

*Samayoa Veliz v NY Construction Services, et al.*

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*David J. Greifinger, M.D.*

*March 11, 2026*

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*FrontinoReporting, LLC*

*a Woman-Owned Business*

*215 922-2133 215 922-2910 fax*

*www.frontinoreporting.com*

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Page 1

1           IN THE SUPERIOR COURT OF NEW JERSEY  
2                               FOR THE COUNTY OF ESSEX  
3           MIGUEL ANGEL SAMAYOA       :   LAW DIVISION  
4           VELIZ and REINA SAMAYOA   :   :  
5           CABAJAL, his wife,         :   :  
6                               Plaintiffs,         :   :  
7                               vs.                         :   :  
8           NY CONSTRUCTION           :   :  
9           SERVICES, LLC; COMMUNITY   :   :  
10          ASSET PRESERVATION        :   :  
11          CORPORATION; NICHOLAS     :   :  
12          YOURTH; ADOLFO THE MASON   :   :  
13          LLP; ADOLFO SAMAYOA;       :   :  
14          JOHN DOES 1-10; and ABC    :   :  
15          CORPS/BUSINESS ENTITIES    :   :  
16          1-10,                         :   :  
17                                        :    DOCKET NO.  
18          Defendants.                 :    ESX-L-6501-21  
19                               -   -   -  
20                               March 11, 2026  
21                               -   -   -  
22                               Deposition of DAVID J.  
23          GREIFINGER, M.D., taken remotely via Zoom  
24          Videoconference on the above date at 2:30 p.m.,  
25          before Dolores M. Frontino, RMR-CCR (NJ).  
   -   -   -  
   FrontinoReporting, LLC  
   A Woman-Owned Business  
   (215) 922-2133  
   www.frontinoreporting.com

Page 2

1    **APPEARANCES:**  
2           CLARK LAW FIRM  
3           BY: GERALD H. CLARK, ESQUIRE  
4           and JAKE W. ANTONACCIO, ESQUIRE  
5           811 Sixteenth Avenue  
6           Belmar, New Jersey 07719  
7           (732) 443-0333  
8           gclark@clarklawnj.com  
9           jantonaccio@clarklawnj.com  
10          Attorneys for Plaintiffs  
11          KINNEY LISOVICZ REILLY & WOLFF PC  
12          BY: CHRISTIAN BRUUN, ESQUIRE  
13          299 Cherry Hill Road  
14          Parsippany, New Jersey 07054  
15          (973) 339-7607  
16          christian.bruun@klrw.law  
17          Attorneys for Defendants,  
18          Community Asset Preservation, NY  
19          Construction Services LLC, and  
20          Nicholas Yourth  
21          COLQUHOUN & COLQUHOUN, P.A.  
22          BY: KEVIN F. COLQUHOUN, ESQUIRE  
23          165 South Street  
24          Morristown, New Jersey 07960  
25          (973) 540-0500  
                 kfc@colquhounlaw.com  
                 Attorneys for Defendants,  
                 Adolfo the Mason LLP and  
                 Adolfo Samayoa  
   -   -   -

Page 3

1                               I-N-D-E-X  
2    EXHIBIT                               DESCRIPTION                               PAGE  
3                               (No exhibits were marked.)  
4                               -   -   -  
5                               QUESTIONING BY:                               PAGE  
6                               MR. CLARK                                       4  
7                               -   -   -  
8                               REQUESTS FOR PRODUCTION  
9   PAGE/LINE  
10    83/5  
11                               -   -   -  
12  
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Page 4

1                               (It is stipulated by and  
2    among counsel for the respective parties that  
3    signing, sealing, filing and certification are  
4    waived and that all objections, except as to the  
5    form of the question, are reserved until the time  
6    of trial.)  
7                               -   -   -  
8                               DAVID J. GREIFINGER, M.D.,  
9    after having been first duly sworn, was examined  
10   and testified as follows:  
11                               -   -   -  
12   EXAMINATION  
13   BY MR. CLARK:  
14    Q.   Good afternoon, Dr. Greifinger.  
15               My name is Jerry Clark. I'm  
16    an attorney. I represent the plaintiff in the  
17    case.  
18               You understand that you're  
19    sworn under oath to tell the truth?  
20    A.   I do, Mr. Clark.  
21               Good afternoon to you, sir.  
22    Q.   Do you need a minute or are you good?  
23    A.   No. I'm just straightening up,  
24    getting things ready to try to answer your  
25    questions. Okay. I'm all set.

Page 5

1 Q. If you answer a question, we're going  
 2 to assume that you understood it. Okay?  
 3 A. Correct. Yes.  
 4 Q. I'm just looking at your CV.  
 5 (Pause.)  
 6 Do you still practice  
 7 medicine as opposed to forensic work?  
 8 A. I do, yes, sir.  
 9 Q. Can you estimate what percent is  
 10 forensic work versus treating patients?  
 11 A. At this point, it's probably, I would  
 12 say, in the range of 65 percent forensic and the  
 13 rest treatment.  
 14 Q. Now, the last deposition of yours I  
 15 was able to review, I believe the percentage was  
 16 85 percent defense forensic work and about  
 17 15 percent was plaintiff work.  
 18 Can you tell us today, the  
 19 last year or one to five years, what that  
 20 breakdown is?  
 21 A. Yeah. I would say it's more like  
 22 90 percent is for the side that is on the defense  
 23 and the other plaintiff.  
 24 Clearly there's a  
 25 preponderance. I don't know exactly on that. I

Page 6

1 don't keep a record on that at all. But clearly  
 2 the preponderance is on the defense as opposed to  
 3 plaintiff's side, as it's broken down by  
 4 attorneys.  
 5 Q. And you would give a fair rough  
 6 estimation to be 90 percent defense?  
 7 A. Yes.  
 8 Q. And what do you do by way of treating  
 9 patients exactly?  
 10 Do you still do surgery or is  
 11 it just office visits?  
 12 A. I do office -- an office practice  
 13 now. I do not do surgeries any longer.  
 14 Q. And when did you stop doing  
 15 surgeries?  
 16 A. Pretty -- just about the advent of  
 17 the COVID pandemic was when I stopped.  
 18 Q. And over the course of your career,  
 19 did you have a specialty when it came to  
 20 surgeries?  
 21 A. Well, I came out as a general  
 22 orthopedic surgeon. But in the era of my  
 23 education, we really learned the gamut. So, I  
 24 really covered, you know, fractures and muscle  
 25 injuries, tendon injuries, ligament injuries, I

Page 7

1 did total joint, I did spine work. I did a lot  
 2 of hand surgery particularly in my earlier years,  
 3 et cetera.  
 4 Q. Have you done the neck surgery of the  
 5 type that Miguel Veliz had?  
 6 A. I've been involved in neck surgeries,  
 7 yes, of the same type with a fusion, yes.  
 8 Q. Have you been involved in those as  
 9 the lead surgeon?  
 10 A. On the cervical spine, no. I've  
 11 been -- I play a role with part of the fusion.  
 12 The -- as to the approach to the cervical spine,  
 13 I relied on whoever I was working with.  
 14 Q. Can you explain the dynamics of a  
 15 co-surgeon in connection with a neck/spine fusion  
 16 where there is a lead surgeon and a co-surgeon?  
 17 Can you explain that --  
 18 A. Sure.  
 19 Q. -- to us, people that are not  
 20 familiar with that?  
 21 A. I'm very familiar.  
 22 So, the -- you know, we  
 23 get -- we get the patient settled in the right  
 24 position. We get them postured properly for the  
 25 procedure. And then the -- when everyone is

Page 8

1 ready, including anesthesia, and antibiotics are  
 2 given, then the incision is made. And there's  
 3 dissection down to the area of the cervical  
 4 spine.  
 5 Then there's a matter of  
 6 determining that the level that is being sought  
 7 has been found directly; you know, we use x-ray  
 8 control. And then the surgeon can then cut  
 9 through into the disc space and start cleaning  
 10 out the disc material. When we come in from the  
 11 front, we do take out all the disc  
 12 material and --  
 13 Q. I'm sorry. I don't mean to interrupt  
 14 you.  
 15 A. Sure.  
 16 Q. I just think you might have either  
 17 misunderstood my question or it was poorly  
 18 stated.  
 19 I just want to understand the  
 20 dynamic between a lead surgeon and a  
 21 co-surgeon --  
 22 A. Okay.  
 23 Q. -- how that works, not the specifics  
 24 of how the neck surgery is.  
 25 But, like, would the lead

Page 9

1 surgeon be doing all the work and the co-surgeon  
 2 would just be watching?  
 3 Like, if you can explain that  
 4 a little bit better. That's what I was trying to  
 5 get at.  
 6 A. I'm glad to.  
 7 The second surgeon is  
 8 responsible for holding retractors, once the soft  
 9 tissue has been dissected. And actually as part  
 10 of it, the second surgeon is pulling the soft  
 11 tissue structures out of the way so that  
 12 the -- the incision and dissection can be  
 13 deepened. And, so, I would be responsible for  
 14 doing that, plus I'm holding a suction device to  
 15 give clarity to the operative site.  
 16 So, it's a matter of working  
 17 together in that regard down to the site of  
 18 selected surgery.  
 19 Q. And what is the lead surgeon doing  
 20 typically on a surgery like the neck surgery that  
 21 Miguel Veliz had as opposed to what the  
 22 co-surgeon is doing?  
 23 A. Well, that's where the lead surgeon  
 24 is making the incision; spreading the soft  
 25 tissues; dissecting between the planes of

Page 10

1 anatomy; identifying the trachea, moving that out  
 2 of the way. That's where the assistant comes in  
 3 and holds the structures out of the way,  
 4 et cetera, until you get actually down to the  
 5 spine itself.  
 6 Q. So, what surgery did he have in the  
 7 neck on September 8th of 2021?  
 8 Would that have been an  
 9 anterior discectomy and fusion?  
 10 A. Correct, yes. Yes, sir.  
 11 Q. And is it common or typical for those  
 12 types of surgeries in your experience to be done  
 13 by one surgeon or more than one at the same time?  
 14 A. Usually it's two. You know, that's  
 15 how we always did it through my career.  
 16 Q. And does the lead surgeon get paid  
 17 more than the co-surgeon, generally speaking?  
 18 A. Yeah. Commonly that's the case.  
 19 Q. And why have you never served as the  
 20 lead surgeon on such a procedure?  
 21 A. I just elected after I came out of my  
 22 residency years ago that I would work with  
 23 another surgeon in that regard. That was just my  
 24 choice. At the low back, that's another story.  
 25 But at the neck I decided I would work with

Page 11

1 people who were experienced in that sort of  
 2 thing, and I elected not to pursue it as the  
 3 primary surgeon.  
 4 Q. Do you know what your fees are  
 5 offhand?  
 6 I have a fee schedule for  
 7 Essex Orthopedic Group in front of me.  
 8 Do you know what the prices  
 9 are currently offhand?  
 10 A. For what?  
 11 Q. Well, for, say, a half day of court  
 12 testimony, let's say, in Hudson County.  
 13 A. Oh, I don't remember at this moment  
 14 what it is for Hudson County.  
 15 Q. So, this says Essex County, it's  
 16 \$5,250 for a half day.  
 17 A. That I do remember. That is correct.  
 18 Q. Is that still current to your  
 19 knowledge?  
 20 A. It is, yes, sir.  
 21 Q. And I got -- on here it says Bergen,  
 22 Passaic, Union, Hudson, Middlesex, and Morris is  
 23 7500 for a half day?  
 24 A. Okay. If that's what you're reading,  
 25 then that's what it is.

Page 12

1 Q. Yeah. That's what I'm reading.  
 2 I'm just wondering if this is  
 3 an updated -- it says -- there's a date on the  
 4 lower left that says July 23rd of 2025. So, it  
 5 sounds like your updated rates.  
 6 A. Yes.  
 7 Q. What is Essex Orthopedic Group?  
 8 Is that a forensic company  
 9 that does forensic exams or does that company  
 10 also do treatment?  
 11 A. That's the name of my company for all  
 12 of my -- the care that I've given to patients,  
 13 including evaluations. That's the name of my  
 14 corporation.  
 15 Q. All right. And are you an owner or  
 16 member of any other corporations in the medical  
 17 field other than Essex Orthopedic Group, PC?  
 18 A. I'm not.  
 19 Q. And let me see if I can determine  
 20 from your CV.  
 21 But can you estimate how long  
 22 that company has been in business?  
 23 A. I think we incorporated in  
 24 approximately 19 -- let's say 1985. I may be off  
 25 by a few years. It might have been before that.

Page 13

1 I started in practice in 1981  
 2 and I think the incorporation came a few years  
 3 later.  
 4 Q. Okay. And, so, that company, that's  
 5 been the company under which you've been  
 6 practicing medicine and doing forensic evaluation  
 7 type work throughout the years?  
 8 A. All the work that I do comes under  
 9 that company.  
 10 Q. All right. Who is the current owner  
 11 or owners of Essex Orthopedic Group, PC?  
 12 A. That would be me.  
 13 Q. Have there ever been any other owners  
 14 of that company?  
 15 A. No, sir.  
 16 Q. Okay. Can you hear me okay? Is my  
 17 computer audio okay?  
 18 A. Yeah. I'm doing okay.  
 19 Q. Great.  
 20 So, I take it the ten percent  
 21 or so forensic work that you have done on behalf  
 22 of plaintiffs or claimants would arise from your  
 23 medical practice?  
 24 A. Yes, sir -- no. Oh, I -- explain to  
 25 me what you mean. I thought I knew what you

Page 14

1 meant, but I'm not positive.  
 2 Q. All right. Well, for the approximate  
 3 ten percent where you write reports on behalf of  
 4 attorneys that represent plaintiffs or claimants,  
 5 can you give us a sense of where those customers  
 6 come from?  
 7 A. There are some attorneys who send  
 8 people to me for evaluation of their orthopedic  
 9 injuries.  
 10 Q. Can you name some of those lawyers  
 11 off the top of your head?  
 12 A. I've had Barry Packin, Angel  
 13 DeFilippo. Oh, gosh, I always block on names.  
 14 But there have been a number of people through  
 15 the years. I'm -- I'm sorry. I just -- I don't  
 16 have that in my head right now.  
 17 Q. Yeah, that's fine.  
 18 And are those plaintiff's  
 19 lawyers in New Jersey, to your knowledge --  
 20 A. Yes.  
 21 Q. -- that, like, do plaintiff's  
 22 personal injury work?  
 23 A. Yes. Those are plaintiff attorneys  
 24 in New Jersey. That's correct.  
 25 Q. Has it been the case from time to

Page 15

1 time that you have written reports on behalf of  
 2 plaintiffs or claimants who are also patients of  
 3 yours?  
 4 A. Yes, sir.  
 5 Q. Has that been a common thing over the  
 6 years?  
 7 A. Well, through the years, yes.  
 8 Q. And can you give us a rough  
 9 estimation of the ten percent where you've  
 10 written reports on behalf of plaintiffs or  
 11 claimants, can you give us kind of a rough  
 12 estimate breakdown as to which percent of those  
 13 came from those attorneys that would refer you  
 14 them for plaintiff medical exams and what percent  
 15 were patients already and then the attorney asked  
 16 you to write a report because you were the  
 17 treating physician?  
 18 A. I can give you just an estimate.  
 19 The preponderance of the ten  
 20 percent were -- are people who have sent in  
 21 people to me to be an independent party looking  
 22 at their clients and to evaluate the orthopedic  
 23 injuries.  
 24 Q. We have some of your prior  
 25 depositions where you've been asked about the

Page 16

1 amount you charge, the amount of exams you've  
 2 done. But I'd like to try to get an update on  
 3 that.  
 4 A. Sure.  
 5 Q. So, can you estimate for us how many  
 6 defense medical exams you typically do in a week,  
 7 say, going back one to four years or, say, since  
 8 COVID, for example? How many defense medical  
 9 exams do you do per week?  
 10 A. How about if I give you over the  
 11 month. It's about 20 a month.  
 12 Q. Okay. That's great.  
 13 And when you do defense  
 14 medical exams, roughly 20 a month, do you  
 15 ordinarily issue a report from that?  
 16 A. Yes, sir.  
 17 Q. How do you produce your reports?  
 18 That is, do you dictate into  
 19 a machine and someone, a transcription service,  
 20 types it out?  
 21 Is there a template that  
 22 someone uses and you fill in the blanks or  
 23 something else?  
 24 A. I dictate it and then it's  
 25 transcribed.

Page 17

1 Q. Do you dictate it onto a digital  
2 recorder or --  
3 A. Yes.  
4 Q. -- the old -- okay. Not the  
5 old-fashioned little tapes anymore. Right?  
6 A. No more. I used to.  
7 Q. Yeah. And what is your fee for a  
8 typical defense medical exam?  
9 A. You know, I charge about a thousand  
10 dollars an hour for my work. And I would say  
11 that a good percentage of the people that I see,  
12 it takes a few hours. So, you know, around  
13 \$2,000 let's say.  
14 Q. Well, you said "a few hours."  
15 So, can we say two to \$3,000  
16 per defense medical exam and corresponding  
17 report?  
18 A. Well, a lot of them are 2,000. You  
19 know, are there some that are more? Of course.  
20 Q. Is it a fair estimation, 2,000 to  
21 3,000?  
22 A. It's plausible.  
23 Q. All right.  
24 A. I would -- you know, I would say more  
25 in the \$2,000 range. But some of them surely are

Page 18

1 higher, you know, certainly in that range of  
2 2,000 to 3,000, yes. There will be some in  
3 there.  
4 Q. So, typically, then, to do a defense  
5 medical exam, it would take about two to three  
6 hours of your time or typically around two hours  
7 of your time, excluding your exam and generating  
8 the report?  
9 A. That's not only defense exams. That  
10 would be plaintiff-oriented exams, too, because I  
11 don't charge differently on that.  
12 Q. Okay, understood.  
13 Okay. And also looking at  
14 your rate schedule, you testify in court.  
15 Can you estimate how many  
16 times per month you testify in court going back,  
17 say, one to four to five years or so?  
18 A. It averages out about four times a  
19 year.  
20 Q. That would be trial, in court at  
21 trial?  
22 A. Yes.  
23 Q. And --  
24 A. I'm sorry to interrupt you.  
25 Q. Go ahead.

Page 19

1 A. Some of those are done on the  
2 computer, too. But I do go to trial.  
3 Overall a testimony for a  
4 trial, whether it be on a method like we're doing  
5 now, which I realize is not trial testimony, or  
6 going to court, it comes out to about four times  
7 per year.  
8 Q. And to testify live in court, for a  
9 half day it can be anywhere from \$5250 to 12,500,  
10 just looking at your rate schedule?  
11 A. The number that I testify at 12,000,  
12 I can't remember the last time I did that, so --  
13 Q. Well, that says for New York City.  
14 So, you can't remember the  
15 last time you testified in New York?  
16 A. I can't remember. It's been many  
17 years.  
18 Q. What is your fee for the deposition  
19 today?  
20 A. A thousand dollars an hour is what I  
21 do.  
22 Q. All right. Well, I think that's a  
23 little steep. But I don't want to have to file a  
24 motion or anything, so we will agree to pay that  
25 for your actual time during the deposition.

Page 20

1 A. Thank you, sir.  
2 Q. I generally try not to pay a thousand  
3 dollars an hour for anything, but we will here.  
4 So, then, typically,  
5 testifying in court, the range is anywhere from  
6 about \$5,250 for a half day upwards of \$10,000  
7 for a half day?  
8 I see you charge 10,000 for  
9 Monmouth, Ocean, Somerset and Warren.  
10 A. Where I go very infrequently.  
11 You know, we've put those  
12 numbers in -- just to be clear, we've put those  
13 numbers in just so we have something. But that's  
14 not typically where I go to testify.  
15 Will I? Yes, I will if I  
16 need to. But that's not my usual. It's more in  
17 the range of the Essex County rate and, you know,  
18 the more -- the counties a little closer  
19 obviously are less than the numbers you are  
20 reading.  
21 Q. So, typically it's from \$5250 to  
22 \$7500 for a half day?  
23 A. Yes. Yes.  
24 Q. And if you're in court a full day, do  
25 we double that?

Page 21

1 A. Correct.  
 2 Q. And you also charge a thousand  
 3 dollars an hour for your preparation time for the  
 4 deposition today?  
 5 A. I do.  
 6 Q. Okay. And in terms of live trial  
 7 testimony, have you ever testified live at trial  
 8 via video conference in the past five years or  
 9 so?  
 10 A. Sure, yeah.  
 11 Q. So, I'm not talking about a de bene  
 12 esse deposition or a trial deposition where it's  
 13 recorded. I'm talking about where you're live  
 14 talking to a jury via video conference.  
 15 A. "Via video." I'm not sure -- I'm not  
 16 sure I know what that is.  
 17 Q. Do you ever remember testifying at a  
 18 trial in real time but doing it via video, like  
 19 we are here today?  
 20 So, instead of you giving  
 21 your testimony to the lawyers here, on the screen  
 22 you would see the judge.  
 23 Have you ever done that?  
 24 A. I don't remember that.  
 25 What I -- what you're making

Page 22

1 me think of is the time when I went to the  
 2 courthouse and testified. It was live with the  
 3 judge and the attorneys. But the -- the jurors  
 4 were not there. They were on a TV screen. But  
 5 that -- I believe that was during COVID -- I  
 6 don't believe, that it was during COVID. That's  
 7 the only analogy I can think of for what you're  
 8 asking.  
 9 Q. That's fine.  
 10 So, then, more frequently  
 11 your trial testimony would be prerecorded in a  
 12 format like this or in your office with the big  
 13 camera and they would do what's called, like, a  
 14 de bene esse deposition or a trial deposition?  
 15 A. Yeah. I do either that or live. You  
 16 know, I'm glad to do it live if I can.  
 17 Q. All right. So, can you estimate for  
 18 us, going back about one to five years,  
 19 approximately how many times a year you will give  
 20 your trial deposition testimony where your  
 21 testimony for trial is prerecorded? And that's  
 22 as opposed to appearing physically live in court  
 23 in front of a jury.  
 24 A. It's fewer than half. Probably a lot  
 25 fewer than half. But, again, that was largely

Page 23

1 predicated on the times that we were living  
 2 through with the COVID pandemic when we were  
 3 asked to testify by a Zoom type of gathering as  
 4 opposed to being in court. Most of the ones I've  
 5 talked about are live in court, but with a small  
 6 percentage which were recorded.  
 7 Q. All right. So, you said you testify  
 8 live in court, if I understood you, approximately  
 9 four times a year?  
 10 A. Approximately, yes.  
 11 Q. All right. Can you estimate how many  
 12 times you give your testimony other than live in  
 13 court, that is, on video camera where it's  
 14 prerecorded and then the tape is played to the  
 15 jury later?  
 16 A. Well, I would say -- you know, I'm  
 17 not absolutely sure. But maybe one of four would  
 18 be that that's the case.  
 19 Q. So, when you say you testify at trial  
 20 four times a year, you're including both live  
 21 in-court testimony and a video deposition?  
 22 A. Yes.  
 23 Q. Okay. And then how about, how many  
 24 times a year do you testify at discovery  
 25 depositions like this?

Page 24

1 A. A few times a year. Under five.  
 2 Q. Okay. So, we'll say three?  
 3 A. Could be.  
 4 Q. Fair estimation?  
 5 A. Yes.  
 6 Q. And how much time do you typically  
 7 prepare for your testimony in terms of reviewing  
 8 your file or reviewing the medical records for  
 9 both trial testimony and a deposition like this?  
 10 A. A good few hours.  
 11 Q. Does your half-day testimony fee  
 12 include the preparation or the preparation charge  
 13 would be on top of the, say, \$7500 for certain  
 14 counties?  
 15 A. Let's -- yeah. Let's go back also to  
 16 the 5250, which are most of the ones when I go to  
 17 trial.  
 18 If it's a fairly simple case  
 19 and I can review it quickly, I do not charge  
 20 extra. But if it takes time and I need to put in  
 21 the time to be clear on all the details so I can  
 22 answer the questions that are posed to me by each  
 23 of the attorneys, then I will charge for that.  
 24 Q. And what did you do in this case?  
 25 A. I will be charging for my time.

Page 25

1 Q. Like, so, this is more, this is more,  
2 where it's not a simple version?  
3 A. Correct.  
4 Q. Okay. Do you know how much time you  
5 prepared for approximately?  
6 A. It's about three hours so far.  
7 Q. And this testifying about four times  
8 a year and about 20 exams a month, has that --  
9 Strike that.  
10 And this approximation of  
11 testifying about four times a year and doing 20  
12 exams a month, about how long has that been like  
13 that?  
14 Has that been that over the  
15 course of your career? If you can give us a  
16 sense.  
17 A. The number of testimonies, trial  
18 testimonies, has clearly changed. If you look  
19 back -- I don't know -- 20 years ago, a long time  
20 ago, I was in court more so than I'm talking now.  
21 I remember -- as much as I  
22 can remember, the highest probably might have  
23 been once a month or maybe even as much as 15  
24 times a year. But that's not the case and hasn't  
25 been for a good long time.

Page 26

1 When I'm giving you an  
2 estimate of about four times per year, I'm  
3 looking at it in terms of averages in the last  
4 five, six, seven years, something like that.  
5 Q. And before that, going back five  
6 years and then five years beyond that, so a five-  
7 to ten-year window in the past, what was it? Can  
8 you estimate? Like, was it more?  
9 A. It was -- well, it was -- it could  
10 have been more than four or five, yes. It might  
11 have been more. Again, the -- the most I can  
12 think of was perhaps slightly more than once a  
13 month, you know, looking at it over the course of  
14 a year. That wasn't for very long. I think for  
15 obvious reasons there may be explanations, that  
16 things didn't settle well, et cetera, which was  
17 not my doing. But that's what it was. And then  
18 it reduced and I was not necessarily seeing fewer  
19 people. But we've always had it as a fairly  
20 fixed amount of people that I saw for things like  
21 this, for evaluations. I didn't control when it  
22 went to court or not. So, it just came down to  
23 this. So, you know, that's what it's been for a  
24 good number of years now.  
25 Q. And how about -- and when you say it

Page 27

1 didn't settle well, you mean an estimation for it  
2 having increased may be due to the fact that the  
3 cases just didn't settle? Is that what you meant  
4 by that?  
5 A. That's a perception that I have. I  
6 don't know whether that's accurate or not,  
7 Mr. Clark. Perhaps I shouldn't have said it that  
8 way, because I really don't know for sure.  
9 Q. All right. I understand.  
10 And how about in terms of the  
11 number of exams per month? You estimated about  
12 20 exams per month.  
13 Has it been significantly  
14 more in the past?  
15 A. No, not -- no, it has not.  
16 And I just want to be clear.  
17 The way you're coming across you're saying 28  
18 exams a month. Just to be clear, it's 20 I said.  
19 I don't know whether you heard me as 28 or not.  
20 MR. CLARK: Dolores, can you  
21 read back my previous question, please? Thank  
22 you.  
23 (The following was read by  
24 the court reporter:  
25 "Q. And how about in terms

Page 28

1 of the number of exams per month? You  
2 estimated about 20 exams per month.  
3 "Has it been significantly  
4 more in the past?"  
5 BY MR. CLARK:  
6 Q. Okay. I just wanted to make sure I  
7 got the question right.  
8 A. Thank you. I understood that clearly  
9 that time.  
10 Q. Yeah. Dolores heard 20, you heard  
11 28. But I think there's some echo in the room.  
12 A. Okay.  
13 Q. The sound's not that great in this  
14 room.  
15 Okay. So, I apologize if you  
16 already answered this question.  
17 But, so, how about with  
18 respect to approximately 20 exams a month?  
19 Has it been significantly  
20 more in the past that you can remember or  
21 that's --  
22 A. It has not been -- it has not been  
23 more, significantly more.  
24 Q. Okay. And the 20 exams per month,  
25 approximately, is that you by choice limiting it

Page 29

1 to that so that you can manage your life and  
 2 manage your medical practice? Like, that's all  
 3 you schedule?  
 4 A. That's correct. Yeah.  
 5 Q. I understand there's a thing in  
 6 medical practices where doctors that run medical  
 7 practices will hire, like, a business manager,  
 8 someone that specializes in running a medical  
 9 office, dealing with the money and related  
 10 things, so that doctors can spend their time  
 11 doing doctor things as opposed to running  
 12 business things.  
 13 Are you generally familiar  
 14 with that concept?  
 15 A. I know the larger groups have  
 16 businesspeople.  
 17 Q. Have you ever had one of those where  
 18 you had someone come in and kind of run the  
 19 accounting and sort of do the hiring and more of  
 20 that HR stuff and making sure you're compliant in  
 21 terms of insurance and that kind of thing?  
 22 Or how have you handled that  
 23 over the years for Essex Orthopedic --  
 24 A. Group. Group.  
 25 Q. -- Group, PC?

Page 30

1 A. No. We have not had that as you just  
 2 described.  
 3 Q. Does the company have any employees  
 4 today?  
 5 A. Yes.  
 6 Q. Approximately how many?  
 7 A. Three.  
 8 Q. And who are they and what are their  
 9 titles?  
 10 A. Maria is my office manager. Monica  
 11 is a receptionist and assistant. And Maureen is  
 12 an assistant to me.  
 13 Q. Who types the reports that you  
 14 dictate in terms of the forensic reports?  
 15 A. We have a transcription service and I  
 16 have -- also have a transcriptionist locally who  
 17 does a lot of our work, too.  
 18 Q. Have any other medical doctors ever  
 19 worked at Essex Orthopedic Group over the years  
 20 other than yourself?  
 21 A. In 1985 and maybe a couple years  
 22 after that there -- for two time blocks of six  
 23 months each I had -- another orthopedist would  
 24 come in and join the practice. I'm talking many  
 25 years ago.

Page 31

1 Q. You testified early on that about  
 2 65 percent of the work of Essex Orthopedic Group,  
 3 PC is forensic work and the rest is treating  
 4 patients.  
 5 Do you recall that?  
 6 A. Yes.  
 7 Q. Has that always been the approximate  
 8 percentage or can you estimate how long going  
 9 back that's been the percentage?  
 10 A. That's what I'm -- I'm thinking it is  
 11 this year. I think last year I was looking at  
 12 it, I think it was, like, probably -- I don't  
 13 know -- 50 to 60 percent; maybe the year before,  
 14 40 to 50 percent.  
 15 You know, Mr. Clark, in the  
 16 earlier part of my career, it was ten percent or  
 17 so. But that has changed due to many  
 18 circumstances to what the numbers are that I've  
 19 been estimating for you.  
 20 Q. Is a lot of the circumstances where  
 21 you used to just do ten percent forensic work and  
 22 then you increased it to 40, 50, 60, up to  
 23 65 percent, is a lot of that not wanting to deal  
 24 with the hassles that health insurance -- health  
 25 medical insurance companies give you?

Page 32

1 A. That may be an element. That was  
 2 not --  
 3 Q. Like, beating -- sorry. Like,  
 4 beating you down on your fees and, you know, this  
 5 wasn't approved and you didn't jump through this  
 6 red tape?  
 7 Was that part of the reason  
 8 that you increased from ten percent now up to  
 9 roughly 65 percent?  
 10 A. Not really. Not really.  
 11 Is it an element of concern?  
 12 Of course. But that was -- that was not my  
 13 driving force.  
 14 Q. Can you tell us what the driving  
 15 force was?  
 16 You know, talk to us about  
 17 why you increased it that percentage over the  
 18 years.  
 19 A. Well, because I was in a number of  
 20 health programs and now I'm in a few of them.  
 21 As you know, people do not  
 22 follow their doctors. People follow their  
 23 insurance carriers. And, so, it changes things.  
 24 And, so, I'm in -- I'm in a  
 25 few health programs. I'm glad to see anyone who

Page 33

1 wants to see me for orthopedic care, opinions or  
 2 whatever. And I don't do surgeries anymore. I  
 3 don't do emergencies anymore. So, I don't have  
 4 that as an influx.  
 5           And the other factor is my  
 6 age. You know, many of my colleagues in my age  
 7 category are not practicing anymore. So, I had a  
 8 very busy orthopedic practice with referrals from  
 9 many people, both from the hospitals I worked in,  
 10 as well as in my community. I was known very  
 11 well. But a lot of the people who knew me are  
 12 the doctors in the area who liked my work and  
 13 would send their patients to me, and many of  
 14 those people are not in practice anymore. So, it  
 15 just evolves. It's just an evolution.  
 16 Q. How does that work in terms of your  
 17 saying you're not in medical programs?  
 18           And by that do you mean, you  
 19 know, we're not on Aetna or we're not on Blue  
 20 Cross Blue Shield, when the prospective patient  
 21 calls up and says, I need treatment and then the  
 22 person says, Do you have insurance and what is  
 23 it? And they say, Well, it's ABC Insurance  
 24 Company. And then you say, Well, we're not on  
 25 ABC?

Page 34

1           That's sort of a little  
 2 commentary on my part. So, let me just strike  
 3 all that and say the question is this:  
 4           Can you explain a little bit  
 5 better what you mean by that you don't  
 6 participate in certain medical health programs  
 7 and how that affects the percentage of forensic  
 8 versus treatment work?  
 9           And to expound upon that is,  
 10 well, why didn't you just get into more medical  
 11 programs? Why didn't you get accepted by more?  
 12           Can you talk about that  
 13 dynamic a little bit?  
 14 A. Sure. Well, I'm not available for  
 15 all of the times that I would be responsible for.  
 16 I don't do emergencies, I don't do -- I don't  
 17 like doing work at night, which I always did in  
 18 my earlier years. So, I don't -- I don't want to  
 19 be called with more emergent things. You know,  
 20 if someone can wait to see me in the office, I'm  
 21 glad to see them. I leave that to the more  
 22 junior people. I -- you know, I put in my time  
 23 on that, as I'm sure you can understand. So,  
 24 I've -- you know, I'm involved in some of the  
 25 health programs and others I elected to not

Page 35

1 pursue.  
 2 Q. Do some of the health programs  
 3 require the provider to do emergency work or have  
 4 an after-hours call center and do that sort of  
 5 thing?  
 6 A. I don't know that that would be  
 7 spelled out that way. I'm not sure I really know  
 8 the answer to that question.  
 9           (Pause.)  
 10 Q. Now, isn't it common in the defense  
 11 reports you have written that you routinely  
 12 attribute injuries to preexisting conditions?  
 13 A. I have done that. Sure.  
 14 Q. Well, that's typically what you do in  
 15 defense reports. Right?  
 16           So, if we get a bunch of your  
 17 defense reports, typically they're going to say  
 18 that the injuries for which the plaintiff or  
 19 claimant is claiming, typically you're going to  
 20 attribute some or all of those injuries to  
 21 preexisting conditions. Right?  
 22 A. I look at the facts of the case,  
 23 Mr. Clark. Have I said that some of the  
 24 pathology identified was related to preexisting  
 25 issues? Absolutely.

Page 36

1           On the other hand, that  
 2 doesn't necessarily mean that was the site of  
 3 injury. But I always look at it in terms of the  
 4 facts of the case.  
 5 Q. Do you remember the Obwooge report  
 6 that you wrote, O-b-w-o-g-e, where you reviewed  
 7 imaging and immediately attributed findings to  
 8 congenital or degenerative conditions? Do you  
 9 remember that?  
 10 A. I do not.  
 11 Q. Do you remember you wrote, quote,  
 12 These all represent preexisting pathology  
 13 antecedent the incident? You don't remember  
 14 that?  
 15 A. I don't remember it. But if I wrote  
 16 it, then it must be so.  
 17 Q. And if one were to obtain numerous of  
 18 your past reports that have been circulated over  
 19 the years, isn't it true that you use a stock  
 20 explanation minimizing disc findings along the  
 21 following lines? This is a stock explanation  
 22 that you use to minimize disc findings:  
 23           Quote, Discogenic changes,  
 24 including bulges and herniations, occur in the  
 25 general population independent of trauma. It is

Page 37

1 merely a picture in time and does not express  
 2 culpability.  
 3 A. That is absolutely fact. That is  
 4 what I said and that is what our science has  
 5 taught us. It goes back to 1989 and 1990. We're  
 6 talking 35 years we've had that science.  
 7 Q. So, your report, basically what  
 8 you're saying is that you agree that he did  
 9 appear to have a fall of 18 to 22 feet? You  
 10 agree with that?  
 11 A. I do.  
 12 Q. And you agree that he suffered  
 13 several rib and spinal fractures as a result of  
 14 that fall?  
 15 A. Correct.  
 16 Q. And you agree that he had a course of  
 17 treatment which included going to an urgent care  
 18 center; going to a smaller hospital,  
 19 St. Michael's, those two saying, This is too  
 20 serious for us to treat him and then ultimately  
 21 being transferred to the University Hospital in  
 22 Newark? Do you agree with that?  
 23 A. I do.  
 24 Q. And you agree that he had pain in his  
 25 spine and disability limitations as a result of

Page 38

1 that fall and those injuries?  
 2 A. I do.  
 3 Q. And you understand he was 48 years  
 4 old on the day of the fall? He was born on  
 5 May 20th of 1971.  
 6 Does that sound about right?  
 7 A. Yes. I'm sure that's correct.  
 8 Q. So, right before the fall, he was  
 9 alive for 48 years.  
 10 Can you agree with that, more  
 11 or less?  
 12 A. Yes, sir.  
 13 Q. So, that would equate to about  
 14 18,000 days on the earth before the fall for  
 15 Miguel Veliz.  
 16 Can you agree with that, or  
 17 do you want to take out a calculator?  
 18 A. I'll accept the veracity of what you  
 19 said.  
 20 Q. Yeah. I think it's actually  
 21 17,792 days.  
 22 A. There you go. You were off by a few.  
 23 Q. Yeah. So, now, in the 17,792 days  
 24 before the fall, as far as you know from  
 25 reviewing the records and interviewing him at

Page 39

1 your exam, you know he had no spinal injury  
 2 before. Right?  
 3 A. That's my understanding.  
 4 Q. And he had no spinal MRIs, no  
 5 injections and no disability before that other  
 6 than he broke his foot or leg I think at some  
 7 point?  
 8 A. That is my understanding, Mr. Clark.  
 9 Q. But he had no spine complaints before  
 10 this, and certainly nothing prevented him from  
 11 doing construction work.  
 12 You will agree with that?  
 13 A. Yes.  
 14 Q. Okay. And then, so, he goes all  
 15 along these 17,000 days on the earth, he falls 18  
 16 to 20 feet; you agree that he has emergent care,  
 17 that he had a course of treatment related to the  
 18 fall, that he had pain and disability from the  
 19 fall. Right?  
 20 A. Correct.  
 21 Q. Do you agree?  
 22 A. I do.  
 23 Q. But you say that the neck surgery and  
 24 the lumbar surgery was not from the fall. Right?  
 25 A. The surgery. But the injuries, he --

Page 40

1 certainly he had fractures at multiple levels of  
 2 the spine. Those are a part of the injury.  
 3 Q. But you say that the spine surgeries  
 4 are not from the fall.  
 5 A. I thought that that was not related  
 6 due to the circumstances of this case. Yes.  
 7 Q. Okay. So, he's on the earth for  
 8 about 18,000 days before, falls 18 to 22 feet, so  
 9 bad he fractures his ribcage and his spine, goes  
 10 through a whole course of treatment where he's  
 11 got pain, disability, limitations. He goes to  
 12 bed one night with that pain, disability and  
 13 limitations and then wakes up the next day at  
 14 some point along this course of treatment and he  
 15 still has the same pain, disability and  
 16 limitations.  
 17 But now you're saying that  
 18 that pain, disability and limitations which  
 19 resulted in two surgeries somehow changed and was  
 20 no longer from the fall?  
 21 MR. BRUUN: Objection to  
 22 form.  
 23 MR. COLQUHOUN: Objection to  
 24 form.  
 25 MR. BRUUN: You can answer.

Page 41

1 BY MR. CLARK:  
 2 Q. Let me step back. Let me withdraw  
 3 the question and ask it this way:  
 4 Do you disagree that the  
 5 surgeries were necessary?  
 6 Like, do you think the  
 7 surgeries were necessary or unnecessary?  
 8 A. You know, Dr. Mitchell found them to  
 9 be indicated, and, you know, I respect  
 10 Dr. Mitchell as a medical colleague. And I  
 11 wasn't there to examine this gentleman at the  
 12 time. So, I respect the decision that was made.  
 13 Do -- but the question here  
 14 that I'm looking at is of course he had injuries  
 15 to the spine. And -- and, you know, we can go  
 16 over what those were. But -- but the surgeries  
 17 were not done at the areas of the fractures.  
 18 They were not -- they were at different levels  
 19 than where the fractures were. So, the surgery  
 20 was -- was done at a much later date. Some of  
 21 the symptoms came at a much later time. And  
 22 that's where I was coming from on saying I didn't  
 23 find that that was necessarily supported as being  
 24 identifiable with this incident of November 1st,  
 25 2019.

Page 42

1 Q. When he fell, did he land on his  
 2 butt?  
 3 A. On his back and head is what I -- I  
 4 can check on that if you like.  
 5 Q. That's all right, you don't have to.  
 6 A. Okay.  
 7 Q. Unless you really want to.  
 8 But the point is that when he  
 9 fell, he had trauma to the spine. Right?  
 10 A. He did, absolutely.  
 11 Q. Yeah.  
 12 Now, trauma at certain levels  
 13 to actually fracture the vertebrae. Right?  
 14 A. It did, yes.  
 15 Q. But not -- but the trauma wasn't  
 16 enough to herniate some discs at other levels.  
 17 Is that what you're saying?  
 18 A. That's what I'm saying.  
 19 Q. All right.  
 20 A. You know, you don't -- no.  
 21 That's -- you don't know that. You don't know  
 22 that.  
 23 First of all, at the lumbar  
 24 spine where the surgery was done, it wasn't for a  
 25 herniated disc.

Page 43

1 Now, with the cervical spine,  
 2 that was a diagnosis that was made. But, you  
 3 know, the injury -- the injuries were with  
 4 fractures, multiple fractures. But a herniated  
 5 disc or spinal stenosis and degenerative  
 6 spondylosis, you know, those are other entities.  
 7 Q. So, the 22-foot fall did nothing to  
 8 his discs and had nothing to do with the  
 9 surgeries? Is that your testimony?  
 10 MR. COLQUHOUN: Objection to  
 11 form.  
 12 MR. BRUUN: Objection to  
 13 form.  
 14 You can answer.  
 15 THE WITNESS: My answer is on  
 16 the -- on the issue of the surgery, it was done  
 17 for what appeared to be different issues  
 18 than -- than what the original trauma was. The  
 19 surgeries were not done until a much later date.  
 20 You know, I've got the cervical surgery  
 21 September 8th, 2021, which is almost two years  
 22 after the initial injury. The lumbar surgery was  
 23 March 9th, 2022. So, we're adding in another six  
 24 months on top of that.  
 25 So, again, I'm looking at the

Page 44

1 timeline, I'm looking at the injuries he  
 2 presented with, I'm looking at the facts of the  
 3 case. And the -- and the other elements that we  
 4 look at, not just the facts of the case, but our  
 5 level of science and evidence-based medicine, and  
 6 put that together and these were the conclusions  
 7 I came up with.  
 8 BY MR. CLARK:  
 9 Q. So, haven't you seen that commonly in  
 10 orthopedics where someone has a trauma to the  
 11 spine causing a disc pathology, whether it's a  
 12 herniation or bulge, and they go through a course  
 13 of treatment of physical therapy and pain  
 14 medication and maybe some injections and they go  
 15 through a course of treatment conservatively; and  
 16 then when none of that works and the person's  
 17 still got pain and limitations and radiation down  
 18 the legs because something's impinging on the  
 19 spine, that ultimately they undergo surgery to  
 20 fix it?  
 21 Isn't that --  
 22 A. That happens, yes.  
 23 Q. And ultimately the surgeries can take  
 24 place years after the trauma. Right?  
 25 A. They can take place years after. But

Page 45

1 the question arises as to whether they're related  
 2 to the insult.  
 3 Q. Now, when you say degeneration of the  
 4 spine, degeneration, that's just, like, a normal  
 5 part of aging. Right?  
 6 A. It can be. Mm-hmm. Yes.  
 7 Q. And even if he had degeneration in  
 8 the spine before the 18- to 20-foot fall, as far  
 9 as you can tell from the records and your history  
 10 and everything you've done, the degeneration of  
 11 the spine wasn't causing him any problems before  
 12 the fall. Right?  
 13 A. There's no record of a preexisting  
 14 complaint at the spine that I'm aware of.  
 15 Q. Not only no record of a complaint,  
 16 but no record of any treatment. Right?  
 17 A. Correct.  
 18 Q. Not even a chiropractor. Right?  
 19 A. Not even a chiropractor.  
 20 Q. How about the injections that he had?  
 21 Do you think any of those  
 22 were related or would you say they're not related  
 23 either?  
 24 A. You know, in looking back at that, I  
 25 would say they're probably not related because,

Page 46

1 again, just looking at the lumbar spine first, he  
 2 was treated for spinal stenosis. And, so, when  
 3 he was being seen and then treated for that, you  
 4 know, that's really what it was for.  
 5 You know, at the cervical  
 6 spine he did have a herniation. But, you know, I  
 7 just didn't see the convincing evidence that it  
 8 was related to the accident based on other  
 9 circumstances.  
 10 Q. I think part of what you say is that  
 11 most adults have degenerative findings on an MRI.  
 12 Right?  
 13 A. Oh, absolutely.  
 14 Q. But many have no symptoms. Right?  
 15 A. Correct.  
 16 Q. And the point is that degeneration  
 17 does not matter medically unless or until it  
 18 becomes symptomatic. Right?  
 19 A. Correct.  
 20 Q. So, degeneration on an MRI does not  
 21 in itself mean that a person needs surgery.  
 22 Correct?  
 23 A. That is correct, sir.  
 24 Q. What matters medically is whether the  
 25 degeneration is symptomatic. Right?

Page 47

1 A. Yes.  
 2 Q. And before this incident, Miguel  
 3 Veliz had no spinal surgery, no injections, no  
 4 MRI and no disabling spine complaints as far as  
 5 you can tell from review of the records. Right?  
 6 A. Correct.  
 7 Q. After the fall, he had pain,  
 8 treatment, imaging and ultimately surgery.  
 9 Right?  
 10 A. Correct.  
 11 Q. And you agree that trauma can turn  
 12 previously asymptomatic degeneration into  
 13 symptomatic pathology. Right?  
 14 A. It can.  
 15 Q. And patients do not undergo spinal  
 16 surgery for asymptomatic degeneration. Right?  
 17 A. Correct.  
 18 Q. And the surgery's done because the  
 19 patient has symptoms. Right?  
 20 A. Correct.  
 21 Q. And in this case, Veliz's symptoms  
 22 began after the fall, as far as you can tell from  
 23 your review of the records and exam. Right?  
 24 A. Correct. Correct.  
 25 Q. Isn't it common, if we're to pull

Page 48

1 your defense medical exam reports that you've  
 2 written, that you frequently use the same  
 3 phrasing when reviewing MRIs, which is, quote,  
 4 The cord was intrinsically intact without  
 5 myelomalacia --  
 6 A. Myelomalacia.  
 7 Q. -- myelomalacia and there was no  
 8 neurologic encumbrance?  
 9 Isn't that something that you  
 10 commonly write in your defense reports?  
 11 A. If that's what I saw.  
 12 And it's not just defense  
 13 reports. It's on my own patients and plaintiff  
 14 reports and anyone else. If that's what I see on  
 15 the films, that's what I write down.  
 16 Q. And when we look at your reports,  
 17 don't they all pretty much follow a predictable  
 18 defense-favorable structure, which is that you  
 19 say -- you describe the accident, you acknowledge  
 20 the complaint, you say the physical exam is  
 21 mostly normal, you interpret the imaging as  
 22 degenerative, you emphasize preexisting pathology  
 23 and you minimize causation from the claimed  
 24 incident?  
 25 Isn't that typically what you

Page 49

1 do, if we were to pull out your reports and show  
 2 them?  
 3 MR. COLQUHOUN: Objection to  
 4 form.  
 5 MR. BRUUN: Objection to  
 6 form.  
 7 You can answer.  
 8 THE WITNESS: If that's what  
 9 the facts of the case are on my review, then  
 10 that's what I'm going to write down. I put down  
 11 what I see.  
 12 And, as you said, you know,  
 13 people do have degenerative changes and  
 14 they're -- you know, I always recognize people's  
 15 symptoms. I never deny that.  
 16 But I'm also asked to look at  
 17 the physical and radiographic changes, you know,  
 18 the objective things, and draw conclusions based  
 19 on the whole package. And that's what I do.  
 20 So, if I've written it all  
 21 those times, then it's because that's what I saw.  
 22 BY MR. CLARK:  
 23 Q. So, when you said 65 percent is  
 24 forensic work and the rest is treatment, you're  
 25 able to determine that also by the income of

Page 50

1 Essex Orthopedic Group, PC; you can see and break  
 2 down what part comes from forensic and what comes  
 3 from treating patients?  
 4 A. No. I wasn't commenting on that at  
 5 all.  
 6 You know, I -- I don't look  
 7 at the -- at the fees and bills overall. I never  
 8 have during the course of my practice. I -- I  
 9 care about what I do and I -- I base it more on  
 10 the numbers of people I'm seeing and, et cetera.  
 11 So, I'm not sure that I can  
 12 really confirm that comment that you've posed.  
 13 Q. Well, if we do the math, over the  
 14 years, you would have made millions of dollars  
 15 testifying on behalf of the defense industry.  
 16 Right?  
 17 A. Yes. I don't know whether  
 18 that's -- no. I don't know the answer to that,  
 19 Mr. Clark.  
 20 Q. All right.  
 21 A. If that's what it works out to, then  
 22 that's what it is.  
 23 Q. All right. Well, this is a discovery  
 24 deposition. We'll do it at trial. We'll put it  
 25 up on the board, we'll draw it out.

Page 51

1 A. Fine.  
 2 Q. And would it surprise you when we do  
 3 that in front of a jury, if it comes out to  
 4 millions of dollars that you've made testifying  
 5 on behalf of the defense industry?  
 6 A. Mr. Clark, I have no reservations  
 7 about what I've charged. My fees are my fees.  
 8 They have been through these 40-plus years and I  
 9 don't have a problem with that at all.  
 10 Q. Right. No. My question is a little  
 11 bit different.  
 12 When we do it at trial in  
 13 front of the jury, we put up on the board and do  
 14 the math, would it surprise you if it comes out  
 15 to millions of dollars you've made testifying on  
 16 behalf of the defense industry?  
 17 MR. COLQUHOUN: Objection to  
 18 the form.  
 19 THE WITNESS: I don't know  
 20 whether I'd be surprised or not, Mr. Clark.  
 21 MR. BRUUN: Hey, Jerry, it's  
 22 been a little over an hour. Can we just take a  
 23 two-minute bathroom break?  
 24 MR. CLARK: Sure. That's  
 25 great.

Page 52

1 MR. BRUUN: For five minutes,  
 2 whatever anybody needs.  
 3 MR. CLARK: I'll leave my  
 4 camera on. You'll see when I'm back.  
 5 MR. BRUUN: All right. I'll  
 6 be right back, too.  
 7 (A short recess is taken.)  
 8 BY MR. CLARK:  
 9 Q. So, we're back on, Dr. Greifinger.  
 10 Did I pronounce it correctly?  
 11 A. Greifinger. Yes.  
 12 Q. "Greifinger."  
 13 So, you say you do about 20  
 14 exams a month times 12 months comes to 240 exams  
 15 a year?  
 16 A. That's about right.  
 17 Q. Do you remember testifying in Marin  
 18 Perez that you do about 350 evaluations a year?  
 19 A. I don't remember that at all. But  
 20 that might have been well in the past.  
 21 Q. That was from 2012, the Marin Perez  
 22 deposition.  
 23 A. Okay. You know, I don't recall that,  
 24 Mr. Clark.  
 25 Q. So, if you testified in 2012 that you

Page 53

1 do 350 evaluations a year, how does that wash  
 2 with your testimony here that you do about 240 a  
 3 year?  
 4 A. What I told you is what it is  
 5 currently.  
 6 Q. In the Germaine case in 2008 you  
 7 testified you were doing nine defense exams a  
 8 week. So, if we go nine times 52, that comes out  
 9 to 468.  
 10 How does that wash with doing  
 11 20 a month now?  
 12 A. Whatever I said before was my  
 13 estimate at the time. What I told you today is  
 14 what it is now.  
 15 Q. Is that consistent with your  
 16 recollection that it was more back in the '08  
 17 time frame and the 2012 time frame and it's kind  
 18 of trailed down in more recent times?  
 19 A. It -- yeah. That's probably  
 20 accurate. Yes.  
 21 Q. And even before 2008, do you recall  
 22 testifying --  
 23 Strike that.  
 24 Do you recall testifying in  
 25 the Germaine case in 2008 that in earlier years

Page 54

1 before that you were doing 12 to 15 exams a week,  
 2 forensic exams?  
 3 A. I have no recollection specifically.  
 4 But if that's what I said, that's what I thought.  
 5 Q. So, if we do this math, over the  
 6 years, I mean, you would be surprised if the  
 7 amount you've made from doing defense medical  
 8 exams did not well -- would not be well into the  
 9 millions. Right?  
 10 MR. BRUUN: Objection to  
 11 form.  
 12 You can answer.  
 13 THE WITNESS: I wouldn't be  
 14 surprised.  
 15 BY MR. CLARK:  
 16 Q. Yeah. I mean, it's got to be if we  
 17 just do back-of-the-napkin stuff here.  
 18 A. The only -- the only difference,  
 19 though, is my fees at that time were not what  
 20 they are now because they're -- for all the  
 21 obvious economic reasons of inflation and all.  
 22 But I'm not questioning what  
 23 you're reading to me. I just don't recall them.  
 24 Q. Yeah. But they weren't that much  
 25 less in 2012.

Page 55

1 Do you recall testifying in  
 2 Marin Perez that you charged 750 an hour in 2012  
 3 and that --  
 4 A. I don't remember.  
 5 Q. -- and that trial in Passaic was  
 6 about 4500 for a half day?  
 7 A. I don't specifically remember. But  
 8 that may well be accurate.  
 9 Q. Now, you would also get defense  
 10 medical exams from -- what's the company?  
 11 Marquis something? Marquis, what was that  
 12 company?  
 13 A. It rings a bell. I don't remember.  
 14 That's been in years past.  
 15 Q. Isn't it true that you would  
 16 regularly get referrals from defense companies,  
 17 from the Marquis Company, including from  
 18 Allstate, Encompass, NJM, and several other such  
 19 companies? Isn't that true?  
 20 A. Could be. I just don't remember  
 21 specifically out of that company Marquis. The  
 22 name rings a bell. I don't remember any detail  
 23 about that. But that could all be so.  
 24 Q. I notice you call -- in all these  
 25 reports that you write on behalf of the defense

Page 56

1 industry, you call them independent and that you  
 2 are independent. Is that right?  
 3 A. Correct.  
 4 Q. Well, how can you be independent if  
 5 they're paying you millions of dollars?  
 6 A. Very simple. The -- the definition  
 7 of independent in my medical world as touted by  
 8 the American Medical Association and American  
 9 Academy of Orthopedic Surgery is where we are not  
 10 the treating doctor. That is the definition in  
 11 the medical world. That's -- that's why I do it.  
 12 Q. That's kind of a crazy definition;  
 13 don't you think?  
 14 A. No.  
 15 Q. I mean, if a defense medical exam  
 16 sort of repeat person or regular, you know, is  
 17 making millions and millions testifying on behalf  
 18 of defense companies where they typically --  
 19 MR. BRUUN: I'll object to  
 20 the form of the question, if you were done,  
 21 Jerry.  
 22 You can answer if you  
 23 understand it.  
 24 THE WITNESS: I didn't know  
 25 there was a question at this point.

Page 57

1 BY MR. CLARK:  
 2 Q. Well, I was in the middle of the  
 3 question. Trust me, I'll be more zinger-ish at  
 4 trial. But since we're in a deposition, it's a  
 5 little more relaxed in this regard.  
 6 MR. CLARK: But in any event,  
 7 Dolores, can you please, if you don't mind,  
 8 please read back the question that I half asked  
 9 so I can redo it and finish it, please.  
 10 (The following was read by  
 11 the court reporter:  
 12 "Q. I mean, if a defense  
 13 medical exam sort of repeat person or regular,  
 14 you know, is making millions and millions  
 15 testifying on behalf of defense companies  
 16 where they typically --")  
 17 BY MR. CLARK:  
 18 Q. -- interpret imaging as degenerative,  
 19 attribute the injuries and problems to  
 20 preexisting pathology, and minimize causation and  
 21 it follows that typical pattern, don't you think  
 22 calling such a person independent is a little bit  
 23 off?  
 24 A. The definition is as I've described.  
 25 Q. It's almost Orwellian; wouldn't you

Page 58

1 say?  
 2 A. I'm sorry?  
 3 Q. It's almost Orwellian; wouldn't you  
 4 say?  
 5 A. Mr. Clark, I have defined the  
 6 definition from a medical perspective, number  
 7 one; number two, I will -- and I will be happy to  
 8 say that in court. Number two is I look at  
 9 anybody I see as an evaluation in the orthopedic  
 10 sphere by the facts of the case, our level of  
 11 science and evidence-based medicine. All of my  
 12 conclusions are based on that. That is what  
 13 we're advised to do. That's what I do. And  
 14 that's coming from the American Medical  
 15 Association and American Academy of Orthopedic  
 16 Surgery. That's how we're supposed to do it.  
 17 Q. Isn't it a little whacky to say  
 18 that -- your conclusion that his spinal surgeries  
 19 had nothing to do with the fall, isn't that a  
 20 little whacky, given he had zero problems before  
 21 the fall; even if he had degeneration, it was  
 22 asymptomatic; and nothing else happened in the  
 23 18,000 days he was on the earth before this  
 24 20-foot, severe-injury fall where two medical  
 25 providers couldn't take care of him because he

Page 59

1 was so bad, he had to go to University Hospital  
 2 and to say that he had pain and disability and  
 3 limitations which was all from that and then one  
 4 night he went to bed and woke up with that same  
 5 disability and limitations and now magically the  
 6 problems which resulted in the spine surgery were  
 7 not from the fall?  
 8 Isn't that a little crazy to  
 9 say that that is evidence-based medicine?  
 10 MR. BRUUN: Objection to  
 11 form.  
 12 You can answer.  
 13 THE WITNESS: That's a pretty  
 14 simplistic look at this.  
 15 The facts of the case are the  
 16 man did have injuries. He had a fall-down event  
 17 of 18 to 20 feet. He had fractures of T2, T10,  
 18 T11, T12, L3, of left ribs two through seven,  
 19 et cetera. Obviously he was injured. He had  
 20 injuries to those areas. And -- but what he  
 21 didn't have were any early complaints in a timely  
 22 fashion at the cervical spine. And that's how I  
 23 looked at that. That was an important factor.  
 24 And in terms of the lumbar  
 25 spine, he -- the surgery that he had at L3-4 had

Page 60

1 nothing to do with the fact that there was a  
 2 crack of the third vertebra. The surgery wasn't  
 3 for that. It was for spinal stenosis. It's a  
 4 completely different entity.  
 5 So, you really need to break  
 6 it down a little bit more than the perspective  
 7 that you've described, Mr. Clark.  
 8 BY MR. CLARK:  
 9 Q. So, you're saying he had no early  
 10 complaints of pain in the neck; and, therefore,  
 11 the surgery he had to the neck two years later  
 12 was not related to the 20-foot fall?  
 13 A. That played a role in my thinking in  
 14 terms of the early records versus those  
 15 complaints that came out later, number one.  
 16 But number two is the level  
 17 of the surgery, et cetera, the pathology that was  
 18 being treated.  
 19 When I talk about the  
 20 science, I'm talking about the existence of a  
 21 disc herniation. We don't know when that disc  
 22 herniation occurred. There's no way anyone can  
 23 know that. We know there was a disc herniation.  
 24 And of course he was treated and I'm delighted  
 25 that he's spoken of improvement after that

Page 61

1 surgery. Great. That's what we try to do in  
 2 medicine. But I -- my conclusions are based on  
 3 all of those things.  
 4 Q. Well, what would be an early  
 5 complaint of pain in the spine?  
 6 So, you're saying he didn't  
 7 have early complaints of pain in the spine?  
 8 Or what were you saying about  
 9 that that made you conclude he didn't  
 10 have -- that the surgery wasn't related?  
 11 A. He had spinal complaints.  
 12 Q. Yeah.  
 13 A. He had spinal complaints. He was  
 14 seen at the urgent care facility; St. Michael's  
 15 Medical Center; University, where he came under  
 16 the care of the spine team, et cetera. There was  
 17 no issue at the cervical spine.  
 18 Then he went to see  
 19 Dr. Cifelli, the neurosurgeon. There was no  
 20 issue of the cervical spine. It wasn't until  
 21 later, when he saw Dr. Mitchell, 13 months later,  
 22 that that came out as being an issue.  
 23 And, so, I'm saying look at  
 24 the -- at the -- excuse me -- the facts of the  
 25 case. The timeline just doesn't support that

Page 62

1 that part of it was related to the injuries  
 2 sustained.  
 3 Q. Because he didn't complain of pain in  
 4 the neck --  
 5 Well, let me withdraw that  
 6 question.  
 7 What would you consider an  
 8 early complaint? Does it have to be the same day  
 9 or something?  
 10 What would be an early  
 11 complaint?  
 12 You said he didn't have any  
 13 early complaints in the prior incident.  
 14 A. No. I'm talking much -- a greater  
 15 duration than a day.  
 16 In the emergency room of  
 17 University --  
 18 Q. Can you give us an estimate?  
 19 A. In the emergency room he was found to  
 20 have a full range of motion of the neck. You  
 21 know, all of this is important.  
 22 If he complained --  
 23 Q. Thank you.  
 24 A. -- if he complained in the next week  
 25 or so, I would acknowledge that's an issue. But

Page 63

1 when you look at it 13 months later, where there  
 2 was a more significant complaint at that level  
 3 than we've seen on the others, then it's hard to  
 4 support that.  
 5 Q. Thank you for all that.  
 6 Can you give us an idea of  
 7 what you mean by an early complaint?  
 8 What would be early enough  
 9 that would qualify for you as being related to  
 10 the fall?  
 11 You said a longer duration  
 12 than the emergency room.  
 13 Can you give us an estimate  
 14 beyond that? Are you talking a week, a month?  
 15 A. If it was within a week or a month, I  
 16 would probably think twice about my conclusion.  
 17 Q. What about the low back?  
 18 You know he complained of low  
 19 back pain in the emergency room.  
 20 A. That he did, no doubt about that.  
 21 Q. But you still said the spine  
 22 wasn't -- that surgery wasn't related either.  
 23 A. Because the surgery that was done was  
 24 not related to that. It was related to spinal  
 25 stenosis. And it had nothing to do with the

Page 64

1 fracture.  
 2 You know, clearly the key  
 3 fracture here is T12. I think everyone is aware  
 4 of that. You know, that was a fracture that  
 5 involved three -- three elements of it:  
 6 posterior, anterior and the pedicles. So, I  
 7 mean, of the various fractures, that's the one  
 8 that's most pronounced. But he had other  
 9 fractures, too. But at the low -- at the lower  
 10 back, his -- he had essentially a non-displaced  
 11 fracture of L3, at the superior part of it. The  
 12 surgery was at the lower part of it, at L3-4, and  
 13 I just didn't see how the -- in any way that the  
 14 surgery was related to that fracture. The  
 15 fracture was healed by then anyway.  
 16 Q. The surgery was just related to  
 17 getting older in life; that's your testimony?  
 18 A. I'm not saying it's related --  
 19 MR. BRUUN: Objection to  
 20 form.  
 21 THE WITNESS: Young people  
 22 have spinal stenosis, too. That's not just  
 23 isolated to older people.  
 24 BY MR. CLARK:  
 25 Q. Isn't it true in trauma cases, if

Page 65

1 someone has, like, a really acute injury that's  
 2 causing a lot of pain, then they won't focus on  
 3 other areas that may also have been injured in a  
 4 trauma?  
 5           Like, it's so bad, they're  
 6 not really complaining about that?  
 7           Like, I've seen that a lot.  
 8 Like, I've seen it in, you know, car accidents  
 9 with bad pelvic injuries. And we had one guy,  
 10 his hand got blown off, half his hand got blown  
 11 off from an explosion with a car part. And  
 12 because his hand was so bad, it wasn't until,  
 13 like, some years later that they focused on the  
 14 shoulder. I've seen that kind of thing a lot.  
 15           Have you ever seen anything  
 16 like that or does it make no sense what I'm  
 17 saying?  
 18 A. No. It makes sense. You know, when  
 19 there are multiple areas of injury, then, sure,  
 20 other areas are picked up at a later time  
 21 sometimes.  
 22           It's just, you know, in this  
 23 particular case, the early CT of the lumbar spine  
 24 showed degenerative changes, particularly so at  
 25 the L3-4 level. There was -- there was moderate

Page 66

1 to severe central stenosis, according to the  
 2 report from University Hospital. That's my  
 3 point. That part of it preexisted.  
 4 Q. Yet asymptomatic before the 20-foot  
 5 fall. Right?  
 6 A. Correct.  
 7 Q. Isn't it true that at one point you  
 8 were doing so much defense medical exam work that  
 9 you actually listed a defense company on your  
 10 malpractice insurance policy as a certificate  
 11 holder?  
 12 A. I have no idea. But I certainly hope  
 13 that I was covered by my malpractice company, as  
 14 I expected them to be covering me for all that I  
 15 did, including surgeries, including my general  
 16 practice in orthopedics. I would hope so.  
 17           So, have we checked on -- to  
 18 make sure I had coverage? Of course.  
 19 Q. But that would have been coverage for  
 20 Allstate Insurance Company because you were doing  
 21 so many defense medical exams for that.  
 22           That wasn't related to  
 23 treating patients. Right?  
 24 A. That wouldn't have. But, remember, I  
 25 didn't only do defense exams for Allstate

Page 67

1 Insurance Company. You know, that's just one  
 2 segment of who I was seeing. I look for  
 3 malpractice insurance for all of the work that I  
 4 do.  
 5 Q. I know. You did them for Encompass,  
 6 for NJM, for Progressive. You've done defense  
 7 exams --  
 8 A. Sure.  
 9 Q. -- for all of them.  
 10 A. Sure. Right.  
 11 Q. And so much for Allstate that they  
 12 were actually listed as, like, a certificate  
 13 holder on your malpractice policy.  
 14           Does that ring a bell or no?  
 15 A. I don't remember that.  
 16           What year was that?  
 17 Q. Let me pull that up.  
 18           The policy period was May of  
 19 2009 to May of 2010. Certificate holders:  
 20 Allstate Insurance Company; Clara Maass Medical  
 21 Center; David J. Greifinger, M.D.; National  
 22 Supplier Clearinghouse; and St. James Hospital.  
 23 A. Those were places that I worked. I  
 24 worked at Clara Maass and at St. James. So,  
 25 those were the two hospitals I spent the majority

Page 68

1 of my career at.  
 2 Q. Right. But we're focused on  
 3 Allstate.  
 4           Why would you have Allstate  
 5 as a certificate holder?  
 6           Is it because you were doing  
 7 so many defense medical exams for them --  
 8 A. I can't answer the question.  
 9 Q. -- that they required that?  
 10 A. I do not know.  
 11           I don't know whether that had  
 12 to do with a malpractice case that occurred at  
 13 that time or otherwise. I do not know the answer  
 14 to that. That could be, you know, if you're  
 15 listing the hospitals. But I don't know.  
 16 Q. There's a common theme across your  
 17 reports, which is that you acknowledge the  
 18 symptoms or treatment, you identify degenerative  
 19 or preexisting findings, you say the MRI findings  
 20 do not prove causation, you narrow or deny  
 21 causation from the incident, and you minimize  
 22 permanency where possible.  
 23           Isn't that a recurring theme  
 24 across your reports?  
 25           MR. BRUUN: Objection to

Page 69

1 form.  
 2 MR. COLQUHOUN: Objection to  
 3 form.  
 4 MR. BRUUN: You can answer.  
 5 THE WITNESS: If that's what  
 6 the findings were, Mr. Clark, then that's what  
 7 I'm going to say.  
 8 BY MR. CLARK:  
 9 Q. Do you ever think that over the  
 10 years -- like, I was looking -- what struck me  
 11 about this is when I was looking at the video of  
 12 you doing -- like, I've done this not as long as  
 13 you have, but I've done it for a while. And one  
 14 thing that struck me is when I was looking at the  
 15 video of you doing the defense exam of Miguel  
 16 Veliz, you were so nice to him on the video.  
 17 A. I am nice to every person that comes  
 18 into this office, Mr. Clark. I have no reason  
 19 not to be nice to everybody. I was nice to him.  
 20 I was nice to everyone who comes in here. Why  
 21 shouldn't I be?  
 22 Q. Well, you had a nice manner and you  
 23 were gentleman-like to him in the manner in which  
 24 you approached him. I saw that on the video.  
 25 Do you remember that?

Page 70

1 A. That -- sure. I remember seeing him.  
 2 I don't remember the details, but I remember  
 3 seeing him.  
 4 Here's a man who had  
 5 injuries. Some of the people I see do not have  
 6 injuries. They have complaints. But here's a  
 7 man who has been through a great deal, and I felt  
 8 sorry for him.  
 9 But I am nice to everyone who  
 10 comes through here, unless they give me a reason  
 11 not to be.  
 12 Q. But the injuries, like, you can't  
 13 deny the fractures. Right?  
 14 A. Not at all. To the contrary, I'm  
 15 saying they are there.  
 16 Q. Right.  
 17 So, if he fell the same  
 18 distance and didn't have fractures and he only  
 19 had those pathologies to the spine, the disc  
 20 bulges and the disc herniations, you would have  
 21 said he had no injury. Right? Other than -- you  
 22 would have said -- what would you have said?  
 23 We'll look at the reports.  
 24 But you would have said  
 25 sprain/strain that resolved itself and he's got

Page 71

1 no permanency.  
 2 That's what you would have  
 3 said. Right?  
 4 MR. BRUUN: Objection to  
 5 form.  
 6 You can answer.  
 7 MR. COLQUHOUN: Objection to  
 8 form.  
 9 THE WITNESS: I don't believe  
 10 that that's accurate, Mr. Clark. That's your  
 11 perception. And if --  
 12 BY MR. CLARK:  
 13 Q. See, you can't deny the fractures.  
 14 That's the problem.  
 15 So, what you do is you box  
 16 the fractures out and you box out the surgeries  
 17 and the disc bulges and herniations saying, Well,  
 18 everyone has that.  
 19 A. Mr. Clark, I've seen people who have  
 20 had surgeries for their -- for their disc  
 21 problems, for this and that, for injuries other  
 22 than fractures where I have said that it is  
 23 related to the trauma, and I have said that  
 24 there's permanency associated with that.  
 25 In this case, I'm looking at

Page 72

1 the specific facts here. Clearly there is injury  
 2 to the -- all the fractures that I've mentioned  
 3 before and which you're aware of. Of course  
 4 those injuries are real and of varying degrees of  
 5 significance. But they're there. It's just that  
 6 in this case, the surgery's carried out two years  
 7 afterwards, I have a harder time here under the  
 8 circumstances of the facts of the case.  
 9 Q. Well, you have a harder time because  
 10 of who's paying you. Right?  
 11 MR. BRUUN: Objection to  
 12 form.  
 13 MR. COLQUHOUN: Objection to  
 14 form.  
 15 THE WITNESS: Mr. Clark,  
 16 that's not so. I don't work that way, I never  
 17 did. I -- I -- I would never shortchange any  
 18 person whether -- in any manner. I think, you  
 19 know, if there's responsibility to that person  
 20 based on the things that you deal with and the  
 21 other attorneys deal with, then so be it. That's  
 22 what the system is for.  
 23 I care about the healthcare  
 24 system. I don't necessarily like everything I  
 25 see. I have some knowledge on the healthcare

Page 73

1 systems in general.  
 2 But regarding this particular  
 3 case, you know, my conclusions are based on the  
 4 things I've said multiple times here.  
 5 BY MR. CLARK:  
 6 Q. So, you can imagine that you  
 7 testifying in these cases similar to the way you  
 8 are here in terms of acknowledging the symptoms,  
 9 the treatment, identifying degenerative and  
 10 preexisting findings, saying the MRI doesn't  
 11 prove causation, narrowing or denying causation  
 12 with the incident and minimizing permanency where  
 13 possible, you can imagine that over the years,  
 14 juries actually believed you and awarded no money  
 15 to claimants as a result of that kind of  
 16 testimony. Right?  
 17 MR. BRUUN: Objection to  
 18 form.  
 19 MR. COLQUHOUN: Objection to  
 20 form.  
 21 THE WITNESS: My -- my job is  
 22 to present the -- my orthopedic interpretation of  
 23 the particular party with the injury sustained,  
 24 the treatment, the outcome, and the conclusions  
 25 about all the other factors.

Page 74

1 I -- the juries -- juries  
 2 have to make their own decisions. My job is to  
 3 educate them on the orthopedic pathology and what  
 4 it means and put it in terms that they can  
 5 understand, which is what I do with my own  
 6 patients. And -- and how a jurors -- how a jury  
 7 goes is based on not just on me, but anyone else  
 8 testifying and of course liability issues, which  
 9 I have nothing to do with, on so many factors.  
 10 So, I'm -- I'm there just to  
 11 answer questions. That's all I'm there to do.  
 12 So, when I'm asked questions at trial, I will  
 13 answer the questions. The jurors have to make  
 14 their own decisions.  
 15 BY MR. CLARK:  
 16 Q. So, you've used your training,  
 17 knowledge, experience and high, high intelligence  
 18 level to write reports and testify in forensic  
 19 cases on behalf of -- 90 percent for the defense.  
 20 Right?  
 21 A. Most of them have been for the  
 22 defense, yes. Yes.  
 23 Q. And you use your skills and your  
 24 knowledge and your high, high intelligence to  
 25 examine the patients and write the reports.

Page 75

1 Right?  
 2 A. I try to. Sure.  
 3 Q. And to testify. Right?  
 4 A. If need be.  
 5 Q. And you understand your testimony can  
 6 have an influence on juries in making their  
 7 decision. Right?  
 8 A. Well, I hope that I can educate them  
 9 on the facts that I'm seeing and why I've drawn  
 10 whatever conclusions. Sure, I hope that they  
 11 listen.  
 12 Q. And you can imagine that over the  
 13 years, people who have been in accidents and  
 14 injuries have been awarded nothing as a result of  
 15 your testimony. You understand that. Right?  
 16 Cases have been --  
 17 A. I'm sure some have been awarded  
 18 nothing.  
 19 Q. So, over the years, have you ever  
 20 experienced any sort of thoughts about, you know,  
 21 regret, like, You know what? Maybe I was wrong  
 22 on that testimony and maybe that wasn't good that  
 23 I gave that testimony; I made a mistake and a  
 24 deserving person got no money?  
 25 Have you ever over the years

Page 76

1 had any thoughts about that or any kind of  
 2 regrets, given that 90 percent is on behalf of  
 3 the defense, you've made millions of dollars in  
 4 the defense industry and your reports follow the  
 5 typical pattern of acknowledging the symptoms or  
 6 treatment, saying the injuries are degenerative  
 7 or preexisting findings, saying the MRI doesn't  
 8 prove causation, narrowing or denying any  
 9 causation whatever and minimizing permanency?  
 10 Have you ever had any regrets  
 11 over the years in that regard, being at the stage  
 12 you are in your career?  
 13 MR. BRUUN: Objection to  
 14 form.  
 15 MR. COLQUHOUN: Objection to  
 16 form.  
 17 MR. BRUUN: You can answer.  
 18 THE WITNESS: I've had no  
 19 compunction about the testimonies that I've given  
 20 because I -- I testify based on what I see, and  
 21 that's my responsibility to do it. And I  
 22 don't -- I'm not there to draw the final  
 23 conclusions of a juror. They have to do that.  
 24 They're hearing so much testimony beyond what I  
 25 present. And I make no judgments on them. It's

Page 77

1 their job to do that. If I'm a juror, I'm going  
 2 to do that. I'm going to look at all of the  
 3 facts. So, I present what I see here.  
 4 And, you know, you keep  
 5 saying that, you know, I'm doing this for  
 6 defense, I'm making millions of dollars and this  
 7 and that. But in reality I'm just putting down  
 8 what the facts are. And if those are the facts,  
 9 I don't have any hesitation about saying that.  
 10 You know, if there's a  
 11 legitimate injury where someone has something,  
 12 has a broken bone, has a -- you know, in some  
 13 cases a herniated disc where it exists and where  
 14 they're treated surgically, there are times I put  
 15 down that there's -- there's injury related to  
 16 the accident. And I'll be glad to testify to  
 17 that.  
 18 BY MR. CLARK:  
 19 Q. Over the hundreds of times you've  
 20 testified at court over the years on behalf of  
 21 the defense, have you ever been wrong and the  
 22 jury would have been correct to disregard your  
 23 testimony and agree with the other side?  
 24 MR. BRUUN: Objection to  
 25 form.

Page 78

1 MR. COLQUHOUN: Objection to  
 2 form.  
 3 THE WITNESS: Mr. Clark, I  
 4 don't know the answer to that.  
 5 But I will add I respect the  
 6 decision of any jury, regardless, whatever.  
 7 BY MR. CLARK:  
 8 Q. Are you wrong in this case?  
 9 MR. BRUUN: Objection to  
 10 form.  
 11 THE WITNESS: I'm not wrong.  
 12 I'm not wrong. No, sir.  
 13 BY MR. CLARK:  
 14 Q. Is there any chance you're wrong in  
 15 this case?  
 16 A. No.  
 17 MR. COLQUHOUN: Objection.  
 18 MR. BRUUN: Objection to  
 19 form.  
 20 BY MR. CLARK:  
 21 Q. Is there any chance that either of  
 22 the surgeries he had to the neck or to the spine  
 23 were in fact not from a normal part of aging and  
 24 in fact were from the 18- to 22-foot fall he had?  
 25 Any chance you're wrong on that one?

Page 79

1 A. I don't believe I'm wrong.  
 2 MR. BRUUN: Objection to  
 3 form.  
 4 MR. COLQUHOUN: Objection to  
 5 form.  
 6 THE WITNESS: I don't believe  
 7 I'm wrong, Mr. Clark.  
 8 You know, again, look at the  
 9 early records, the early films. They talk about  
 10 the stenosis of a mild to mod -- excuse me. A  
 11 moderate to severe degree at L3-4. That's what  
 12 the surgery was for several years later. And the  
 13 cervical spine I've already spoken about the  
 14 reasons why I said what I did.  
 15 BY MR. CLARK:  
 16 Q. But we have numerous reports from you  
 17 where even where they do complain of neck pain in  
 18 the emergency room, you still say it's unrelated.  
 19 They can't win with you.  
 20 A. No, no, no.  
 21 MR. COLQUHOUN: Objection to  
 22 form.  
 23 BY MR. CLARK:  
 24 Q. Oh, no, we do. We do.  
 25 MR. BRUUN: Objection to

Page 80

1 form.  
 2 BY MR. CLARK:  
 3 Q. We have numerous reports that you  
 4 wrote and testimony where even when they  
 5 complained in the hospital about neck pain and  
 6 ultimately have a fusion, you still say it's  
 7 unrelated and degenerative.  
 8 So, how can they ever win  
 9 with you?  
 10 MR. BRUUN: Objection to  
 11 form.  
 12 THE WITNESS: You know,  
 13 I -- okay. Because someone has symptoms, we  
 14 don't -- we're told by the AMA and the American  
 15 Academy of Orthopedic Surgery not just to go by  
 16 symptoms, but to go by objective findings. And,  
 17 so, I look at all of those other things.  
 18 And I'm not saying they  
 19 weren't injured. I'm sure I never said that they  
 20 weren't injured, whatever. I never deny people's  
 21 history or what's written in a file. I don't  
 22 ever do that.  
 23 BY MR. CLARK:  
 24 Q. Yeah. You say sprain/strain in that  
 25 situation, that they had sprain/strain.

Page 81

1 A. Yeah. It's kind of a silly -- it's  
 2 become part of the nomenclature in the orthopedic  
 3 world. But --  
 4 Q. Well, in the defense orthopedic  
 5 world. But, okay, go ahead.  
 6 A. No, no.  
 7 MR. COLQUHOUN: Objection,  
 8 move to strike.  
 9 MR. BRUUN: Object to form as  
 10 well.  
 11 MR. COLQUHOUN: It's not a  
 12 question.  
 13 BY MR. CLARK:  
 14 Q. So, Doctor, do you deny that you have  
 15 written numerous reports on behalf of the defense  
 16 where even when the person complains of neck  
 17 symptomatology and neck pain in the emergency  
 18 room and ultimately has the surgery in the neck,  
 19 you still say it's unrelated?  
 20 Do you deny that there's  
 21 numerous reports you've written in that record?  
 22 MR. BRUUN: Objection to  
 23 form, asked and answered.  
 24 You can answer.  
 25 THE WITNESS: I'd have to see

Page 82

1 the report, Mr. Clark, and then I'll be able to  
 2 comment on that. But without seeing the file for  
 3 the specifics, I can't answer that right now.  
 4 BY MR. CLARK:  
 5 Q. Do you keep your old reports?  
 6 A. We keep records for ten years. I  
 7 think it's seven now. You know, there's a  
 8 requirement to keep records for seven years. We  
 9 used to keep them for ten. I'm not sure what  
 10 we're doing now.  
 11 Q. Where do you keep your forensic  
 12 reports that you've written in New Jersey  
 13 accident cases? They're on the computer?  
 14 A. Well, I have a folder. We have a  
 15 folder. I'm archaic in that regard.  
 16 Q. How big is the folder in that regard?  
 17 A. Like this (indicating).  
 18 Q. But that's a small folder.  
 19 A. Oh, yeah. This is the report I  
 20 wrote. But all the records we don't necessarily  
 21 keep.  
 22 Q. Right. The reports from those prior  
 23 cases, do you keep them in a folder?  
 24 A. No. This -- each one has its own  
 25 folder.

Page 83

1 Q. All right. And they're in a file  
 2 cabinet or a basement somewhere?  
 3 A. Yeah. Yes.  
 4 MR. CLARK: Okay. For the  
 5 record, we'll call for production of all those  
 6 reports going back five years.  
 7 BY MR. CLARK:  
 8 Q. Do you keep them on-site or are they  
 9 in a storehouse somewhere?  
 10 A. I'm sure that varies. It's the more  
 11 recent ones that we keep on-site.  
 12 Q. How recent?  
 13 A. Oh. I don't know the answer.  
 14 Q. You think maybe five years?  
 15 A. No, no. It's -- it's less than that.  
 16 I'm not sure.  
 17 Q. And where do you keep the other ones  
 18 off-site? Do you have, like, Iron Mountain or  
 19 something --  
 20 A. Yeah.  
 21 Q. -- or is there a storage thing?  
 22 A. Yes, something like that.  
 23 Q. Do you use one of those companies  
 24 like Iron Mountain or do you just do it -- you  
 25 have it in your basement at home or somewhere

Page 84

1 else or something, like --  
 2 A. No. We use one of their services.  
 3 Q. I always found those services, that  
 4 they price it and they have these terms so that  
 5 it actually costs more to destroy it than to keep  
 6 it there so that they keep billing ad infinitum.  
 7 Have you found anything like  
 8 that?  
 9 A. I'm not surprised.  
 10 Q. Because people will do anything for a  
 11 buck. Right?  
 12 MR. COLQUHOUN: Object to  
 13 form.  
 14 MR. BRUUN: Object to form.  
 15 THE WITNESS: You know,  
 16 I -- I don't hold that analogy of where you're  
 17 going.  
 18 BY MR. CLARK:  
 19 Q. You don't think people will do  
 20 anything for a buck?  
 21 MR. BRUUN: Object to form.  
 22 You can answer.  
 23 THE WITNESS: Mr. Clark, I'm  
 24 sure there are some people in the world who will  
 25 do anything for a buck. You're not talking to

Page 85

1 one of them.  
 2 BY MR. CLARK:  
 3 Q. Okay. A lot of times when someone  
 4 comes with disc pathology, you'll say it's from  
 5 smoking. Right?  
 6 A. I don't say it is. I say it can be.  
 7 And --  
 8 Q. Well, that's why you -- sorry.  
 9 A. -- science has told us that.  
 10 I don't say anything  
 11 without -- you know, without science behind it.  
 12 Q. That's why you asked Miguel Veliz at  
 13 the exam whether or not he smokes. Right?  
 14 A. I do like to know whether people  
 15 smoke or not. Yes.  
 16 Q. But he doesn't smoke.  
 17 So, you couldn't blame it on  
 18 that. Right?  
 19 A. Correct. I didn't blame it on that.  
 20 I blamed it on a fall of 18 to 20 feet.  
 21 Q. But if he did smoke, then you would  
 22 have blamed the disc pathology on smoking?  
 23 A. That's a hasty generalization.  
 24 MR. BRUUN: Object to form.  
 25 BY MR. CLARK:

Page 86

1 Q. But you have written that in prior  
 2 reports, right, where the person smokes and then  
 3 you say something in the report about how smoking  
 4 causes disc herniations?  
 5 A. No, I don't specifically say that.  
 6 What I say is what the  
 7 science has told us, that there is an increased  
 8 incidence of degenerative disc disease in the  
 9 smoker. That's what I've said. I never said  
 10 that anyone's herniation or otherwise is related  
 11 to it. It's just a fact in our public health  
 12 world that there is an increased incidence of  
 13 degenerative disk disease in a smoker. Not only  
 14 do they have problems with their coronary  
 15 arteries and lungs and malignancies, but it also  
 16 affects the spine.  
 17 Q. You remember the Willie Walker report  
 18 where despite complaints of neck pain; daily low  
 19 back pain; radiating thigh symptoms; ER  
 20 complaints, including neck, shoulder, low back,  
 21 headache and dizziness, that you ended by saying,  
 22 There's no clinical evidence of permanency  
 23 attributable to the accident, no form of  
 24 restrictions and emphasizes degeneration, smoking  
 25 and preexisting conditions?

Page 87

1 Do you remember that report?  
 2 A. I do not.  
 3 Q. Do you remember the Luis Henriques  
 4 report where there was a rear-end crash,  
 5 injections and then a lumbar fusion, and your  
 6 report emphasized similar low back history and  
 7 resolved radicular complaints and the exam  
 8 description carries skepticism, including  
 9 comments about global weakness and someone  
 10 assisting him off the table?  
 11 Do you remember that case of  
 12 Luis Henriques?  
 13 A. I don't remember.  
 14 Could you repeat what you  
 15 just read? I didn't quite make out all that you  
 16 said.  
 17 Q. Well, I'll withdraw the question.  
 18 So, when the claimant has  
 19 actual prior back treatment and history, you'll  
 20 then emphasize that and say the spine issue's  
 21 from the prior accident and history. That's  
 22 another common theme in your reports. Right?  
 23 MR. BRUUN: Objection to  
 24 form.  
 25 THE WITNESS: If the facts

Page 88

1 are that, then that's what I will say.  
 2 BY MR. CLARK:  
 3 Q. But even if they don't have a prior  
 4 history like here, you'll still say it's from the  
 5 prior, that the disc pathology and the surgeries  
 6 were all from degenerative conditions.  
 7 MR. BRUUN: Objection to  
 8 form.  
 9 BY MR. CLARK:  
 10 Q. So, they can't win, once again, with  
 11 you. Right?  
 12 MR. BRUUN: Object to form.  
 13 MR. COLQUHOUN: Objection to  
 14 form.  
 15 THE WITNESS: Mr. Veliz on  
 16 the day of his accident has been found to have  
 17 L3-4 degenerative disc disease and with moderate  
 18 to severe spinal stenosis. What that is saying  
 19 is that this preexisted. You do not get that  
 20 from an injury that occurred that day. Those  
 21 findings are things that preexisted.  
 22 In fact, he had degenerative  
 23 changes at multiple levels, so be it. But  
 24 the -- the most prominent was L3-4. And that's  
 25 where the surgery was.

Page 89

1 So, smoking or not smoking,  
 2 that's --  
 3 BY MR. CLARK:  
 4 Q. 20-foot fall or not 20-foot fall,  
 5 it's still not related.  
 6 MR. BRUUN: Object to form.  
 7 MR. COLQUHOUN: Objection to  
 8 not letting the doctor finish answering the  
 9 question.  
 10 BY MR. CLARK:  
 11 Q. Sorry, I apologize. Go ahead.  
 12 A. Smoking or not smoking, that's what  
 13 he has. And his -- his injury was what it is.  
 14 We've talked about that. I've talked about the  
 15 injury sustained. But that has nothing to do  
 16 with these degenerative changes.  
 17 Just because it's the spine  
 18 doesn't mean that everything is brought about by  
 19 the same thing. That would be silly. You have  
 20 to look at the specifics.  
 21 Q. Do you remember the Arthur  
 22 Ellenberger case, which involved serious trauma,  
 23 including a femur fracture, tibial plateau  
 24 fracture, multiple rib fractures, and then you  
 25 acknowledged those injuries but minimized them

Page 90

1 later and then responded by saying, quote, I  
 2 don't minimize, nor embellish?  
 3 Do you remember that one?  
 4 A. I know Arthur Ellenberger's case. I  
 5 remember some of his fractures. I remember the  
 6 commentary that I responded to.  
 7 And what I did -- what I said  
 8 was I said he had a fracture of the hip in that  
 9 case, as I recall, and that I said there was some  
 10 degree of permanency associated with that.  
 11 Someone -- who I know who it was -- said -- said  
 12 that I -- I had -- I minimized it. To the  
 13 contrary --  
 14 Q. Oh, God, you would never do that.  
 15 MR. BRUUN: Object to form.  
 16 The doctor is still testifying.  
 17 MR. COLQUHOUN: Let the  
 18 doctor finish the question.  
 19 THE WITNESS: To the  
 20 contrary, I then responded by saying, Well, wait  
 21 a second, he's had about five or six different  
 22 fractures -- I don't have the chart in front of  
 23 me, you do -- and I said each of those has an  
 24 element of permanency.  
 25 And, so, I didn't minimize

Page 91

1 anything. I didn't minimize, I don't embellish.  
 2 I just put down what it is.  
 3 In this case with Mr. Veliz,  
 4 he had rib fractures. I said there's permanency,  
 5 as an example.  
 6 So, I don't -- I don't change  
 7 the -- the type of injury. It is what it is.  
 8 BY MR. CLARK:  
 9 Q. Now, you spent how much time with  
 10 him, about 20, 25 minutes?  
 11 A. No. It was about -- it was  
 12 57 minutes.  
 13 You're talking  
 14 Mr. Ellenberger or are you talking Mr. Veliz?  
 15 Q. I'm on Veliz. Thank you.  
 16 A. Yeah. I have it was about  
 17 57 minutes.  
 18 And, as you know, it was  
 19 recorded. So, I think my recording was about  
 20 52 minutes' worth, giving him time to put on a  
 21 gown in between, from when I first walked in the  
 22 room to when I walked out.  
 23 And I know, of course, that  
 24 not only was it filmed, but it was audio-recorded  
 25 and -- you know. So, that's what it was. It was

Page 92

1 not whatever you said, 20 minutes or something.  
 2 It was not that.  
 3 Q. But the exam was about 20 minutes.  
 4 Right?  
 5 A. No, no -- well, I don't know what it  
 6 was. I was in the room doing the evaluation for  
 7 52 minutes. So, part of that would be taking a  
 8 history, part of that would be doing physical  
 9 exam. How it breaks down, I don't know exactly  
 10 on that, whatever it takes. I don't leave the  
 11 room until I feel that the person has shared with  
 12 me the information that I need to adequately  
 13 learn about the injuries.  
 14 Q. You said the drop arm test, the Jobe  
 15 test, and the Hawkins sign were all negative.  
 16 Right?  
 17 A. Yes.  
 18 Q. But you didn't even perform those  
 19 exams; did you?  
 20 A. I didn't perform them? Is that what  
 21 you're questioning?  
 22 MR. CLARK: Dolores, can you  
 23 please read the pending question back.  
 24 (The following was read by  
 25 the court reporter:

Page 93

1 "Q. You said the drop arm  
2 test, the Jobe test, and the Hawkins sign were  
3 all negative. Right?  
4 "A. Yes.  
5 "Q. But you didn't even  
6 perform those exams; did you?  
7 "A. I didn't perform them?  
8 Is that what you're questioning?")  
9 THE WITNESS: Mr. Clark, if I  
10 said it in my report, I did it.  
11 BY MR. CLARK:  
12 Q. And that's why you agree it's fair  
13 that we get to now videotape these exams; don't  
14 you? Because in the past, it was your word  
15 against the claimant. Right?  
16 MR. BRUUN: Objection to  
17 form.  
18 MR. COLQUHOUN: Objection to  
19 form.  
20 BY MR. CLARK:  
21 Q. That's not fair; is it?  
22 MR. BRUUN: Objection to  
23 form.  
24 MR. COLQUHOUN: Objection to  
25 form.

Page 94

1 BY MR. CLARK:  
2 Q. I mean, police have to wear body cams  
3 today. And for years these defense doctors were  
4 able to just go in there and say, Oh, the person  
5 was fine and they had full range of motion and  
6 they were able to jump off the exam table. But  
7 now we get to videotape them.  
8 And you agree with the  
9 ability for us to videotape them because that's  
10 what's fair. Right?  
11 MR. BRUUN: Objection to  
12 form.  
13 MR. COLQUHOUN: Objection to  
14 form.  
15 THE WITNESS: Mr. Clark, to  
16 walk into a room with -- with a body camera, it  
17 sounds downright silly.  
18 When I say --  
19 BY MR. CLARK:  
20 Q. It's a forensic exam.  
21 MR. BRUUN: Objection to  
22 form. The doctor is still testifying.  
23 MR. COLQUHOUN: Let him  
24 answer the question.  
25 THE WITNESS: If I said I did

Page 95

1 a test, I did a test. And I don't record  
2 anything, I don't dictate anything unless I've  
3 done it.  
4 So, I disagree with you. Not  
5 everyone is as corrupt as you are purporting and  
6 I stand by my work. I always have and I will  
7 continue to do so.  
8 BY MR. CLARK:  
9 Q. I haven't said anything about  
10 corruption.  
11 A. No. You implied it.  
12 Q. Now, your opinion that the surgeries  
13 are unrelated to these falls, you disagree with  
14 all the treating doctors in that regard; isn't  
15 that true?  
16 A. I'm sure Dr. Mitchell thought it was  
17 related and -- yeah. That's probably true.  
18 Yeah.  
19 Q. Yeah.  
20 Now, at the exam Miguel told  
21 you, quote, I don't get as much sleep because I  
22 am twisting and turning in bed. Numbness and  
23 tingling bother the left arm, especially at  
24 night. And then --  
25 Strike that. I'm going to

Page 96

1 redo this.  
2 Now, at the exam Miguel told  
3 you that, I don't get as much sleep because I am  
4 twisting and turning in bed. I have numbness and  
5 tingling bother the left arm, especially at  
6 night. He said he uses a massage machine on his  
7 neck and shoulders and his son massages his back.  
8 He cannot play wrestling and football with his  
9 kids. Mentally he has recovered. And he says it  
10 is what it is, used to bother me a lot.  
11 He said that at the exam and  
12 you didn't include that in your report. Right?  
13 A. Well, not -- I don't know what I  
14 said. I just put down the key things. I know he  
15 had complaints.  
16 Of course I did and I  
17 recorded those things. Did I put everything down  
18 word for word? I'm sure I did not.  
19 You know, being realistic  
20 about this, we want to look at the key things. I  
21 know he was uncomfortable. He told me he was  
22 uncomfortable. I never denied that, Mr. Clark,  
23 never.  
24 Q. Yeah. So, that also jumped out at  
25 me. And thank you for bringing that up.

Page 97

1 This guy is sitting on your  
 2 exam table. He's clearly in pain. He's propping  
 3 himself up with his arm.  
 4 Why didn't you offer him, Do  
 5 you want to stand up? Why didn't you offer him  
 6 something?  
 7 Like, why did you have him  
 8 sit on that exam table while you're interviewing  
 9 him?  
 10 I mean, that's so  
 11 uncomfortable. Why not put him in a chair, a  
 12 comfortable chair, or offer him a pillow or say,  
 13 Do you want to get up and stand up or something?  
 14 Why didn't you do that?  
 15 That really jumped out at me.  
 16 MR. COLQUHOUN: Objection.  
 17 BY MR. CLARK:  
 18 Q. I was looking at this video and I'm  
 19 like, When is he going to ask him if he wants to  
 20 move somewhere else? He's clearly in pain.  
 21 Do you remember all that?  
 22 MR. BRUUN: Object to form.  
 23 MR. COLQUHOUN: Objection to  
 24 form.  
 25 THE WITNESS: Mr. Clark, I

Page 98

1 don't remember exactly. There are many, many  
 2 times when I evaluate people where I do say,  
 3 You're welcome to stand, you're welcome to sit.  
 4 I do. I don't remember here specifically. And I  
 5 don't tell people they have to stay in one  
 6 position. I never do that, to the contrary.  
 7 BY MR. CLARK:  
 8 Q. Miguel also told you he had numbness  
 9 and tingling in the left leg at the exam.  
 10 But that wasn't included in  
 11 your report; was it?  
 12 A. Well, let me see what I have here,  
 13 sir.  
 14 Q. Okay. Go ahead. Take your time. If  
 15 you want to take a break and review your stuff --  
 16 A. No. I have it right here.  
 17 Q. -- you can do that.  
 18 A. Right here I have it.  
 19 He said to me that he had  
 20 numbness and tingling in the lower extremities.  
 21 I asked him where. He said it was at the front  
 22 of the left thigh and it was constant. I have  
 23 that here.  
 24 Q. What page?  
 25 A. Page two, third paragraph from the

Page 99

1 bottom, the bottom line -- the bottom two lines.  
 2 Q. How about, I don't get as much sleep  
 3 because I am twisting and turning in bed?  
 4 A. I don't know that I specifically  
 5 wrote that. I know he's uncomfortable.  
 6 Q. All right. And take your time  
 7 looking at this and let me know if you're ready  
 8 for the question. Because we're going to double  
 9 back over this and ask you if this stuff is in  
 10 your report.  
 11 A. Sure, go ahead.  
 12 Q. All right. How about numbness and  
 13 tingling bother the left arm, especially at  
 14 night? Is that in your report?  
 15 A. I have at page two, sixth paragraph,  
 16 line two, I had asked how he was doing. He's  
 17 responding. He described intermittent episodes  
 18 of paresthasias down the left upper extremity to  
 19 the fingers. He talked about radiation of pain  
 20 down to the level of the elbow. That's what he  
 21 told me. That's what I put in. Those are key  
 22 points.  
 23 Q. And he didn't have any of that before  
 24 this fall. Right?  
 25 A. I imagine he did not.

Page 100

1 Q. So, what's that from?  
 2 A. You know, what -- I can't answer  
 3 that. My -- what I'm doing is I'm recording what  
 4 he's telling me. It can be --  
 5 Q. Was he lying to you?  
 6 I'm sorry?  
 7 A. Mr. Clark, it can be from nerve  
 8 irritation. It can be from any number of things.  
 9 But that's what he told me, so that's what I put  
 10 down.  
 11 Q. He uses a massage machine on his neck  
 12 and shoulders.  
 13 Is that in your report?  
 14 A. No, sir.  
 15 Q. And his son massages his back?  
 16 A. No, sir.  
 17 Q. Did you put in your report that he  
 18 cannot play wrestling and football with his kids?  
 19 A. I did not.  
 20 Q. Did you reflect in your report that  
 21 he had sort of a fatalistic view to it all by  
 22 saying, quote, It is what it is? It used to  
 23 bother me a lot?  
 24 MR. COLQUHOUN: Objection.  
 25 THE WITNESS: I did not use

Page 101

1 that wording, no, sir.  
 2 BY MR. CLARK:  
 3 Q. Did he come across to you as a whiner  
 4 or a complainer?  
 5 A. No.  
 6 Q. Now, let's go to the physical exam.  
 7 Okay? And I want to see if you reported this in  
 8 your report. Okay?  
 9 A. Sure.  
 10 Q. Let me know when you're ready.  
 11 A. I'm ready.  
 12 Q. He complained of numbness on the  
 13 posterior cervical area with palpation.  
 14 Is that in your report?  
 15 A. Wait. Read that to me again, if you  
 16 would.  
 17 Q. He complained of numbness on the  
 18 posterior and cervical area with  
 19 palpation -- palpitation. Sorry.  
 20 (Pause.)  
 21 A. I don't have that specifically here,  
 22 no.  
 23 Q. Okay. How about that he complained  
 24 of tightness in the shoulders with external  
 25 rotation?

Page 102

1 A. I have, He told me that he had a  
 2 tight sensation at the right shoulder when he was  
 3 sedentary. And then I put down what his actual  
 4 range of motion was of the shoulders.  
 5 Q. Did you put in your report anything  
 6 to the effect that Miguel said that sometimes the  
 7 right elbow hurts on flexion, but not at the time  
 8 of the exam?  
 9 A. I didn't put that in, no.  
 10 Q. Did you put in that he also  
 11 complained of tightness at the time of the exam  
 12 on the right shoulder?  
 13 A. Yes.  
 14 Q. Where?  
 15 A. Page four, paragraph two, line one on  
 16 the bottom -- on the right, rather, it starts and  
 17 then it goes into line two.  
 18 And, also, if you look at the  
 19 last sentence of that paragraph, I said, With  
 20 external rotation bilaterally he complained of  
 21 tightness. So, I do have all of that.  
 22 MR. BRUUN: Jerry, we've gone  
 23 about another hour. Can we take a couple-minute  
 24 break here?  
 25 MR. CLARK: Yeah, whatever

Page 103

1 anyone needs.  
 2 (A short recess is taken.)  
 3 BY MR. CLARK:  
 4 Q. So, I'm back.  
 5 Wouldn't a fair estimate be  
 6 that you make about 300 to \$700,000 a year doing  
 7 the defense work?  
 8 A. It could be. I don't know what it  
 9 is, Mr. Clark, but it could be.  
 10 Q. And you also generate income not only  
 11 from the defense medical exams and the  
 12 corresponding reports and the testimony, but  
 13 there are also addendum reports. Right?  
 14 A. Sure.  
 15 (Pause.)  
 16 Q. I'm just reviewing my notes.  
 17 So, just stepping back a  
 18 little bit. So, he's on the earth for  
 19 17,000 days before this, no pain, no treatment,  
 20 no nothing for the back. He falls 18 to 20 feet.  
 21 He's got all this pain and disability that you  
 22 agree with. And then the treating doctors say  
 23 the pain and disability from the fall is not  
 24 getting better, so we now need to do surgery.  
 25 And you say he went to bed one night with the

Page 104

1 pain and disability, woke up the next day and  
 2 then at some point along that chain, now the pain  
 3 and disability that resulted in the surgery  
 4 wasn't from the fall, it was from something else?  
 5 MR. COLQUHOUN: Object to  
 6 form.  
 7 BY MR. CLARK:  
 8 Q. Did I state that right or is it --  
 9 A. That's not correct.  
 10 MR. BRUUN: Object to form.  
 11 You can answer.  
 12 THE WITNESS: Mr. Clark, I  
 13 did not say that.  
 14 BY MR. CLARK:  
 15 Q. Well, he had no pain in his spine  
 16 before this fall, nothing significant as far as  
 17 you can tell. Right?  
 18 A. Correct.  
 19 Q. But he did after. Right?  
 20 A. Correct.  
 21 Q. And what led to the surgeries  
 22 regardless --  
 23 Strike that.  
 24 And what led to the surgeries  
 25 was pain. Right? Like, the reason for the

Page 105

1 surgeries was pain.  
 2 A. Correct.  
 3 Q. So, at what point did that pain from  
 4 the fall that you acknowledge transform to come  
 5 from something else such as degeneration such  
 6 that that's --  
 7 Like, when did that change?  
 8 At what point in the --  
 9 MR. BRUUN: Objection to  
 10 form.  
 11 MR. COLQUHOUN: Objection to  
 12 the form. It's a mischaracterization.  
 13 BY MR. CLARK:  
 14 Q. Explain this to me.  
 15 A. Am I to answer that question?  
 16 MR. BRUUN: You can answer.  
 17 We just made our objections.  
 18 THE WITNESS: Okay. I don't  
 19 think anyone can tell that, Mr. Clark.  
 20 BY MR. CLARK:  
 21 Q. Doctor, would you agree that when a  
 22 person works construction for 17,792 --  
 23 Well, strike that.  
 24 Doctor, would you agree that  
 25 a person who is on the earth for 17,792 days

Page 106

1 without any spine surgery and then on the  
 2 17,793rd day he falls 20 feet and begins  
 3 treatment that is conservative at first, isn't  
 4 working, and then leads to surgery, wouldn't you  
 5 agree that trauma is a far more likely  
 6 explanation than just coincidence?  
 7 MR. BRUUN: Objection to  
 8 form.  
 9 MR. COLQUHOUN: Objection to  
 10 form.  
 11 THE WITNESS: Mr. Samayoa  
 12 Veliz was treated for his injuries. The injuries  
 13 occurred November 1st, 2019. He had multiple  
 14 injuries. He's had fractures of multiple -- at  
 15 multiple levels of varying degrees, and he was  
 16 treated for that. He was put in a  
 17 thoracolumbosacral orthosis, otherwise known as a  
 18 TLSO, which treated -- primarily it treated the  
 19 T12 fracture, but would also include the T10 and  
 20 T11 fractures, and even the L3 fracture.  
 21 So, he was treated for those  
 22 things. Of course he had injuries. Of course he  
 23 had pain.  
 24 And can you have pain after  
 25 fractures heal? Of course you can. You know, we

Page 107

1 know that.  
 2 But all I was saying is not  
 3 that he wasn't injured, not that he didn't have  
 4 complaints, but that the surgeries that were done  
 5 were at -- were at differing levels than what he  
 6 was treated for with this original injury.  
 7 BY MR. CLARK:  
 8 Q. But the original injury was fractures  
 9 at certain levels. That doesn't mean he didn't  
 10 have trauma to other levels.  
 11 A. That's plausible. You know, there's  
 12 no argument with what you just said.  
 13 MR. CLARK: Right.  
 14 Well, thank you. I do not  
 15 have any other questions, Doctor. Thank you for  
 16 your time today.  
 17 THE WITNESS: You're welcome.  
 18 MR. BRUUN: I think we're all  
 19 done. Thank you for your time. Just go ahead  
 20 and submit your invoice. It's -- what time is it  
 21 now? Is that 4:50?  
 22 THE WITNESS: Yes.  
 23 MR. BRUUN: So, we'll get the  
 24 invoice, we'll pass it along to Mr. Clark and his  
 25 law firm and we'll get back to you. Thank you

Page 108

1 very much.  
 2 THE WITNESS: Okay. Thank  
 3 you.  
 4 MR. CLARK: Just consider  
 5 subtracting 15 minutes for the three breaks, not  
 6 because I'm necessarily cheap, but because  
 7 ultimately it's our client that's paying it.  
 8 Thank you.  
 9 THE COURT REPORTER: Kevin,  
 10 are you ordering the transcript?  
 11 MR. COLQUHOUN: Yes.  
 12 THE COURT REPORTER: Thank  
 13 you, sir.  
 14 - - -  
 15 (Deposition concluded at 4:52 p.m.)  
 16 - - -  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 CERTIFICATE  
 2 SUPERIOR COURT OF NEW JERSEY :  
 3 ESSEX COUNTY :  
 4 I, Dolores M. Frontino, RMR-CCR  
 5 (NJ), before whom the examination under oath of  
 6 said witness was taken, do hereby certify that  
 7 the witness, whose testimony appears in the  
 8 foregoing examination under oath, was duly sworn,  
 9 and that the transcribed deposition of said  
 10 witness is a true record of the testimony given  
 11 by the witness; that the proceedings herein are  
 12 recorded fully and accurately; that I am neither  
 13 attorney nor counsel for, nor related to any of  
 14 the parties to the action in which this  
 15 examination under oath was taken; and, further,  
 16 that I am not a relative of any attorney or  
 17 counsel employed by the parties hereto, or  
 18 financially interested in this action.

19  
 20  
 21  
 22  
 23  
 24  
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 DOLORES FRONTINO, RMR-CCR (NJ)  
 License No. 30X100216300

	<b>actual (3)</b> 19:25;87:19;102:3	<b>along (5)</b> 36:20;39:15;40:14; 104:2;107:24	20	99:9;100:15;103:4,17, 20;107:25
<b>\$</b>	<b>actually (8)</b> 9:9;10:4;38:20; 42:13;66:9;67:12; 73:14;84:5	<b>always (9)</b> 10:15;14:13;26:19; 31:7;34:17;36:3;49:14; 84:3;95:6	<b>argument (1)</b> 107:12	<b>back-of-the-napkin (1)</b> 54:17
<b>\$10,000 (1)</b> 20:6	<b>acute (1)</b> 65:1	<b>AMA (1)</b> 80:14	<b>arise (1)</b> 13:22	<b>bad (5)</b> 40:9;59:1;65:5,9,12
<b>\$2,000 (2)</b> 17:13,25	<b>ad (1)</b> 84:6	<b>American (5)</b> 56:8,8;58:14,15; 80:14	<b>arises (1)</b> 45:1	<b>Barry (1)</b> 14:12
<b>\$3,000 (1)</b> 17:15	<b>add (1)</b> 78:5	<b>among (1)</b> 4:2	<b>arm (6)</b> 92:14;93:1;95:23; 96:5;97:3;99:13	<b>base (1)</b> 50:9
<b>\$5,250 (2)</b> 11:16;20:6	<b>addendum (1)</b> 103:13	<b>amount (4)</b> 16:1,1;26:20;54:7	<b>around (2)</b> 17:12;18:6	<b>based (8)</b> 46:8;49:18;58:12; 61:2;72:20;73:3;74:7; 76:20
<b>\$5250 (2)</b> 19:9;20:21	<b>adding (1)</b> 43:23	<b>analogy (2)</b> 22:7;84:16	<b>arteries (1)</b> 86:15	<b>basement (2)</b> 83:2,25
<b>\$700,000 (1)</b> 103:6	<b>adequately (1)</b> 92:12	<b>anatomy (1)</b> 10:1	<b>Arthur (2)</b> 89:21;90:4	<b>basically (1)</b> 37:7
<b>\$7500 (2)</b> 20:22;24:13	<b>adults (1)</b> 46:11	<b>anesthesia (1)</b> 8:1	<b>assistant (3)</b> 10:2;30:11,12	<b>bathroom (1)</b> 51:23
<b>A</b>	<b>advent (1)</b> 6:16	<b>Angel (1)</b> 14:12	<b>assisting (1)</b> 87:10	<b>beating (2)</b> 32:3,4
<b>ABC (2)</b> 33:23,25	<b>advised (1)</b> 58:13	<b>answered (2)</b> 28:16;81:23	<b>associated (2)</b> 71:24;90:10	<b>become (1)</b> 81:2
<b>ability (1)</b> 94:9	<b>Aetna (1)</b> 33:19	<b>antecedent (1)</b> 36:13	<b>Association (2)</b> 56:8;58:15	<b>becomes (1)</b> 46:18
<b>able (5)</b> 5:15;49:25;82:1; 94:4,6	<b>affects (2)</b> 34:7;86:16	<b>anterior (2)</b> 10:9;64:6	<b>assume (1)</b> 5:2	<b>bed (6)</b> 40:12;59:4;95:22; 96:4;99:3;103:25
<b>absolutely (5)</b> 23:17;35:25;37:3; 42:10;46:13	<b>after-hours (1)</b> 35:4	<b>antibiotics (1)</b> 8:1	<b>asymptomatic (4)</b> 47:12,16;58:22;66:4	<b>bed (6)</b> 40:12;59:4;95:22; 96:4;99:3;103:25
<b>Academy (3)</b> 56:9;58:15;80:15	<b>afternoon (2)</b> 4:14,21	<b>anymore (5)</b> 17:5;33:2,3,7,14	<b>attorney (4)</b> 4:16;15:15;109:13, 16	<b>began (1)</b> 47:22
<b>accept (1)</b> 38:18	<b>afterwards (1)</b> 72:7	<b>apologize (2)</b> 28:15;89:11	<b>attorneys (8)</b> 6:4;14:4,7,23;15:13; 22:3;24:23;72:21	<b>begins (1)</b> 106:2
<b>accepted (1)</b> 34:11	<b>again (7)</b> 22:25;26:11;43:25; 46:1;79:8;88:10; 101:15	<b>appear (1)</b> 37:9	<b>attributable (1)</b> 86:23	<b>behalf (14)</b> 13:21;14:3;15:1,10; 50:15;51:5,16;55:25; 56:17;57:15;74:19; 76:2;77:20;81:15
<b>accident (7)</b> 46:8;48:19;77:16; 82:13;86:23;87:21; 88:16	<b>against (1)</b> 93:15	<b>appeared (1)</b> 43:17	<b>attribute (3)</b> 35:12,20;57:19	<b>behind (1)</b> 85:11
<b>accidents (2)</b> 65:8;75:13	<b>age (2)</b> 33:6,6	<b>appearing (1)</b> 22:22	<b>attributed (1)</b> 36:7	<b>bell (3)</b> 55:13,22;67:14
<b>according (1)</b> 66:1	<b>aging (2)</b> 45:5;78:23	<b>appears (1)</b> 109:7	<b>audio (1)</b> 13:17	<b>bene (2)</b> 21:11;22:14
<b>accounting (1)</b> 29:19	<b>ago (4)</b> 10:22;25:19,20; 30:25	<b>approach (1)</b> 7:12	<b>audio-recorded (1)</b> 91:24	<b>Bergen (1)</b> 11:21
<b>accurate (4)</b> 27:6;53:20;55:8; 71:10	<b>agree (20)</b> 19:24;37:8,10,12,16, 22,24;38:10,16;39:12, 16,21;47:11;77:23; 93:12;94:8;103:22; 105:21,24;106:5	<b>approached (1)</b> 69:24	<b>available (1)</b> 34:14	<b>better (3)</b> 9:4;34:5;103:24
<b>accurately (1)</b> 109:12	<b>ahead (6)</b> 18:25;81:5;89:11; 98:14;99:11;107:19	<b>approved (1)</b> 32:5	<b>averages (2)</b> 18:18;26:3	<b>beyond (3)</b> 26:6;63:14;76:24
<b>acknowledge (4)</b> 48:19;62:25;68:17; 105:4	<b>alive (1)</b> 38:9	<b>approximate (2)</b> 14:2;31:7	<b>awarded (3)</b> 73:14;75:14,17	<b>big (2)</b> 22:12;82:16
<b>acknowledged (1)</b> 89:25	<b>Allstate (7)</b> 55:18;66:20,25; 67:11,20;68:3,4	<b>approximately (8)</b> 12:24;22:19;23:8,10; 25:5;28:18,25;30:6	<b>aware (3)</b> 45:14;64:3;72:3	<b>bilaterally (1)</b> 102:20
<b>acknowledging (2)</b> 73:8;76:5	<b>almost (3)</b> 43:21;57:25;58:3	<b>approximation (1)</b> 25:10	<b>back (34)</b> 10:24;16:7;18:16; 22:18;24:15;25:19; 26:5;27:21;31:9;37:5; 41:2;42:3;45:24;52:4, 6,9;53:16;57:8;63:17, 19;64:10;83:6;86:19, 20;87:6,19;92:23;96:7;	<b>billing (1)</b> 84:6
<b>across (4)</b> 27:17;68:16,24; 101:3		<b>archaic (1)</b> 82:15		<b>bills (1)</b> 50:7
<b>action (2)</b> 109:14,18		<b>area (4)</b> 8:3;33:12;101:13,18		<b>bit (7)</b> 9:4;34:4,13;51:11; 57:22;60:6;103:18
		<b>areas (5)</b> 41:17;59:20;65:3,19,		<b>blame (2)</b> 85:17,19

<p><b>blamed (2)</b> 85:20,22</p> <p><b>blanks (1)</b> 16:22</p> <p><b>block (1)</b> 14:13</p> <p><b>blocks (1)</b> 30:22</p> <p><b>blown (2)</b> 65:10,10</p> <p><b>Blue (2)</b> 33:19,20</p> <p><b>board (2)</b> 50:25;51:13</p> <p><b>body (2)</b> 94:2,16</p> <p><b>bone (1)</b> 77:12</p> <p><b>born (1)</b> 38:4</p> <p><b>both (3)</b> 23:20;24:9;33:9</p> <p><b>bother (5)</b> 95:23;96:5,10;99:13; 100:23</p> <p><b>bottom (4)</b> 99:1,1,1;102:16</p> <p><b>box (2)</b> 71:15,16</p> <p><b>break (5)</b> 50:1;51:23;60:5; 98:15;102:24</p> <p><b>breakdown (2)</b> 5:20;15:12</p> <p><b>breaks (2)</b> 92:9;108:5</p> <p><b>bringing (1)</b> 96:25</p> <p><b>broke (1)</b> 39:6</p> <p><b>broken (2)</b> 6:3;77:12</p> <p><b>brought (1)</b> 89:18</p> <p><b>BRUUN (46)</b> 40:21,25;43:12;49:5; 51:21;52:1,5;54:10; 56:19;59:10;64:19; 68:25;69:4;71:4;72:11; 73:17;76:13,17;77:24; 78:9,18;79:2,25;80:10; 81:9,22;84:14,21; 85:24;87:23;88:7,12; 89:6;90:15;93:16,22; 94:11,21;97:22; 102:22;104:10;105:9, 16;106:7;107:18,23</p> <p><b>buck (3)</b> 84:11,20,25</p> <p><b>bulge (1)</b> 44:12</p> <p><b>bulges (3)</b> 36:24;70:20;71:17</p>	<p><b>bunch (1)</b> 35:16</p> <p><b>business (3)</b> 12:22;29:7,12</p> <p><b>businesspeople (1)</b> 29:16</p> <p><b>busy (1)</b> 33:8</p> <p><b>butt (1)</b> 42:2</p> <p style="text-align: center;"><b>C</b></p> <p><b>cabinet (1)</b> 83:2</p> <p><b>calculator (1)</b> 38:17</p> <p><b>call (4)</b> 35:4;55:24;56:1; 83:5</p> <p><b>called (2)</b> 22:13;34:19</p> <p><b>calling (1)</b> 57:22</p> <p><b>calls (1)</b> 33:21</p> <p><b>came (11)</b> 6:19,21;10:21;13:2; 15:13;26:22;41:21; 44:7;60:15;61:15,22</p> <p><b>camera (4)</b> 22:13;23:13;52:4; 94:16</p> <p><b>cams (1)</b> 94:2</p> <p><b>Can (92)</b> 5:9,18;7:14,17;8:8; 9:3,12;12:19,21;13:16; 14:5,10;15:8,11,18; 16:5;17:15;18:15;19:9; 22:7,16,17;23:11; 24:19,21;25:15,22; 26:7,11;27:20;28:20; 29:1,10;31:8;32:14; 34:4,12,20,23;38:10, 16;40:25;41:15;42:4; 43:14;44:23,25;45:6,9; 47:5,11,14,22;49:7; 50:1,11;51:22;54:12; 56:4,22;57:7,9;59:12; 60:22;62:18;63:6,13; 69:4;71:6;73:6,13; 74:4;75:5,8,12;76:17; 80:8;81:24;84:22;85:6; 92:22;98:17;100:4,7,8; 102:23;104:11,17; 105:16,19;106:24,25</p> <p><b>car (2)</b> 65:8,11</p> <p><b>care (9)</b> 12:12;33:1;37:17; 39:16;50:9;58:25; 61:14,16;72:23</p>	<p><b>career (6)</b> 6:18;10:15;25:15; 31:16;68:1;76:12</p> <p><b>carried (1)</b> 72:6</p> <p><b>carriers (1)</b> 32:23</p> <p><b>carries (1)</b> 87:8</p> <p><b>case (32)</b> 4:17;10:18;14:25; 23:18;24:18,24;25:24; 35:22;36:4;40:6;44:3, 4;47:21;49:9;53:6,25; 58:10;59:15;61:25; 65:23;68:12;71:25; 72:6,8;73:3;78:8,15; 87:11;89:22;90:4,9; 91:3</p> <p><b>cases (8)</b> 27:3;64:25;73:7; 74:19;75:16;77:13; 82:13,23</p> <p><b>category (1)</b> 33:7</p> <p><b>causation (8)</b> 48:23;57:20;68:20, 21;73:11,11;76:8,9</p> <p><b>causes (1)</b> 86:4</p> <p><b>causing (3)</b> 44:11;45:11;65:2</p> <p><b>center (4)</b> 35:4;37:18;61:15; 67:21</p> <p><b>central (1)</b> 66:1</p> <p><b>certain (4)</b> 24:13;34:6;42:12; 107:9</p> <p><b>certainly (4)</b> 18:1;39:10;40:1; 66:12</p> <p><b>certificate (5)</b> 66:10;67:12,19;68:5; 109:1</p> <p><b>certification (1)</b> 4:3</p> <p><b>certify (1)</b> 109:6</p> <p><b>cervical (12)</b> 7:10,12;8:3;43:1,20; 46:5;59:22;61:17,20; 79:13;101:13,18</p> <p><b>cetera (7)</b> 7:3;10:4;26:16; 50:10;59:19;60:17; 61:16</p> <p><b>chain (1)</b> 104:2</p> <p><b>chair (2)</b> 97:11,12</p> <p><b>chance (3)</b> 78:14,21,25</p>	<p><b>change (2)</b> 91:6;105:7</p> <p><b>changed (3)</b> 25:18;31:17;40:19</p> <p><b>changes (7)</b> 32:23;36:23;49:13, 17;65:24;88:23;89:16</p> <p><b>charge (8)</b> 16:1;17:9;18:11; 20:8;21:2;24:12,19,23</p> <p><b>charged (2)</b> 51:7;55:2</p> <p><b>charging (1)</b> 24:25</p> <p><b>chart (1)</b> 90:22</p> <p><b>cheap (1)</b> 108:6</p> <p><b>check (1)</b> 42:4</p> <p><b>checked (1)</b> 66:17</p> <p><b>chiropractor (2)</b> 45:18,19</p> <p><b>choice (2)</b> 10:24;28:25</p> <p><b>Cifelli (1)</b> 61:19</p> <p><b>circulated (1)</b> 36:18</p> <p><b>circumstances (5)</b> 31:18,20;40:6;46:9; 72:8</p> <p><b>City (1)</b> 19:13</p> <p><b>claimant (3)</b> 35:19;87:18;93:15</p> <p><b>claimants (5)</b> 13:22;14:4;15:2,11; 73:15</p> <p><b>claimed (1)</b> 48:23</p> <p><b>claiming (1)</b> 35:19</p> <p><b>Clara (2)</b> 67:20,24</p> <p><b>clarity (1)</b> 9:15</p> <p><b>CLARK (87)</b> 4:13,15,20;27:7,20; 28:5;31:15;35:23;39:8; 41:1;44:8;49:22;50:19; 51:6,20,24;52:3,8,24; 54:15;57:1,6,17;58:5; 60:7,8;64:24;69:6,8, 18;71:10,12,19;72:15; 73:5;74:15;77:18;78:3, 7,13,20;79:7,15,23; 80:2,23;81:13;82:1,4; 83:4,7;84:18,23;85:2, 25;88:2,9;89:3,10; 91:8;92:22;93:9,11,20;</p>	<p>94:1,15,19;95:8;96:22; 97:17,25;98:7;100:7; 101:2;102:25;103:3,9; 104:7,12,14;105:13,19, 20;107:7,13,24;108:4</p> <p><b>cleaning (1)</b> 8:9</p> <p><b>clear (4)</b> 20:12;24:21;27:16, 18</p> <p><b>Clearinghouse (1)</b> 67:22</p> <p><b>Clearly (8)</b> 5:24;6:1;25:18;28:8; 64:2;72:1;97:2,20</p> <p><b>client (1)</b> 108:7</p> <p><b>clients (1)</b> 15:22</p> <p><b>clinical (1)</b> 86:22</p> <p><b>closer (1)</b> 20:18</p> <p><b>coincidence (1)</b> 106:6</p> <p><b>colleague (1)</b> 41:10</p> <p><b>colleagues (1)</b> 33:6</p> <p><b>COLQUHOUN (30)</b> 40:23;43:10;49:3; 51:17;69:2;71:7;72:13; 73:19;76:15;78:1,17; 79:4,21;81:7,11;84:12; 88:13;89:7;90:17; 93:18,24;94:13,23; 97:16,23;100:24; 104:5;105:11;106:9; 108:11</p> <p><b>comfortable (1)</b> 97:12</p> <p><b>coming (3)</b> 27:17;41:22;58:14</p> <p><b>comment (2)</b> 50:12;82:2</p> <p><b>commentary (2)</b> 34:2;90:6</p> <p><b>commenting (1)</b> 50:4</p> <p><b>comments (1)</b> 87:9</p> <p><b>common (6)</b> 10:11;15:5;35:10; 47:25;68:16;87:22</p> <p><b>Commonly (3)</b> 10:18;44:9;48:10</p> <p><b>community (1)</b> 33:10</p> <p><b>companies (6)</b> 31:25;55:16,19; 56:18;57:15;83:23</p> <p><b>company (19)</b> 12:8,9,11,22;13:4,5,</p>
---	--	--	--	--

<p>9,14;30:3;33:24;55:10; 12,17,21;66:9,13,20; 67:1,20 <b>complain (2)</b> 62:3;79:17 <b>complained (9)</b> 62:22,24;63:18;80:5; 101:12,17,23;102:11, 20 <b>complainer (1)</b> 101:4 <b>complaining (1)</b> 65:6 <b>complains (1)</b> 81:16 <b>complaint (8)</b> 45:14,15;48:20;61:5; 62:8,11;63:2,7 <b>complaints (15)</b> 39:9;47:4;59:21; 60:10,15;61:7,11,13; 62:13;70:6;86:18,20; 87:7;96:15;107:4 <b>completely (1)</b> 60:4 <b>compliant (1)</b> 29:20 <b>compunction (1)</b> 76:19 <b>computer (3)</b> 13:17;19:2;82:13 <b>concept (1)</b> 29:14 <b>concern (1)</b> 32:11 <b>conclude (1)</b> 61:9 <b>concluded (1)</b> 108:15 <b>conclusion (2)</b> 58:18;63:16 <b>conclusions (8)</b> 44:6;49:18;58:12; 61:2;73:3,24;75:10; 76:23 <b>conditions (5)</b> 35:12,21;36:8;86:25; 88:6 <b>conference (2)</b> 21:8,14 <b>confirm (1)</b> 50:12 <b>congenital (1)</b> 36:8 <b>connection (1)</b> 7:15 <b>conservative (1)</b> 106:3 <b>conservatively (1)</b> 44:15 <b>consider (2)</b> 62:7;108:4 <b>consistent (1)</b></p>	<p>53:15 <b>constant (1)</b> 98:22 <b>construction (2)</b> 39:11;105:22 <b>continue (1)</b> 95:7 <b>contrary (4)</b> 70:14;90:13,20;98:6 <b>control (2)</b> 8:8;26:21 <b>convincing (1)</b> 46:7 <b>cord (1)</b> 48:4 <b>coronary (1)</b> 86:14 <b>corporation (1)</b> 12:14 <b>corporations (1)</b> 12:16 <b>correctly (1)</b> 52:10 <b>corresponding (2)</b> 17:16;103:12 <b>corrupt (1)</b> 95:5 <b>corruption (1)</b> 95:10 <b>costs (1)</b> 84:5 <b>co-surgeon (6)</b> 7:15,16;8:21;9:1,22; 10:17 <b>counsel (3)</b> 4:2;109:13,17 <b>counties (2)</b> 20:18;24:14 <b>County (5)</b> 11:12,14,15;20:17; 109:3 <b>couple (1)</b> 30:21 <b>couple-minute (1)</b> 102:23 <b>course (22)</b> 6:18;17:19;25:15; 26:13;32:12;37:16; 39:17;40:10,14;41:14; 44:12,15;50:8;60:24; 66:18;72:3;74:8;91:23; 96:16;106:22,22,25 <b>court (23)</b> 11:11;18:14,16,20; 19:6,8;20:5,24;22:22; 23:4,5,8,13;25:20; 26:22;27:24;57:11; 58:8;77:20;92:25; 108:9,12;109:2 <b>courthouse (1)</b> 22:2 <b>coverage (2)</b> 66:18,19</p>	<p><b>covered (2)</b> 6:24;66:13 <b>covering (1)</b> 66:14 <b>COVID (5)</b> 6:17;16:8;22:5,6; 23:2 <b>crack (1)</b> 60:2 <b>crash (1)</b> 87:4 <b>crazy (2)</b> 56:12;59:8 <b>Cross (1)</b> 33:20 <b>CT (1)</b> 65:23 <b>culpability (1)</b> 37:2 <b>current (2)</b> 11:18;13:10 <b>currently (2)</b> 11:9;53:5 <b>customers (1)</b> 14:5 <b>cut (1)</b> 8:8 <b>CV (2)</b> 5:4;12:20</p>	<p>13;17:8,16;18:4,9; 35:10,15,17;48:1,10, 12;50:15;51:5,16;53:7; 54:7;55:9,16,25;56:15, 18;57:12,15;66:8,9,21, 25;67:6;68:7;69:15; 74:19,22;76:3,4;77:6, 21;81:4,15;94:3;103:7, 11 <b>defense-favorable (1)</b> 48:18 <b>DeFilippo (1)</b> 14:13 <b>defined (1)</b> 58:5 <b>definition (5)</b> 56:6,10,12;57:24; 58:6 <b>degeneration (12)</b> 45:3,4,7,10;46:16,20, 25;47:12,16;58:21; 86:24;105:5 <b>degenerative (17)</b> 36:8;43:5;46:11; 48:22;49:13;57:18; 65:24;68:18;73:9;76:6; 80:7;86:8,13;88:6,17, 22;89:16 <b>degree (2)</b> 79:11;90:10 <b>degrees (2)</b> 72:4;106:15 <b>delighted (1)</b> 60:24 <b>denied (1)</b> 96:22 <b>deny (7)</b> 49:15;68:20;70:13; 71:13;80:20;81:14,20 <b>denying (2)</b> 73:11;76:8 <b>deposition (16)</b> 5:14;19:18,25;21:4, 12,12;22:14,14,20; 23:21;24:9;50:24; 52:22;57:4;108:15; 109:9 <b>depositions (2)</b> 15:25;23:25 <b>describe (1)</b> 48:19 <b>described (4)</b> 30:2;57:24;60:7; 99:17 <b>description (1)</b> 87:8 <b>deserving (1)</b> 75:24 <b>despite (1)</b> 86:18 <b>destroy (1)</b> 84:5 <b>detail (1)</b></p>	<p>55:22 <b>details (2)</b> 24:21;70:2 <b>determine (2)</b> 12:19;49:25 <b>determining (1)</b> 8:6 <b>device (1)</b> 9:14 <b>diagnosis (1)</b> 43:2 <b>dictate (5)</b> 16:18,24;17:1;30:14; 95:2 <b>difference (1)</b> 54:18 <b>different (5)</b> 41:18;43:17;51:11; 60:4;90:21 <b>differently (1)</b> 18:11 <b>differing (1)</b> 107:5 <b>digital (1)</b> 17:1 <b>directly (1)</b> 8:7 <b>disability (13)</b> 37:25;39:5,18;40:11, 12,15,18;59:2,5; 103:21,23;104:1,3 <b>disabling (1)</b> 47:4 <b>disagree (3)</b> 41:4;95:4,13 <b>disc (22)</b> 8:9,10,11;36:20,22; 42:25;43:5;44:11; 60:21,21,23;70:19,20; 71:17,20;77:13;85:4, 22;86:4,8;88:5,17 <b>disectomy (1)</b> 10:9 <b>Discogenic (1)</b> 36:23 <b>discovery (2)</b> 23:24;50:23 <b>discs (2)</b> 42:16;43:8 <b>disease (3)</b> 86:8,13;88:17 <b>disk (1)</b> 86:13 <b>disregard (1)</b> 77:22 <b>dissected (1)</b> 9:9 <b>dissecting (1)</b> 9:25 <b>dissection (2)</b> 8:3;9:12 <b>distance (1)</b> 70:18</p>
		<b>D</b>		
		<p><b>daily (1)</b> 86:18 <b>date (3)</b> 12:3;41:20;43:19 <b>DAVID (2)</b> 4:8;67:21 <b>day (17)</b> 11:11,16,23;19:9; 20:6,7,22,24;38:4; 40:13;55:6;62:8,15; 88:16,20;104:1;106:2 <b>days (8)</b> 38:14,21,23;39:15; 40:8;58:23;103:19; 105:25 <b>de (2)</b> 21:11;22:14 <b>deal (4)</b> 31:23;70:7;72:20,21 <b>dealing (1)</b> 29:9 <b>decided (1)</b> 10:25 <b>decision (3)</b> 41:12;75:7;78:6 <b>decisions (2)</b> 74:2,14 <b>deepened (1)</b> 9:13 <b>defense (47)</b> 5:16,22;6:2,6;16:6,8,</p>		

<p><b>dizziness (1)</b> 86:21</p> <p><b>doctor (10)</b> 29:11;56:10;81:14; 89:8;90:16,18;94:22; 105:21,24;107:15</p> <p><b>doctors (8)</b> 29:6,10;30:18;32:22; 33:12;94:3;95:14; 103:22</p> <p><b>dollars (10)</b> 17:10;19:20;20:3; 21:3;50:14;51:4,15; 56:5;76:3;77:6</p> <p><b>Dolores (5)</b> 27:20;28:10;57:7; 92:22;109:4</p> <p><b>done (22)</b> 7:4;10:12;13:21; 16:2;19:1;21:23;35:13; 41:17,20;42:24;43:16, 19;45:10;47:18;56:20; 63:23;67:6;69:12,13; 95:3;107:4,19</p> <p><b>double (2)</b> 20:25;99:8</p> <p><b>doubt (1)</b> 63:20</p> <p><b>down (23)</b> 6:3;8:3;9:17;10:4; 26:22;32:4;44:17; 48:15;49:10,10;50:2; 53:18;60:6;77:7,15; 91:2;92:9;96:14,17; 99:18,20;100:10;102:3</p> <p><b>downright (1)</b> 94:17</p> <p><b>Dr (7)</b> 4:14;41:8,10;52:9; 61:19,21;95:16</p> <p><b>draw (3)</b> 49:18;50:25;76:22</p> <p><b>drawn (1)</b> 75:9</p> <p><b>driving (2)</b> 32:13,14</p> <p><b>drop (2)</b> 92:14;93:1</p> <p><b>due (3)</b> 27:2;31:17;40:6</p> <p><b>duly (2)</b> 4:9;109:8</p> <p><b>duration (2)</b> 62:15;63:11</p> <p><b>during (4)</b> 19:25;22:5,6;50:8</p> <p><b>dynamic (2)</b> 8:20;34:13</p> <p><b>dynamics (1)</b> 7:14</p>	<p><b>earlier (4)</b> 7:2;31:16;34:18; 53:25</p> <p><b>early (14)</b> 31:1;59:21;60:9,14; 61:4,7;62:8,10,13;63:7, 8;65:23;79:9,9</p> <p><b>earth (6)</b> 38:14;39:15;40:7; 58:23;103:18;105:25</p> <p><b>echo (1)</b> 28:11</p> <p><b>economic (1)</b> 54:21</p> <p><b>educate (2)</b> 74:3;75:8</p> <p><b>education (1)</b> 6:23</p> <p><b>effect (1)</b> 102:6</p> <p><b>either (5)</b> 8:16;22:15;45:23; 63:22;78:21</p> <p><b>elbow (2)</b> 99:20;102:7</p> <p><b>elected (3)</b> 10:21;11:2;34:25</p> <p><b>element (3)</b> 32:1,11;90:24</p> <p><b>elements (2)</b> 44:3;64:5</p> <p><b>Ellenberger (2)</b> 89:22;91:14</p> <p><b>Ellenberger's (1)</b> 90:4</p> <p><b>else (8)</b> 16:23;48:14;58:22; 74:7;84:1;97:20;104:4; 105:5</p> <p><b>embellish (2)</b> 90:2;91:1</p> <p><b>emergencies (2)</b> 33:3;34:16</p> <p><b>emergency (7)</b> 35:3;62:16,19;63:12, 19;79:18;81:17</p> <p><b>emergent (2)</b> 34:19;39:16</p> <p><b>emphasize (2)</b> 48:22;87:20</p> <p><b>emphasized (1)</b> 87:6</p> <p><b>emphasizes (1)</b> 86:24</p> <p><b>employed (1)</b> 109:17</p> <p><b>employees (1)</b> 30:3</p> <p><b>Encompass (2)</b> 55:18;67:5</p> <p><b>encumbrance (1)</b> 48:8</p> <p><b>ended (1)</b></p>	<p>86:21</p> <p><b>enough (2)</b> 42:16;63:8</p> <p><b>entities (1)</b> 43:6</p> <p><b>entity (1)</b> 60:4</p> <p><b>episodes (1)</b> 99:17</p> <p><b>equate (1)</b> 38:13</p> <p><b>ER (1)</b> 86:19</p> <p><b>era (1)</b> 6:22</p> <p><b>especially (3)</b> 95:23;96:5;99:13</p> <p><b>esse (2)</b> 21:12;22:14</p> <p><b>essentially (1)</b> 64:10</p> <p><b>Essex (11)</b> 11:7,15;12:7,17; 13:11;20:17;29:23; 30:19;31:2;50:1;109:3</p> <p><b>estimate (15)</b> 5:9;12:21;15:12,18; 16:5;18:15;22:17; 23:11;26:2,8;31:8; 53:13;62:18;63:13; 103:5</p> <p><b>estimated (2)</b> 27:11;28:2</p> <p><b>estimating (1)</b> 31:19</p> <p><b>estimation (5)</b> 6:6;15:9;17:20;24:4; 27:1</p> <p><b>et (7)</b> 7:3;10:4;26:16; 50:10;59:19;60:17; 61:16</p> <p><b>evaluate (2)</b> 15:22;98:2</p> <p><b>evaluation (4)</b> 13:6;14:8;58:9;92:6</p> <p><b>evaluations (4)</b> 12:13;26:21;52:18; 53:1</p> <p><b>even (13)</b> 25:23;45:7,18,19; 53:21;58:21;79:17; 80:4;81:16;88:3;92:18; 93:5;106:20</p> <p><b>event (2)</b> 57:6;59:16</p> <p><b>everybody (1)</b> 69:19</p> <p><b>everyone (6)</b> 7:25;64:3;69:20; 70:9;71:18;95:5</p> <p><b>evidence (2)</b> 46:7;86:22</p>	<p><b>evidence-based (3)</b> 44:5;58:11;59:9</p> <p><b>evolution (1)</b> 33:15</p> <p><b>evolves (1)</b> 33:15</p> <p><b>exactly (4)</b> 5:25;6:9;92:9;98:1</p> <p><b>exam (27)</b> 17:8,16;18:5,7;39:1; 47:23;48:1,20;56:15; 57:13;66:8;69:15; 85:13;87:7;92:3,9; 94:6,20;95:20;96:2,11; 97:2,8;98:9;101:6; 102:8,11</p> <p><b>EXAMINATION (4)</b> 4:12;109:5,8,15</p> <p><b>examine (2)</b> 41:11;74:25</p> <p><b>examined (1)</b> 4:9</p> <p><b>example (2)</b> 16:8;91:5</p> <p><b>exams (32)</b> 12:9;15:14;16:1,6,9, 14;18:9,10;25:8,12; 27:11,12,18;28:1,2,18, 24;52:14,14;53:7;54:1, 2,8;55:10;66:21,25; 67:7;68:7;92:19;93:6, 13;103:11</p> <p><b>except (1)</b> 4:4</p> <p><b>excluding (1)</b> 18:7</p> <p><b>excuse (2)</b> 61:24;79:10</p> <p><b>existence (1)</b> 60:20</p> <p><b>exists (1)</b> 77:13</p> <p><b>expected (1)</b> 66:14</p> <p><b>experience (2)</b> 10:12;74:17</p> <p><b>experienced (2)</b> 11:1;75:20</p> <p><b>explain (6)</b> 7:14,17;9:3;13:24; 34:4;105:14</p> <p><b>explanation (3)</b> 36:20,21;106:6</p> <p><b>explanations (1)</b> 26:15</p> <p><b>explosion (1)</b> 65:11</p> <p><b>expound (1)</b> 34:9</p> <p><b>express (1)</b> 37:1</p> <p><b>external (2)</b> 101:24;102:20</p>	<p><b>extra (1)</b> 24:20</p> <p><b>extremities (1)</b> 98:20</p> <p><b>extremity (1)</b> 99:18</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>facility (1)</b> 61:14</p> <p><b>fact (7)</b> 27:2;37:3;60:1; 78:23,24;86:11;88:22</p> <p><b>factor (2)</b> 33:5;59:23</p> <p><b>factors (2)</b> 73:25;74:9</p> <p><b>facts (15)</b> 35:22;36:4;44:2,4; 49:9;58:10;59:15; 61:24;72:1,8;75:9; 77:3,8,8;87:25</p> <p><b>fair (7)</b> 6:5;17:20;24:4; 93:12,21;94:10;103:5</p> <p><b>fairly (2)</b> 24:18;26:19</p> <p><b>fall (33)</b> 37:9,14;38:1,4,8,14, 24;39:18,19,24;40:4, 20;43:7;45:8,12;47:7, 22;58:19,21,24;59:7; 60:12;63:10;66:5; 78:24;85:20;89:4,4; 99:24;103:23;104:4, 16;105:4</p> <p><b>fall-down (1)</b> 59:16</p> <p><b>falls (5)</b> 39:15;40:8;95:13; 103:20;106:2</p> <p><b>familiar (3)</b> 7:20,21;29:13</p> <p><b>far (7)</b> 25:6;38:24;45:8; 47:4,22;104:16;106:5</p> <p><b>fashion (1)</b> 59:22</p> <p><b>fatalistic (1)</b> 100:21</p> <p><b>fee (4)</b> 11:6;17:7;19:18; 24:11</p> <p><b>feel (1)</b> 92:11</p> <p><b>fees (6)</b> 11:4;32:4;50:7;51:7, 7;54:19</p> <p><b>feet (7)</b> 37:9;39:16;40:8; 59:17;85:20;103:20; 106:2</p>
<b>E</b>				

<p><b>fell (3)</b> 42:1,9;70:17</p> <p><b>felt (1)</b> 70:7</p> <p><b>femur (1)</b> 89:23</p> <p><b>few (9)</b> 12:25;13:2;17:12,14; 24:1,10;32:20,25; 38:22</p> <p><b>fewer (3)</b> 22:24,25;26:18</p> <p><b>field (1)</b> 12:17</p> <p><b>file (5)</b> 19:23;24:8;80:21; 82:2;83:1</p> <p><b>filing (1)</b> 4:3</p> <p><b>fill (1)</b> 16:22</p> <p><b>filmed (1)</b> 91:24</p> <p><b>films (2)</b> 48:15;79:9</p> <p><b>final (1)</b> 76:22</p> <p><b>financially (1)</b> 109:18</p> <p><b>find (1)</b> 41:23</p> <p><b>findings (11)</b> 36:7,20,22;46:11; 68:19,19;69:6;73:10; 76:7;80:16;88:21</p> <p><b>fine (4)</b> 14:17;22:9;51:1; 94:5</p> <p><b>fingers (1)</b> 99:19</p> <p><b>finish (3)</b> 57:9;89:8;90:18</p> <p><b>firm (1)</b> 107:25</p> <p><b>first (5)</b> 4:9;42:23;46:1; 91:21;106:3</p> <p><b>five (13)</b> 5:19;18:17;21:8; 22:18;24:1;26:4,5,6, 10;52:1;83:6,14;90:21</p> <p><b>five- (1)</b> 26:6</p> <p><b>fix (1)</b> 44:20</p> <p><b>fixed (1)</b> 26:20</p> <p><b>flexion (1)</b> 102:7</p> <p><b>focus (1)</b> 65:2</p> <p><b>focused (2)</b> 65:13;68:2</p>	<p><b>folder (6)</b> 82:14,15,16,18,23,25</p> <p><b>follow (4)</b> 32:22,22;48:17;76:4</p> <p><b>following (4)</b> 27:23;36:21;57:10; 92:24</p> <p><b>follows (2)</b> 4:10;57:21</p> <p><b>foot (1)</b> 39:6</p> <p><b>football (2)</b> 96:8;100:18</p> <p><b>force (2)</b> 32:13,15</p> <p><b>foregoing (1)</b> 109:8</p> <p><b>forensic (18)</b> 5:7,10,12,16;12:8,9; 13:6,21;30:14;31:3,21; 34:7;49:24;50:2;54:2; 74:18;82:11,94:20</p> <p><b>form (59)</b> 4:5;40:22,24;43:11, 13;49:4,6;51:18;54:11; 56:20;59:11;64:20; 69:1,3;71:5,8;72:12, 14;73:18,20;76:14,16; 77:25;78:2,10,19;79:3, 5,22;80:1,11;81:9,23; 84:13,14,21;85:24; 86:23;87:24;88:8,12, 14;89:6;90:15;93:17, 19,23,25;94:12,14,22; 97:22,24;104:6,10; 105:10,12;106:8,10</p> <p><b>format (1)</b> 22:12</p> <p><b>found (6)</b> 8:7;41:8;62:19;84:3, 7;88:16</p> <p><b>four (12)</b> 16:7,18;17,18;19:6; 23:9,17,20;25:7,11; 26:2,10;102:15</p> <p><b>fracture (12)</b> 42:13;64:1,3,4,11,14, 15;89:23,24;90:8; 106:19,20</p> <p><b>fractures (25)</b> 6:24;37:13;40:1,9; 41:17,19;43:4,4;59:17; 64:7,9;70:13,18;71:13, 16,22;72:2;89:24;90:5, 22;91:4;106:14,20,25; 107:8</p> <p><b>frame (2)</b> 53:17,17</p> <p><b>frequently (2)</b> 22:10;48:2</p> <p><b>front (7)</b> 8:11;11:7;22:23; 51:3,13;90:22;98:21</p>	<p><b>Frontino (1)</b> 109:4</p> <p><b>full (3)</b> 20:24;62:20;94:5</p> <p><b>fully (1)</b> 109:12</p> <p><b>further (1)</b> 109:15</p> <p><b>fusion (6)</b> 7:7,11,15;10:9;80:6; 87:5</p>	<p><b>greater (1)</b> 62:14</p> <p><b>GREIFINGER (6)</b> 4:8,14;52:9,11,12; 67:21</p> <p><b>Group (10)</b> 11:7;12:7,17;13:11; 29:24,24,25;30:19; 31:2;50:1</p> <p><b>groups (1)</b> 29:15</p> <p><b>guy (2)</b> 65:9;97:1</p>	<p><b>hereby (1)</b> 109:6</p> <p><b>herein (1)</b> 109:11</p> <p><b>Here's (2)</b> 70:4,6</p> <p><b>hereto (1)</b> 109:17</p> <p><b>herniate (1)</b> 42:16</p> <p><b>herniated (3)</b> 42:25;43:4;77:13</p> <p><b>herniation (6)</b> 44:12;46:6;60:21,22, 23;86:10</p> <p><b>herniations (4)</b> 36:24;70:20;71:17; 86:4</p> <p><b>hesitation (1)</b> 77:9</p> <p><b>Hey (1)</b> 51:21</p> <p><b>high (4)</b> 74:17,17,24,24</p> <p><b>higher (1)</b> 18:1</p> <p><b>highest (1)</b> 25:22</p> <p><b>himself (1)</b> 97:3</p> <p><b>hip (1)</b> 90:8</p> <p><b>hire (1)</b> 29:7</p> <p><b>hiring (1)</b> 29:19</p> <p><b>history (7)</b> 45:9;80:21;87:6,19, 21;88:4;92:8</p> <p><b>hold (1)</b> 84:16</p> <p><b>holder (3)</b> 66:11;67:13;68:5</p> <p><b>holders (1)</b> 67:19</p> <p><b>holding (2)</b> 9:8,14</p> <p><b>holds (1)</b> 10:3</p> <p><b>home (1)</b> 83:25</p> <p><b>hope (4)</b> 66:12,16;75:8,10</p> <p><b>hospital (6)</b> 37:18,21;59:1;66:2; 67:22;80:5</p> <p><b>hospitals (3)</b> 33:9;67:25;68:15</p> <p><b>hour (7)</b> 17:10;19:20;20:3; 21:3;51:22;55:2; 102:23</p> <p><b>hours (6)</b></p>	
		<b>G</b>			
		<p><b>gamut (1)</b> 6:23</p> <p><b>gathering (1)</b> 23:3</p> <p><b>gave (1)</b> 75:23</p> <p><b>general (4)</b> 6:21;36:25;66:15; 73:1</p> <p><b>generalization (1)</b> 85:23</p> <p><b>generally (3)</b> 10:17;20:2;29:13</p> <p><b>generate (1)</b> 103:10</p> <p><b>generating (1)</b> 18:7</p> <p><b>gentleman (1)</b> 41:11</p> <p><b>gentleman-like (1)</b> 69:23</p> <p><b>Germaine (2)</b> 53:6,25</p> <p><b>given (6)</b> 8:2;12:12;58:20; 76:2,19;109:10</p> <p><b>giving (3)</b> 21:20;26:1;91:20</p> <p><b>glad (5)</b> 9:6;22:16;32:25; 34:21;77:16</p> <p><b>global (1)</b> 87:9</p> <p><b>God (1)</b> 90:14</p> <p><b>goes (6)</b> 37:5;39:14;40:9,11; 74:7;102:17</p> <p><b>Good (8)</b> 4:14,21,22;17:11; 24:10;25:25;26:24; 75:22</p> <p><b>gosh (1)</b> 14:13</p> <p><b>gown (1)</b> 91:21</p> <p><b>Great (6)</b> 13:19;16:12;28:13; 51:25;61:1;70:7</p>	<b>H</b>		

17:12,14;18:6,6; 24:10;25:6 <b>HR (1)</b> 29:20 <b>Hudson (3)</b> 11:12,14,22 <b>hundreds (1)</b> 77:19 <b>hurts (1)</b> 102:7	27:2;31:22;32:8,17; 86:7,12 <b>independent (7)</b> 15:21;36:25;56:1,2, 4,7;57:22 <b>indicated (1)</b> 41:9 <b>indicating (1)</b> 82:17 <b>industry (5)</b> 50:15;51:5,16;56:1; 76:4 <b>infinitum (1)</b> 84:6 <b>inflation (1)</b> 54:21 <b>influence (1)</b> 75:6 <b>influx (1)</b> 33:4 <b>information (1)</b> 92:12 <b>infrequently (1)</b> 20:10 <b>initial (1)</b> 43:22 <b>injections (5)</b> 39:5;44:14;45:20; 47:3;87:5 <b>injured (5)</b> 59:19;65:3;80:19,20; 107:3 <b>injuries (31)</b> 6:25,25,25;14:9; 15:23;35:12,18,20; 38:1;39:25;41:14;43:3; 44:1;57:19;59:16,20; 62:1;65:9;70:5,6,12; 71:21;72:4;75:14;76:6; 89:25;92:13;106:12, 12,14,22 <b>injury (19)</b> 14:22;36:3;39:1; 40:2;43:3,22;65:1,19; 70:21;72:1;73:23; 77:11,15;88:20;89:13, 15;91:7;107:6,8 <b>instead (1)</b> 21:20 <b>insult (1)</b> 45:2 <b>insurance (11)</b> 29:21;31:24,25; 32:23;33:22,23;66:10, 20;67:1,3,20 <b>intact (1)</b> 48:4 <b>intelligence (2)</b> 74:17,24 <b>interested (1)</b> 109:18 <b>intermittent (1)</b> 99:17	<b>interpret (2)</b> 48:21;57:18 <b>interpretation (1)</b> 73:22 <b>interrupt (2)</b> 8:13;18:24 <b>interviewing (2)</b> 38:25;97:8 <b>into (8)</b> 8:9;16:18;34:10; 47:12;54:8;69:18; 94:16;102:17 <b>intrinsically (1)</b> 48:4 <b>invoice (2)</b> 107:20,24 <b>involved (5)</b> 7:6,8;34:24;64:5; 89:22 <b>Iron (2)</b> 83:18,24 <b>irritation (1)</b> 100:8 <b>isolated (1)</b> 64:23 <b>issue (6)</b> 16:15;43:16;61:17, 20,22;62:25 <b>issues (3)</b> 35:25;43:17;74:8 <b>issue's (1)</b> 87:20	<b>juries (4)</b> 73:14;74:1,1;75:6 <b>juror (2)</b> 76:23;77:1 <b>jurors (3)</b> 22:3;74:6,13 <b>jury (8)</b> 21:14;22:23;23:15; 51:3,13;74:6;77:22; 78:6	<b>leads (1)</b> 106:4 <b>learn (1)</b> 92:13 <b>learned (1)</b> 6:23 <b>leave (3)</b> 34:21;52:3;92:10 <b>led (2)</b> 104:21,24 <b>left (8)</b> 12:4;59:18;95:23; 96:5;98:9,22;99:13,18 <b>leg (2)</b> 39:6;98:9 <b>legitimate (1)</b> 77:11 <b>legs (1)</b> 44:18 <b>less (4)</b> 20:19;38:11;54:25; 83:15 <b>letting (1)</b> 89:8 <b>level (8)</b> 8:6;44:5;58:10; 60:16;63:2;65:25; 74:18;99:20 <b>levels (9)</b> 40:1;41:18;42:12,16; 88:23;106:15;107:5,9, 10 <b>liability (1)</b> 74:8 <b>License (1)</b> 109:22 <b>life (2)</b> 29:1;64:17 <b>ligament (1)</b> 6:25 <b>liked (1)</b> 33:12 <b>likely (1)</b> 106:5 <b>limitations (8)</b> 37:25;40:11,13,16, 18;44:17;59:3,5 <b>limiting (1)</b> 28:25 <b>line (4)</b> 99:1,16;102:15,17 <b>lines (2)</b> 36:21;99:1 <b>listed (2)</b> 66:9;67:12 <b>listen (1)</b> 75:11 <b>listing (1)</b> 68:15 <b>little (16)</b> 9:4;17:5;19:23; 20:18;34:1,4,13;51:10, 22;57:5,22;58:17,20;		
<b>I</b>			<b>K</b>			
<b>idea (2)</b> 63:6;66:12 <b>identifiable (1)</b> 41:24 <b>identified (1)</b> 35:24 <b>identify (1)</b> 68:18 <b>identifying (2)</b> 10:1;73:9 <b>imagine (4)</b> 73:6,13;75:12;99:25 <b>imaging (4)</b> 36:7;47:8;48:21; 57:18 <b>immediately (1)</b> 36:7 <b>impinging (1)</b> 44:18 <b>implied (1)</b> 95:11 <b>important (2)</b> 59:23;62:21 <b>improvement (1)</b> 60:25 <b>incidence (2)</b> 86:8,12 <b>incident (7)</b> 36:13;41:24;47:2; 48:24;62:13;68:21; 73:12 <b>incision (3)</b> 8:2;9:12,24 <b>include (3)</b> 24:12;96:12;106:19 <b>included (2)</b> 37:17;98:10 <b>including (10)</b> 8:1;12:13;23:20; 36:24;55:17;66:15,15; 86:20;87:8;89:23 <b>income (2)</b> 49:25;103:10 <b>incorporated (1)</b> 12:23 <b>incorporation (1)</b> 13:2 <b>in-court (1)</b> 23:21 <b>increased (6)</b>			<b>keep (14)</b> 6:1;77:4;82:5,6,8,9, 11,21,23;83:8,11,17; 84:5,6 <b>Kevin (1)</b> 108:9 <b>key (4)</b> 64:2;96:14,20;99:21 <b>kids (2)</b> 96:9;100:18 <b>kind (9)</b> 15:11;29:18,21; 53:17;56:12;65:14; 73:15;76:1;81:1 <b>knew (2)</b> 13:25;33:11 <b>knowledge (5)</b> 11:19;14:19;72:25; 74:17,24 <b>known (2)</b> 33:10;106:17	<b>James (2)</b> 67:22,24 <b>Jerry (4)</b> 4:15;51:21;56:21; 102:22 <b>Jersey (4)</b> 14:19,24;82:12; 109:2 <b>job (3)</b> 73:21;74:2;77:1 <b>Jobe (2)</b> 92:14;93:2 <b>join (1)</b> 30:24 <b>joint (1)</b> 7:1 <b>judge (2)</b> 21:22;22:3 <b>judgments (1)</b> 76:25 <b>July (1)</b> 12:4 <b>jump (2)</b> 32:5;94:6 <b>jumped (2)</b> 96:24;97:15 <b>junior (1)</b> 34:22	<b>J</b>	<b>L</b>

<p>59:8;60:6;103:18 <b>live (12)</b> 19:8;21:6,7,13;22:2, 15,16,22;23:5,8,12,20 <b>living (1)</b> 23:1 <b>locally (1)</b> 30:16 <b>long (7)</b> 12:21;25:12,19,25; 26:14;31:8;69:12 <b>longer (3)</b> 6:13;40:20;63:11 <b>look (19)</b> 25:18;35:22;36:3; 44:4;48:16;49:16;50:6; 58:8;59:14;61:23;63:1; 67:2;70:23;77:2;79:8; 80:17;89:20;96:20; 102:18 <b>looked (1)</b> 59:23 <b>looking (19)</b> 5:4;15:21;18:13; 19:10;26:3,13;31:11; 41:14;43:25;44:1,2; 45:24;46:1;69:10,11, 14;71:25;97:18;99:7 <b>lot (13)</b> 7:1;17:18;22:24; 30:17;31:20,23;33:11; 65:2,7,14;85:3;96:10; 100:23 <b>low (7)</b> 10:24;63:17,18;64:9; 86:18,20;87:6 <b>lower (4)</b> 12:4;64:9,12;98:20 <b>Luis (2)</b> 87:3,12 <b>lumbar (7)</b> 39:24;42:23;43:22; 46:1;59:24;65:23;87:5 <b>lungs (1)</b> 86:15 <b>lying (1)</b> 100:5</p>	<p><b>malignancies (1)</b> 86:15 <b>malpractice (5)</b> 66:10,13;67:3,13; 68:12 <b>man (3)</b> 59:16;70:4,7 <b>manage (2)</b> 29:1,2 <b>manager (2)</b> 29:7;30:10 <b>manner (3)</b> 69:22,23;72:18 <b>many (19)</b> 16:5,8;18:15;19:16; 22:19;23:11,23;30:6, 24;31:17;33:6,9,13; 46:14;66:21;68:7;74:9; 98:1,1 <b>March (1)</b> 43:23 <b>Maria (1)</b> 30:10 <b>Marin (3)</b> 52:17,21;55:2 <b>Marquis (4)</b> 55:11,11,17,21 <b>massage (2)</b> 96:6;100:11 <b>massages (2)</b> 96:7;100:15 <b>material (2)</b> 8:10,12 <b>math (3)</b> 50:13;51:14;54:5 <b>matter (3)</b> 8:5;9:16;46:17 <b>matters (1)</b> 46:24 <b>Maureen (1)</b> 30:11 <b>may (9)</b> 12:24;26:15;27:2; 32:1;38:5;55:8;65:3; 67:18,19 <b>maybe (8)</b> 23:17;25:23;30:21; 31:13;44:14;75:21,22; 83:14 <b>MD (2)</b> 4:8;67:21 <b>mean (17)</b> 8:13;13:25;27:1; 33:18;34:5;36:2;46:21; 54:6,16;56:15;57:12; 63:7;64:7;89:18;94:2; 97:10;107:9 <b>means (1)</b> 74:4 <b>meant (2)</b> 14:1;27:3 <b>medical (37)</b> 12:16;13:23;15:14;</p>	<p>16:6,8,14;17:8,16; 18:5;24:8;29:2,6,6,8; 30:18;31:25;33:17; 34:6,10;41:10;48:1; 54:7;55:10;56:7,8,11, 15;57:13;58:6,14,24; 61:15;66:8,21;67:20; 68:7;103:11 <b>medically (2)</b> 46:17,24 <b>medication (1)</b> 44:14 <b>medicine (6)</b> 5:7;13:6;44:5;58:11; 59:9;61:2 <b>member (1)</b> 12:16 <b>Mentally (1)</b> 96:9 <b>mentioned (1)</b> 72:2 <b>merely (1)</b> 37:1 <b>method (1)</b> 19:4 <b>Michael's (2)</b> 37:19;61:14 <b>middle (1)</b> 57:2 <b>Middlesex (1)</b> 11:22 <b>might (5)</b> 8:16;12:25;25:22; 26:10;52:20 <b>Miguel (10)</b> 7:5;9:21;38:15;47:2; 69:15;85:12;95:20; 96:2;98:8;102:6 <b>mild (1)</b> 79:10 <b>millions (11)</b> 50:14;51:4,15;54:9; 56:5,17,17;57:14,14; 76:3;77:6 <b>mind (1)</b> 57:7 <b>minimize (7)</b> 36:22;48:23;57:20; 68:21;90:2,25;91:1 <b>minimized (2)</b> 89:25;90:12 <b>minimizing (3)</b> 36:20;73:12;76:9 <b>minute (1)</b> 4:22 <b>minutes (8)</b> 52:1;91:10,12,17; 92:1,3,7;108:5 <b>minutes' (1)</b> 91:20 <b>mischaracterization (1)</b> 105:12 <b>mistake (1)</b></p>	<p>75:23 <b>misunderstood (1)</b> 8:17 <b>Mitchell (4)</b> 41:8,10;61:21;95:16 <b>Mm-hmm (1)</b> 45:6 <b>mod (1)</b> 79:10 <b>moderate (3)</b> 65:25;79:11;88:17 <b>moment (1)</b> 11:13 <b>money (3)</b> 29:9;73:14;75:24 <b>Monica (1)</b> 30:10 <b>Monmouth (1)</b> 20:9 <b>month (19)</b> 16:11,11,14;18:16; 25:8,12,23;26:13; 27:11,12,18;28:1,2,18, 24;52:14;53:11;63:14, 15 <b>months (5)</b> 30:23;43:24;52:14; 61:21;63:1 <b>more (37)</b> 5:21;10:13,17;17:6, 19,24;20:16,18,22;10; 25:1,1,20;26:8,10,11, 12;27:14;28:4,20,23, 23;29:19;34:10,11,19, 21;38:10;50:9;53:16, 18;57:3,5;60:6;63:2; 83:10;84:5;106:5 <b>Morris (1)</b> 11:22 <b>Most (7)</b> 23:4;24:16;26:11; 46:11;64:8;74:21; 88:24 <b>mostly (1)</b> 48:21 <b>motion (4)</b> 19:24;62:20;94:5; 102:4 <b>Mountain (2)</b> 83:18,24 <b>move (2)</b> 81:8;97:20 <b>moving (1)</b> 10:1 <b>MRI (6)</b> 46:11,20;47:4;68:19; 73:10;76:7 <b>MRIs (2)</b> 39:4;48:3 <b>much (18)</b> 24:6;25:4,21,23; 41:20,21;43:19;48:17; 54:24;62:14;66:8;</p>	<p>67:11;76:24;91:9; 95:21;96:3;99:2;108:1 <b>multiple (9)</b> 40:1;43:4;65:19; 73:4;88:23;89:24; 106:13,14,15 <b>muscle (1)</b> 6:24 <b>must (1)</b> 36:16 <b>myelomalacia (3)</b> 48:5,6,7</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>name (5)</b> 4:15;12:11,13;14:10; 55:22 <b>names (1)</b> 14:13 <b>narrow (1)</b> 68:20 <b>narrowing (2)</b> 73:11;76:8 <b>National (1)</b> 67:21 <b>necessarily (6)</b> 26:18;36:2;41:23; 72:24;82:20;108:6 <b>necessary (2)</b> 41:5,7 <b>neck (21)</b> 7:4,6;8:24;9:20;10:7, 25;39:23;60:10,11; 62:4,20;78:22;79:17; 80:5;81:16,17,18; 86:18,20;96:7;100:11 <b>neck/spine (1)</b> 7:15 <b>need (8)</b> 4:22;20:16;24:20; 33:21;60:5;75:4;92:12; 103:24 <b>needs (3)</b> 46:21;52:2;103:1 <b>negative (2)</b> 92:15;93:3 <b>neither (1)</b> 109:12 <b>nerve (1)</b> 100:7 <b>neurologic (1)</b> 48:8 <b>neurosurgeon (1)</b> 61:19 <b>New (6)</b> 14:19,24;19:13,15; 82:12;109:2 <b>Newark (1)</b> 37:22 <b>next (3)</b> 40:13;62:24;104:1 <b>nice (7)</b></p>
<p style="text-align: center;"><b>M</b></p>				
<p><b>Maass (2)</b> 67:20,24 <b>machine (3)</b> 16:19;96:6;100:11 <b>magically (1)</b> 59:5 <b>majority (1)</b> 67:25 <b>makes (1)</b> 65:18 <b>making (7)</b> 9:24;21:25;29:20; 56:17;57:14;75:6;77:6</p>				

<p>69:16,17,19,19,20, 22;70:9 <b>night (7)</b> 34:17;40:12;59:4; 95:24;96:6;99:14; 103:25 <b>nine (2)</b> 53:7,8 <b>NJ (1)</b> 109:5 <b>NJM (2)</b> 55:18;67:6 <b>nomenclature (1)</b> 81:2 <b>non-displaced (1)</b> 64:10 <b>none (1)</b> 44:16 <b>nor (3)</b> 90:2;109:13,13 <b>normal (3)</b> 45:4;48:21;78:23 <b>notes (1)</b> 103:16 <b>notice (1)</b> 55:24 <b>November (2)</b> 41:24;106:13 <b>number (13)</b> 14:14;19:11;25:17; 26:24;27:11;28:1; 32:19;58:6,7,8;60:15, 16;100:8 <b>numbers (5)</b> 20:12,13,19;31:18; 50:10 <b>Numbness (7)</b> 95:22;96:4;98:8,20; 99:12;101:12,17 <b>numerous (5)</b> 36:17;79:16;80:3; 81:15,21</p>	<p>106:7,9 <b>objections (2)</b> 4:4;105:17 <b>objective (2)</b> 49:18;80:16 <b>obtain (1)</b> 36:17 <b>obvious (2)</b> 26:15;54:21 <b>obviously (2)</b> 20:19;59:19 <b>Obwoege (1)</b> 36:5 <b>O-b-w-o-g-e (1)</b> 36:6 <b>occur (1)</b> 36:24 <b>occurred (4)</b> 60:22;68:12;88:20; 106:13 <b>Ocean (1)</b> 20:9 <b>off (8)</b> 12:24;14:11;38:22; 57:23;65:10,11;87:10; 94:6 <b>offer (3)</b> 97:4,5,12 <b>offhand (2)</b> 11:5,9 <b>office (8)</b> 6:11,12,12;22:12; 29:9;30:10;34:20; 69:18 <b>off-site (1)</b> 83:18 <b>old (3)</b> 17:4;38:4;82:5 <b>older (2)</b> 64:17,23 <b>old-fashioned (1)</b> 17:5 <b>once (4)</b> 9:8;25:23;26:12; 88:10 <b>one (27)</b> 5:19;10:13,13;16:7; 18:17;22:18;23:17; 29:17;36:17;40:12; 58:7;59:3;60:15;64:7; 65:9;66:7;67:1;69:13; 78:25;82:24;83:23; 84:2;85:1;90:3;98:5; 102:15;103:25 <b>ones (4)</b> 23:4;24:16;83:11,17 <b>only (10)</b> 18:9;22:7;45:15; 54:18,18;66:25;70:18; 86:13;91:24;103:10 <b>on-site (2)</b> 83:8,11 <b>onto (1)</b></p>	<p>17:1 <b>operative (1)</b> 9:15 <b>opinion (1)</b> 95:12 <b>opinions (1)</b> 33:1 <b>opposed (6)</b> 5:7;6:2;9:21;22:22; 23:4;29:11 <b>ordering (1)</b> 108:10 <b>ordinarily (1)</b> 16:15 <b>original (3)</b> 43:18;107:6,8 <b>orthopedic (21)</b> 6:22;11:7;12:7,17; 13:11;14:8;15:22; 29:23;30:19;31:2;33:1, 8;50:1;56:9;58:9,15; 73:22;74:3;80:15;81:2, 4 <b>orthopedics (2)</b> 44:10;66:16 <b>orthopedist (1)</b> 30:23 <b>orthosis (1)</b> 106:17 <b>Orwellian (2)</b> 57:25;58:3 <b>others (2)</b> 34:25;63:3 <b>otherwise (3)</b> 68:13;86:10;106:17 <b>out (28)</b> 6:21;8:10,11;9:11; 10:1,3,21;16:20;18:18; 19:6;35:7;38:17;49:1; 50:21,25;51:3,14;53:8; 55:21;60:15;61:22; 71:16,16;72:6;87:15; 91:22;96:24;97:15 <b>outcome (1)</b> 73:24 <b>over (22)</b> 6:18;15:5;16:10; 25:14;26:13;29:23; 30:19;32:17;36:18; 41:16;50:13;51:22; 54:5;69:9;73:13;75:12, 19,25;76:11;77:19,20; 99:9 <b>Overall (2)</b> 19:3;50:7 <b>own (5)</b> 48:13;74:2,5,14; 82:24 <b>owner (2)</b> 12:15;13:10 <b>owners (2)</b> 13:11,13</p>	<p style="text-align: center;"><b>P</b></p> <p><b>package (1)</b> 49:19 <b>Packin (1)</b> 14:12 <b>page (4)</b> 98:24,25;99:15; 102:15 <b>paid (1)</b> 10:16 <b>pain (35)</b> 37:24;39:18;40:11, 12,15,18;44:13,17; 47:7;59:2;60:10;61:5, 7;62:3;63:19;65:2; 79:17;80:5;81:17; 86:18,19;97:2,20; 99:19;103:19,21,23; 104:1,2,15,25;105:1,3; 106:23,24 <b>palpation (2)</b> 101:13,19 <b>palpitation (1)</b> 101:19 <b>pandemic (2)</b> 6:17;23:2 <b>paragraph (4)</b> 98:25;99:15;102:15, 19 <b>paresthesias (1)</b> 99:18 <b>part (18)</b> 7:11;9:9;31:16;32:7; 34:2;40:2;45:5;46:10; 50:2;62:1;64:11,12; 65:11;66:3;78:23;81:2; 92:7,8 <b>participate (1)</b> 34:6 <b>particular (3)</b> 65:23;73:2,23 <b>particularly (2)</b> 7:2;65:24 <b>parties (3)</b> 4:2;109:14,17 <b>party (2)</b> 15:21;73:23 <b>pass (1)</b> 107:24 <b>Passaic (2)</b> 11:22;55:5 <b>past (9)</b> 21:8;26:7;27:14; 28:4,20;36:18;52:20; 55:14;93:14 <b>pathologies (1)</b> 70:19 <b>pathology (11)</b> 35:24;36:12;44:11; 47:13;48:22;57:20; 60:17;74:3;85:4,22;</p>	<p>88:5 <b>patient (3)</b> 7:23;33:20;47:19 <b>patients (13)</b> 5:10;6:9;12:12;15:2, 15;31:4;33:13;47:15; 48:13;50:3;66:23;74:6, 25 <b>pattern (2)</b> 57:21;76:5 <b>Pause (4)</b> 5:5;35:9;101:20; 103:15 <b>pay (2)</b> 19:24;20:2 <b>paying (3)</b> 56:5;72:10;108:7 <b>PC (5)</b> 12:17;13:11;29:25; 31:3;50:1 <b>pedicles (1)</b> 64:6 <b>pelvic (1)</b> 65:9 <b>pending (1)</b> 92:23 <b>people (28)</b> 7:19;11:1;14:8,14; 15:20,21;17:11;26:19, 20;32:21,22;33:9,11, 14;34:22;49:13;50:10; 64:21,23;70:5;71:19; 75:13;84:10,19,24; 85:14;98:2,5 <b>people's (2)</b> 49:14;80:20 <b>per (10)</b> 16:9;17:16;18:16; 19:7;26:2;27:11,12; 28:1,2,24 <b>percent (23)</b> 5:9,12,16,17,22;6:6; 13:20;14:3;15:9,12,14, 20;31:2,13,14,16,21, 23;32:8,9;49:23;74:19; 76:2 <b>percentage (7)</b> 5:15;17:11;23:6; 31:8,9;32:17;34:7 <b>perception (2)</b> 27:5;71:11 <b>Perez (3)</b> 52:18,21;55:2 <b>perform (4)</b> 92:18,20;93:6,7 <b>perhaps (2)</b> 26:12;27:7 <b>period (1)</b> 67:18 <b>permanency (9)</b> 68:22;71:1,24;73:12; 76:9;86:22;90:10,24; 91:4</p>
<p style="text-align: center;"><b>O</b></p> <p><b>oath (4)</b> 4:19;109:5,8,15 <b>object (12)</b> 56:19;81:9;84:12,14, 21;85:24;88:12;89:6; 90:15;97:22;104:5,10 <b>Objection (50)</b> 40:21,23;43:10,12; 49:3,5;51:17;54:10; 59:10;64:19;68:25; 69:2;71:4,7;72:11,13; 73:17,19;76:13,15; 77:24;78:1,9,17,18; 79:2,4,21,25;80:10; 81:7,22;87:23;88:7,13; 89:7;93:16,18,22,24; 94:11,13,21;97:16,23; 100:24;105:9,11;</p>				

<p><b>person (15)</b> 33:22;46:21;56:16; 57:13,22;69:17;72:18, 19;75:24;81:16;86:2; 92:11;94:4;105:22,25</p> <p><b>personal (1)</b> 14:22</p> <p><b>person's (1)</b> 44:16</p> <p><b>perspective (2)</b> 58:6;60:6</p> <p><b>phrasing (1)</b> 48:3</p> <p><b>physical (5)</b> 44:13;48:20;49:17; 92:8;101:6</p> <p><b>physically (1)</b> 22:22</p> <p><b>physician (1)</b> 15:17</p> <p><b>picked (1)</b> 65:20</p> <p><b>picture (1)</b> 37:1</p> <p><b>pillow (1)</b> 97:12</p> <p><b>place (2)</b> 44:24,25</p> <p><b>places (1)</b> 67:23</p> <p><b>plaintiff (7)</b> 4:16;5:17,23;14:23; 15:14;35:18;48:13</p> <p><b>plaintiff-oriented (1)</b> 18:10</p> <p><b>plaintiffs (4)</b> 13:22;14:4;15:2,10</p> <p><b>plaintiff's (3)</b> 6:3;14:18,21</p> <p><b>planes (1)</b> 9:25</p> <p><b>plateau (1)</b> 89:23</p> <p><b>plausible (2)</b> 17:22;107:11</p> <p><b>play (3)</b> 7:11;96:8;100:18</p> <p><b>played (2)</b> 23:14;60:13</p> <p><b>please (5)</b> 27:21;57:7,8,9;92:23</p> <p><b>plus (1)</b> 9:14</p> <p><b>pm (1)</b> 108:15</p> <p><b>point (11)</b> 5:11;39:7;40:14; 42:8;46:16;56:25;66:3, 7;104:2;105:3,8</p> <p><b>points (1)</b> 99:22</p> <p><b>police (1)</b> 94:2</p>	<p><b>policy (3)</b> 66:10;67:13,18</p> <p><b>poorly (1)</b> 8:17</p> <p><b>population (1)</b> 36:25</p> <p><b>posed (2)</b> 24:22;50:12</p> <p><b>position (2)</b> 7:24;98:6</p> <p><b>positive (1)</b> 14:1</p> <p><b>possible (2)</b> 68:22;73:13</p> <p><b>posterior (3)</b> 64:6;101:13,18</p> <p><b>postured (1)</b> 7:24</p> <p><b>practice (10)</b> 5:6;6:12;13:1,23; 29:2;30:24;33:8,14; 50:8;66:16</p> <p><b>practices (2)</b> 29:6,7</p> <p><b>practicing (2)</b> 13:6;33:7</p> <p><b>predicated (1)</b> 23:1</p> <p><b>predictable (1)</b> 48:17</p> <p><b>preexisted (3)</b> 66:3;88:19,21</p> <p><b>preexisting (11)</b> 35:12,21,24;36:12; 45:13;48:22;57:20; 68:19;73:10;76:7; 86:25</p> <p><b>preparation (3)</b> 21:3;24:12,12</p> <p><b>prepare (1)</b> 24:7</p> <p><b>prepared (1)</b> 25:5</p> <p><b>preponderance (3)</b> 5:25;6:2;15:19</p> <p><b>prerecorded (3)</b> 22:11,21;23:14</p> <p><b>present (3)</b> 73:22;76:25;77:3</p> <p><b>presented (1)</b> 44:2</p> <p><b>Pretty (3)</b> 6:16;48:17;59:13</p> <p><b>prevented (1)</b> 39:10</p> <p><b>previous (1)</b> 27:21</p> <p><b>previously (1)</b> 47:12</p> <p><b>price (1)</b> 84:4</p> <p><b>prices (1)</b> 11:8</p>	<p><b>primarily (1)</b> 106:18</p> <p><b>primary (1)</b> 11:3</p> <p><b>prior (8)</b> 15:24;62:13;82:22; 86:1;87:19,21;88:3,5</p> <p><b>probably (8)</b> 5:11;22:24;25:22; 31:12;45:25;53:19; 63:16;95:17</p> <p><b>problem (2)</b> 51:9;71:14</p> <p><b>problems (6)</b> 45:11;57:19;58:20; 59:6;71:21;86:14</p> <p><b>procedure (2)</b> 7:25;10:20</p> <p><b>proceedings (1)</b> 109:11</p> <p><b>produce (1)</b> 16:17</p> <p><b>production (1)</b> 83:5</p> <p><b>programs (7)</b> 32:20,25;33:17;34:6, 11,25;35:2</p> <p><b>Progressive (1)</b> 67:6</p> <p><b>prominent (1)</b> 88:24</p> <p><b>pronounce (1)</b> 52:10</p> <p><b>pronounced (1)</b> 64:8</p> <p><b>properly (1)</b> 7:24</p> <p><b>propping (1)</b> 97:2</p> <p><b>prospective (1)</b> 33:20</p> <p><b>prove (3)</b> 68:20;73:11;76:8</p> <p><b>provider (1)</b> 35:3</p> <p><b>providers (1)</b> 58:25</p> <p><b>public (1)</b> 86:11</p> <p><b>pull (3)</b> 47:25;49:1;67:17</p> <p><b>pulling (1)</b> 9:10</p> <p><b>purporting (1)</b> 95:5</p> <p><b>pursue (2)</b> 11:2;35:1</p> <p><b>put (23)</b> 20:11,12;24:20; 34:22;44:6;49:10; 50:24;51:13;74:4; 77:14;91:2,20;96:14, 17;97:11;99:21;100:9,</p>	<p>17;102:3,5,9,10;106:16</p> <p><b>putting (1)</b> 77:7</p> <p style="text-align: center;"><b>Q</b></p> <p><b>qualify (1)</b> 63:9</p> <p><b>quickly (1)</b> 24:19</p> <p><b>quite (1)</b> 87:15</p> <p><b>quote (6)</b> 36:11,23;48:3;90:1; 95:21;100:22</p> <p style="text-align: center;"><b>R</b></p> <p><b>radiating (1)</b> 86:19</p> <p><b>radiation (2)</b> 44:17;99:19</p> <p><b>radicular (1)</b> 87:7</p> <p><b>radiographic (1)</b> 49:17</p> <p><b>range (8)</b> 5:12;17:25;18:1; 20:5,17;62:20;94:5; 102:4</p> <p><b>rate (3)</b> 18:14;19:10;20:17</p> <p><b>rates (1)</b> 12:5</p> <p><b>rather (1)</b> 102:16</p> <p><b>read (8)</b> 27:21,23;57:8,10; 87:15;92:23,24;101:15</p> <p><b>reading (4)</b> 11:24;12:1;20:20; 54:23</p> <p><b>ready (5)</b> 4:24;8:1;99:7; 101:10,11</p> <p><b>real (2)</b> 21:18;72:4</p> <p><b>realistic (1)</b> 96:19</p> <p><b>reality (1)</b> 77:7</p> <p><b>realize (1)</b> 19:5</p> <p><b>really (13)</b> 6:23,24;27:8;32:10, 10;35:7;42:7;46:4; 50:12;60:5;65:1,6; 97:15</p> <p><b>rear-end (1)</b> 87:4</p> <p><b>reason (4)</b> 32:7;69:18;70:10; 104:25</p>	<p><b>reasons (3)</b> 26:15;54:21;79:14</p> <p><b>recall (7)</b> 31:5;52:23;53:21,24; 54:23;55:1;90:9</p> <p><b>recent (3)</b> 53:18;83:11,12</p> <p><b>receptionist (1)</b> 30:11</p> <p><b>recess (2)</b> 52:7;103:2</p> <p><b>recognize (1)</b> 49:14</p> <p><b>recollection (2)</b> 53:16;54:3</p> <p><b>record (8)</b> 6:1;45:13,15,16; 81:21;83:5;95:1; 109:10</p> <p><b>recorded (5)</b> 21:13;23:6;91:19; 96:17;109:12</p> <p><b>recorder (1)</b> 17:2</p> <p><b>recording (2)</b> 91:19;100:3</p> <p><b>records (10)</b> 24:8;38:25;45:9; 47:5,23;60:14;79:9; 82:6,8,20</p> <p><b>recovered (1)</b> 96:9</p> <p><b>recurring (1)</b> 68:23</p> <p><b>red (1)</b> 32:6</p> <p><b>redo (2)</b> 57:9;96:1</p> <p><b>reduced (1)</b> 26:18</p> <p><b>refer (1)</b> 15:13</p> <p><b>referrals (2)</b> 33:8;55:16</p> <p><b>reflect (1)</b> 100:20</p> <p><b>regard (7)</b> 9:17;10:23;57:5; 76:11;82:15,16;95:14</p> <p><b>regarding (1)</b> 73:2</p> <p><b>regardless (2)</b> 78:6;104:22</p> <p><b>regret (1)</b> 75:21</p> <p><b>regrets (2)</b> 76:2,10</p> <p><b>regular (2)</b> 56:16;57:13</p> <p><b>regularly (1)</b> 55:16</p> <p><b>related (26)</b> 29:9;35:24;39:17;</p>
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<p>40:5;45:1,22,22,25; 46:8;60:12;61:10;62:1; 63:9,22,24,24;64:14, 16,18;66:22;71:23; 77:15;86:10;89:5; 95:17;109:13 <b>relative (1)</b> 109:16 <b>relaxed (1)</b> 57:5 <b>relied (1)</b> 7:13 <b>remember (40)</b> 11:13,17;19:12,14, 16;21:17,24;25:21,22; 28:20;36:5,9,11,13,15; 52:17,19;55:4,7,13,20, 22;66:24;67:15;69:25; 70:1,2,2;86:17;87:1,3, 11,13;89:21;90:3,5,5; 97:21;98:1,4 <b>repeat (3)</b> 56:16;57:13;87:14 <b>report (25)</b> 15:16;16:15;17:17; 18:8;36:5;37:7;66:2; 82:1,19;86:3,17;87:1,4, 6;93:10;96:12;98:11; 99:10,14;100:13,17,20; 101:8,14;102:5 <b>reported (1)</b> 101:7 <b>reporter (5)</b> 27:24;57:11;92:25; 108:9,12 <b>reports (35)</b> 14:3;15:1,10;16:17; 30:13,14;35:11,15,17; 36:18;48:1,10,13,14, 16;49:1;55:25;68:17, 24;70:23;74:18,25; 76:4;79:16;80:3;81:15, 21;82:5,12,22;83:6; 86:2;87:22;103:12,13 <b>represent (3)</b> 4:16;14:4;36:12 <b>require (1)</b> 35:3 <b>required (1)</b> 68:9 <b>requirement (1)</b> 82:8 <b>reservations (1)</b> 51:6 <b>reserved (1)</b> 4:5 <b>residency (1)</b> 10:22 <b>resolved (2)</b> 70:25;87:7 <b>respect (4)</b> 28:18;41:9,12;78:5 <b>respective (1)</b></p>	<p>4:2 <b>responded (3)</b> 90:1,6,20 <b>responding (1)</b> 99:17 <b>responsibility (2)</b> 72:19;76:21 <b>responsible (3)</b> 9:8,13;34:15 <b>rest (3)</b> 5:13;31:3;49:24 <b>restrictions (1)</b> 86:24 <b>result (4)</b> 37:13,25;73:15; 75:14 <b>resulted (3)</b> 40:19;59:6;104:3 <b>retractors (1)</b> 9:8 <b>review (6)</b> 5:15;24:19;47:5,23; 49:9;98:15 <b>reviewed (1)</b> 36:6 <b>reviewing (5)</b> 24:7,8;38:25;48:3; 103:16 <b>rib (3)</b> 37:13;89:24;91:4 <b>ribcage (1)</b> 40:9 <b>ribs (1)</b> 59:18 <b>right (94)</b> 7:23;12:15;13:10; 14:2,16;17:5,23;19:22; 22:17;23:7,11;27:9; 28:7;35:15,21;38:6,8; 39:2,19,24;42:5,9,13, 19;44:24;45:5,12,16, 18;46:12,14,18,25; 47:5,9,13,16,19,23; 50:16,20,23;51:10; 52:5,6,16;54:9;56:2; 66:5,23;67:10;68:2; 70:13,16,21;71:3; 72:10;73:16;74:20; 75:1,3,7,15;82:3,22; 83:1;84:11;85:5,13,18; 86:2;87:22;88:11;92:4, 16;93:3,15,94:10; 96:12;98:16,18;99:6, 12,24;102:2,7,12,16; 103:13;104:8,17,19,25; 107:13 <b>ring (1)</b> 67:14 <b>rings (2)</b> 55:13,22 <b>RMR-CCR (1)</b> 109:4 <b>role (2)</b></p>	<p>7:11;60:13 <b>room (12)</b> 28:11,14;62:16,19; 63:12,19;79:18;81:18; 91:22;92:6,11;94:16 <b>rotation (2)</b> 101:25;102:20 <b>rough (3)</b> 6:5;15:8,11 <b>roughly (2)</b> 16:14;32:9 <b>routinely (1)</b> 35:11 <b>run (2)</b> 29:6,18 <b>running (2)</b> 29:8,11</p>	<p>14:5;25:16;65:16,18 <b>sent (1)</b> 15:20 <b>sentence (1)</b> 102:19 <b>September (2)</b> 10:7;43:21 <b>serious (2)</b> 37:20;89:22 <b>served (1)</b> 10:19 <b>service (2)</b> 16:19;30:15 <b>services (2)</b> 84:2,3 <b>set (1)</b> 4:25 <b>settle (3)</b> 26:16;27:1,3 <b>settled (1)</b> 7:23 <b>seven (4)</b> 26:4;59:18;82:7,8 <b>several (3)</b> 37:13;55:18;79:12 <b>severe (3)</b> 66:1;79:11;88:18 <b>severe-injury (1)</b> 58:24 <b>shared (1)</b> 92:11 <b>Shield (1)</b> 33:20 <b>short (2)</b> 52:7;103:2 <b>shortchange (1)</b> 72:17 <b>shoulder (4)</b> 65:14;86:20;102:2, 12 <b>shoulders (4)</b> 96:7;100:12;101:24; 102:4 <b>show (1)</b> 49:1 <b>showed (1)</b> 65:24 <b>side (3)</b> 5:22;6:3;77:23 <b>sign (2)</b> 92:15;93:2 <b>significance (1)</b> 72:5 <b>significant (2)</b> 63:2;104:16 <b>significantly (4)</b> 27:13;28:3,19,23 <b>signing (1)</b> 4:3 <b>silly (3)</b> 81:1;89:19;94:17 <b>similar (2)</b> 73:7;87:6</p>	<p><b>simple (3)</b> 24:18;25:2;56:6 <b>simplistic (1)</b> 59:14 <b>sit (2)</b> 97:8;98:3 <b>site (3)</b> 9:15,17;36:2 <b>sitting (1)</b> 97:1 <b>situation (1)</b> 80:25 <b>six (4)</b> 26:4;30:22;43:23; 90:21 <b>sixth (1)</b> 99:15 <b>skepticism (1)</b> 87:8 <b>skills (1)</b> 74:23 <b>sleep (3)</b> 95:21;96:3;99:2 <b>slightly (1)</b> 26:12 <b>small (2)</b> 23:5;82:18 <b>smaller (1)</b> 37:18 <b>smoke (3)</b> 85:15,16,21 <b>smoker (2)</b> 86:9,13 <b>smokes (2)</b> 85:13;86:2 <b>smoking (8)</b> 85:5,22;86:3,24; 89:1,1,12,12 <b>soft (3)</b> 9:8,10,24 <b>somehow (1)</b> 40:19 <b>someone (12)</b> 16:19,22;29:8,18; 34:20;44:10;65:1; 77:11;80:13;85:3;87:9; 90:11 <b>Somerset (1)</b> 20:9 <b>something's (1)</b> 44:18 <b>sometimes (2)</b> 65:21;102:6 <b>somewhere (4)</b> 83:2,9,25;97:20 <b>son (2)</b> 96:7;100:15 <b>sorry (10)</b> 8:13;14:15;18:24; 32:3;58:2;70:8;85:8; 89:11;100:6;101:19 <b>sort (8)</b> 11:1;29:19;34:1;</p>
<b>S</b>				
<p><b>Samayoa (1)</b> 106:11 <b>same (8)</b> 7:7;10:13;40:15; 48:2;59:4;62:8;70:17; 89:19 <b>saw (5)</b> 26:20;48:11;49:21; 61:21;69:24 <b>saying (28)</b> 27:17;33:17;37:8,19; 40:17;41:22;42:17,18; 60:9;61:6,8,23;64:18; 65:17;70:15;71:17; 73:10;76:6,7;77:5,9; 80:18;86:21;88:18; 90:1,20;100:22;107:2 <b>schedule (4)</b> 11:6;18:14;19:10; 29:3 <b>science (8)</b> 37:4,6;44:5;58:11; 60:20;85:9,11;86:7 <b>screen (2)</b> 21:21;22:4 <b>sealing (1)</b> 4:3 <b>second (3)</b> 9:7,10;90:21 <b>sedentary (1)</b> 102:3 <b>seeing (7)</b> 26:18;50:10;67:2; 70:1,3;75:9;82:2 <b>segment (1)</b> 67:2 <b>selected (1)</b> 9:18 <b>send (2)</b> 14:7;33:13 <b>sensation (1)</b> 102:2 <b>sense (4)</b></p>				

<p>35:4;56:16;57:13; 75:20;100:21</p> <p><b>sought (1)</b> 8:6</p> <p><b>sound (1)</b> 38:6</p> <p><b>sounds (2)</b> 12:5;94:17</p> <p><b>sound's (1)</b> 28:13</p> <p><b>space (1)</b> 8:9</p> <p><b>speaking (1)</b> 10:17</p> <p><b>specializes (1)</b> 29:8</p> <p><b>specialty (1)</b> 6:19</p> <p><b>specific (1)</b> 72:1</p> <p><b>specifically (7)</b> 54:3;55:7,21;86:5; 98:4;99:4;101:21</p> <p><b>specifics (3)</b> 8:23;82:3;89:20</p> <p><b>spelled (1)</b> 35:7</p> <p><b>spend (1)</b> 29:10</p> <p><b>spent (2)</b> 67:25;91:9</p> <p><b>sphere (1)</b> 58:10</p> <p><b>spinal (14)</b> 37:13;39:1,4;43:5; 46:2;47:3,15;58:18; 60:3;61:11,13;63:24; 64:22;88:18</p> <p><b>spine (41)</b> 7:1,10,12;8:4;10:5; 37:25;39:9;40:2,3,9; 41:15;42:9,24;43:1; 44:11,19;45:4,8,11,14; 46:1,6;47:4;59:6,22, 25;61:5,7,16,17,20; 63:21;65:23;70:19; 78:22;79:13;86:16; 87:20;89:17;104:15; 106:1</p> <p><b>spoken (2)</b> 60:25;79:13</p> <p><b>spondylosis (1)</b> 43:6</p> <p><b>sprain/strain (3)</b> 70:25;80:24,25</p> <p><b>spreading (1)</b> 9:24</p> <p><b>St (4)</b> 37:19;61:14;67:22, 24</p> <p><b>stage (1)</b> 76:11</p> <p><b>stand (4)</b></p>	<p>95:6;97:5,13;98:3</p> <p><b>start (1)</b> 8:9</p> <p><b>started (1)</b> 13:1</p> <p><b>starts (1)</b> 102:16</p> <p><b>state (1)</b> 104:8</p> <p><b>stated (1)</b> 8:18</p> <p><b>stay (1)</b> 98:5</p> <p><b>steep (1)</b> 19:23</p> <p><b>stenosis (8)</b> 43:5;46:2;60:3; 63:25;64:22;66:1; 79:10;88:18</p> <p><b>step (1)</b> 41:2</p> <p><b>stepping (1)</b> 103:17</p> <p><b>still (13)</b> 5:6;6:10;11:18; 40:15;44:17;63:21; 79:18;80:6;81:19;88:4; 89:5;90:16;94:22</p> <p><b>stipulated (1)</b> 4:1</p> <p><b>stock (2)</b> 36:19,21</p> <p><b>stop (1)</b> 6:14</p> <p><b>stopped (1)</b> 6:17</p> <p><b>storage (1)</b> 83:21</p> <p><b>storehouse (1)</b> 83:9</p> <p><b>story (1)</b> 10:24</p> <p><b>straightening (1)</b> 4:23</p> <p><b>Strike (7)</b> 25:9;34:2;53:23; 81:8;95:25;104:23; 105:23</p> <p><b>struck (2)</b> 69:10,14</p> <p><b>structure (1)</b> 48:18</p> <p><b>structures (2)</b> 9:11;10:3</p> <p><b>stuff (4)</b> 29:20;54:17;98:15; 99:9</p> <p><b>submit (1)</b> 107:20</p> <p><b>subtracting (1)</b> 108:5</p> <p><b>suction (1)</b> 9:14</p>	<p><b>suffered (1)</b> 37:12</p> <p><b>superior (2)</b> 64:11;109:2</p> <p><b>Supplier (1)</b> 67:22</p> <p><b>support (2)</b> 61:25;63:4</p> <p><b>supported (1)</b> 41:23</p> <p><b>supposed (1)</b> 58:16</p> <p><b>Sure (35)</b> 7:18;8:15;16:4; 21:10,15,16;23:17; 27:8;28:6;29:20;34:14, 23;35:7,13;38:7;50:11; 51:24;65:19;66:18; 67:8,10;70:1;75:2,10, 17;80:19;82:9;83:10, 16;84:24;95:16;96:18; 99:11;101:9;103:14</p> <p><b>surely (1)</b> 17:25</p> <p><b>surgeon (15)</b> 6:22;7:9,16;8:8,20; 9:1,7,10,19,23;10:13, 16,20,23;11:3</p> <p><b>surgeries (25)</b> 6:13,15,20;7:6; 10:12;33:2;40:3,19; 41:5,7,16;43:9,19; 44:23;58:18;66:15; 71:16,20;78:22;88:5; 95:12;104:21,24; 105:1;107:4</p> <p><b>surgery (43)</b> 6:10;7:2,4;8:24;9:18, 20,20;10:6;39:23,24, 25;41:19;42:24;43:16, 20,22;44:19;46:21; 47:3,8,16;56:9;58:16; 59:6,25;60:2,11,17; 61:1,10;63:22,23; 64:12,14,16;79:12; 80:15;81:18;88:25; 103:24;104:3;106:1,4</p> <p><b>surgery's (2)</b> 47:18;72:6</p> <p><b>surgically (1)</b> 77:14</p> <p><b>surprise (2)</b> 51:2,14</p> <p><b>surprised (4)</b> 51:20;54:6,14;84:9</p> <p><b>sustained (3)</b> 62:2;73:23;89:15</p> <p><b>sworn (3)</b> 4:9,19;109:8</p> <p><b>symptomatic (3)</b> 46:18,25;47:13</p> <p><b>symptomatology (1)</b> 81:17</p>	<p><b>symptoms (11)</b> 41:21;46:14;47:19, 21;49:15;68:18;73:8; 76:5;80:13,16;86:19</p> <p><b>system (2)</b> 72:22,24</p> <p><b>systems (1)</b> 73:1</p> <p style="text-align: center;"><b>T</b></p> <p><b>T10 (2)</b> 59:17;106:19</p> <p><b>T11 (2)</b> 59:18;106:20</p> <p><b>T12 (3)</b> 59:18;64:3;106:19</p> <p><b>T2 (1)</b> 59:17</p> <p><b>table (4)</b> 87:10;94:6;97:2,8</p> <p><b>talk (4)</b> 32:16;34:12;60:19; 79:9</p> <p><b>talked (4)</b> 23:5;89:14,14;99:19</p> <p><b>talking (12)</b> 21:11,13,14;25:20; 30:24;37:6;60:20; 62:14;63:14;84:25; 91:13,14</p> <p><b>tape (2)</b> 23:14;32:6</p> <p><b>tapes (1)</b> 17:5</p> <p><b>taught (1)</b> 37:5</p> <p><b>team (1)</b> 61:16</p> <p><b>telling (1)</b> 100:4</p> <p><b>template (1)</b> 16:21</p> <p><b>ten (9)</b> 13:20;14:3;15:9,19; 31:16,21;32:8;82:6,9</p> <p><b>tendon (1)</b> 6:25</p> <p><b>ten-year (1)</b> 26:7</p> <p><b>terms (14)</b> 21:6;24:7;26:3; 27:10,25;29:21;30:14; 33:16;36:3;59:24; 60:14;73:8;74:4;84:4</p> <p><b>test (6)</b> 92:14,15;93:2,2; 95:1,1</p> <p><b>testified (8)</b> 4:10;19:15;21:7; 22:2;31:1;52:25;53:7; 77:20</p> <p><b>testify (13)</b></p>	<p>18:14,16;19:8,11; 20:14;23:3,7,19,24; 74:18;75:3;76:20; 77:16</p> <p><b>testifying (17)</b> 20:5;21:17;25:7,11; 50:15;51:4,15;52:17; 53:22,24;55:1;56:17; 57:15;73:7;74:8;90:16; 94:22</p> <p><b>testimonies (3)</b> 25:17,18;76:19</p> <p><b>testimony (27)</b> 11:12;19:3,5;21:7, 21;22:11,20,21;23:12, 21;24:7,9,11;43:9; 53:2;64:17;73:16;75:5, 15,22,23;76:24;77:23; 80:4;103:12;109:7,10</p> <p><b>theme (3)</b> 68:16,23;87:22</p> <p><b>therapy (1)</b> 44:13</p> <p><b>therefore (1)</b> 60:10</p> <p><b>thigh (2)</b> 86:19;98:22</p> <p><b>thinking (2)</b> 31:10;60:13</p> <p><b>third (2)</b> 60:2;98:25</p> <p><b>thoracolumbosacral (1)</b> 106:17</p> <p><b>though (1)</b> 54:19</p> <p><b>thought (4)</b> 13:25;40:5;54:4; 95:16</p> <p><b>thoughts (2)</b> 75:20;76:1</p> <p><b>thousand (4)</b> 17:9;19:20;20:2; 21:2</p> <p><b>three (7)</b> 18:5;24:2;25:6;30:7; 64:5,5;108:5</p> <p><b>throughout (1)</b> 13:7</p> <p><b>tibial (1)</b> 89:23</p> <p><b>tight (1)</b> 102:2</p> <p><b>tightness (3)</b> 101:24;102:11,21</p> <p><b>timeline (2)</b> 44:1;61:25</p> <p><b>timely (1)</b> 59:21</p> <p><b>times (24)</b> 18:16,18;19:6;22:19; 23:1,9,12,20,24;24:1; 25:7,11,24;26:2;34:15; 49:21;52:14;53:8,18;</p>
---	--	---	--	--

73:4;77:14,19;85:3; 98:2 <b>tingling (5)</b> 95:23;96:5;98:9,20; 99:13 <b>tissue (2)</b> 9:9,11 <b>tissues (1)</b> 9:25 <b>titles (1)</b> 30:9 <b>TLSO (1)</b> 106:18 <b>today (8)</b> 5:18;19:19;21:4,19; 30:4;53:13;94:3; 107:16 <b>together (2)</b> 9:17;44:6 <b>told (12)</b> 53:4,13;80:14;85:9; 86:7;95:20;96:2,21; 98:8;99:21;100:9; 102:1 <b>top (3)</b> 14:11;24:13;43:24 <b>total (1)</b> 7:1 <b>touted (1)</b> 56:7 <b>trachea (1)</b> 10:1 <b>trailed (1)</b> 53:18 <b>training (1)</b> 74:16 <b>transcribed (2)</b> 16:25;109:9 <b>transcript (1)</b> 108:10 <b>transcription (2)</b> 16:19;30:15 <b>transcriptionist (1)</b> 30:16 <b>transferred (1)</b> 37:21 <b>transform (1)</b> 105:4 <b>trauma (14)</b> 36:25;42:9,12,15; 43:18;44:10,24;47:11; 64:25;65:4;71:23; 89:22;106:5;107:10 <b>treat (1)</b> 37:20 <b>treated (11)</b> 46:2,3;60:18,24; 77:14;106:12,16,18,18, 21;107:6 <b>treating (9)</b> 5:10;6:8;15:17;31:3; 50:3;56:10;66:23; 95:14;103:22	<b>treatment (20)</b> 5:13;12:10;33:21; 34:8;37:17;39:17; 40:10,14;44:13,15; 45:16;47:8;49:24; 68:18;73:9,24;76:6; 87:19;103:19;106:3 <b>trial (23)</b> 4:6;18:20,21;19:2,4, 5,21;6:7,12,18;22:11, 14,20,21;23:19;24:9, 17;25:17;50:24;51:12; 55:5;57:4;74:12 <b>true (8)</b> 36:19;55:15,19; 64:25;66:7;95:15,17; 109:10 <b>Trust (1)</b> 57:3 <b>truth (1)</b> 4:19 <b>try (5)</b> 4:24;16:2;20:2;61:1; 75:2 <b>trying (1)</b> 9:4 <b>turn (1)</b> 47:11 <b>turning (3)</b> 95:22;96:4;99:3 <b>TV (1)</b> 22:4 <b>twice (1)</b> 63:16 <b>twisting (3)</b> 95:22;96:4;99:3 <b>two (22)</b> 10:14;17:15;18:5,6; 30:22;37:19;40:19; 43:21;58:7,8,24;59:18; 60:11,16;67:25;72:6; 98:25;99:1,15,16; 102:15,17 <b>two-minute (1)</b> 51:23 <b>type (5)</b> 7:5,7;13:7;23:3;91:7 <b>types (3)</b> 10:12;16:20;30:13 <b>typical (4)</b> 10:11;17:8;57:21; 76:5 <b>typically (14)</b> 9:20;16:6;18:4,6; 20:4,14,21;24:6;35:14, 17,19;48:25;56:18; 57:16	<b>uncomfortable (4)</b> 96:21,22;97:11;99:5 <b>under (9)</b> 4:19;13:5,8;24:1; 61:15;72:7;109:5,8,15 <b>undergo (2)</b> 44:19;47:15 <b>understood (4)</b> 5:2;18:12;23:8;28:8 <b>Union (1)</b> 11:22 <b>University (5)</b> 37:21;59:1;61:15; 62:17;66:2 <b>Unless (4)</b> 42:7;46:17;70:10; 95:2 <b>unnecessary (1)</b> 41:7 <b>unrelated (4)</b> 79:18;80:7;81:19; 95:13 <b>up (17)</b> 4:23;31:22;32:8; 33:21;40:13;44:7; 50:25;51:13;59:4; 65:20;67:17;96:25; 97:3,5,13,13;104:1 <b>update (1)</b> 16:2 <b>updated (2)</b> 12:3,5 <b>upon (1)</b> 34:9 <b>upper (1)</b> 99:18 <b>upwards (1)</b> 20:6 <b>urgent (2)</b> 37:17;61:14 <b>use (8)</b> 8:7;36:19,22;48:2; 74:23;83:23;84:2; 100:25 <b>used (6)</b> 17:6;31:21;74:16; 82:9;96:10;100:22 <b>uses (3)</b> 16:22;96:6;100:11 <b>usual (1)</b> 20:16 <b>Usually (1)</b> 10:14	7:5;9:21;38:15;47:3; 69:16;85:12;88:15; 91:3,14,15;106:12 <b>Veliz's (1)</b> 47:21 <b>veracity (1)</b> 38:18 <b>version (1)</b> 25:2 <b>versus (3)</b> 5:10;34:8;60:14 <b>vertebra (1)</b> 60:2 <b>vertebrae (1)</b> 42:13 <b>via (4)</b> 21:8,14,15,18 <b>video (11)</b> 21:8,14,15,18;23:13, 21;69:11,15,16,24; 97:18 <b>videotape (3)</b> 93:13;94:7,9 <b>view (1)</b> 100:21 <b>visits (1)</b> 6:11	<b>weren't (3)</b> 54:24;80:19,20 <b>whacky (2)</b> 58:17,20 <b>what's (5)</b> 22:13;55:10;80:21; 94:10;100:1 <b>whiner (1)</b> 101:3 <b>whole (2)</b> 40:10;49:19 <b>who's (1)</b> 72:10 <b>whose (1)</b> 109:7 <b>Willie (1)</b> 86:17 <b>win (3)</b> 79:19;80:8;88:10 <b>window (1)</b> 26:7 <b>withdraw (3)</b> 41:2;62:5;87:17 <b>within (1)</b> 63:15 <b>without (5)</b> 48:4;82:2;85:11,11; 106:1 <b>WITNESS (37)</b> 43:15;49:8;51:19; 54:13;56:24;59:13; 64:21;69:5;71:9;72:15; 73:21;76:18;78:3,11; 79:6;80:12;81:25; 84:15,23;87:25;88:15; 90:19;93:9;94:15,25; 97:25;100:25;104:12; 105:18;106:11;107:17, 22;108:2;109:6,7,10,11 <b>woke (2)</b> 59:4;104:1 <b>wondering (1)</b> 12:2 <b>word (3)</b> 93:14;96:18,18 <b>wording (1)</b> 101:1 <b>work (29)</b> 5:7,10,16,17;7:1;9:1; 10:22,25;13:7,8,21; 14:22;17:10;30:17; 31:2,3,21;33:12,16; 34:8,17;35:3;39:11; 49:24;66:8;67:3;72:16; 95:6;103:7 <b>worked (4)</b> 30:19;33:9;67:23,24 <b>working (3)</b> 7:13;9:16;106:4 <b>works (4)</b> 8:23;44:16;50:21; 105:22 <b>world (6)</b>																										
<b>W</b>																														
<table border="1"> <tr> <td><b>wait (3)</b> 34:20;90:20;101:15</td> <td><b>wait (3)</b> 34:20;90:20;101:15</td> </tr> <tr> <td><b>waived (1)</b> 4:4</td> <td><b>waited (1)</b> 4:4</td> </tr> <tr> <td><b>wakes (1)</b> 40:13</td> <td><b>walk (1)</b> 94:16</td> </tr> <tr> <td><b>walk (1)</b> 94:16</td> <td><b>walked (2)</b> 91:21,22</td> </tr> <tr> <td><b>walker (1)</b> 86:17</td> <td><b>Walker (1)</b> 86:17</td> </tr> <tr> <td><b>wants (2)</b> 33:1;97:19</td> <td><b>wants (2)</b> 33:1;97:19</td> </tr> <tr> <td><b>Warren (1)</b> 20:9</td> <td><b>Warren (1)</b> 20:9</td> </tr> <tr> <td><b>wash (2)</b> 53:1,10</td> <td><b>wash (2)</b> 53:1,10</td> </tr> <tr> <td><b>watching (1)</b> 9:2</td> <td><b>watching (1)</b> 9:2</td> </tr> <tr> <td><b>way (12)</b> 6:8;9:11;10:2,3;27:8, 17;35:7;41:3;60:22; 64:13;72:16;73:7</td> <td><b>way (12)</b> 6:8;9:11;10:2,3;27:8, 17;35:7;41:3;60:22; 64:13;72:16;73:7</td> </tr> <tr> <td><b>weakness (1)</b> 87:9</td> <td><b>weakness (1)</b> 87:9</td> </tr> <tr> <td><b>wear (1)</b> 94:2</td> <td><b>wear (1)</b> 94:2</td> </tr> <tr> <td><b>week (7)</b> 16:6,9;53:8;54:1; 62:24;63:14,15</td> <td><b>week (7)</b> 16:6,9;53:8;54:1; 62:24;63:14,15</td> </tr> <tr> <td><b>welcome (3)</b> 98:3,3;107:17</td> <td><b>welcome (3)</b> 98:3,3;107:17</td> </tr> </table>			<b>wait (3)</b> 34:20;90:20;101:15	<b>wait (3)</b> 34:20;90:20;101:15	<b>waived (1)</b> 4:4	<b>waited (1)</b> 4:4	<b>wakes (1)</b> 40:13	<b>walk (1)</b> 94:16	<b>walk (1)</b> 94:16	<b>walked (2)</b> 91:21,22	<b>walker (1)</b> 86:17	<b>Walker (1)</b> 86:17	<b>wants (2)</b> 33:1;97:19	<b>wants (2)</b> 33:1;97:19	<b>Warren (1)</b> 20:9	<b>Warren (1)</b> 20:9	<b>wash (2)</b> 53:1,10	<b>wash (2)</b> 53:1,10	<b>watching (1)</b> 9:2	<b>watching (1)</b> 9:2	<b>way (12)</b> 6:8;9:11;10:2,3;27:8, 17;35:7;41:3;60:22; 64:13;72:16;73:7	<b>way (12)</b> 6:8;9:11;10:2,3;27:8, 17;35:7;41:3;60:22; 64:13;72:16;73:7	<b>weakness (1)</b> 87:9	<b>weakness (1)</b> 87:9	<b>wear (1)</b> 94:2	<b>wear (1)</b> 94:2	<b>week (7)</b> 16:6,9;53:8;54:1; 62:24;63:14,15	<b>week (7)</b> 16:6,9;53:8;54:1; 62:24;63:14,15	<b>welcome (3)</b> 98:3,3;107:17	<b>welcome (3)</b> 98:3,3;107:17
<b>wait (3)</b> 34:20;90:20;101:15	<b>wait (3)</b> 34:20;90:20;101:15																													
<b>waived (1)</b> 4:4	<b>waited (1)</b> 4:4																													
<b>wakes (1)</b> 40:13	<b>walk (1)</b> 94:16																													
<b>walk (1)</b> 94:16	<b>walked (2)</b> 91:21,22																													
<b>walker (1)</b> 86:17	<b>Walker (1)</b> 86:17																													
<b>wants (2)</b> 33:1;97:19	<b>wants (2)</b> 33:1;97:19																													
<b>Warren (1)</b> 20:9	<b>Warren (1)</b> 20:9																													
<b>wash (2)</b> 53:1,10	<b>wash (2)</b> 53:1,10																													
<b>watching (1)</b> 9:2	<b>watching (1)</b> 9:2																													
<b>way (12)</b> 6:8;9:11;10:2,3;27:8, 17;35:7;41:3;60:22; 64:13;72:16;73:7	<b>way (12)</b> 6:8;9:11;10:2,3;27:8, 17;35:7;41:3;60:22; 64:13;72:16;73:7																													
<b>weakness (1)</b> 87:9	<b>weakness (1)</b> 87:9																													
<b>wear (1)</b> 94:2	<b>wear (1)</b> 94:2																													
<b>week (7)</b> 16:6,9;53:8;54:1; 62:24;63:14,15	<b>week (7)</b> 16:6,9;53:8;54:1; 62:24;63:14,15																													
<b>welcome (3)</b> 98:3,3;107:17	<b>welcome (3)</b> 98:3,3;107:17																													
<b>V</b>																														
<b>varies (1)</b> 83:10	<b>varies (1)</b> 83:10																													
<b>various (1)</b> 64:7	<b>various (1)</b> 64:7																													
<b>varying (2)</b> 72:4;106:15	<b>varying (2)</b> 72:4;106:15																													
<b>Veliz (11)</b>	<b>Veliz (11)</b>																													

56:7,11;81:3,5; 84:24;86:12 <b>worth (1)</b> 91:20 <b>wrestling (2)</b> 96:8;100:18 <b>write (8)</b> 14:3;15:16;48:10,15; 49:10;55:25;74:18,25 <b>written (10)</b> 15:1,10;35:11;48:2; 49:20;80:21;81:15,21; 82:12;86:1 <b>wrong (9)</b> 75:21;77:21;78:8,11, 12,14,25;79:1,7 <b>wrote (6)</b> 36:6,11,15;80:4; 82:20;99:5		<b>2010 (1)</b> 67:19 <b>2012 (5)</b> 52:21,25;53:17; 54:25;55:2 <b>2019 (2)</b> 41:25;106:13 <b>2021 (2)</b> 10:7;43:21 <b>2022 (1)</b> 43:23 <b>2025 (1)</b> 12:4 <b>20-foot (6)</b> 45:8;58:24;60:12; 66:4;89:4,4 <b>20th (1)</b> 38:5 <b>22 (2)</b> 37:9;40:8 <b>22-foot (2)</b> 43:7;78:24 <b>23rd (1)</b> 12:4 <b>240 (2)</b> 52:14;53:2 <b>25 (1)</b> 91:10 <b>28 (3)</b> 27:17,19;28:11	<b>50 (3)</b> 31:13,14,22 <b>52 (3)</b> 53:8;91:20;92:7 <b>5250 (1)</b> 24:16 <b>57 (2)</b> 91:12,17
<b>X</b>	<b>0</b>		
<b>x-ray (1)</b> 8:7	<b>08 (1)</b> 53:16		
<b>Y</b>	<b>1</b>		
<b>year (22)</b> 5:19;18:19;19:7; 22:19;23:9,20,24;24:1; 25:8,11,24;26:2,14; 31:11,11,13;52:15,18; 53:1,3;67:16;103:6 <b>years (53)</b> 5:19;7:2;10:22; 12:25;13:2,7;14:15; 15:6,7;16:7;18:17; 19:17;21:8;22:18; 25:19;26:4,6,6,24; 29:23;30:19,21,25; 32:18;34:18;36:19; 37:6;38:3,9;43:21; 44:24,25;50:14;51:8; 53:25;54:6;55:14; 60:11;65:13;69:10; 72:6;73:13;75:13,19, 25;76:11;77:20;79:12; 82:6,8;83:6,14;94:3 <b>York (2)</b> 19:13,15 <b>Young (1)</b> 64:21	<b>10,000 (1)</b> 20:8 <b>12 (2)</b> 52:14;54:1 <b>12,000 (1)</b> 19:11 <b>12,500 (1)</b> 19:9 <b>13 (2)</b> 61:21;63:1 <b>15 (4)</b> 5:17;25:23;54:1; 108:5 <b>17,000 (2)</b> 39:15;103:19 <b>17,792 (4)</b> 38:21,23;105:22,25 <b>17,793rd (1)</b> 106:2 <b>18 (6)</b> 37:9;39:15;40:8; 59:17;85:20;103:20 <b>18- (2)</b> 45:8;78:24 <b>18,000 (3)</b> 38:14;40:8;58:23 <b>19 (1)</b> 12:24 <b>1971 (1)</b> 38:5 <b>1981 (1)</b> 13:1 <b>1985 (2)</b> 12:24;30:21 <b>1989 (1)</b> 37:5 <b>1990 (1)</b> 37:5 <b>1st (2)</b> 41:24;106:13	<b>2010 (1)</b> 67:19 <b>2012 (5)</b> 52:21,25;53:17; 54:25;55:2 <b>2019 (2)</b> 41:25;106:13 <b>2021 (2)</b> 10:7;43:21 <b>2022 (1)</b> 43:23 <b>2025 (1)</b> 12:4 <b>20-foot (6)</b> 45:8;58:24;60:12; 66:4;89:4,4 <b>20th (1)</b> 38:5 <b>22 (2)</b> 37:9;40:8 <b>22-foot (2)</b> 43:7;78:24 <b>23rd (1)</b> 12:4 <b>240 (2)</b> 52:14;53:2 <b>25 (1)</b> 91:10 <b>28 (3)</b> 27:17,19;28:11	<b>50 (3)</b> 31:13,14,22 <b>52 (3)</b> 53:8;91:20;92:7 <b>5250 (1)</b> 24:16 <b>57 (2)</b> 91:12,17
<b>Z</b>	<b>2</b>		<b>6</b>
<b>zero (1)</b> 58:20 <b>zinger-ish (1)</b> 57:3 <b>Zoom (1)</b> 23:3	<b>2,000 (3)</b> 17:18,20;18:2 <b>20 (21)</b> 16:11,14;25:8,11,19; 27:12,18;28:2,10,18, 24;39:16;52:13;53:11; 59:17;85:20;91:10; 92:1,3;103:20;106:2 <b>2008 (3)</b> 53:6,21,25 <b>2009 (1)</b> 67:19	<b>3</b>	<b>60 (2)</b> 31:13,22 <b>65 (5)</b> 5:12;31:2,23;32:9; 49:23
		<b>3</b>	<b>7</b>
			<b>750 (1)</b> 55:2 <b>7500 (1)</b> 11:23
			<b>8</b>
			<b>85 (1)</b> 5:16 <b>8th (2)</b> 10:7;43:21
		<b>3</b>	<b>9</b>
		<b>3,000 (2)</b> 17:21;18:2 <b>300 (1)</b> 103:6 <b>30X100216300 (1)</b> 109:22 <b>35 (1)</b> 37:6 <b>350 (2)</b> 52:18;53:1	<b>90 (4)</b> 5:22;6:6;74:19;76:2 <b>9th (1)</b> 43:23
		<b>4</b>	
		<b>4:50 (1)</b> 107:21 <b>4:52 (1)</b> 108:15 <b>40 (2)</b> 31:14,22 <b>40-plus (1)</b> 51:8 <b>4500 (1)</b> 55:6 <b>468 (1)</b> 53:9 <b>48 (2)</b> 38:3,9	
		<b>5</b>	