandages on, and then the patient was discharged home the same day.

Q Thank you, doctor.

A Thank you.

(Whereupon, Dr. Sharma resumed the witness stand.)

Q You can take the stand, thank you.

A Okay.

Q Doctor, is the patient awake or asleep during this procedure?

A This type of surgery the patient is it a sleep, the patient is -- gets general anesthesia, they're basically in a medically induced coma, sleeping, when, then we, of course, use local anesthesia to cover the entire ankle, so then when they wake up, they're not in any pain.

Q Doctor, based on your surgery, did you actually see these tears and adhesions and injuries with your own two eyes?

A Yes, absolutely.

Q And based on your surgery and the films you reviewed and everything else, do you have an opinion, to a reasonable degree of medical certainty, as to the cause of all of these injuries?

A Yes, it was a traumatic accident and the only traumatic accident that he sustained was that accident that he told me in September 2020 that he sustained.

Q And each and every one of the injuries that you addressed in your surgery, were any of them preexisting?

A None.

Q Were any of them degenerative?

A Absolutely not.

Q And by the way, just for the jury, can you define what is degenerative?

A Degenerative is basically the normal wear and tear that body or the joints go through as we get older, but these were traumatically induced injuries.

Q What does that mean to be "traumatically induced injuries"?

A That means some sort of trauma occurred that caused the tears to occur, that caused the tenosynovitis to occur, even though the fracture had healed at that point, he did have that fracture of the bone spur.

Q Doctor, after your surgery, did you recommend a course of physical therapy for Mr. Garcia?

A Yes, absolutely.

Q Did he attend?

A Absolutely.

Q And when was the last time that you saw Mr. Garcia?

A I saw him recently, about a month ago, I'm just going to open up my chart.

Q Sure.

A That was on September 28th of this year.

Q Okay. And what, did you do an examination of him on that visit?

A I sure did.

Q What did your examination most recently reveal?

A So the examination revealed that he still had swelling or edema to his left ankle, he still had pain along his, when I palpated it, pressed on it, to his peroneal tendons and Achilles tendon, and there was still pain, there was mild at the central ankle, and he did have pain on range of motion of the ankle.

There was limitation in range of motion of the ankle, although it did improve after undergoing surgery, the dorsiflexion, upward movement was better, 12 degrees when normal should be 20 degrees, the downward movement improved to 30 degrees of plantar flexion when normal should be 40 degrees.

The inversion, the inner, when you move your foot and ankle inwards was 23 degrees, when normal should be 30 degrees. The eversion meaning moving your foot outwards was 15 degrees when normal should be 20 degrees.

I did compare his contralateral right ankle, the right ankle had normal range of motion on each plane. I also took measurements using a measuring tape of his foot, and his ankle because he had swelling, the circumference that I measured on the middle of the foot was 32 centimeter on the left, on the right, it was 30 centimeter, and that two centimeters is pretty,

substantial, because of the edema, the swelling. The ankle circumference I mentioned to be 28 centimeters, when the right ankle had 26, also two centimeter doctor, the lower leg circumference was measured to be 33 centimeter, and the right lower leg was 30 centimeter, so it's all of that swelling that still persists that's causing the soft tissues to expand, causing that increased circumference.

There was also muscle strength loss, which is expected any time someone has a tear of a tendon, they will lose muscle strength, at least one grade and that was the case in Mr. Garcia, the muscle strength was noted to be four out of five, that's the muscle strength that we use in dorsiflexion, plantar flexion, inversion and eversion, compared to the right side had normal muscle strength five out of five.

Q Doctor, when you last saw him a few weeks ago, did you assess his function, his functionality?

A I did.

Q What were your findings?

A So he still had severe functional limitations, I took a detailed history, and he was still taking pain medications, he told me his primary care physician now prescribes him pain medications, acetaminophen, which is basically Tylenol, and pain reliever, Tizanidine, which is a muscle relaxer, it reduces the spasticity of the tendons and muscles, and lidocaine topical patches, which is basically numbing medication.

He was still having the swelling, which was clearly observable, and then he was using compression socks knee high compression socks to help control that swelling.

He was doing regular maintenance physical therapy exercises that were taught to him at the physical therapy center, he still had difficulty with activities of daily living and doing household chores, his family helps him with those chores, still very limited withstanding and walking, and he told me that he can walk for about two, three blocks and then he has to stop, because the pain gets, you know severely worse.

He does not wasn't to push himself past that distance he has learned to live with this pain, and his swelling would increase as the day goes on, in the morning it's less, I saw him in the morning actually, that was, and then it progresses as the day goes on, whether changes are hard for him when there's cold weather, when there's rain, there's flare-ups, which is expected from a joint injury, he has difficulty using stairs, he walks in a slow manner along himself extra time to go up and down the stairs, he still felt weakness, he reported weakness in both his ankle and knee, and the swelling from the knee would going down and settle into his ankle and foot.

He did lose substantial amount of weight, I have to give it to him, he was, you know also now, because of this injury on his left lower extremity, he was compensating on the right lower extremity, putting more pressure on the right foot

and ankle and lower leg and that was becoming symptomatic.

Q Doctor, the fact that he has lost weight, has that helped him or hurt him in terms of his recovery?

A That's helped him.

Q Do you have an opinion, to a reasonable degree of medical certainty, as to whether or not Mr. Garcia's left ankle injuries are permanent?

A Unfortunately, they are permanent when you have significant amount of injuries to your ligaments and tendons when you actually have tears, the muscle strength does not come back, and you get residual deficits that you're left with.

Q I want you to assume there's testimony in this case from Mr. Garcia, that he still having trouble with walking, painful walking, and difficulty navigating uneven or slippery surfaces, pain walking up and down the stairs, pain sitting and standing too long, pain with weather changes, as you mentioned that his foot and ankle continue to swell up to the size of a football.

Are those reasonable in light of his injuries?

A Oh, absolutely, I mean when you have injury to the tendons and lose muscle strength, that propulsiveness, that first step and any step after that, your foot just doesn't move in the same manner, it does, your heel does not lift up and your foot doesn't slap to the ground to help you push forward, the ligament and tendon injury, even though repaired, there's still

weakness. There's going to be patient does feel some sort of instability, where they feel they have to walk gingerly, in a slow manner which what he's dealing with, and the muscle strength, for loss of muscle strength is because of those tendons tears.

Q When you just saw him about a month ago, was he still wearing ankle brace?

A He was wearing the ankle brace, he was wearing compression socks, he uses the cane on and off, not all the time, he tries to walk without the cane as much possible, but still using the brace and compression socks.

Q Do you have an opinion, whether or not it's still reasonable to use the compression socks and ankle brace and cane occasionally?

A On his condition it's reasonable, he has to live his life as limited as his life is, the brace provides support and different types of braces, he has a -- like ankle sleeve type of brace, that just controls any instability, kind of helps gives you a sense that the ankle is stable, but he still has swelling, he still has edema, so the compression socks are going to be life long, he has to wear them for the rest of his life because of that swelling that occurs.

Depending on the flare-ups, if the ankle is more stiffer than other days, other days may feel more stiff more pain, it's hard to walk with some of the patients, a cane would

help him get around. Although he told me he doesn't use it all the time I said listen, if you need to use it to help you get around, you can use all three.

Q Doctor, do you have an opinion, as to Mr. Garcia's prognosis going forward?

A Prognosis is guarded, he still has a long life ahead of him, there's going to be, unfortunately, as time goes on, these injuries although I repaired them, there's residual deficits. There's going to be wear and tear much more rapidly of his joint, there's, I don't have a crystal ball, but with this type of joint injury, you will get some sort of posttraumatic arthritis.

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A You will get something called posttraumatic arthritis, which any time there's a joint that's injured, your cartilage gets damaged and as time goes on, that arthritis sets in much sooner than as we would normally age, and then he will be requiring more treatment, as those things that are -- somewhat stable, become much more unstable later on.

Q Do you have an opinion as to what Mr. Garcia's needs are for his future medical care related to his ankle?

A Sure.

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A In terms of periodically, he will need diagnostic studies, MRIs, periodically, of course pain medications, injections, to help manage his pain, and but as that arthritis and inflammatory tissue gets worse, he will need another cleanup of his ankle joints the arthroscopy that I did, possibly, Achilles tendon lengthening, because that spasticity is gone, it's contracted.

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A So that will be --

THE COURT: Overruled, and as I said earlier, he's a treating provider, he's entitled to offer prognosis evidence, and it's entitled to offer.

MR. BUFFALOE: It's speculative, Judge.

THE COURT: Overruled. Go ahead.

THE WITNESS: Thank you, your Honor.

A So that would be the most, the first surgery you know that he would have to have, and he's, he's a young guy, you know he's 49 right now, he has a long life ahead of him, the arthritis we cleaned it out, you can't cure arthritis, he can just kind of manage it, and appeared eventually, that arthritis becomes end stage arthritis, where a cleanup is not going to work it's not even medically indicated, and then, unfortunately, that ends stage arthritis leads to ankle fusion or ankle arthrodesis, where you lock up that ankle using a plate and some

screws or a rod to restrict that movement, will that make him feel better and improve his symptoms, no, we're just kind of lessening his symptoms, it won't cure it.

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A It's going to just lessen his symptoms, so that he can continue to do as much of his limited activities that he can.

Q Can you explain to us the likelihood of Mr. Garcia needing the arthroscopy in the future and the likelihood of him needing this fusion surgery in the future?

A Within a reasonable degree of medical certainty, it is very possible.

MR. BUFFALOE: Objection.

THE COURT: What?

MR. BUFFALOE: He is not a medical doctor, it has to be a podiatric.

A Within a reasonable degree of podiatric and foot and ankle specialty, yes, he will need these procedures because of his age, he's young, he's got a long life ahead of him. This joint is going, it also is a problem for him and as time goes on that arthritis is going to get worse.

Q Doctor, are you familiar with the cost of an arthroscopy procedure?

MR. BUFFALOE: Objection.

THE COURT: Overruled, are you?

THE WITNESS: Yes, your Honor, yes.

Q What is the cost of the arthroscopy procedure that he will need in the future?

A It's $40,000, that includes the hospital fee which is the bulk of it, the equipment cost, the nursing staff, anesthesia.

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A The surgeon fees, trust me is a lot less, it's really the hospital fees, it's $40,000 for medical testing, of course, medical clearance, the whole gamut of the care that's needed for this, is just not the surgery itself, but there's, of course, everything that's surrounding the surgery would be $40,000.

MR. BUFFALOE: Objection.

THE COURT: You've already objected to this piece of information. I already overruled your objection. I don't know why, you can't keep objecting to the same piece of information that I already ruled on.

Q Are you familiar, doctor, with the cost of a fusion surgery you opined Mr. Garcia will need in the future?

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A Yes. So it's a much more expensive surgery, it requires a hospital stay, the orthopedic nail, screws and plates are expensive, so, again, taking into consideration everything,

the hospital stay, the hospital surgery.

MR. BUFFALOE: Can we approach, please?

THE COURT: No.

A The costs would be anywhere from $80,000 to $200,000 for this type --

MR. BUFFALOE: Objection.

THE COURT: Overruled. Sir, I've already ruled that as long as he knows the cost or knows the cost or can professionally estimate the cost of the procedure and the surrounding costs, that as a treating provider, he's entitled to opine about it.

It doesn't change regarding which procedure we're talking about, the ruling is a same.

Q Doctor, have all of your opinions that you have offered to this jury today been to a reasonable degree of podiatric certainty?

A Yes, absolutely.

MS. GOLDFADEN: I have nothing further.

THE COURT: You want a few minutes?

MR. BUFFALOE: Yes.

THE COURT: Five.

MR. BUFFALOE: Yes.

THE COURT: We will take a five-minute recess. You remain under oath. Please don't discuss your testimony with anyone, ladies and gentlemen, don't discuss the case, take a

quick few minutes, we will be back.

COURT OFFICER: All rise, jury exiting.

(Whereupon, the jury exited the courtroom.)

(Whereupon, a short break was taken.)

(Whereupon, Dr. Sharma exited the witness stand.)

(Pause in the proceedings.)

THE COURT: I don't know if it matters to the jurors, Plaintiff's Exhibit 17 placed in record, Lenox Hill Radiology images, that was described in the transcript as having been a CD, it is actually a thumb drive or flash drive.

MS. GOLDFADEN: Yes.

THE COURT: The Court now has possession of that.

MS. GOLDFADEN: Yes, thanks.

COURT OFFICER: All rise, jury entering.

(Whereupon, the jury entered the courtroom.)

THE COURT: Okay, folks, you can sit as you come in much.

As I mentioned yesterday, to our jurors, it has been good and warm at various points this morning, and cools off at various points. I see some of you have sweaters and sweatshirts, as you need to, you can go ahead and change.

Sir, are you ready for cross-examine?

MR. BUFFALOE: I am.

THE COURT: Dr. Sharma, if you would retake the

stand, and as a reminder, you remain under oath.

THE WITNESS: Yes, your Honor.

(Whereupon, Dr. Sharma resumed the witness stand.)

THE COURT: Your witness, sir.

CROSS-EXAMINATION BY

MR. BUFFALOE:

Q Good afternoon, Dr. Sharma.

A Good afternoon.

Q Now, just a clarification on your qualifications, you're not a medical doctor, you didn't go to medical school?

A I went to podiatric school, I'm a podiatric surgeon.

Q You're not a medical doctor?

A I am not a medical doctor or M.D.

Q You're not an orthopedic surgeon?

A I'm not an orthopedic surgeon.

Q Now, as you mentioned on direct examination, you also work, the company that you work for now is called Motion Orthopedics; correct?

A That is correct, it's the same practice.

Q But it's also been known as McCulloch Orthopedics and New York Sports; correct?

A New York Sports and Joint, correct.

Q And we report that you prepared in September, September 28th of 2026, that was under Motion Orthopedics; correct?

A Yes, correct.

Q With that said, when you saw Mr. Garcia -- withdrawn.

You say that you're not getting paid to be here, the practice is; correct?

A That's correct.

Q Do you know how much the practice is getting paid for your appearance?

A I have no idea.

Q Do you know how much Plaintiff's firm is being charged for you to be here today?

A I have no idea, I just work for the practice. I'm a fully employed W-2 employee.

Q If I'm understanding correctly, you don't actually receive a check to practice; do you?

A No.

THE COURT: From Plaintiff's Counsel?

MR. BUFFALOE: From Plaintiff's Counsel.

THE WITNESS: Yes, your Honor, that's correct.

Q Do you have an ownership interest in the practice?

A I don't.

Q You're just an employee as you said?

A Yes, correct, I have no ownership interest in any medical practice.

Q By the way, what about Surgicore?

A I have no ownership in any medical practice or surgical practice or any hospital.

Q How many times have you testified in court before, Dr. Sharma?

A Only for my patients, I would say probably ten or 11 times.

Q And you mentioned as well you met with Plaintiff's Counsel to prepare for your testimony today; correct?

A Yes.

Q How long was that meeting?

A 30 minutes I would say.

Q Where was that, in Plaintiff's Counsel's office, your office or somewhere else?

A In our office.

Q And during the course of that meeting, did you review any documents?

A I went over my chart, we went over the MRIs that I showed, and we discussed how the MRI correlates with the examination.

Q Was that before or after September 28?

A I don't remember, it was a few weeks ago.

Q By the way, when you saw Mr. Garcia on September 28, that was at the request of Plaintiff's Counsel?

A No, that was on, at the request of our office, I like to see the patient in a timely contemporaneous manner to see exactly what's going on with their injury.

Q When you say "contemporaneous," you mean before you

take the stand and testify?

A Absolutely, I would like to know what's going on with the patient in the current stage.

Q The last time you saw him before September 28, 2026, was in November of 2025; correct?

A Can I just check my record, please?

THE COURT: Counsel, can he check his chart?

MR. BUFFALOE: Sure.

A Thanks.

Q But it was November or December?

A It was on January 28, 2026, this year.

Q Dr. Meehan saw him on January 26, not you; correct?

A She works under me. I'm her supervising podiatric surgeon.

Q When was last time you saw him?

A I may have seen him because we're in the same office the same time, and sometimes I pop in and see the patient quickly, she prepares the chart and records the examination and the findings.

Q So the last report you prepared based on your examination was in December 2025; correct?

THE COURT: Before the September 26th report you mean?

MR. BUFFALOE: Correct.

A Just checking my chart, so the report prepared by me

personally was on September 10, 2525.

Q So more than a year ago?

A That's correct.

Q When you first saw Mr. Garcia in November of 2021, the first step was more than a year after the incident; correct?

A Yes, correct.

Q The second is, the records that you testified about are pre-accident, you did not have them at that time; correct?

A On that visit, most likely no.

Q When was first time -- by the way, you saw those records?

A I don't recall. The only thing I recall I did review them prior to this testimony.

Q Prior to this testimony, was that during the same meeting with Plaintiff's Counsel?

A Yes.

Q You would agree with me there's no mention whatsoever in your records that you maintain of these pre-accident records; correct?

A No, that would not be the usual practice of preparing documents. No, there's no mention of the prior records. That would not be part of a treating doctors' chart.

Q When you took a history of Mr. Garcia, did he not tell you he was already under treatment for pain and complaints about his foot and ankle; correct?

MS. GOLDFADEN: Objection, inaccurate characterization.

THE COURT: I'm not sure I understand.

Did Mr. Garcia tell you that, whether he was actively under treatment you mean?

MS. GOLDFADEN: No.

THE COURT: Sustained as to that form, just as to the form. Whether he was actively under treatment for his foot and ankle at the time he came to see Dr. Sharma.

Q Well, did he tell you that he had prior to the date of this accident, September 25, 2020, that he had treatment for pain in his foot and ankle bilaterally?

MS. GOLDFADEN: I object to the use of the term "ankle," because that's not substantiated by the records and it's misleading.

THE COURT: This is the same about the distinction from yesterday ankle versus Achilles.

MS. GOLDFADEN: Yes, your Honor.

THE COURT: Sustained.

Q Did Mr. Garcia advise you before, at any time when you saw him that he had complaints about pain in his feet before September 25, 2020?

A Yes, we know that he had plantar fasciitis on the bottom of his heel, I'm aware of that.

Q You became aware of that when though?

A I don't recall.

THE COURT: The earlier question, sir, was whether he told you about that as part of your past pertinent history, I think that's what Mr. Garcia is getting at.

MR. BUFFALOE: That's I'm asking.

A At the first visit I was not aware of the plantar fasciitis, and treatment. I was aware of the treatment that happened.

Q After the accident?

A After the accident.

Q You were not aware of any of the shots that he received to his feet either; correct?

A On the first visit, no.

Q You were unaware of any films or X-rays or diagnostic testing that was performed on his feet, correct, before September 25, 2025 before the accident?

A No, I was not aware of that.

Q He didn't advise you of that; correct?

A He may have, it's not in my records, so, I would say no.

Q When you say may have, you just mentioned you make an effort to make your records thorough; correct?

A Yes.

Q If he had mentioned he had any problems with his feet before the day of the accident, would you have recorded it?

A Most likely, yes.

Q By the way, at any point, initial examination up until today, did you confer with the podiatrist that was treating him before September 25, 2020?

A No, because it was not relevant to his injuries at all.

Q If I understand your testimony correctly, as to the issues of causation, any prior treatment he received from this podiatrist before the date of the accident was irrelevant to you?

A Yes, absolutely, totally irrelevant, he had no trauma prior to this accident. It was an overuse inflammatory plantar fasciitis that he was dealing with, it was not relevant.

Q I'm sorry, go ahead.

A It was not relevant, sir.

Q So, in your opinion, the -- any complaints he had regarding his feet any preexisting conditions he had had no relevance to you regarding your course of treatment; correct?

A Correct, there are limits.

Q By the way, the Crystal, the pre-accident pre-September 25th, 2020 X-rays that were performed, are you aware that they showed bilateral osteoarthritis?

MS. GOLDFADEN: Note my objection, as to it's a mischaracterization, and it's also --

THE COURT: We're not going to have speaking objections, just your objection.

MS. GOLDFADEN: Yes, your Honor.

THE COURT: With respect to his foot and ankle you're saying?

MR. BUFFALOE: Yes.

THE COURT: Unless I misunderstand what's in the records, sustained.

MR. BUFFALOE: It is in the records.

THE COURT: It's okay if it's in the records show us, but based on previous objections we have already had in this case as to what was represented to me, the objection is sustained.

If you have documents to the contrary, I'm ready to reconsider.

Q Dr. Sharma, are you aware those same X-rays showed a large calcaneal deposit near insertion?

A I, from what I recall, I'm happy to review it, from what I recall, it's -- it said that there was bone spurs on his bottom of his heel and bone spur on the posterior calcaneus, I don't recall that terminology, I'm happy to review that.

Q And it showed a bone spur at the back of his left heel?

A Yes.

Q And that's where the calcaneal -- I mean where the Achilles inserts; correct?

A That's correct.

THE COURT: You're talking about prior to the accident?

MR. BUFFALOE: Yes.

THE COURT: Which I think the doctor already acknowledged.

THE WITNESS: Yes.

Q On October 14, 2019, the Plaintiff had injections to both heels; correct?

A I don't recall the date, but I know he had injections done to his bottom part of his heel, that's for sure, I don't recall the date though.

Q He was also recommended for orthotic shoes; correct?

A I do recall that, yes, inserts, that go inside your shoes, which is the treatment for plantar fasciitis.

Q And he continued to get shots until June of 2020; correct?

A I don't recall the dates, but I -- yes, he did continue to get injections on the bottom of his heel, yes.

Q And also, on June 23, 2020, he was examined, and his ankle dorsiflexion was zero degrees; do you recall that?

A I don't recall that.

Q You would agree as you said that normal is 20 degrees; correct?

A Normal is 20 degrees, yes.

Q Dr. Sharma, would you agree that plantar fasciitis and heel spurs are common in people who carry excessive weight?

A Yes, yes, it's very common in the New York City

population, whether you have excessive weight or less weight, it's just if you're standing and walking a lot; yes, it's very common.

Q You would agree with me they are painful?

A Yes, they're painful.

Q Did you examine the X-rays taken at the urgent care the Plaintiff went to three days after the accident?

A After the accident, I don't have that in my record, but the films were not available, I'm happy to look at the actual films.

Q You mentioned you sent the Plaintiff to have an MRI done at Lenox Hill; correct?

A Yes.

Q Did you review the MRI that was taken on April 2021?

A Yes.

Q That was at high field High Field Open MRI?

A Let me check the name, I mean, yes, it was an open MRI in High Field Open MRI study place that he went to, prior to seeing me.

Q Did you review those films yourself?

A I did.

Q And the films were found to show that the -- that there was no fracture; correct?

A That was on the report it said there was no fracture when I personally reviewed the films, I have the CD with me, it

was a low resolution MRI study, it showed there was injury to the tendons and the ligaments, but not every MRI is the same, it's -- there's higher definitions of MRI like watching TV, when watching an old TV, it's kind of grainy. When watching a new TV, the images are much more clear.

When I reviewed his films and examined him, it seemed that there was something more going on with his condition, and I wanted to get a higher definition MRI study done, a closed MRI instead of an open MRI, open MRIs have no resolution.

Q So, Dr. Sharma, you would agree with me that that high field MRI did not show a fracture; correct?

A Yes, because of the poor quality, yes.

Q Now, in other words, your reading of the MRI differs from that of the radiologist who took it; correct?

A Well, somewhat, the radiologist did mention the tear of the Achilles tendon, did mention the injury of the ligament and the tendon, but I don't blame the radiologist, because the images were low quality, and when I first saw him, I didn't, I wasn't even thinking fracture when I first saw him, but it's only after I ordered the CT scan also that showed it.

Q You did disagree with the finding of the radiologist; correct?

A Yes, I did, yeah.

Q Doctor, that radiologist also reading those films determined there was no tear of the anterior talofibular

ligament?

A The radiologist did not write that in the report.

Q And said that the ATFL was expressly intact; correct?

A In the report, it says that, yes.

Q And the calcaneal fibular ligament, the posterior talofibular ligament, the deltoid, syndesmotic ligament, all intact?

A That's what the report states, yes.

Q I might add, by the way, you did mention that you did review that MRI.

Was that preparation for your testimony?

A No.

Q It's not mentioned in your medical notes, however?

A It is mentioned in my note.

Q Where?

A Sure MRI, reading from the chart, MRI of left ankle dated 4/8/2021, reveals a low resolution study, there's a low grade partial tear of the Achilles tendon, there's a low grade interstitial tear and tenosynovitis posterior tibial tendon, there's tenosynovitis of the peroneal tendons, there's a low grade partial tear of central band of plantar fascia.

THE COURT: He's reading to you from the chart in response to what you asked him?

MR. BUFFALOE: I just asked him.

THE COURT: You asked him.

MR. BUFFALOE: Not what.

THE COURT: You asked him, can you show you in the chart, he said where.

MR. BUFFALOE: He said I'm going to read from my chart.

THE COURT: Which he is, which is in evidence.

MR. BUFFALOE: No.

THE COURT: It is, the chart, Dr. Sharma's chart is in evidence.

MS. GOLDFADEN: Yes, your Honor.

THE COURT: Plaintiff's Exhibit 5.

Q What date are you reading from?

A The date of his first examination of November 1, 2021, I just want to finish my first sentence, severe nonspecific subcutaneous edema throughout the ankle, ankle joint effusion, there's a lot of swelling in that area.

Q Are you referring to a November 8th, 2021, MRI?

A No, it's in my record -- sorry, it's April 28, 2021, MRI, prior to me seeing him.

Q If I'm understanding correctly, you're accounting for the difference between what was reported by the radiologist in April 2021, and your, the MRI you took in what, 13 months later was the quality of the MRI; correct?

A Yes, that's correct, the quality matters especially when there's a lot of swelling and edema covering the soft

tissues.

Q Would you agree, by the way, that -- withdrawn.

The fracture you mentioned, by the way, you said it's a posterior calcaneal enthesophyte?

A Enthesophyte, a hard word to pronounce, basically a bone spur.

Q So that is degenerative, that's preexisting correct?

A The bone spur, yes, is preexisting.

Q And that location is, as you said, is where the tendon inserts; correct?

A So part of the tendon attaches over there, and then it fans out, and attaches to the rest of the calcaneus.

Q Now, by the way, tendinopathy and peri-tendonitis are chronic degenerative conditions; correct?

A In -- they're not degenerative conditions, tendonitis is some sort of inflammation going on in the tendon, which is different than tenosynovitis.

Q Fair to say bone spurs develop over time; is that correct?

A Yes, sir.

MS. GOLDFADEN: Note my objection to the form, using as well.

THE COURT: Can you read the question back?

(Whereupon, the question was read back by the reporter.)

MS. GOLDFADEN: He said the word as well.

THE COURT: It's not in the transcript.

Did the doctor answer the question?

A Yes, bone spurs develop over time.

THE COURT: Great, that's it.

Q Would you agree also that arthropathy is degenerative?

A I'm sorry.

Q Arthropathy is degenerative?

A Arthropathy is just a general term that shows there's some inflammation. There's a very vague general term.

Q Would you agree that osteophyte formation is degenerative?

A Osteophyte is degenerative, it's wear and tear.

Q The MRI or the film that you reviewed of Plaintiff's left heel taken in April of 2019, that showed a large calcaneal deposit; correct?

A I'm sorry, did you say MRI or X-ray?

Q X-ray.

A Patient never had an MRI before.

Q X-ray.

A I'm sorry, what was the question again?

Q Did the April of 2019 X-ray show a large calcaneal deposit in his left foot?

A Well, there were not deposits, they were, you know, bone spurs that was on his heel, on the bottom and the posterior

back part of his heel, there were bone spurs.

Q Were they large?

A I did not look at the -- I don't recall looking at the actual films from that visit. All I have is the review of the records, I don't have the actual films.

Q I understand.

You first recommended surgery to Mr. Garcia in December of 2021; correct?

A Let me check, so I didn't recommend it, I told him that you likely will need surgery. I'm concerned about you having CRPS, because of the general discoloration and all of the swelling, so I want to get that ruled out.

Q When did you first recommend the surgery?

A Sure, just checking my chart, so on the January 24th, 2022 visit is when I recommended surgery which he agreed.

Q Approximately a month later?

A Yes.

Q The surgery didn't go forward at that time because of your concerns about Mr. Garcia's weight; correct?

A Yes.

Q And you specifically indicated that you not operate unless his BMI was below 50; correct?

A Later on, yes, I did put that in my records that look you already losing a lot of weight, let's just get more weight loss, and then it would be better for your recovery.

Q Part of your concerns were that he needed clearance from cardiology, pulmonology and GI gastrointestinal?

MS. GOLDFADEN: Just objection to the form, mischaracterization.

THE COURT: Did you require a different medical clearance from him because of his weight or was, were those, to the extent you did require clearances to those items, did you require that for all surgeries or was that, or was that specific to this patient?

THE WITNESS: I'm only required just a regular internal medicine clearance. He did not have any other pulmonology or cardiology clearance, he does not have any cardiac issues or pulmonary issue, it was only the regular medical clearance that we ordered.

THE COURT: Thanks.

THE WITNESS: Thank you, your Honor.

THE COURT: Folks, I'm sorry, it's three past one, we will go ahead and recess, and be back, please be back in the jury room by a couple of minutes after two, we will back on the bench by 2:15.

Sir, you remain under oath, don't discuss your testimony. Thanks for heads up.

COURT OFFICER: Not a problem, all rise, jury exiting.

(Whereupon, the jury exited the courtroom.)

(Whereupon, Dr. Sharma exited the witness stand.)

(Whereupon, a lunch break was taken.)

A F T E R N O O N S E S S I O N

(Pause in the proceedings.)

COURT OFFICER: Come to order.

THE COURT: Thanks.

(Whereupon, Dr. Sharma resumed the witness stand.)

COURT OFFICER: All rise, jury entering.

(Whereupon, the jury entered the courtroom.)

THE COURT: You can all be seated as you come in, thanks folks.

Sir, you remain under oath.

THE WITNESS: Yes, your Honor.

THE COURT: And Mr. Buffaloe, the witness is yours.

MR. BUFFALOE: Thank you, your Honor.

CONTINUED CROSS-EXAMINATION BY

MR. BUFFALOE:

Q Dr. Sharma, are you compensated separately when you do surgeries?

MS. GOLDFADEN: Objection as to relevance.

THE COURT: I don't know but it's -- he's already testified one way about it, so he can answer.

A I don't understand the question, I mean the practice bills for it, and the practice gets compensated.

THE COURT: Are you personally compensated?

THE WITNESS: Absolutely not.

Q So when you did the surgery to Plaintiff in Surgicore, that was also billed by the practice?

A Yes, absolutely, I -- I don't bill myself, the practice gets compensated for any services that I perform.

Q And when you say "the practice," do you mean Surgicore or Motion Orthopedics?

A It's Motion Orthopedics.

Q When you do the surgery at Motion Orthopedics, or McCulloch or New York Sports bills for that as well?

A Any type of approval services performed by me are billed, and payments are received by the practice, not me personally.

Q And am I to understand you to say your salary is flat rate, no matter what you're doing?

A It is a flat rate, that's what I get paid, but I'm, somewhere else, I'm W-2 employee.

Q If you do one surgery a day or ten surgeries a day, you get paid the same amount?

A Not me --

THE COURT: You personally?

THE WITNESS: Me personally, yes, I just get paid whatever the amount is.

Q By the way -- withdrawn. Let me ask a different question.

In connection with the Plaintiff's bariatric surgery, he had to get certain approvals, correct, right, from other specialties; correct?

THE COURT: Bariatric surgery?

MR. BUFFALOE: For his bariatric surgery.

MS. GOLDFADEN: Objection.

THE COURT: Sustained.

MR. BUFFALOE: He notes it in his records, it was one of the reasons he postponed.

THE COURT: He didn't perform the bariatric surgery.

MR. BUFFALOE: It is one of the reasons surgery was delayed, he couldn't get the clearances.

MS. GOLDFADEN: Objection.

THE COURT: Sustained, also not germane to the case.

MR. BUFFALOE: The delay in the surgery is not germane to this case?

THE COURT: Any detail in his bariatric surgery is not relevant to this case. This doctor testified just before lunch that he only required the normal presurgical clearances for this patient for Dr. Sharma's surgery and didn't require anything special.

Q Dr. Sharma, you note in your records that the Plaintiff was waiting, was following up for care, examinations in

connection with the bariatric surgery; correct?

A That's correct, he was undergoing process for that bariatric surgery.

Q And you took that as part of the history when he followed up with you because you were endeavoring or planning when to conduct the surgery you ultimately conducted; correct?

A Well, yes or no, and because, again, the surgery that was originally planned was much more complicated than the surgery he eventually underwent and because of that complexity of that Achilles tendon being removed and being reanchored, that weight was a problem, that's why he couldn't undergo that particular surgery.

Q Nevertheless, you still waited until he had the bariatric surgery, and he lost, his BMI was below 50 before you conducted the surgery; correct?

A Yes, lost a significant amount of weight prior to the surgery.

Q So I'm reading your records correctly, at some point during the course of your treatment, he was as heavy as 460 pounds; correct?

A Yes.

Q By the time you performed the surgery on November 15, 2024 he was approximately 312 pounds; correct?

A Yes, I believe he had lost a substantial amount of weight.

Q Now, the surgery you performed, was approximately 20 minutes -- sorry, 40 minutes; correct?

A I don't recall how much time it took.

Q Well, you record the time it took in your records; correct?

A Not in my records, that would be in the hospital or the surgical center's record.

Q Did you review the surgical records?

A I only reviewed my operative report.

Q So you did not review the surgical records?

A I for a patient's care, they're contemporaneously noted by the nurses, anesthesiologist, all of the members of the surgical team.

Q I asked whether you reviewed them before you got on the stand today, Dr. Sharma?

A I did not.

THE COURT: The op report or the --

MR. BUFFALOE: No, the surgical records, he said he reviewed.

THE COURT: Got it.

Q By the way, just so I'm clear, the debridement, by the way, of the synovium is basically a cleaning out?

A For the arthroscopy part, yes, as I stated earlier, it's cleaning of the joint.

Q And you can't tell from when you're doing when that

inflammation began, it could have lasted for years?

A The important part that he had hemorrhagic synovium, hemorrhagic means there's dried blood, so there was some type of a trauma to the joint itself that would cause that hemorrhagic synovium.

Q Doctor, I'm asking you whether or not you can tell when the inflammation occurred?

MS. GOLDFADEN: Objection, asked and answered.

THE COURT: Sustained.

MR. BUFFALOE: He didn't. He answered a different question.

THE COURT: Anyway, he answered the question in the way he understood your question. If you want to ask a different question, feel free.

MR. BUFFALOE: I did ask a different question.

Q From examining the inflammation that you observed during the course of the surgery, can you tell when it occurred, when it first started?

A No, we cannot tell that.

Q Now, when you examined him in March of 2025, this is after the surgery; correct?

A Can I look at my record?

Q The surgery was November 15th, 2024, so March of 2025 is after; correct?

A Yes, that's correct.

Q He reported to you his pain was a four out of ten; correct?

A Can I look at my record?

Q Sure, I am --

A I'm sorry, what was the date again?

Q March of 2025.

A Yes, pain reported to be four out of ten on the March 12th, 2025 visit.

Q And in September of 2025, he reported that his pain was three to five out of ten; correct?

A On the September 10, 2025, the patient reported the pain was three out of ten to five out of ten.

Q That was the last time that you saw him in September of this year; correct?

A He was seen in our office.

Q I'm asking about you, Dr. Sharma, not anyone else in your office.

A Me personally doing a report and personally examining the patient, yes, that is correct.

Q Now, he was seen in the office in January of 2026 by Dr. Meehan; correct?

A Correct, who works under me.

Q At that examination, she recorded that the Plaintiff said that there was no pain at rest, and then she said there was no need for assistive devices at home; correct?

A Just going to review, so she did note at rest there was no pain in the left ankle, and then she recommended that he try to discontinue the brace and the cane, and he's going to still work on it but still use the knee high compression stockings for swelling.

Q He also reported to you that in --

THE COURT: To him?

MR. BUFFALOE: To him.

Q In July of 2025, that he had stood for several hours at a 4th of July BBQ?

A What was the visit, are we going back to a previous visit?

Q July of 2025.

A So, yes, July 9, 2025, patient reported that on 4th of July, he was a BBQ for several hours, which created increased swelling and pain, and then he was bedridden for two days.

Q That would be standing for four hours at least, correct, on his own volition; correct?

MS. GOLDFADEN: Objection to the form.

THE COURT: Sustained.

Q That's what he reported to you; correct?

MS. GOLDFADEN: Objection.

THE COURT: He reported that he stood for four hours or he was at a BBQ for four hours?

THE WITNESS: There was never any number of hours

that he was just standing at a BBQ on 4th of July.

Q For several hours?

A For several hours, I have no idea he was at the BBQ, whether sitting standing up, I have no idea, but I do know he was bedridden for two days after that.

Q That's what he reported to you?

A That's correct.

Q Now, with that said, the last time the Plaintiff had any physical therapy was last year; correct?

A I'm not sure the exact date, but at this point he was been doing regular home maintenance physical therapy.

Q When you say "home maintenance," you mean home exercises?

A Exercises including stretching, massaging.

Q You mean home exercises; correct?

A Home physical therapy exercises, yes.

Q Having said that, when you saw him on September 28, 2026, you didn't give him any injections; correct?

A On that visit, no.

Q And on that visit, you didn't give him any, you didn't prescribe any physical therapy; correct?

A Correct.

Q And you just recommended that he continue wearing the stockings and doing the home exercises; correct?

A I did recommend that, yes.

Q And you also concluded he's capable of working in some capacity; correct?

A So, it's extremely narrow criteria that he can possibly work from home in a sedentary capacity only for a few hours in a daytime with multiple breaks.

Q So Dr. Sharma, your report doesn't mention anything about for a few hours, does it?

A I can't explain it, right now it doesn't state that.

Q I'm asking the report that you generated on September 28, 2026, not what you're saying right now, what you said in the report, it doesn't say he can only work for a few hours, does it, it says he can work, do sedentary work at home; correct?

A That's what the report states, yes.

MR. BUFFALOE: Nothing further.

THE WITNESS: Thank you.

THE COURT: Thanks, redirect.

MS. GOLDFADEN: Just a couple, Judge.

REDIRECT EXAMINATION BY
MS. GOLDFADEN:

Q Dr. Sharma, how often is it recommended that Mr. Garcia see you nowadays?

A As needed when he's having more pain, condition is getting worse, that's when he should come see me, he does have flare-ups with weather-related changes cold weather and raining, when it gets cold, I expect him and many other patients in the

same situation to come in for treatment, which is usually injections or another other things.

MR. BUFFALOE: Objection to the last part.

THE COURT: Overruled.

MR. BUFFALOE: Objection to the last part, "among other things."

THE COURT: Overruled.

Q So doctor, the fact he hadn't, he hadn't seen you personally for about a year before the most recent visit, is there anything unusual about that?

MR. BUFFALOE: Objection.

THE COURT: "Unusual," I'm not sure what you mean by that.

Q In terms of follow-up care?

THE COURT: In terms of what he expects the follow-up care for this patient would be?

MS. GOLDFADEN: Yes, yes.

THE COURT: With that limitation, overruled.

A No, it's pretty expected, there's no further different treatment I would do for him, maybe an injection if the pain is severe. He has chronic pain, chronic swelling which he is managing to the best of his ability.

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A Using all of the tools that I have given him, he's

getting the pain medications prescribed by his primary care physician, the Tizanidine, the acetaminophen, lidocaine patches, so I'm not managing his pain levels, his primary care physician is managing his pain levels.

He has been instructed and taught how to do some of those exercises, which are usually just stretching exercises, using at home TENS unit, massage therapy, that he reported that he continues to do to this day.

Q We've heard the name Dr. Meehan, can you tell the jury who is Dr. Meehan is?

A Dr. Meehan essentially acts as a physician assistant for me like a PA, she is a podiatrist, the decision between her and me is that she's not a surgeon, and she does things such as regular tasks, such as --

MR. BUFFALOE: Objection.

THE COURT: Overruled, you asked, you asked a bunch questions about Dr. Meehan, and whether he would have seen or he, or he might have seen the patient on the same dates that Dr. Meehan saw the patient, did you, you asked.

MR. BUFFALOE: I didn't. You mentioned Dr. Meehan in connection with one visit.

THE COURT: Well, anyway you asked several times about that visit, so I'm going to allow him to answer what her role is.

A So she helps me see, I have a tremendous volume of

patients, I cannot see everyone by myself. She does postop checks, where she's managing, taking stitches out. She does not do MRI reviews, she does not talk to patients about surgery, she does not deal with any complications that the patient may have, she's just there to just evaluate the patient and if there's nothing different, and unusual about the visit, she sees them, but all of the decision-making which is discussing the need for surgery, MRI, initial visits are all done personally by me, and she does work under my supervision.

So if there's any unusual things, then I come in and see the patient, I'm always in the same office as her, we're both together in the office, at other locations that we're at, and sometimes she does assist me in the surgeries as well.

Q Doctor, I know you have been asked many questions about this, this morning, so I just want to ask a final question on this topic.

Does the fact that Mr. Garcia had plantar fasciitis before this accident, and the fact that he had a bone spur at the bottom of his heel and the back of his heel, have anything in your opinion to do with the injuries that were caused by this accident?

A Absolutely not, he had plantar fasciitis, he was receiving treatment, he was able to function without any issues, he did not have. The injuries in questions are not degenerative, they were notably existing, and he just happen to

have plantar fasciitis and bone spurs like many people have.

Q Doctor, you were asked a question about the first MRI that was taken before you saw Carlos, and that was from High Field MRI.

In terms of the gold standard for diagnosing injuries such as tears in the ankle joint, is a surgeon's eyes seeing the tears intraoperatively during the surgery the gold standard or is it an MRI or something else?

MR. BUFFALOE: Objection to the form.

THE COURT: Sustained. That can depend on reason or context; right?

Q In this particular case, doctor, what was the gold standard for diagnosing Mr. Garcia's injuries?

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A The gold standard is always looking at a tendon or ligament with your own eyes, and that's the best way to diagnose any tears.

MRI, X-rays, CT scan, they're tools, they give us a lot of good information, of course, we want to have the best tools to plan any type of surgery, but the gold standard is to actually look at these structures with your own eyes, and MRIs, of course, they're based on, again, strength of the magnet, it goes by Tesla, Tesla the unit of the magnet and they vary from zero point six Tesla to one point two Tesla, one point five

Tesla and three point zero Tesla, for all of my patients I only refer the three point zero high definition Tesla.

Q What was that earliest MRI, was that a 3 Tesla?

A Definitely not, it was an open MRI, which can never, which has lower resolution to begin with, and the patient, it was not a three point zero Tesla MRI, and better quality imaging is good because the higher resolution, we can see past any inflammation that exists that tends to obscure smaller structures. The ankle has smaller ligaments and smaller structures than other parts of your body.

Q Doctor, your most recent note from September of this year, can you take that out of your chart, please?

A Yes.

Q Okay.

MS. GOLDFADEN: Your Honor, I ask that this be marked separately as Plaintiff's Exhibit 18 in evidence.

THE COURT: The original one was five?

MS. GOLDFADEN: Yes, it can be five A or five B.

THE COURT: Why don't we do that, because --

MS. GOLDFADEN: Okay.

THE COURT: I don't want to go back to the same exhibit again.

COURT OFFICER: What are you marking?

MS. GOLDFADEN: 5A.

COURT OFFICER: Thank you.

THE COURT: Part of 5 in evidence, just the most recent, and it's subject to redaction.

MS. GOLDFADEN: I'm going to take it for a second, then hand it up to him.

Q Doctor, at on the very last page of your report, it is the last couple of lines of what you have entitled "Assessment and Plan," I would just ask that you read that to the jury?

THE COURT: Hold on, one second. I want to make sure you get to that page, do you have it?

MR. BUFFALOE: Yes.

A The assessment is what the patient's condition is, and the assessment is status post left ankle arthroscopy with debridement, modified Brostrom repair of the ATFL ligament repair and tenolysis of peroneal tendon, tenolysis of flexor tendon.

MR. BUFFALOE: Objection. This is not, what he was asked to read.

THE COURT: That's no what she asked him to read.

MR. BUFFALOE: She asked him to read on the last page.

THE COURT: Assessment.

MS. GOLDFADEN: The plan assessment, your Honor.

THE COURT: He's looking at the assessment, he's reading from the assessment and plan.

MR. BUFFALOE: I didn't understand what she wanted

him to read, I thought it was --

THE COURT: Anyway it will be faster, since these in evidence, let him get through it and be done.

A Tenolysis of credible evidence, tenolysis of flexor tendon, left ankle, chronic edema, left ankle impingement syndrome, chronic gait disorder, left foot and ankle chronic pain.

Q Can you go on to the next page, continue?

A So yes, the plan is, I evaluated the patient in weight bearing and not weight bearing position.

MR. BUFFALOE: The next sentence.

THE COURT: Hold on.

It's just the last, third from the last sentence, unless it was part of his assessment.

MR. BUFFALOE: He was just about to read, the sentence he was about to read.

MS. GOLDFADEN: Judge, I can narrow it, if it's the preference.

THE COURT: That's fine, I don't see the problem with that sentence but even with my reading glasses, it's small.

MR. BUFFALOE: I'm sorry.

THE COURT: She will modify her question.

MS. GOLDFADEN: Yes.

Can I step up just to see it, I don't have a copy

in front of.

THE COURT: Why don't you paraphrase what his findings and recommendations were rather than reading the record?

MS. GOLDFADEN: That's fine.

Q Can you paraphrase, doctor, what your findings and plan was going forward?

A So my findings were that you are now, of course, he had chronic pain, chronic swelling, loss of range of motion, there was swelling both his foot and ankle, I saw the patient and told him he should stay the course, continue with maintenance, physical therapy, and continue to do home therapy exercises for the ankle, including range of motion and strengthening exercises, I discussed with patient that he will have good days and bad days, that he will experience, weather related flare-ups with cold weather rain and humidity request with any increased weights bearing activities, he will have increased pain and a flare-ups, I discussed with him he has a permanent disability to his left ankle prone to create flare-ups, he had a significant injury to his ankle joint which will predispose him to developing posttraumatic arthritis in the future, and which will create increased flare-ups in the future.

I restricted him from driving long distances, and working in any standing position.

Q Doctor, at some point in there the defense attorney

asked you whether or not he could perform a sedentary job from home.

What did you mean by that?

A It's an extremely narrow parameters, for --

MR. BUFFALOE: Objection.

THE COURT: Overruled.

A He can sit and work but, the longer he sits, that gravity is pulling the swelling down to his leg, he needs to periodically elevate his leg during the course of the day, so the swelling does not increase and create more pain, and he will have, if he's sitting he will have to shift positions, he will have to elevate his leg up like I said, he still takes pain medications, so in very narrow capacity, he can work for maybe up to 45 minutes.

MR. BUFFALOE: Objection.

THE COURT: Hold on.

You mean 45 minutes in a day?

THE WITNESS: At a time.

THE COURT: At a time.

A With breaks after that, so in a total day, I would presume with multiple breaks he can work a half day for total, with multiple breaks about three hours, but then he has flare-up and he has more pain, some days he may not be able to work, he still takes pain medications which do impair your ability to focus on work, so that mental work, as say a computer

programmer, which he's not, he can't do that high complex mental.

MR. BUFFALOE: Objection.

THE COURT: If it's not scope of his report, if your objection is to the scope of his report, that objection is overruled.

MR. BUFFALOE: My objection is to that last comment about what he can't do as highly complexed.

THE COURT: Related to the, just to clarify, are you expressing an opinion about what this witness's intellectual capacity is?

THE WITNESS: No.

THE COURT: So what gives you the sense he can't perform a full day or even a half a day of high complexity work?

THE WITNESS: Because pain itself can be disabling and he still has chronic pain requires him to take medication which may impair his judgement.

THE COURT: Anything else?

MS. GOLDFADEN: Nothing else.

THE COURT: Recross.

THE WITNESS: Thank you, your Honor.

MR. BUFFALOE: Yes, Judge.

RECROSS EXAMINATION BY

MR. BUFFALOE:

Q Dr. Sharma, would you agree that driving from Goshen New York to Suffolk County is a long distance drive?

MS. GOLDFADEN: Note my objection, it lacks relevance and lacks any foundation.

THE COURT: Hold on, no, given that you asked about his, summarize how far the Plaintiff can drive or whether the Plaintiff can drive long distances, this line, not a half-hour of it, this line for a couple of questions is appropriate it's overruled, if you know, Goshen to Nassau, how long it takes?

MR. BUFFALOE: Four hours.

THE COURT: I don't practice --

MS. GOLDFADEN: Note my objection.

THE COURT: Sustained, I don't know if it takes four hours, in any event.

A I don't practice in Suffolk County first of all, I do practice in Nassau County.

THE COURT: That wasn't the question, the question was --

THE WITNESS: From Goshen to Suffolk.

THE COURT: Hold on. He's trying to lay a foundation for a distance, he wants to ask you about if it would have been okay for the Plaintiff to drive that far?

THE WITNESS: From Goshen to -- upstate to Suffolk County, it would be very difficult to travel, I don't think.

THE COURT: I'm so sorry.

MR. BUFFALOE: Goshen.

THE COURT: To Suffolk or Nassau?

MR. BUFFALOE: Suffolk.

MS. GOLDFADEN: Note my objection, it lacks foundation, I don't even know what he's referring to.

MR. BUFFALOE: There has been testimony on, the Plaintiff admitted he drove to Suffolk County.

THE COURT: There was some conversation about him having driven on one occasion.

MS. GOLDFADEN: That he drove or he was driven?

MR. BUFFALOE: No, he drove.

THE COURT: That I don't recall, my apologies.

MS. GOLDFADEN: That's fine.

A It would be difficult for him, but luckily for him, it's his left foot and ankle, not his right, so he's capable but he will pay for it later, because, again, being in a sedentary position if you're driving from Goshen to Suffolk, I don't know the distance, it would be, create more pain in his left ankle, luckily, he has use of his right ankle, and he can use that right ankle.

Q So you restricted him from driving all together, not sometimes, not occasionally; correct?

A Incorrect, say he could drive.

Q We just read your report.

THE COURT: He said it's incorrect, ask the next question you don't get to lecture.

MR. BUFFALOE: I am asking the next question.

Q Your report saying you just read from your report, you restricted him from driving all together?

A That's incorrect, please reread that report again patient is restricted from driving long distances.

Q And didn't we just agree that driving to Suffolk County from Goshen is a long distance?

MS. GOLDFADEN: Objection.

THE COURT: Sustained, first of all, it points out the earlier question was objectionable, he wasn't restricted from driving all together.

Second of all, did you authorize him to drive from Goshen to Suffolk County?

THE WITNESS: It depends on the visit, on the last visit is the only time I discussed with driving restrictions, I said don't drive long distances.

Q By the way, Dr. Sharma, if I'm understanding your answer on redirect, when you performed your surgery, that gold standard that you talked about, you didn't see any evidence of degeneration in the Plaintiff's heel?

A The surgery was performed on the back part of the Achilles tendon, not the plantar fasciitis, and I didn't see any degenerative changes in that area.

Q You just summarized for the jury your recommendation and your advice to the Plaintiff.

Fair to say none of that included any future surgery; correct?

MS. GOLDFADEN: Objection.

THE COURT: Well, meaning whether the assessment, sorry, your question is whether the assessment and plan included recommendation for future surgery.

MR. BUFFALOE: Correct.

THE COURT: Okay, overruled. If that's the scope of the question, your objection is overruled.

Well, did your assessment and plan you discussed with the Plaintiff in September include a recommendation for future surgery?

THE WITNESS: No, there was no surgery I discussed with him on that visit, but I did tell him he's going to have increased.

MR. BUFFALOE: You are you've answered my question.

MS. GOLDFADEN: Your Honor, may he be permitted to finish his answer?

THE COURT: It was a yes or no, he's entitled to try to restrict it to a yes or no.

Sir, thank you for coming in.

THE WITNESS: Nice to see you.

THE COURT: Is everyone okay to keep going?