

Page 5

1 LITIGATION SUPPORT INDEX
 2 Direction to Witness not to Answer
 Page Line Page Line
 3 NONE
 4
 5
 6 Request for Production of Documents
 Page Line Page Line
 7 NONE
 8
 9
 10
 11
 12 Stipulations
 Page Line Page Line
 13 NONE
 14
 15
 16
 17 Questions Marked
 Page Line Page Line
 18 NONE
 19
 20
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 22
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1 the same force and effect as if you're appearing
 2 before a judge and jury in the court of law.
 3 Do you understand?
 4 A. Yes.
 5 Q. Okay. I'm going to try to ask you clear
 6 and understandable questions. If you don't
 7 understand one of my questions or it is unclear,
 8 then I expect you to tell me and I'll rephrase the
 9 question.
 10 However, if you answer the question
 11 as been asked, it will be presumed at the time of
 12 the trial that you understood the question and
 13 answered to the very best of your ability.
 14 Do you understand?
 15 A. Yes.
 16 Q. I'm here to find out your opinions. I'm
 17 also here to find out where you do not have
 18 opinions. If you don't have an opinion on
 19 something, I expect you will tell me that. If you
 20 don't know something, I expect that you'll answer, I
 21 don't know.
 22 I don't want to you guess or assume
 23 as we're trying to find out both your opinions and
 24 the factual basis thereof.
 25 Do you understand?

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1 MARIA CHIARA CARTA, M.D., having been
 2 duly sworn according to law, was examined and
 3 testified as follows:
 4 ---
 5 (The court reporter marked
 6 Carta-1, Report, for purposes of
 7 identification.)
 8 (The court reporter marked
 9 Carta-2, Report, for purposes of
 10 identification.)
 11 BY MR. ROTHENBERG:
 12 Q. Dr. Carta, we are here to take your
 13 deposition as you've been named as an expert on
 14 behalf of the defendant in this case, involving my
 15 client, Julie Petry.
 16 Do you understand that, ma'am?
 17 A. Yes.
 18 Q. You had your deposition before?
 19 A. Yes.
 20 Q. I'm going to give you some instructions.
 21 You're certainly familiar with the process but I
 22 want to make sure we're clear on the record as to
 23 the instructions.
 24 Number one, you have been placed
 25 under oath, that means testimony you give today has

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1 A. Yes.
 2 Q. If at any time during the course of the
 3 deposition, I mispronounce a word or use term of art
 4 that you find doesn't help us communicate, I'm not
 5 going to be offended if you correct me. I'm not a
 6 doctor. I don't play one on TV. So if I
 7 mispronounce it or you say well, I prefer to refer
 8 to it this way or discuss it in such a fashion, the
 9 idea while it is a question-and-answer session and
 10 you are hired by the defense, it is supposed allow
 11 us to communicate and have those questions, answers
 12 put on. So I'm not going to be offended if you do
 13 that.
 14 Do you understand?
 15 A. Yes.
 16 Q. If you need to refer to something or if
 17 you're going to refer to something in order to
 18 answer my question, I'd ask that you identify what
 19 it is you're referring to. You're sitting across
 20 from me, I'm some distance, so I can't see what
 21 you're looking at. And so I'm going to ask that as
 22 a matter of course, when you're looking at
 23 something, you identify what you're looking at.
 24 Do you understand?
 25 A. Yes.

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1 Q. During the course of the deposition,
2 there are attorneys here for both defendants, Mr.
3 Hollosi as well as Wilkins and Guttenplan. If
4 either of them object, allow them the courtesy of
5 placing the objection on the record. The objections
6 are not supposed to be made for your benefit and are
7 in fact made for the benefit of the court.
8 The only questions that you won't
9 answer are those in which they actually say, don't
10 answer or going back to my first instruction, those
11 that you don't understand or are unclear to you.
12 Do you understand?
13 A. Yes.
14 Q. Once an objection is placed on the
15 record, go ahead and answer the question unless it's
16 withdrawn or we reach one of those two conditions we
17 just discussed. Okay?
18 A. Okay.
19 Q. You have been through this before so you
20 understand you have to answer out loud. If you
21 don't, I may just raise my hand, which is a polite
22 reminder and another way not to kill a tree
23 reminding you to answer out loud.
24 Do you understand?
25 A. Yes.

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1 Q. Doctor, in order to prepare for your
2 deposition, did you review anything?
3 A. Yes.
4 Q. What did you review?
5 A. I reviewed these two volumes of records
6 and my own report.
7 Q. Okay. You say the two volumes of
8 records what are -- I haven't looked through the
9 books and I guess I'm going to look through them
10 eventually. But can you tell what is generally
11 contained therein?
12 A. So these are the medical records
13 provided to me which are summarized in my
14 November 29, 2017, report, and contained records of
15 care from this patient's different providers.
16 Q. And are those the records that are
17 listed in your report --
18 A. Yes.
19 Q. -- of November 29, 2017?
20 You list 31 different items?
21 A. Correct.
22 Q. Okay. And then you reviewed some
23 additional records that engendered the second
24 report?
25 A. January 31st.

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1 Q. Okay. So you have a January 31, 2018,
2 report and you reviewed some additional records for
3 that?
4 A. Yes.
5 Q. What else did you review for the
6 January 31st report?
7 A. This also is listed in the records, Dr.
8 Dennis, IME, D-E-N-N-I-S; and do you want me to read
9 through them or just --
10 Q. Why don't you tell me what else you
11 reviewed?
12 A. Dr. Greenwald's reports, Dr. Strenger's
13 records, Dr. Klyashtorny, K-L-Y-A-S-H-T-O-R-N-Y,
14 that's pain management doctor.
15 Q. Did you actually review the additional
16 records at that point or are you talking about --
17 A. These are the records that I review that
18 are summarized in my addendum.
19 Q. Well, the addendum talks in an updated
20 Doctor -- it talks about Dr. Greenwald and then
21 the --
22 A. Yes.
23 Q. Wait. Let me finish the question,
24 please, before you begin your answer.
25 A. Sorry.

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1 Q. The body of page 2 of the report seems
2 not to be indicating that you reviewed the records
3 but, in fact, what was recounted by Dr. Greenwald.
4 Did you actually review additional records outside
5 of Dr. Dennis' and Dr. Greenwald's reports in
6 support of your opinions of January 31, 2018?
7 A. Yes. So in order of privity, all the
8 records that I reviewed are summarized in the
9 report. So there is a Dr. Dennis, Dr. Greenwald, a
10 Dr. Marmora, a Dr. Strenger, a Dr. Berman, a Dr.
11 Klyashtorny, that same one. So those are all the
12 records that I reviewed.
13 Q. So you had extra records in review of
14 the second report. Let's go through those then.
15 MR. ROTHENBERG: Can you read those
16 back to me?
17 (The court reporter read back
18 the previous answer.)
19 BY MR. ROTHENBERG:
20 Q. What kind of doctor is Dr. Marmora?
21 A. Dr. Marmora was a primary care doctor.
22 Q. And you got new additional records from
23 Dr. Marmora after the first report?
24 A. Yes.
25 Q. Do you have those separated out, Doctor?

1 A. Yes. They will be in the second. I
2 have -- this is by the dates, so you want to --
3 4/16, okay. Let me look. Okay. So I cannot track
4 it down right now. I don't know if it is -- it
5 might be in the first book.

6 Q. Doctor, the reason I ask is because as I
7 said, when I read this, it looked as if you were
8 just recounting what was recited in Dr. Greenwald's
9 report rather than having reviewed those records
10 separately. Are you sure you reviewed those records
11 separately?

12 You know, in the first report, you
13 actually listed what you reviewed and it seems to me
14 -- and again you'll tell me, but I want you to
15 produce those records then.

16 A. Of course.

17 Q. And it says in a note dated 1/8/18, Dr.
18 Greenwald reviewed and summarized treatment rendered
19 to Ms. Petry. And then you go on to talk about all
20 these.

21 A. Okay. Yeah, you are correct. So that
22 is summarizing Dr. Greenwald's note, correct.

23 Q. So your statement that you reviewed all
24 these different doctors for your second report,
25 that's not correct?

1 report?

2 A. Well, the wording was inaccurate.

3 Q. So that's not correct?

4 A. The wording was inaccurate.

5 Q. Was it correct?

6 MR. PAULUS: Objection. Asked and
7 answered.

8 THE WITNESS: No, it was incorrect.

9 MR. ROTHENBERG: Thank you.

10 BY MR. ROTHENBERG:

11 Q. You know, Doctor, I'm the one who
12 pointed out to you, I wanted to be fair to you. I
13 told you that I want to be fair to you, that's not
14 how I read it and you actually insisted so that's
15 why we're at this point. I'm not trying to trick
16 you. I told you right away, that's not how I read
17 it and you insisted that you reviewed those records.

18 A. No, I didn't. I just told you that it
19 was incorrect because I was skimming through the
20 page, trying to find all the names of the doctors.
21 It's hard to remember, you know, what you have
22 reviewed with such a massive amount of records.

23 Q. Doctor, can you tell me what records or
24 documents you actually reviewed now that you've had
25 a chance to review this again --

1 A. I won't say so, no. Because the records
2 from the primary care physician were summarized in
3 Dr. Greenwald's report --

4 Q. Right.

5 A. -- so it's a summary of records.

6 Q. But that's not what I asked you. I
7 asked you which records you reviewed for this second
8 report. So when you told me that you reviewed all
9 these different doctors, Dr. Marmora, Dr. Dennis,
10 Dr. Greenwald, Dr. Strenger, Dr. Berman and Dr.
11 Klayashtorny --

12 A. Um-hmm.

13 Q. -- you didn't review those records for
14 the second report, that was a mistake. Correct?

15 A. Well, if you want to call it so, I don't
16 really think it's a mistake. You know, this is a
17 big stack of records so...

18 Q. Doctor, did you not tell me -- I mean,
19 we can read it back.

20 A. Yes, I did. I know exactly what I told
21 you.

22 Q. So were you correct -- let's ask it this
23 way since you can't admit you made a mistake. Can
24 you admit that it was not correct when you told me
25 that you reviewed those records for the second

1 A. Okay. So --

2 Q. Let me get the question out -- for the
3 second report? Is it fair to say the documents and
4 things you reviewed for the first report you listed.
5 Correct?

6 A. Yes.

7 Q. And that's actually attached as a list
8 to the first report; is that correct?

9 A. That's correct.

10 Q. Okay. And for the second report, can
11 you tell me which specific documents you reviewed
12 for the second report? Was it just Dr. Greenwald's
13 reports and Dr. Dennis' report?

14 A. No. It was Dr. Dennis, Dr. Greenwald
15 and then there are a number of other doctors'
16 records are summarized, which include Dr. Strenger,
17 Dr. Berman --

18 Q. Doctor, I'm not asking you about
19 summarized -- what Dr. Greenwald summarize. I'm
20 asking you, isn't it correct that the only documents
21 that you reviewed in order to issue the second
22 report was Dr. Dennis' report and Dr. Greenwald's
23 report. Correct?

24 A. Yes.

25 Q. Okay. So, for example, did you ever

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1 review Dr. Klayashtorny's records? Not summaries,
2 the actual records?
3 A. No. They were summaries in Dr.
4 Greenwald's report.
5 Q. Doctor, this will go much simpler and
6 much faster if you just answer the question asked.
7 Did you ever actually review Dr. Klayashtorny's
8 records?
9 A. I'm not sure. I would have to go back
10 to the book and -- because as I said, this is a
11 massive amount of records. So if I can look at my
12 2017 records and then I can tell you if they were
13 there.
14 Q. Well, Doctor, you have a list of
15 everything you reviewed. Correct?
16 A. Yes.
17 Q. Okay. Why don't you look at your list?
18 A. It's in a summary format so, you know,
19 in order -- you're asking very specific questions, I
20 don't want -- I want to give you a very specific
21 answer.
22 Q. Okay.
23 A. Okay. So you just have to give me a
24 minute. So Dr. Klayashtorny reports are summarized
25 in Dr. Greenwald's notes.

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1 Q. That's not what I asked you, Doctor.
2 Please -- okay, the question was, did you actually
3 review his records?
4 A. No. I don't appear to have those
5 records here.
6 Q. Okay. Thank you. Doctor, let me ask
7 you this. You prepared two reports in this matter;
8 is that correct?
9 A. Yes.
10 Q. And those contain an outline of your
11 relevant opinions in this matter?
12 A. That's correct.
13 Q. Were these reports prepared with the
14 idea of placing us on notice as to what your
15 opinions would be in this case?
16 A. Yes.
17 Q. Okay. And do they contain all the
18 relevant opinions you have?
19 A. Yes.
20 Q. Okay. Are there any opinions that you
21 consider relevant that you did not put in the report
22 -- or reports?
23 A. No.
24 Q. The first report has a list appended as
25 the last page and we marked this as Carta-1 for

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1 identification. Is this your report?
2 A. Yes.
3 Q. All right. And you have a copy of that
4 yourself as well?
5 A. Yes.
6 Q. And on the last page of that report, you
7 listed everything that you referred to in order to
8 prepare your opinions?
9 A. On the last page?
10 Q. Yes, ma'am.
11 A. No. Actually where I listed --
12 Q. Page 22.
13 A. Okay. So page 22 is just a summary of
14 the radiological reports. Where everything is
15 listed as actually where the part --
16 Q. Doctor --
17 A. -- where it starts the medical records
18 provided to me were reviewed. That's the list of
19 all the reviewed records.
20 Q. Can you look at page 22 because it's not
21 just radiologic reports? Are we looking at the
22 same --
23 A. Page 19.
24 Q. All right. Look at page 22, please.
25 A. (Witness complied.)

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1 Q. Again, is that just radiologic reports
2 that you looked at?
3 A. No.
4 Q. Okay. Again, I'm trying to be fair with
5 you. Every time I say something, you disagree with
6 me even though I just laid out something really
7 simple. Is page 22 a list of all the documents and
8 things you reviewed for the first report?
9 A. Yes.
10 Q. Okay. Did you review anything else
11 besides what's on page 22 in order to prepare your
12 report?
13 A. I don't believe so, no.
14 Q. Okay. Did you review any type of
15 medical literature as a reference for this case?
16 A. No.
17 Q. Did you review to any types of texts or
18 treatises in order to support your opinions?
19 A. No.
20 Q. Did you consult with anyone else in
21 order to prepare your reports?
22 A. Did I consult, meaning a colleague?
23 Q. Colleague, you may have of the staff
24 that you work with on the report. I have no idea --
25 A. No.

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1 Q. -- that's why I said anyone.
 2 A. I'm just not sure what you asked.
 3 Q. Very broad because rather than go
 4 through categories of people and, you know, I missed
 5 the wrong category, I just want to know did anyone
 6 else assist you in the preparation of your reports?
 7 A. Well, the reports get dictated and
 8 transcribed so in that broad sense, yes. Somebody
 9 transcribed the reports, sent it back to me and I
 10 edited it.
 11 Q. From a contents standpoint, was anybody
 12 else involved?
 13 A. No.
 14 Q. Now, at the top of your two reports,
 15 which I marked Carta-1, Carta-2, are the words,
 16 ExamWorks?
 17 A. ExamWorks is a company that sets up this
 18 type of examination.
 19 Q. Okay. And how long have you been
 20 working with ExamWorks?
 21 A. Twelve, thirteen years. Used to be Qual
 22 Med.
 23 Q. And what is your relationship with
 24 ExamWorks?
 25 A. I'm a contractor. So they send me the

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1 referrals and I do the reports.
 2 Q. Okay. And you get a W9 from them each
 3 year as a contractor?
 4 A. A W9?
 5 Q. That would be a statement of income from
 6 that company?
 7 A. You mean a 1099?
 8 Q. Okay. Let me -- maybe I need to work on
 9 my tax --
 10 MR. PAULUS: It's a 1099.
 11 BY MR. ROTHENBERG:
 12 Q. Okay, 1099. You get some sort of
 13 statement as to how much they paid you each year; is
 14 that correct?
 15 A. Yes.
 16 Q. How much did they pay you?
 17 A. I have no idea. My accountant does all
 18 my taxes now.
 19 Q. What percentage of your income came from
 20 ExamWorks?
 21 A. Approximately, 10 percent.
 22 Q. Okay. And you also do medical
 23 examinations that your office sets up as well; is
 24 that correct?
 25 A. Very rarely.

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1 Q. Most of your medical/legal work is done
 2 through ExamWorks?
 3 A. Yes.
 4 Q. Are you an owner of ExamWorks?
 5 A. No.
 6 Q. Are you a manager of ExamWorks in any
 7 way?
 8 A. No.
 9 Q. As I've interviewed or questioned other
 10 doctors, I've been told by other doctors that their
 11 reports are sent to them for editing and review
 12 ahead of time, and I don't know whether that's with
 13 everybody or not.
 14 When you write a report, is it edited
 15 or reviewed by ExamWorks before being issued?
 16 A. No. I edit each report.
 17 Q. Do they have any input in the report?
 18 A. No. The way it works is I dictate on a
 19 digital recorder, it is transmitted to them. And
 20 then they send it back as a Word file, which I edit
 21 myself. I think the only thing they do is put their
 22 heading with their address on top.
 23 Q. Why isn't -- why don't you put your
 24 address on this?
 25 A. I have no idea. You have to ask

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1 ExamWorks.
 2 Q. Okay. But this report -- both reports
 3 have your name and 4 Becker Farm Road, Roseland, New
 4 Jersey.
 5 A. Yeah.
 6 Q. Do you have an office there?
 7 A. Nope.
 8 Q. Do you see patients there?
 9 A. Nope.
 10 Q. Why is that listed as the address for
 11 you?
 12 A. I can speculate, if you'd like me to. I
 13 guess --
 14 MR. PAULUS: No. Don't guess.
 15 THE WITNESS: Okay. No guess. I
 16 don't know. That's the way they like it.
 17 BY MR. ROTHENBERG:
 18 Q. Are there other companies that you're a
 19 contractor with who set up medical/legal exams?
 20 A. Yeah. There's one here in town -- what
 21 is it? New Jersey Manufacturers, I think.
 22 Q. Okay. And what is New Jersey
 23 Manufacturers?
 24 A. It's an insurance company.
 25 Q. Okay. And you do medical/legal exams

1 for them?
 2 A. Yes.
 3 Q. Okay. And do you do both third-party
 4 and workers' compensation exams for them?
 5 A. Third-party? So third-party would be
 6 this.
 7 Q. Third-party would be where someone is
 8 being sued versus a claim brought as part of their
 9 workers' compensation --
 10 A. Yeah.
 11 Q. -- employment?
 12 A. Yeah.
 13 Q. Both types of claims?
 14 A. Yes.
 15 Q. And how many cases a year do you do for
 16 New Jersey Manufacturers?
 17 A. Maybe five or six.
 18 Q. An entire year?
 19 A. Yeah.
 20 Q. Have you testified in court before?
 21 A. You mean live in the court --
 22 Q. Yes.
 23 A. -- or depositions?
 24 Q. Well, I can sort it out. So can you
 25 estimate the number of times you've testified

1 A. No.
 2 Q. Okay. In the last five years, how many
 3 times have you given a deposition? Not trial
 4 testimony but just your deposition?
 5 A. A video?
 6 Q. No. I'm not talking about a deposition
 7 what we call a de bene esse deposition that is where
 8 the attorney who is hiring you, puts you on
 9 videotape instead of bringing you to court.
 10 Do you understand?
 11 A. Okay.
 12 Q. So we had have what's called de bene
 13 esse testimony, that's where someone like Mr. Paulus
 14 who wants to call you as a witness instead of
 15 bringing you to court puts you on video, like we're
 16 going to do next week with you --
 17 A. Okay.
 18 Q. -- or a situation here where the
 19 attorney who is on the other side just asks you
 20 questions, that would be a deposition. That's what
 21 we're doing today. How many times have you been
 22 deposed in the last five years?
 23 A. Well, it's generally three/four times a
 24 year. So maybe last year, four times.
 25 Q. Okay. And how many times were you put

1 actually in court in the last five years?
 2 A. Oh, maybe I went to comp court twice in
 3 the last five years.
 4 Q. Okay. And what about superior court?
 5 A. No. I haven't gone to superior court.
 6 Q. Have you ever been videotaped for
 7 superior court in the last five years?
 8 A. I have been videotaped, I don't really
 9 know what superior court is because I am not an
 10 attorney.
 11 Q. So we have court case likes this one?
 12 A. Is this superior court?
 13 Q. It is.
 14 A. Okay.
 15 Q. Have you ever testified in federal
 16 court?
 17 A. No.
 18 Q. Okay. You've testified in state court?
 19 A. What's the difference between state and
 20 superior? I mean, I've done video depositions, you know,
 21 so that's maybe --
 22 Q. Have you ever testified at a courthouse?
 23 A. Yes. But last time was five, six years.
 24 Q. Okay. Do you keep a list of your
 25 testimony?

1 on videotape for trial testimony last year?
 2 A. It's mostly video deposition.
 3 Q. How many times did you do that last
 4 year?
 5 A. Maybe three out of four were video.
 6 Q. Remember what I said, we're making a
 7 distinction, Doctor --
 8 A. Right.
 9 Q. -- so I want to be very clear. One is
 10 this is a situation where I'm asking you questions,
 11 I'm not the guy who hired you --
 12 A. Right.
 13 Q. -- how many times do you do that a year?
 14 A. Once or twice.
 15 Q. Okay. And how many times do you
 16 actually have your videotaped deposition done by the
 17 person who's hired you?
 18 A. 2 to 3.
 19 Q. And how long have you been doing this 3
 20 to 5 times a year?
 21 A. Maybe six, seven years.
 22 Q. You said you have been working with
 23 ExamWorks for 12 to 13 years; is that correct?
 24 A. Yes.
 25 Q. So did you ever -- before six or

1 seven years ago, did you ever have your deposition
 2 taken or go on video before?
 3 A. Not so much.
 4 Q. Before you were going to court live?
 5 A. No. I just don't do this many because I
 6 mostly do direct patient care. So this is not the
 7 bulk of my work, so...
 8 Q. Right. So do you do exams on a
 9 particular day each week? I'm sorry --
 10 A. For ExamWorks?
 11 Q. -- let me clarify. For medical/legal
 12 purposes, are there specific days of the week that
 13 you do exams?
 14 A. No.
 15 Q. You just intermix it with your regular
 16 patients?
 17 A. Yes.
 18 Q. Okay. How many exams per week do you do
 19 for medical/legal purposes?
 20 A. Well, for ExamWorks, it varies. So the
 21 way it's split out is perhaps I do three half days a
 22 month for ExamWorks, sometimes it's two exams,
 23 sometimes four or five, so I never know what the
 24 schedule is going to be.
 25 Q. So 2 to 5 a month?

1 purposes?
 2 A. Yeah. That would be altogether.
 3 Q. Okay. Have you ever testified at trial
 4 as a plaintiff's expert?
 5 A. Not at trial. I -- at the time one of
 6 my patients has a problem, I get requested to send
 7 reports. So I will do it for my own patient.
 8 Q. Have you ever testified on videotape on
 9 behalf of one of your patients?
 10 A. Not for a long time.
 11 Q. So is it fair to say that over the last
 12 ten years all the testimony that you've given is on
 13 behalf of defendants?
 14 A. Well, would you consider a report to a
 15 plaintiff attorney -- I guess not.
 16 Q. No, I don't.
 17 A. Okay.
 18 Q. I mean, testimony -- I didn't ask you
 19 about reports. Is it fair to say that over the last
 20 ten years, the only testimony you've ever given is
 21 on behalf of the defendants?
 22 A. Yes, pretty much.
 23 Q. Okay. And of the medical/legal reports
 24 you write, what percentage -- strike that.
 25 Now, we talked about your patients

1 A. 2 to 5 days, no.
 2 Q. 2 to 5 exams a month?
 3 A. No. No. Some day I do 3 to 4 half days
 4 a month, so that's two days a month total, right; 3,
 5 to 4 half days and then some -- I never -- some days
 6 is 3 or 4 of the 3 to 4 days, some days is 4 or 5.
 7 Q. How many exams do you average per month
 8 for medical/legal purposes?
 9 A. Well, that varies because some days
 10 there are few or one some days.
 11 Q. That's why we're using an average,
 12 Doctor --
 13 A. Right.
 14 Q. -- because I understand that there might
 15 be some day that you do seven in a day or there
 16 might be one in which you only do one a day --
 17 A. Um-hmm.
 18 Q. -- and that's why I say, on average, if
 19 we took the average and you know what the range is
 20 in your own head. What would you say is the average
 21 number you do per month?
 22 A. Some months it's six, seven, some months
 23 it is 10, 12.
 24 Q. Okay. Somewhere between 7 and 12 cases
 25 per month for ExamWorks and for medical/legal

1 and I want to put aside your patients for a moment
 2 and I just want to talk about times, in terms of
 3 times in which you're consulted and asked to write
 4 reports. What percentage of the time is that on
 5 behalf of the defendant? Is it a hundred percent?
 6 A. No. But close to, I would say,
 7 90 percent; 90/95 percent.
 8 Q. Can you name any plaintiff's attorney
 9 who has ever hired you on behalf of someone other
 10 than your patient?
 11 A. No. I don't remember attorney's names
 12 remain.
 13 Q. Okay. Now, Mr. Paulus, sitting to my
 14 right, have you met him before?
 15 A. Never met him before.
 16 Q. He's from the offices of Gerard Green;
 17 are you familiar with that firm?
 18 A. I have no idea who they are because
 19 everything goes back and forth through ExamWorks. I
 20 really have very little interaction with attorneys',
 21 except in this setting.
 22 Q. What about his company -- or his
 23 insurance company, CNA, do you know how much
 24 business you do with them?
 25 A. CNA, no.

1 Q. You don't know?
 2 A. No, because it's through ExamWorks.
 3 Q. Okay. How do you get paid by ExamWorks?
 4 A. How do I get paid? You mean, they send
 5 me a check every month.
 6 Q. I understand. I understand they
 7 actually pay you and I appreciate you telling me the
 8 physical way. I mean, are you paid by the hour?
 9 Are you paid by the job? How are you -- what is the
 10 way in which you're paid?
 11 A. I'm paid by the report and the amount of
 12 records that I review.
 13 Q. And what do you charge for your
 14 services?
 15 A. I charge \$850 for a report.
 16 Q. Okay.
 17 A. And then you know if there are extensive
 18 records, then there would be additional fees.
 19 Q. Do you have the bills here for the work
 20 you did on this case?
 21 A. No.
 22 Q. Where are the bills?
 23 A. I don't know. ExamWorks has them.
 24 Q. Well, do you bill for your services?
 25 A. I check off a list. It goes to the

1 your staff to --
 2 A. For this case?
 3 Q. Yes, ma'am.
 4 A. Okay. Sure.
 5 Q. Now, what do you charge for -- I
 6 understand that there's a \$3,500 charge for your
 7 deposition today?
 8 A. Nope. There is a \$3,000 charge.
 9 Q. Okay. Is there a reason why we were
 10 told 3,500?
 11 A. You have to ask ExamWorks.
 12 Q. Okay. Do they take a \$500 service
 13 charge?
 14 A. I didn't even know that, you're telling
 15 me that.
 16 MR. PAULUS: I'm going to object that
 17 that's a statement.
 18 MR. ROTHENBERG: It was. I said, do
 19 they. What was the question?
 20 MR. PAULUS: She answered it. Just
 21 note my objection.
 22 BY MR. ROTHENBERG:
 23 Q. So whether I take an hour or ten hours,
 24 it's still \$3,000 that you charge?
 25 A. We charge \$3,000 for two hours.

1 ExamWorks office and then they process the bill.
 2 Q. You have -- do you have any other
 3 offices besides the one we're sitting in here today?
 4 A. No.
 5 Q. And we are in Hammonton, New Jersey?
 6 A. Yes.
 7 Q. And this is Burlington County?
 8 A. No. This is Atlantic county.
 9 Q. I guess I had to drive through
 10 Burlington County to get here. I'm a little
 11 unfamiliar with the area.
 12 Do you have an office staff who does
 13 billing for you?
 14 A. Yes.
 15 Q. Okay. Who bills for your work that you
 16 do for ExamWorks?
 17 A. Well, the bill goes to ExamWorks.
 18 Q. Okay. So someone here prepares a bill
 19 for ExamWorks. Correct?
 20 A. Yes.
 21 Q. So that bill would be here, right?
 22 A. Well, it could be in the computer, yeah.
 23 I don't know.
 24 Q. Well, we're entitled to a copy of that
 25 bill so at a break, I'm going to ask if you will ask

1 Q. Two hours. So you charge for deposition
 2 testimony \$1,500 an hour?
 3 A. Yes.
 4 Q. And how much for every hour thereafter?
 5 A. Well, if it drags to two and a half, it
 6 just may be -- I don't know. It's never happened
 7 anything went beyond two hours.
 8 Q. My guess is we're going to be together
 9 more than two hours.
 10 A. Okay.
 11 Q. So I'd like to know what you charge per
 12 hour for over your \$1,500 per hour for the first two
 13 hours?
 14 A. Well, it depends.
 15 Q. Depends on what? I need to know what
 16 the charges are?
 17 A. The charges go -- see, I can't answer
 18 these questions because I have never really had to
 19 charge for more than two hours, so...
 20 Q. Okay.
 21 A. So that, you know, I have to get back to
 22 ExamWorks and all of that.
 23 Q. Well, it's -- Mr. Paulus is the one who
 24 is paying your bill and then I have to reimburse
 25 him. You can't tell us what it's going to cost us

1 an hour for your deposition?
 2 A. You mean, for each additional hour?
 3 Q. Yes, Doctor?
 4 A. I would have to get a copy of the fee
 5 schedule, see if that's even in there. You know, I
 6 can provide all that for you if you'd like me to,
 7 but...
 8 Q. Who sets your fees for depositions?
 9 A. My fee schedule is -- you know, we have
 10 had the same fee schedule for a long time, so...
 11 Q. Who set that? You?
 12 A. Yeah. It's in my office.
 13 Q. Okay. Do you have a contract with
 14 ExamWorks?
 15 A. I-- I guess so.
 16 MR. PAULUS: Don't guess. If you
 17 know.
 18 THE WITNESS: I don't know. I don't
 19 know because it's been a long time I worked for them
 20 and I don't actually have a physical copy of a
 21 contract anywhere.
 22 BY MR. ROTHENBERG:
 23 Q. So you don't recall --
 24 A. I don't recall, correct.
 25 Q. You got to let me finish the question,

1 are in notebooks; is that correct?
 2 A. These ones?
 3 Q. Yes, Doctor.
 4 A. Yes.
 5 Q. And who organized those notebooks?
 6 A. I organized them and then I direct which
 7 records should be tabbed.
 8 Q. Well, someone had to put the records in
 9 order. Correct?
 10 A. Well, my office manager sorts them in
 11 chronological order and then I direct how they
 12 should be tabbed.
 13 Q. And is so -- whose handwriting is it on
 14 the tabs?
 15 A. This, I believe, is one of the clerks at
 16 ExamWorks that tabs them.
 17 Q. Well, ExamWorks is in Roseland. How did
 18 they tab your records?
 19 A. Actually this exam, I think, was done in
 20 Mount Laurel. So there is an office in Mount
 21 Laurel.
 22 Q. So someone in Mount Laurel at ExamWorks
 23 set up those records and tabbed them for you?
 24 A. After they were put in chronological
 25 order, yes.

1 Doctor.
 2 A. I'm sorry.
 3 Q. That's okay. You know, often times in
 4 polite conversation, we anticipate but you don't
 5 know necessarily what I'm going to ask. Sometimes I
 6 don't know what I'm going to ask, so just let me
 7 finish the question first, if you don't mind?
 8 A. Okay.
 9 Q. Is it fair to say that you don't believe
 10 that you have a physical contract?
 11 A. That's correct.
 12 Q. Okay. Do you think you ever signed a
 13 contract with them?
 14 A. I don't recall doing so.
 15 Q. Okay. Outside of the \$850 per report,
 16 how much do you charge for the exam for the report?
 17 A. That's it.
 18 Q. How much do you charge for the record
 19 review?
 20 A. If the records are less than -- I want
 21 to say 2 inches, then the total charge is \$850.
 22 Q. Okay. And for records over 2 inches?
 23 A. Then it would be 250 up to I think 5
 24 inches and then another 250 and it goes...
 25 Q. Okay. Now, the records that you have

1 Q. They tabbed the records for you?
 2 A. Yes.
 3 Q. How did they determine what records to
 4 tab for you?
 5 A. I direct how the records should be
 6 tabbed.
 7 Q. How do you do that?
 8 A. I just have instructions on they should
 9 be tabbed in chronological order. For instance
 10 accident reports should be red, radiology reports
 11 should be in blue and doctor's notes should be in
 12 yellow. So I direct on that.
 13 Q. There are literally thousands of pages,
 14 right?
 15 A. Yes.
 16 Q. Okay. How did you direct them to tab
 17 those particular pages out of thousands of pages,
 18 outside of the accident report and the radiology
 19 report?
 20 A. Well, for instance, we can take an
 21 example. Dr. Miller, this is a doctor report, it's
 22 tabbed in yellow and has the dates. So they are
 23 directed --
 24 Q. Why Dr. Miller's report? You didn't tab
 25 every Miller report, did you?

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1 A. Yes, I did. Dr. Miller another date
2 4/19/11 and Dr. Lamb, 4/25/14. Dr. Miller 6/3/15,
3 so they are tabbed in chronological order and with
4 the names of the different provider. The radiology
5 is tabbed in another color, et cetera.
6 Q. Okay. So your office manager put them
7 in order, then you give them to ExamWorks and they
8 tabbed them?
9 A. Yes.
10 Q. And who's the person at ExamWorks that
11 tabs them?
12 A. I have no idea. Sometimes, I tab them
13 myself.
14 Q. Did you tab those?
15 A. No.
16 Q. You don't know whose handwriting that is
17 on the tabs?
18 A. No.
19 Q. Was it organized and tabbed before you
20 wrote your report?
21 A. No.
22 Q. This was done after you wrote your
23 report?
24 A. Yes. This was done in preparation for
25 this deposition. When I do the report, I make with

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1 the records myself for the purposes of summary and
2 then I go by my own.
3 Q. May I see your notebook, Doc?
4 A. Sure.
5 Q. Thank you. I'm sort of looking at it
6 from a distance. We have here a number of C.V.s.,
7 maybe I will --
8 A. Yeah. That's the same that you
9 received.
10 Q. I got a faxed page. Do you mind if I
11 take one of these since it's clean?
12 A. Not at all.
13 MR. ROTHENBERG: I'll mark that as
14 Carta-3 for identification.
15 (The court reporter marked
16 Carta-3, Curriculum Vitae, for purposes of
17 identification.)
18 BY MR. ROTHENBERG:
19 Q. I note you've got these blue --
20 A. Yeah.
21 Q. -- tabs, and you said those are
22 radiology's. Correct?
23 A. Correct.
24 Q. Is it fair to say that you didn't
25 actually review any radiology in this case?

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1 A. That's correct.
2 Q. So all your opinions are based upon your
3 interpretation of someone else's opinion having read
4 the reports?
5 A. My --
6 Q. Let me rephrase the question.
7 MR. PAULUS: I'm going to object to
8 that -- okay.
9 MR. ROTHENBERG: If I say I'm going
10 to rephrase, there's no reason to object.
11 BY MR. ROTHENBERG:
12 Q. Is it fair to say that your opinions
13 concerning the radiology are based upon the opinions
14 of the person who actually read the radiology?
15 A. That's correct. I read the reports.
16 Q. Are you able to read an MRI?
17 A. Yes.
18 Q. When you treat your own patients, do you
19 actually review MRIs?
20 A. Yes.
21 Q. Do you treat people with injuries from
22 automobile accidents?
23 A. Sometimes.
24 Q. What percentage of your private practice
25 is treating persons who have been involved in

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1 automobile accidents?
2 A. Less than 5 percent.
3 Q. What's the majority of your clinical
4 practice?
5 A. I do everything. I do general
6 neurology, so seizures, strokes, multiple sclerosis,
7 tumors, aneurysms, head injuries, spine injury,
8 neuromuscular disorders, et cetera.
9 Q. Do you have any area of specialization,
10 Doctor?
11 A. Yes. I have a subspecialty in
12 neurophysiology in epilepsy, so I do my own EMGs.
13 Q. Do you VNGs?
14 A. No.
15 Q. Are you able to read a VNG?
16 A. Yes. Because I trained when I was a
17 resident, I trained with Dr. Toglia, T-O-G-L-I-A, at
18 Temple University Hospital. He was a pretty famed
19 neurologist and he kind of made the residents do the
20 normal controls for the VNGs. So I am familiar with
21 the test.
22 Q. Now, in giving your opinions, did you
23 rely upon the record that you listed?
24 A. Yes.
25 Q. And Dr. Greenwald is a treating

1 physician. Correct?
 2 A. Yes.
 3 Q. Did you rely upon his opinions?
 4 A. Well, I read his reports, yes.
 5 Q. Did you rely upon them?
 6 A. What do you mean by, relying?
 7 Q. In order to formulate your opinion, did
 8 you find it necessary to have the information that
 9 he supplied as well as his opinions in order to
 10 formulate your own opinions?
 11 A. I read all the records in order to
 12 formulate my own opinion. I'm not sure what you
 13 mean by, relying, because I disagree with him, so...
 14 Q. You disagree with Dr. Greenwald?
 15 A. Yes.
 16 Q. Is there any treating physician that you
 17 agree with?
 18 A. I think Dr. Gainey did a very good job
 19 documenting -- the neurologist, did a very good job
 20 in documenting that one, two months after the
 21 injury, she had spectacular improvement.
 22 Q. He also said that she had a concussion
 23 and a mild traumatic brain injury. Correct?
 24 A. Correct.
 25 Q. Do you agree with that?

1 physician. I am not a treating physician. If you
 2 are asking me for other names, I would have to go
 3 back and re-read everything because I'm not very
 4 good with names.
 5 Q. Well, Doctor, you told us that in
 6 preparation for today's deposition that you reviewed
 7 those records. Correct?
 8 A. Yes.
 9 Q. And how long did you spend preparing for
 10 the deposition?
 11 A. Probably an hour and a half.
 12 Q. Okay. And which records did you review?
 13 All of them?
 14 A. I reviewed what I felt was important.
 15 Q. Okay. Are you aware of which of the
 16 doctors that you cited to -- you can even turn to
 17 page 22 of your report --
 18 A. (Witness complied.)
 19 Q. -- maybe that will help you at least
 20 have a list of records you referred to. Are you
 21 aware of which of those doctors you've reviewed who
 22 are not treating physicians?
 23 A. So far Dr. Dennis.
 24 Q. He's not on that list?
 25 A. He's not on the -- no, not -- I'm

1 A. No.
 2 Q. So is there any treating physician who
 3 you agree with concerning their diagnosis of Ms.
 4 Petry?
 5 A. Not really, no.
 6 Q. Outside of Dr. Dennis, Dr. Dennis is
 7 someone who is hired to do a --
 8 A. May I have that back.
 9 Q. (Counsel complied.)
 10 -- medical examination for litigation
 11 purposes, is that correct?
 12 A. I have no idea.
 13 Q. Okay. Are you aware of any doctors that
 14 you reviewed records of who are not treating
 15 physicians?
 16 A. I would have to go back through all the
 17 records because it's kind of hard to remember.
 18 Q. Well, Doctor, I could ask you to name
 19 all the treating physicians, I was trying to make it
 20 simpler and see if you're aware of which of the
 21 doctors' notes, records and reports that you
 22 reviewed who were not treating physicians.
 23 Are you able to identify that?
 24 A. Yes. Because it would be my summary
 25 reports, so as you said Dr. Dennis is not a treating

1 talking about my addendum report. So on this note,
 2 I don't see any -- I don't think there is anybody
 3 who's not treating physician but, you know, I'm not
 4 a hundred percent sure. I would have to go through
 5 the whole -- the whole list of records summary to --
 6 or even the individual reports.
 7 Q. So you don't know who is and who isn't a
 8 treating physician in the records that you reviewed?
 9 A. No, that's not accurate.
 10 Q. Okay.
 11 A. I just gave you an answer.
 12 Q. So tell me who is not a treating
 13 physician?
 14 A. Dr. Dennis.
 15 Q. Anybody else?
 16 A. Not that I can think of right now.
 17 Q. In giving your opinions, did you give
 18 your opinions within a particular standard?
 19 A. What do many by, standard?
 20 Q. Well, for example, in medical
 21 malpractice if someone is giving their opinion, they
 22 give their opinion concerning the standard of care.
 23 In medical/legal, we typically are looking for an
 24 opinion within a reasonable degree of medical
 25 probability. Do you know what that is?

1 A. Yes.
 2 Q. What is that?
 3 A. I think that means more so than not or
 4 50 percent certain.
 5 Q. And were the opinions you've given
 6 within the applicable standard?
 7 A. Yes.
 8 Q. Have you been asked to review any
 9 additional records outside of what we've discussed
 10 as listed in your reports?
 11 A. No.
 12 Q. Did you feel that you had everything
 13 that you needed in order to formulate your opinions
 14 in this matter?
 15 A. Yes.
 16 Q. Have you ever given an opinion in which
 17 you've been asked on behalf of defendant to review a
 18 case where you found that someone had a permanent
 19 head injury?
 20 A. Yes.
 21 Q. What percentage of the time in which
 22 you're asked to review a claim involving a traumatic
 23 brain injury or a mild traumatic brain injury that
 24 you actually find that there's a permanent
 25 condition?

1 sign and a symptom in medicine?
 2 A. Yes.
 3 Q. Okay.
 4 A. I'm sorry. I just told you the
 5 symptoms. See what you're saying.
 6 Q. I'm not tricky.
 7 A. Yeah. Yeah.
 8 Q. Every time I ask you a question and then
 9 you argue with me about it?
 10 A. No. I'm not arguing.
 11 MR. PAULUS: Objection to the
 12 characterization of arguing. She's trying to get
 13 clarification.
 14 THE WITNESS: I'm not arguing, not at
 15 all.
 16 BY MR. ROTHENBERG:
 17 Q. Okay. So the symptoms of a mild
 18 traumatic brain injury include headache, dizziness,
 19 memory problems and nausea; is that correct?
 20 A. Yes.
 21 Q. What are symptoms are you aware of?
 22 A. Sometimes cognitive dysfunction,
 23 concentration problems, sometimes sleep dysfunction,
 24 sometimes psychiatric symptoms.
 25 Q. Post-traumatic stress disorder?

1 A. Well, the last one was last week. And
 2 it was a young lady with horrific brain injury and I
 3 said so.
 4 Q. Yes, Doctor. My question is what
 5 percentage?
 6 A. She had multiple brain contusions, she
 7 had very abnormal studies and she was in a coma for
 8 two weeks. That's a horrific brain injury.
 9 Q. What is a mild traumatic brain injury?
 10 A. Mild traumatic brain injury is generally
 11 defined as a consequence of a concussion.
 12 Q. And what is a mild brain traumatic brain
 13 injury? You just told me what causes a mild
 14 traumatic brain injury. What is a mild traumatic
 15 brain injury?
 16 A. It is a symptom complex consisting of a
 17 number of symptoms and signs sometimes that are
 18 related to trauma to the brain, which can include
 19 headaches, dizziness, memory issues, sometimes
 20 nausea. And it's very very variable in each
 21 patient.
 22 Q. What are the signs of a mild traumatic
 23 brain injury?
 24 A. I just told you.
 25 Q. Okay. Is there a difference between a

1 A. Yes, maybe.
 2 Q. Okay. So those are all symptoms
 3 associated with a mild traumatic brain injury?
 4 A. They might be.
 5 Q. And a mild traumatic brain injury, does
 6 the fact that it's called mild traumatic brain
 7 injury, does that mean it is mild? What does the
 8 mild describe?
 9 A. Well, that's actually a
 10 mischaracterization because it is part of an old
 11 parlance, you would say, where the brain injuries
 12 were classified as mild, moderate and severe.
 13 Q. And that was because that had to do with
 14 whether or not there was a skull fracture or frank
 15 bleed?
 16 A. Nope. That has to do with the fact with
 17 or without loss of consciousness --
 18 Q. Okay.
 19 A. -- and how long the loss of
 20 consciousness. In fact, the articles tends to
 21 classify --
 22 MADAM COURT REPORTER: Say that
 23 again.
 24 THE WITNESS: How long the loss of
 25 consciousness was. In fact, the articles tend to

1 classify head injuries with or without loss of
 2 consciousness.
 3 BY MR. ROTHENBERG:
 4 Q. So mild traumatic brain injury is one
 5 without loss of consciousness?
 6 A. Typically, yes.
 7 Q. And a moderate brain injury, what is
 8 that? What's the distinction between a mild and a
 9 moderate?
 10 A. Well, that's considered -- again this is
 11 out molded, outdated classification but it was
 12 considered something that involves a loss of
 13 consciousness of more than 30 minutes duration and
 14 parenchymal lesions in the brain or some type of
 15 brain issues -- brain injuries, such as swelling in
 16 the brain, et cetera.
 17 Q. Like the young woman you related where
 18 you gave an affirmative opinion on behalf of the
 19 person who had a brain injury?
 20 A. That's correct.
 21 Q. Okay. MTBI, mild traumatic brain
 22 injury, is a term of art still used; is it not?
 23 A. Well, the American Academy of Neurology
 24 actually advises against it. They prefer the term,
 25 concussion.

1 their motor function, problems with their
 2 equilibrium, problems with sensation, problems with
 3 executive function or memory, various cognitive
 4 deficits, et cetera.
 5 Q. You would agree that Ms. Petry had
 6 complaints of headache, dizziness, memory loss,
 7 nausea, cognitive dysfunction, concentration
 8 problems, sleep problems and post-trauma stress
 9 disorder; is that correct?
 10 A. Well, when? When did she have --
 11 Q. When you saw her?
 12 A. Oh, when I saw her, yes.
 13 Q. Okay. Since she's been treating with a
 14 neurologist following this accident, she's had those
 15 complaints?
 16 A. Correct.
 17 Q. So all the symptoms that you attribute
 18 to a mild traumatic brain injury are ones that she's
 19 expressed to her treating physicians; is that
 20 correct?
 21 A. That's what she has subjectively
 22 expressed to treating physician, yes.
 23 Q. Okay. And she's had problems with her
 24 vision, which has been measured; is that correct?
 25 A. Yes.

1 Q. Okay. Well, I thought you said a
 2 concussion gives you a mild traumatic brain injury.
 3 That's what you told us before.
 4 A. Again that's the out molded, old
 5 classification, but yes. In broad terms or
 6 colloquial terms, if you want to put it that way, a
 7 mild traumatic brain injury can be the result of a
 8 concussive injury to the brain.
 9 Q. I didn't go to med school and I'm asking
 10 you new questions. When I asked you what is a mild
 11 traumatic brain injury, you said that's what it is,
 12 caused by a concussion. Do you remember saying
 13 that?
 14 A. I said it is a symptoms complex that can
 15 result from a concussion --
 16 Q. Okay.
 17 A. -- that's what I said.
 18 Q. And MTBIs are well documented in the
 19 medical literature, are they not?
 20 A. Yes.
 21 Q. Okay. And so what are the signs of an
 22 MTBI?
 23 A. Well, sometimes there are no signs and
 24 sometimes patients can have neurological deficits,
 25 such as problems with their vision, problems with

1 Q. She's had problems with her equilibrium;
 2 is that correct?
 3 A. Yes.
 4 Q. And she's had problems with executive
 5 function and cognitive deficits?
 6 A. All subjectively reported, yes.
 7 Q. Well, it's also been tested by Dr.
 8 Goldin, a neuropsychologist. Correct?
 9 A. Yes.
 10 Q. Are you a neuropsychologist?
 11 A. Dr. Gordon?
 12 Q. Goldin, G-O-L-D-I-N. Are you a
 13 neuropsychologist?
 14 A. No.
 15 Q. Do you utilize neuropsychologists as
 16 part of your practice?
 17 A. Yes.
 18 Q. And what do neuropsychologists do?
 19 A. Neuropsychologists do subsets of tests
 20 for assessment of cognitive function.
 21 Q. Okay. And do they do objective testing
 22 in order to ascertain the extent of injuries or
 23 deficits cognitively?
 24 A. What do you mean by, objective testing?
 25 Q. They are normalized testing which by

1 testing one can ascertain the extent of an injury or
 2 deficit?
 3 A. Yes. That's what they say they do,
 4 subsets of tests for cognitive function.
 5 Q. Okay. Do you know who Dr. Hall is?
 6 A. Dr. Hall?
 7 Q. I don't see him anywhere in your
 8 records.
 9 A. Okay.
 10 Q. I'm not -- again --
 11 A. Yeah. Well, it sounds vaguely familiar,
 12 but I don't know.
 13 Q. So the only neuropsychological testing
 14 you have reviewed is Dr. Goldin's; is that correct?
 15 A. That's correct. I think.
 16 Q. Yes. And you're aware of Dr. Goldin's
 17 findings concerning cognitive defects?
 18 A. Yes.
 19 Q. And you're aware of Dr. Goldin's
 20 findings with respect to impairments in executive
 21 function?
 22 A. Yes.
 23 Q. Did you review Dr. -- not doctor, did
 24 you review Tara Arhakos' report? I forget. Maybe
 25 I'll know the answer to this one.

1 going to make it easy.
 2 Q. I'm committed to being here until we are
 3 done.
 4 A. Okay. That's fair enough. So I cannot
 5 find it right now.
 6 Q. Okay. Do you know whether you ever saw
 7 the notes from the psychological counselling that
 8 she received from Tara Arhakos?
 9 A. I could not tell you right now.
 10 Q. Okay. Are you a psychologist?
 11 A. No.
 12 Q. Are you a psychiatrist?
 13 A. No.
 14 Q. I know that some people do have board
 15 certifications or double certifications both
 16 psychology and neurology and you do not; is that
 17 correct?
 18 A. No.
 19 Q. That's correct?
 20 A. That's correct.
 21 Q. So is it fair to say that you don't have
 22 any opinions concerning the psychology or
 23 psychiatric condition of Ms. Petry; is that correct?
 24 A. That's correct.
 25 Q. So is it fair to say you don't have an

1 You list on item No. 21 of your
 2 report, psychological counseling notes and I don't
 3 know if that's referring to Tara Arhakos' notes or
 4 not?
 5 A. What is the date on that?
 6 Q. You got 11/3/15 is the first one.
 7 A. J.F.K. Rehabilitation Institute.
 8 Q. No. I'm talking about Tara Arhakos?
 9 A. Is that the cognitive rehabilitation
 10 notes?
 11 Q. I'm asking you, Doctor, whether you've
 12 seen Tara Arhakos' report?
 13 A. So from 11/3/15 I have a note from
 14 vestibular --
 15 Q. That's not what I'm asking you about?
 16 A. Okay. That's all I have from 11/3/15.
 17 Q. Okay. So you don't have any of the
 18 psych notes or the counselling she's had?
 19 A. You have to give me the dates because
 20 this is organized by dates.
 21 Q. No. I don't have to give you anything.
 22 I'm asking you the questions, not providing the
 23 answers?
 24 A. Well, if you -- we can sit here until
 25 8 o'clock tonight. If you give me the dates, it's

1 opinion as to whether or not she has post-traumatic
 2 stress disorder; is that correct?
 3 A. That's correct.
 4 Q. Do you ever use literature as part of
 5 your opinions or in support of your opinions in any
 6 cases?
 7 A. No.
 8 Q. Why not?
 9 A. Why not?
 10 Q. Yes, Doctor.
 11 A. Because literature is subjective. One
 12 author says one thing, another says another and I
 13 have 30-plus years of experience in evaluating
 14 patients. That doesn't mean I don't go to courses
 15 and all of that but I don't usually use literature
 16 for the purpose of issuing these reports.
 17 Q. Doctor, you treat patients, right?
 18 A. Yes.
 19 Q. Why is it that you think that 95 percent
 20 of the work you do for medical/legal is on behalf of
 21 defendants?
 22 A. It just fell into that pattern I guess.
 23 Q. Why do you do medical/legal work?
 24 A. Because I am asked and generally -- and
 25 I have a lot of experience, clinical neurology

1 experience.
 2 Q. Well, are you in it for the money?
 3 A. What is that?
 4 Q. Are you in it for the money?
 5 A. Well, aren't you in it for the money?
 6 You're getting paid while you're sitting here,
 7 aren't you?
 8 Q. Sure. But this is what I do. I mean,
 9 you study to be a doctor. Correct?
 10 A. Correct.
 11 Q. And your intention in, I guess, becoming
 12 a doctor was to help and heal people?
 13 A. That's correct.
 14 Q. Is it fair to say that acting as an
 15 expert in medical/legal work is not helping and
 16 healing people?
 17 MR. PAULUS: Objection.
 18 You can answer, of course.
 19 THE WITNESS: That's not most of the
 20 work I do.
 21 BY MR. ROTHENBERG:
 22 Q. Okay. So my question --
 23 A. This is only a limited part where, you
 24 know, there is absolutely nothing wrong with
 25 utilizing your technical expertise.

1 Q. Okay. So they call, set up an
 2 appointment. Then what?
 3 A. And then the appointment is put in my
 4 schedule. I get the files a few days ahead of time
 5 so I can review and summarize them.
 6 Q. Do you know what the alleged injury is
 7 before you see the patient?
 8 A. No.
 9 Q. Okay. And I said, patient. These
 10 people aren't your actual patients. Correct?
 11 A. That's correct.
 12 Q. All right. So the examinee, you don't
 13 know what the allegations are before you see the
 14 person?
 15 A. No.
 16 Q. Do you get some sort of electronic
 17 communication from ExamWorks confirming the
 18 appointment?
 19 A. No. The appointments are entered in my
 20 office schedule, so...
 21 Q. Okay. Now, when you give a report for a
 22 workers' comp case through ExamWorks, do you do
 23 that?
 24 A. Yeah.
 25 Q. Okay. And so you know that when you're

1 Q. Is this a lot more lucrative than
 2 treating patients?
 3 A. No -- well, it depends.
 4 Q. You get \$1500 an hour to treat patients?
 5 A. No.
 6 Q. Okay. Why do you charge \$3,000 for two
 7 hours worth of work?
 8 A. Why?
 9 Q. Yes.
 10 A. I don't -- that's how the fees are set.
 11 Q. Okay. When you're retained by
 12 ExamWorks, take me through the process of how you're
 13 retained in each case?
 14 A. Someone calls --
 15 Q. Let me cut you off for just one second.
 16 To be fair, do you remember how you were retained in
 17 this particular case?
 18 A. No.
 19 Q. Okay. I didn't think so. And that's
 20 why I started out with the general question. So can
 21 you tell us how -- take us through generally how it
 22 is you're retained to do one of these cases for
 23 ExamWorks?
 24 A. Someone calls from ExamWorks requesting
 25 an appointment.

1 writing a workers' comp report, you have to put in
 2 percentages of disability; right?
 3 A. Yes.
 4 Q. So you know what you're supposed to do
 5 in terms of what type of opinions you're giving in
 6 terms of the type of opinions when you do workers'
 7 comp case. Correct?
 8 A. You mean before receiving the file?
 9 Q. No. Just generally speaking, you know
 10 what they are looking for; right?
 11 A. Yes.
 12 Q. They're looking for you to evaluate the
 13 percentage of disability, right?
 14 A. Of neurological disability, yes.
 15 Q. When you're doing an exam for a
 16 third-party case like this, you're not putting the
 17 things in percentages; right?
 18 A. No.
 19 Q. Is that correct?
 20 A. Yes.
 21 Q. Okay. So what sort of direction do you
 22 get in terms of what the opinions you're asked to
 23 give with respect to these type of cases?
 24 A. What do you mean by, direction?
 25 Q. Well, do they tell you, we're looking

<p style="text-align: right;">Page 65</p> <p>1 for an opinion concerning the neurologic disability, 2 whether it's causally related? Do you get any 3 direction at all as to what -- 4 A. I don't get direction -- 5 Q. Okay. 6 A. -- I just do my reports, send it and 7 then get it back to edit all the typos. 8 Q. Okay. So do you sometimes do reports on 9 causation only? 10 A. You mean if there was a causal 11 relationship? 12 Q. Yes, sir, Doctor? 13 A. Yeah, I guess so. 14 Q. Okay. And do you do sometimes reports 15 where causation isn't an issue but you're only doing 16 what is the extent of damage? 17 A. Yes. 18 Q. Okay. How do you know whether your 19 report is supposed to address either causation 20 damages or both? 21 A. How do I know? I just -- I don't -- I 22 don't understand the question. 23 Q. Does someone tell you whether they want 24 a report on what topics? 25 A. No. Generally for workman's</p>	<p style="text-align: right;">Page 67</p> <p>1 done with the summary -- okay, let me -- let me -- 2 maybe I misunderstood the question. What's the 3 question? 4 Q. Sure. I'm just trying to figure out the 5 order of things. Do you dictate the summary of the 6 records before you ever see the examinee? 7 A. No. I make a list of records and then 8 dictate based on my list. 9 Q. Okay. So you dictate your summary of 10 the records after you've seen the patient -- 11 A. Yes. 12 Q. -- or the person. Yes? 13 A. Yes. Because -- 14 Q. Why? 15 A. -- sometimes they will -- or the patient 16 will have -- say that they have seen some additional 17 doctors, so I will request additional records. 18 Q. Doctor, so normally when you are writing 19 one of these reports for a defendant, you'll see the 20 person before you dictate your summary? 21 A. I see the person. What do you mean by, 22 summary? 23 Q. Summary of the records? 24 A. I see the person and then I dictate the 25 report, which includes the summary of records.</p>
<p style="text-align: right;">Page 66</p> <p>1 compensation, what I think is expected is percentage 2 of disability or, as they call it, permanency. And 3 for non-workman's compensation, it's causal 4 relationship and, you know, generally no 5 percentages. So that's all I know. 6 Q. Okay. So after you get the records, how 7 long did you spend reviewing the records in this 8 case before you saw Ms. Petry? 9 A. A few hours. 10 Q. How many is a few hours? Is that two, 11 four, six, eight? 12 A. Probably two-and-a-half to three hours. 13 Q. 2 to 3 hours? 14 A. Yes. 15 Q. And did anyone assist you in reviewing 16 the records? 17 A. No. The only one -- so my office 18 manager, as I said before, sorts them out in 19 chronological order, so I read them like a book. 20 What happened first and what happened next. 21 Q. Do you dictate your chronology before 22 you see the examinee? 23 A. No. 24 Q. You dictate it afterwards? 25 A. Well, I do the summary and then once I'm</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. Okay. Do you make notes when you go 2 through the records before the examination? 3 A. Yes. 4 Q. And do you have a copy of those notes? 5 A. Nope. 6 Q. What happened? 7 A. I don't know. They didn't send it back 8 to me. I have a copy of my handwritten notes, the 9 intake. 10 Q. May I see that, please? 11 A. Sure. (Witness complied.) 12 Q. Let me ask if you can make a copy, I can 13 mark that instead of marking yours. Where are the 14 originals, Doctor? 15 A. I -- they are with ExamWorks. 16 Q. You send -- 17 A. I don't keep any files. The files go 18 back and forth to -- what's that town? 19 Q. Roseland. 20 A. Roseland, yeah. 21 Q. They sent this to you in preparation for 22 the dep? 23 A. Yes. I don't actually keep the physical 24 file. 25 Q. When did you get this file back to you?</p>

1 A. Last week.
 2 Q. Okay. And have you been looking at it
 3 since last week or just today?
 4 A. No. I looked at it yesterday afternoon.
 5 Q. And that's the only time you spent
 6 preparing?
 7 A. Yes.
 8 Q. All right. And are there other records
 9 or notes made contemporaneous with your reports?
 10 A. You mean handwritten?
 11 Q. Any type of handwritten, typed --
 12 A. No --
 13 Q. -- any patient --
 14 A. -- that's the only handwritten I have.
 15 Q. Anything that was created by you or your
 16 office or ExamWorks, is there anything else in those
 17 books besides this document?
 18 A. No. You can look through it. No.
 19 Q. So everything else is just patient
 20 records, except for your report and these notes?
 21 A. Correct.
 22 Q. All right.
 23 MR. ROTHENBERG: Let's take a break
 24 and I will have you make a copy. If you can make
 25 extra copies for the attorneys.

1 A. Yes.
 2 Q. And then after you saw her, you said you
 3 dictated a report which included a summary of your
 4 examination, your interview, history, as well as a
 5 summary of the records; is that correct?
 6 A. Yes.
 7 Q. All right. What happened to the summary
 8 of records that you made before you saw Ms. Petry?
 9 A. As I just said, they went back to
 10 ExamWorks. Now they have returned my file and I
 11 don't have the notes. So I don't know what happened
 12 to the notes.
 13 Q. Were those records destroyed? You don't
 14 know?
 15 A. I don't know.
 16 Q. Okay. Do you know whether -- strike
 17 that.
 18 Those handwritten notes, did someone
 19 type up those handwritten notes?
 20 A. No.
 21 Q. So there are notes that you made in your
 22 review of the file, which have now gone missing when
 23 you sent them to ExamWorks?
 24 MR. PAULUS: Objection.
 25 MR. ROTHENBERG: You don't know where

1 (There was a brief recess taken.)
 2 (The court reporter marked
 3 Carta-4, Handwritten Notes, for purposes of
 4 identification.)
 5 BY MR. ROTHENBERG:
 6 Q. When you went through the records
 7 beforehand, did you make any notes?
 8 A. Yes.
 9 Q. What happened to those notes?
 10 A. I have no idea. This is what I got back
 11 from ExamWorks.
 12 Q. Do you provide those notes to somebody
 13 else?
 14 A. Well, they are in the file that goes to
 15 ExamWorks. So this is what ExamWorks -- I don't
 16 keep the notes. I don't keep anything here, as I
 17 said before. Everything goes back and forth to
 18 Roseland. So, you know, that's what they got back.
 19 Q. Doctor, the notes we have here, which I
 20 marked Carta-4 for identification, those are notes
 21 made during your interview and exam of Ms. Petry; is
 22 that correct?
 23 A. Yes.
 24 Q. Okay. Before you saw Ms. Petry, you
 25 told me that you reviewed the records. Correct?

1 they are, right?
 2 THE WITNESS: Correct.
 3 BY MR. ROTHENBERG:
 4 Q. Doctor, I told you that when we took a
 5 break, I was going to ask you for a copy of bills.
 6 Did you ask your staff for the bills?
 7 A. Yeah. I just asked Melanie. She said
 8 we don't have them. They are all at ExamWorks, so
 9 you have to get them from the ExamWorks. We don't
 10 have the physical bill here because it's billed out
 11 by ExamWorks.
 12 Q. You have to send a bill out from here.
 13 Correct?
 14 A. No.
 15 Q. You don't send a bill?
 16 A. Okay. No. Let me ask her again.
 17 Q. Doctor, when you have a patient who
 18 comes in here and they get treatment, do you bill an
 19 insurance company?
 20 A. I bill an insurance company, yes.
 21 Q. And you keep a record of what they were
 22 billed and wait for you to get payment, right?
 23 A. Okay. Let me just -- because I just
 24 thought of something else.
 25 (There was a brief recess taken.)

1 BY MR. ROTHENBERG:
2 Q. Doctor, we were talking about the
3 billing in this case. When a patient comes in here
4 and you render services, do you send out a bill?
5 A. Well, this was done in Mount Laurel. So
6 Mount Laurel is a workman's comp --
7 Q. That's not -- I am asking about right
8 here, in this office. Someone comes in, you provide
9 treatment, do you bill for that?
10 A. Yes. She was not seen in this office.
11 Q. Do you have an office staff that keeps
12 track of your billing?
13 A. Yes.
14 Q. They make sure you get paid for all the
15 exams you do for all those ExamWorks exams?
16 A. Yes.
17 Q. And how do they keep track of whether or
18 not you're getting paid?
19 A. The list of payment comes with the
20 payment from ExamWorks at the end of the month.
21 Q. So you have a list for the entire month
22 of all the ExamWorks bills?
23 A. Yes.
24 Q. Okay. So let's get ExamWorks bills for
25 November and January?

1 deposition and today's deposition only.
2 MR. PAULUS: In this case. I will
3 take it advisement. I'm more inclined to give you
4 that than not. But for any other case --
5 MR. ROTHENBERG: Inclined. It's in
6 the rules.
7 MR. PAULUS: I disagree with your
8 assessment. Outside of this patient -- I mean, this
9 examinee, you're not getting those documents.
10 MR. ROTHENBERG: We'll make a motion
11 to strike her testimony for failure to supply, as
12 well as to compel. And we'll see what the judges
13 say.
14 Why don't we mark the invoice for the
15 deposition -- for this is the videotaped discovery
16 deposition of 3,000. Do you charge 3,000 for
17 videotape -- or for deposition for discovery and
18 then 3,500 for trial testimony; is that the
19 difference?
20 THE WITNESS: I'm sorry. Let me look
21 at my fee schedule because --
22 MR. ROTHENBERG: We will mark that
23 as --
24 THE WITNESS: I charge 3,000 for
25 deposition. And I charge 4,500 for actually

1 MR. PAULUS: Not related to this
2 case?
3 MR. ROTHENBERG: Sure.
4 MR. PAULUS: No. I'm not producing
5 those.
6 MR. ROTHENBERG: Okay. We'll get a
7 court order. I mean, under the rules of court,
8 you're actually required to serve a copy of the
9 billing --
10 MR. PAULUS: And we have given you
11 the billing --
12 MR. ROTHENBERG: -- it wasn't served.
13 No, you haven't given me.
14 MR. PAULUS: The invoice is --
15 MR. ROTHENBERG: This is an invoice
16 for today's deposition.
17 MR. PAULUS: The billing.
18 THE WITNESS: That's the only thing
19 we have.
20 MADAM COURT REPORTER: I can only
21 take one at a time.
22 MR. ROTHENBERG: I want the billing
23 -- all the money she's made in this case, I want all
24 the billing she's had in this case. This doesn't
25 have the billing. This has the invoice for today's

1 traveling to court. So anything that's in the
2 office is 3,000.
3 MR. ROTHENBERG: Okay.
4 (The court reporter marked
5 Carta-5, Fee Schedule, for purposes of
6 identification.)
7 (The court reporter marked
8 Carta-6, Document, for purposes of
9 identification.)
10 BY MR. ROTHENBERG:
11 Q. With respect to your actual interview
12 and exam of Ms. Petry, these notes, which we have
13 marked as Carta-4 for identification, those are the
14 full extent of those notes?
15 A. Yes.
16 Q. And then you transposed that information
17 into your report?
18 A. Yes.
19 Q. There are a couple words, if you can
20 help me with. Can you turn to the second page,
21 Doctor?
22 A. (Witness complied.)
23 Q. It says -- fourth line, Does not go
24 to --
25 A. Gym.

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1 Q. Thank you. And does not -- the next
 2 line?
 3 A. Does not run or do intensive cardio
 4 exercises, golf.
 5 Q. Just trying to --
 6 A. -- add things that she can tolerate.
 7 Q. Okay. Did you notice any stuttering
 8 when you spoke to her?
 9 A. No.
 10 Q. SH is social history?
 11 A. Yes.
 12 Q. What is A/P?
 13 A. Assessment/plan.
 14 Q. I'm sorry?
 15 A. Assessment/plan.
 16 Q. Your assessment was that she had chronic
 17 headaches and myofascial pain?
 18 A. Yes.
 19 Q. That's the full extent of your
 20 assessment after the interview?
 21 A. Yes.
 22 Q. Okay. None of these notes show a
 23 physical exam; is that correct?
 24 A. Correct.
 25 Q. Did you actually physically examine the

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1 patient?
 2 A. Yes.
 3 Q. Do you have any notes on that?
 4 A. No. The notes -- well, yes. They are
 5 in the records.
 6 Q. You're talking about your report?
 7 A. No. Actually this is filled out by me
 8 manually. It's the same that's in the report.
 9 Q. Do you remember when I asked you if you
 10 had any other documents and you said there weren't?
 11 A. Well, it's the same as the report. It's
 12 the same exact thing, only written manually and then
 13 it's typed.
 14 Q. Doctor, we're going to try this again.
 15 A. What I wrote is typed verbatim.
 16 Q. I'm not saying it isn't. But I want to
 17 be very -- a hundred percent clear. Is there any
 18 other document you created besides the one you just
 19 handed me, the one we've already marked, and the
 20 reports with respect to this exam, and the notes
 21 that we don't have concerning your summary of
 22 records?
 23 A. No. That's all part of the same
 24 document.
 25 Q. I understand, but I had asked you

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1 before. This starts on page -- it says, Neurologic
 2 Examination, page 4. Where is pages 1 through 4?
 3 A. Okay. I have to find it. Here
 4 registration.
 5 Q. Was that created at her exam, too?
 6 A. This is ExamWorks -- no, this is what
 7 she wrote.
 8 Q. I still want -- I said anything else
 9 created that day?
 10 A. I found it. It's all part of the same
 11 document.
 12 MR. ROTHENBERG: Doctor, we'll go off
 13 the record for a minute.
 14 (Off the stenographic record.)
 15 BY MR. ROTHENBERG:
 16 Q. Now, I've been handed ten pages
 17 entitled, Neurological Examination. Examining Name,
 18 Julie Petry. So that's one document. Then I was
 19 handed an ExamWorks registration form, which,
 20 Doctor, you're saying Ms. Petry filled that out?
 21 That's five pages; is that correct? She filled this
 22 out?
 23 A. Yeah, I think so.
 24 Q. Okay. So I'm going to ask you the same
 25 question I asked earlier. Any other documents or

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1 things created by you or Ms. Petry or anyone else
 2 for this case outside of the medical records?
 3 A. That is the medical record.
 4 Q. These are not medical records from
 5 treatment, Doctor. We talked about treatment
 6 records, which you listed in your report. You
 7 didn't list either of these forms in your report.
 8 So I'm asking you, is there any -- am
 9 I not clear?
 10 A. No.
 11 Q. You said you want to get out of here.
 12 A. Yeah.
 13 Q. What are those handwritten records right
 14 there?
 15 A. This is the driver's license.
 16 Q. Okay.
 17 A. This is the form, the intake form.
 18 Q. What else you got?
 19 A. That's it.
 20 Q. What's the next page? Is that medical
 21 records?
 22 A. These are my handwritten notes.
 23 Q. Okay. The ones we've already marked?
 24 A. And the accident report.
 25 Q. Okay. So you reviewed the accident

1 report?
 2 A. Yes.
 3 Q. Do you normally review accident reports
 4 for treatment of your own patients?
 5 A. It depends.
 6 Q. In what situations do you review an
 7 accident report?
 8 A. Depends what kind of complaints or
 9 injury they present with.
 10 Q. Okay. So when you wrote your report,
 11 not only did you have an opportunity to review the
 12 medical records but you also reviewed the accident
 13 report, did you -- and you interviewed Ms. Petry.
 14 Correct?
 15 A. Yes.
 16 Q. Okay. Is it important to be accurate in
 17 providing your opinions?
 18 A. Yes.
 19 Q. Okay. Do you have any training in
 20 biomechanical engineering?
 21 A. No.
 22 Q. Do you have any training in accident
 23 reconstruction?
 24 A. No.
 25 Q. Okay. Do you have an opinion as to the

1 MR. ROTHENBERG: While he's stepping
 2 out, why don't we mark this as seven.
 3 (The court reporter marked
 4 Carta-7, Neurologic Examination, for purposes
 5 of identification.)
 6 (The court reporter marked
 7 Carta-8, ExamWorks Registration, for purposes
 8 of identification.)
 9 (The court reporter marked
 10 Carta-9, Welcome to ExamWorks, for purposes
 11 of identification.)
 12 BY MR. ROTHENBERG:
 13 Q. The last question, Doctor, was the
 14 information concerning 15 miles an hour, where did
 15 that come from?
 16 A. I'm not sure. I know I saw it, but I
 17 cannot find it right now.
 18 Q. Okay. So how many miles per hour would
 19 the impact have to be in order for someone to suffer
 20 a concussion?
 21 A. That, I cannot answer. I know it is a
 22 6G force to concuss the brain so that means two
 23 football helmets smacking. Like the Eagles game the
 24 other day, that's a 6G force.
 25 Q. Okay. What about what kind of car was

1 cause of this accident?
 2 A. Do I have an opinion?
 3 Q. As to the cause of this accident?
 4 A. You mean, mechanically?
 5 Q. How or why it happened?
 6 A. Well, I was -- reviewed the accident
 7 record and the claimant -- the patient told me how
 8 it happened.
 9 Q. Okay. Is how a car accident happens
 10 important in formulating your opinions?
 11 A. That's part of it, yes.
 12 Q. Okay. So if it was a massive impact,
 13 would that change your opinions at all?
 14 A. Of course.
 15 Q. Why?
 16 A. Because you need a force of 6 Gs to
 17 concuss the brain.
 18 Q. Okay?
 19 A. So 15 miles per hour collision does not
 20 generate a force of 6 Gs.
 21 Q. Where did you get 15 miles an hour from?
 22 A. Okay. It was in the -- it was in the --
 23 let me just -- the emergency room records.
 24 MR. PAULUS: While the doctor is
 25 looking for those, I'm going to use the restroom.

1 she driving, do you know?
 2 A. No, I don't know.
 3 Q. Do you want to look at your accident
 4 report?
 5 A. I can look at the accident report.
 6 Q. It doesn't list the vehicle.
 7 A. They list the names.
 8 Q. Sure. It's got the type of vehicle,
 9 right?
 10 A. Gray Ford Escort and GMC Yukon.
 11 Q. She's driving a Yukon, that's a big
 12 truck; right?
 13 A. Right.
 14 Q. And for that truck to be thrown into
 15 another lane, how much force would that be?
 16 A. The airbags didn't go off.
 17 Q. That's not my question. Are you an
 18 airbag specialist?
 19 A. No.
 20 Q. Okay. How do airbags go off in a side
 21 impact on a Ford Yukon [sic]?
 22 A. I don't know that. I don't know if it
 23 has side bags. I don't know any of that.
 24 Q. How much force does it take to make an
 25 airbag to go off on a Yukon in this impact?

1 A. I cannot answer.
 2 Q. You don't know whether there's any
 3 relevance whatsoever to the airbags going off; is
 4 that correct? Is that correct?
 5 A. Well, you know, as I said, it's not my
 6 area of expertise.
 7 Q. Okay. Doctor, do you know whether the
 8 car was equipped with airbags?
 9 A. No.
 10 Q. Okay. Do you know whether the airbags
 11 were functioning?
 12 A. No.
 13 Q. Okay. Do you know what the force of
 14 impact was described as?
 15 A. No.
 16 Q. Okay. Have you seen the video of the
 17 impact?
 18 A. No.
 19 Q. Would you like to see the video of the
 20 impact?
 21 A. Sure.
 22 Q. Okay. Is there a reason why you weren't
 23 given a video -- a copy of the video, to your
 24 knowledge?
 25 A. I don't know.

1 Q. So I want you to assume that there's
 2 this impact which we can see and the impact is hard
 3 enough to move this several-ton truck into another
 4 lane sideways, how much impact -- how much force is
 5 that?
 6 A. I can't assume. I didn't see the
 7 vehicle.
 8 Q. I'm asking you to assume.
 9 A. I can't -- assumptions are not science.
 10 Q. Doctor, I want you to assume that fact,
 11 since you don't have all the facts, okay. Do you
 12 have all the facts?
 13 MR. PAULUS: Object to the form of
 14 the question. All the facts for what?
 15 THE WITNESS: All the facts of what?
 16 BY MR. ROTHENBERG:
 17 Q. Do you have all the facts in this case?
 18 A. I have the medical facts.
 19 Q. Okay. So is the force of impact a
 20 medical fact that you rely upon in giving your
 21 opinion?
 22 A. Well, the emergency room records
 23 document that it was --
 24 Q. They weren't there, were they?
 25 A. Correct.

1 Q. Okay. So assume the impact was hard,
 2 hard enough where a vehicle traveling in its lane,
 3 this big Ford Yukon [sic] is hit and is actually
 4 pushed into another lane. Would that change your
 5 opinions concerning the force of impact in this
 6 case?
 7 A. No.
 8 Q. Why not?
 9 A. Because there is no documentation that
 10 -- in the emergency room records that that dealt
 11 with a major impact.
 12 Q. Did they measure the impact in the
 13 emergency room?
 14 A. No.
 15 Q. Do they do accident reconstruction in
 16 the emergency room?
 17 A. No.
 18 Q. Okay. So my question is then, is it
 19 fair to say then the force of impact doesn't affect
 20 your opinion one way or another?
 21 A. Well, if you're talking from an engineer
 22 standpoint --
 23 Q. I'm talking from a doctor's, yours?
 24 A. No. From a doctor's standpoint, as I
 25 said, you need a force of 6 Gs to concuss the brain.

1 MR. PAULUS: Adam, let her finish.
 2 THE WITNESS: That's correct.
 3 BY MR. ROTHENBERG:
 4 Q. So the emergency room records document
 5 something by somebody who wasn't there. Correct?
 6 A. Correct.
 7 Q. Okay. So if we had a videotape and I
 8 showed you the videotape and it showed the truck
 9 being hit and it moving into another lane because of
 10 that, would that change your opinions?
 11 A. I don't know. It looks like a small car
 12 hitting a big car so, you know, I would have to see
 13 the videotape.
 14 Q. Does the force of impact affect your
 15 opinions concerning whether there was a mild
 16 traumatic brain injury?
 17 A. I just said the force of impact was not
 18 determined.
 19 Q. Doctor, my question is, in general, does
 20 the force of impact affect your opinions concerning
 21 mild traumatic brain injury?
 22 MR. PAULUS: Object to form of the
 23 question.
 24 THE WITNESS: Well, that's one of the
 25 factors, yes.

1 BY MR. ROTHENBERG:

2 Q. Okay. And in this case, you assumed
3 that it was a light impact at 15 miles an hour; is
4 that correct?

5 A. Okay.

6 Q. Is that correct?

7 A. It was a light impact. I don't know the
8 miles per hour but looking in the emergency room
9 record here, it says, it was a low speed, hit on
10 passenger front side, restrained driver, no airbag
11 deployment, self-extricated. That's what's in the
12 emergency room record.

13 Q. You're not answering my question,
14 though.

15 A. What's the question?

16 MR. ROTHENBERG: Can you read back
17 the question, please?

18 (The court reporter read back
19 the previous question.)

20 THE WITNESS: Here it is.

21 BY MR. ROTHENBERG:

22 Q. I understand.

23 A. I found the 15 miles per hour. It's in
24 the Robert Wood Johnson, New Brunswick Emergency
25 Room. She reports traveling about 15 miles per

1 question.

2 MR. ROTHENBERG: I want her to answer
3 the question --

4 MR. PAULUS: You're cutting her off.

5 BY MR. ROTHENBERG:

6 Q. Doctor, are the triage notes done by
7 doctor or not?

8 A. Generally not.

9 Q. Okay. And so who is this person who did
10 the triage?

11 A. Probably the triage nurse.

12 Q. Okay. You don't know who the person is.
13 Correct?

14 A. No, correct.

15 Q. Okay. And that's -- that is the source
16 of your opinions concerning the force of impact; is
17 that correct?

18 A. Yes.

19 Q. Okay. You didn't look at the videotape,
20 right?

21 A. Yes.

22 Q. You didn't ask Ms. Petry what type of
23 force of impact, right?

24 A. Correct.

25 Q. You didn't talk to Mr. Hollosi, who was

1 hour. I knew I seen it.

2 Q. Who wrote that?

3 A. Emergency room doctor.

4 Q. Is that the doctor or a nurse or triage?

5 A. It's -- let's see, Dr. Punjabi,

6 P-U-N-J-A-B-I.

7 Q. Dr. Punjabi wrote that?

8 A. That's what it says on top.

9 Q. Okay. May I see it, please?

10 A. Yeah.

11 Q. You're looking at triage notes, Doctor.
12 This is --

13 A. I said the name of the doctor.

14 Q. I understand that's the emergency room
15 doctor. But this is actually the triage notes.
16 Correct?

17 A. Okay.

18 Q. Right?

19 A. Yes.

20 Q. Triage notes aren't done by the doctor,
21 are they?

22 A. No. But there is the signature of the
23 doctor --

24 Q. Doctor, hold on --

25 MR. PAULUS: Let her answer the

1 involved in the impact?

2 A. Correct. Well, actually somebody came
3 to the evaluation with her.

4 Q. Her husband.

5 A. Right.

6 Q. Mr. Hollosi is the defendant in this
7 case.

8 A. Okay.

9 Q. Did you speak to Mr. Hollosi?

10 A. No.

11 Q. All right. Were the cars drivable after
12 the accident?

13 A. I don't have that information.

14 Q. Do you consider motor vehicles more
15 fragile than human beings generally?

16 A. It depends what you hit.

17 Q. So you think that most motor vehicles
18 are more fragile than human beings?

19 A. Well, fragility has to do with
20 flexibility, too. Metal is not flexible, it's
21 rigid. Human beings sometimes -- you know,
22 sometimes the body adjusts so that's very
23 complicated discussion.

24 Q. Is the brain made for a rapid
25 deceleration caused by a car accident?

1 A. I'm sorry?
 2 Q. Is the brain made for a rapid
 3 deceleration caused by a car accident?
 4 A. No. No.
 5 Q. Is one of the reasons why you have
 6 problems with head injuries in sports because of
 7 rapid decelerations?
 8 A. Right. 6 Gs. 6 Gs.
 9 Q. Rapid accelerations; is that correct?
 10 A. Correct.
 11 Q. And the measured force is a required 6
 12 Gs?
 13 A. It takes a force of 6 Gs to concuss the
 14 brain.
 15 Q. Is that what the doctor who measured it
 16 for the NFL said?
 17 A. That's what the American Academy of
 18 Neurology says.
 19 Q. Okay. In fact, what is -- what is --
 20 there is a large debate about the amount of force
 21 necessary to cause brain injury, isn't there?
 22 A. Yeah, somewhat.
 23 Q. Okay. In fact, there are those who
 24 postulate that it is as little as 1.5 Gs in order to
 25 cause traumatic brain injury; is that correct?

1 MR. PAULUS: That was her answer.
 2 MR. ROTHENBERG: Is that correct?
 3 MR. PAULUS: I think she said --
 4 THE WITNESS: The brain of a child is
 5 not the brain of a 48 year old all -- 48-year-old
 6 adult so, yes, that's correct. But it doesn't apply
 7 to this case.
 8 BY MR. ROTHENBERG:
 9 Q. Right. Because actually the brain of a
 10 child is less friable than the brain of a 40 year
 11 old, which has a less resilient ability than that of
 12 a child; isn't that correct?
 13 A. No. In fact, even minor head injuries
 14 in children can have much more -- much longer
 15 sequela than in adults.
 16 Q. Okay. There are studies with teenage
 17 high school athletes which indicate that mild brain
 18 injuries can occur at 1.5 or less; is that correct?
 19 A. Yes. That's still a growing brain.
 20 Q. Okay. Is there a point in which the
 21 brain becomes more friable as a result of injury --
 22 as a result of age.
 23 A. In the elderly.
 24 Q. Okay. And at what age does the brain
 25 become more friable? So it's at its majority in the

1 A. Yes.
 2 Q. In fact, there are those who actually
 3 postulate it's even less. Correct?
 4 A. That's correct.
 5 Q. And, in fact, the studies for the NFL
 6 indicate there are many people of long-term brain
 7 injuries as a result of impacts of less than 1.5 Gs;
 8 isn't that correct?
 9 A. Yeah. But that's applies to repetitive
 10 injuries. Because multiple small injuries are
 11 thought to cause CTAs, so that's a different
 12 conversation.
 13 Q. Now, we are talking about CTA but even
 14 one impact less than 1.5 Gs can cause permanent
 15 brain damage, can't it?
 16 A. I don't know about that.
 17 Q. There are studies by the American
 18 Academy of Pediatrics that indicate that less than
 19 1.5 Gs can cause permanent brain damage; isn't that
 20 correct?
 21 A. This is a 40-year-old female, not a
 22 child.
 23 Q. That's not my question. There are
 24 studies by the American Academy Pediatrics of 1.5 Gs
 25 or less causing brain damage. Correct?

1 early 20s and becomes more friable as someone ages;
 2 isn't that correct?
 3 A. If we're talking about elderly, that's
 4 -- that's another whole category.
 5 Q. Okay. Can you cite to any study that
 6 six is the -- 6 Gs is the standard for when a brain
 7 injury -- a mild traumatic brain injury may occur?
 8 A. I don't have the study right now, but I
 9 can provide it.
 10 Q. Okay. But you're aware of many studies
 11 that actually say that it's a quarter of the number
 12 that you're citing to; isn't that correct?
 13 A. If you're talking pediatrics --
 14 Q. No. I'm not talking about pediatrics.
 15 A. Let me finish. If we're talking about
 16 pediatrics and the elderly, two different
 17 categories, yes, the number is -- varies, so there
 18 is no consensus.
 19 Q. Okay.
 20 A. But, incidentally, the patient told the
 21 emergency room doctor that she was traveling at
 22 15 miles per hour. So just to make it clear, so
 23 this is not made up by the triage nurse or the
 24 doctor.
 25 Q. Except that the triage nurse also

1 recorded how the accident happened. Correct?
 2 A. Yes.
 3 Q. Okay. And the triage nurse also
 4 recorded that Ms. Petry was pulling out of a parking
 5 lot; is that correct?
 6 A. Yes.
 7 Q. And the accident happened as she pulled
 8 out of a parking lot. Correct?
 9 A. Yes.
 10 Q. Except that Ms. Petry wasn't pulling out
 11 of a parking lot, did you know that? The person who
 12 wrote it down got the accident completely wrong?
 13 A. Well, she told me on my handwritten
 14 notes, which I took while I was talking to her, that
 15 she was struck by a car making a left turn while
 16 pulling out of a parking lot. So that's what she
 17 told me, too.
 18 Q. Right. She told you that --
 19 A. She told me and she told the triage
 20 nurse.
 21 Q. That's right. She told you that the
 22 other car pulled out of a parking lot and hit her;
 23 isn't that correct?
 24 A. Yes.
 25 Q. Okay. But the triage nurse wrote it

1 MR. ROTHENBERG: Sure.
 2 BY MR. ROTHENBERG:
 3 Q. You're aware at this point now that the
 4 history given in the hospital record you're looking
 5 at is the opposite of what's given in the police
 6 report, right?
 7 A. Okay. So I'm not sure because it seems
 8 that it's the same that she told me.
 9 Q. She told you -- no, you told me that she
 10 was driving along when someone made a left-hand turn
 11 while pulling out after a parking lot?
 12 A. While pulling out of a parking lot, yes.
 13 Q. Right. In fact, what the emergency room
 14 record says is that she's pulling out of the parking
 15 lot, right?
 16 A. I see what you're saying.
 17 Q. Yes?
 18 A. Yes. That's what's in the notes --
 19 Q. So you relied --
 20 A. -- triage notes.
 21 Q. -- upon giving your opinions on the
 22 wrong way in which the accident occurred. Correct?
 23 MR. PAULUS: Object to the form of
 24 the question.
 25 THE WITNESS: Maybe.

1 down wrong. That, in fact, that it was the other
 2 car -- that Ms. Petry was pulling out of the parking
 3 lot. Correct?
 4 A. Yes.
 5 Q. So the speed in which she's describing
 6 of the vehicle was the other vehicle, not hers;
 7 isn't that correct?
 8 A. That's correct.
 9 Q. Okay. So you relied upon an incorrect
 10 history in giving your opinions; is that correct?
 11 MR. PAULUS: Object to the form of
 12 the question.
 13 BY MR. ROTHENBERG:
 14 Q. You have the accident report. Do you
 15 want to check it?
 16 A. I have it.
 17 Q. So you know, in fact, that she was
 18 driving along with the right of way when someone
 19 pulled out from a parking lot, striking her car,
 20 which is not what the emergency room report says; is
 21 it?
 22 MR. PAULUS: Objection to the form of
 23 the questions.
 24 THE WITNESS: Okay. So you have to
 25 repeat all that.

1 BY MR. ROTHENBERG:
 2 Q. Take a look at the police report.
 3 A. No. No. I hear what you're saying.
 4 Q. Police officer was there. Take a look
 5 at the police report. You have that, right?
 6 A. Yes.
 7 Q. You agree that the police report and the
 8 hospital record don't match?
 9 A. That's correct.
 10 Q. Okay. Which do you think is correct,
 11 the police officer who was there at the scene or the
 12 hospital record you're looking at?
 13 A. It looks like it might be the police
 14 officer.
 15 Q. It might be, okay. So how many Gs of
 16 force was Ms. Petry subjected to?
 17 A. We don't know that.
 18 Q. So you don't know whether or not she had
 19 enough force to cause a mild traumatic brain injury;
 20 is that correct?
 21 A. While I don't think she has a mild
 22 traumatic brain injury.
 23 Q. That's not my question. My question is,
 24 we don't know whether or not there was enough force
 25 to cause a mild traumatic brain injury; is that

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1 correct?
 2 A. That's correct.
 3 Q. All right. So you just told me a minute
 4 ago that you don't believe she had a mild traumatic
 5 brain injury; is that correct?
 6 A. That's correct.
 7 Q. Tell me all the factual basis for your
 8 opinion that she did not have a mild traumatic brain
 9 injury?
 10 A. She did not complain about any
 11 neurological symptoms right after this accident
 12 occurred. So the definition of concussion is
 13 alteration of brain function -- acute alteration of
 14 brain function due to trauma, so we don't have --
 15 she specifically didn't have any headaches, any neck
 16 pain when she was seen after the accident.
 17 Her complaint was of left hip pain,
 18 lower back pain and left-sided chest pain.
 19 Q. Okay. Outside of your interpretation of
 20 the emergency room record, is there anything else
 21 you relied upon in your opinion that she did not
 22 have mild traumatic brain injury?
 23 A. Yes.
 24 Q. What?
 25 A. The reason MRI of the brain shows

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1 ischemic white matter disease.
 2 Q. Did you ever see that MRI?
 3 A. No.
 4 Q. Okay. So you never even seen the MRI.
 5 Correct?
 6 A. Correct.
 7 Q. Okay. So you don't know what it
 8 actually shows, do you?
 9 MR. PAULUS: Objection.
 10 THE WITNESS: Well --
 11 BY MR. ROTHENBERG:
 12 Q. What if he was reading someone else's
 13 MRI? Let's assume the doctor read the other
 14 person's MRI, do you have any knowledge to tell me
 15 he didn't?
 16 A. Say it again.
 17 Q. Do you have any way to tell me that the
 18 MRI interpreted by the radiologist concerning the
 19 ischemic changes that you claim exist was actually
 20 Ms. Petry's MRI?
 21 A. Come on, Counsel. Don't be ridiculous.
 22 Come on. Why wouldn't it be her MRI?
 23 Q. Doctor, has anybody ever submitted a
 24 blood test and interpreted the wrong blood test for
 25 a patient?

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1 A. Yeah. That's a very rare occurrence.
 2 Q. But it's happened, right?
 3 A. Um-hmm.
 4 Q. Yes? Is that true?
 5 A. Yes, of course.
 6 Q. And has anybody ever sent the wrong
 7 X-rays down to radiology and misinterpreted as to
 8 another patient?
 9 A. Yes but less an less in the year of
 10 electronic reports.
 11 Q. Do you -- can you tell me definitively
 12 what the MRI shows of Ms. Petry's brain?
 13 A. Her MRI shows ischemic white matter
 14 disease.
 15 Q. You never saw that MRI. Correct?
 16 A. That's correct.
 17 Q. So you're relying upon someone else
 18 being accurate. Correct?
 19 A. Yes.
 20 Q. Someone who you don't know that person,
 21 correct?
 22 A. Well, he's a radiologist so.
 23 Q. Do you know him?
 24 A. No.
 25 Q. What is his qualifications?

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1 A. Somebody who reads an MRI at university
 2 of the radiology, he's a radiologist. It's signed
 3 by Dr. Vasani, V-A-S-A-N-I, M.D.
 4 Q. Is Dr. Vasani board certified?
 5 A. I don't know that.
 6 Q. Is Dr. Vasani a resident?
 7 A. I don't know that.
 8 Q. Do you know whether or not he had
 9 actually completed his training as a radiologist
 10 when he opined concerning the findings in the brain?
 11 A. No. I don't know that at the time.
 12 Q. All right. So you don't know what the
 13 MRI says actually, just what someone else says it
 14 says --
 15 MR. PAULUS: Objection.
 16 MR. ROTHENBERG: -- right.
 17 THE WITNESS: I know what the MRI
 18 report says and I have no reason to believe that
 19 this would be the wrong or inaccurate MRI report.
 20 BY MR. ROTHENBERG:
 21 Q. Doctor, outside of now the ER record --
 22 so you don't dispute that she has neurologic
 23 deficits?
 24 A. She does -- she has neurological
 25 symptoms, a lot of subjective complaints and

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1 objective findings of ischemic white matter disease
2 on her MRI.
3 Q. Doctor, let's talk about the findings,
4 okay -- no, let me finish the prior thought.
5 I asked you what factual basis you
6 have that she did not suffer mild traumatic brain
7 injury, and you said it was the lack of complaints
8 in the emergency room documented and your
9 interpretation of the MRI report; is that correct?
10 A. That's correct.
11 Q. Anything else?
12 A. No.
13 Q. Okay. When did she first see a doctor
14 after the emergency room?
15 A. She saw Dr. -- I have to go back to my
16 records review.
17 Q. What are you reviewing, your report?
18 A. My report, yes. She saw Dr. Gainey on
19 4/23/15, G-A-I-N-E-Y.
20 Q. Is that the first doctor she saw after
21 the emergency room doctor?
22 A. That's the first I have --
23 Q. That's -- that's not my question. My
24 question is, is that the first doctor she saw after
25 the emergency room?

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1 A. According to the records provided,
2 that's the first doctor she saw. According to the
3 records I have, it looks like from another report
4 she might have seen a primary care physician --
5 Q. Okay.
6 A. -- Dr. Marmora.
7 Q. What were her complaints to Dr. Marmora?
8 A. I don't have Dr. Marmora's report but
9 according to the summary done by Dr. Greenwald, she
10 was seen by Dr. Marmora on 4/21/15. She complained
11 of feeling dazed, neck pain, headache, confusion,
12 visual changes, nausea, dizziness, difficulty
13 concentrating, fatigue and emotional ability and
14 somnolence, impaired work for four months and
15 feeling cold.
16 Q. That's from her family physician?
17 A. Yes.
18 Q. That's before she ever saw a
19 neurologist?
20 A. That's two days before she saw the
21 neurologist.
22 Q. And how long had she had those symptoms?
23 A. I don't have Dr. Marmora's notes.
24 Q. Okay. You don't know how long she had
25 those symptoms?

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1 A. She -- well, I would have to go back to
2 what she said to me.
3 Q. What do you mean go back to what she
4 said to you?
5 A. The history I took. So what she said to
6 me was that she was shaken up and nauseated at the
7 time of the accident. And that's the first symptom
8 reported. All these other symptoms developed --
9 according to the records developed later.
10 Q. How long -- so the taking all the
11 symptoms that you just encountered from Dr.
12 Greenwald's report, which recounted Dr. Marmora's
13 records, which you never saw, how long did she have
14 those symptoms that you described?
15 A. Well, I don't have any of that
16 information. She didn't have them in the emergency
17 room on the day of the accident.
18 Q. Okay. You don't know?
19 A. In fact --
20 Q. The answer is, I don't know?
21 A. Well, the answer is she had had them
22 until she went to her primary care physician.
23 Q. Okay. Are all the symptoms that you
24 described in Dr. Greenwald's report signs of --
25 signs and symptoms of a mild traumatic brain injury?

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1 A. They can be, yes.
2 Q. Had she ever had any of those problems
3 before?
4 A. Yes.
5 Q. Which?
6 A. She had a history of headache. She had
7 a history of back pain.
8 Q. Where did she have a history of
9 headache?
10 A. She had a history of headache. She told
11 the neurologist that she had experienced --
12 Q. Occasional --
13 A. -- headaches.
14 Q. -- correct?
15 A. Yeah.
16 Q. Not chronic, correct?
17 A. Yes. That's what she said, yes.
18 Q. Okay. Is there any indication that she
19 had sought treatment on a regular basis for
20 headaches before?
21 A. I don't have the records for that, no.
22 Q. Okay. Was there any indication -- I'm
23 sorry, when you were reading before what Dr. Marmora
24 said, which report were you reading from?
25 A. I was reading from the summary report of

<p style="text-align: right;">Page 109</p> <p>1 Dr. Greenwald. 2 Q. That would have been from your second 3 report? 4 A. Yes. 5 Q. Okay. So that was a summary of -- so 6 when you told me those symptoms, you were reading 7 your report, which summarized Dr. Greenwald, which 8 summarized Dr. Marmora; is that correct? 9 A. That's correct. 10 Q. Prior to this accident, had Ms. Petry 11 ever complained of feeling dazed? 12 A. I don't have any records of that. 13 Q. Neck pain? 14 A. I don't have any record of that, but she 15 did not complain of neck pain in the emergency room. 16 Q. Ma'am, that's not my question. So you 17 want -- you want to get out of here but if you keep 18 throwing stuff in, I didn't ask you about what she 19 complained in the emergency room. You already told 20 me what she complained in the emergency room; didn't 21 you? 22 A. Yes. 23 MR. PAULUS: The question was, does 24 she have a history of neck pain? She gave you the 25 answer that she had a history of neck pain from the</p>	<p style="text-align: right;">Page 111</p> <p>1 Q. Did she have any history of confusion 2 prior to this accident? 3 A. Not that is recorded. 4 Q. Did she have any history of visual 5 changes prior to this accident? 6 A. Not that is recorded. 7 Q. Did she have any -- well, you got all 8 the medical records; right? 9 A. I don't know if I got all the medical 10 records. You just pointed out in the beginning of 11 this that I didn't have all the medical records. 12 Q. Doctor, you were given medical records 13 and you went through those in your initial report. 14 Correct? 15 A. Correct. 16 Q. All right. Were there any indications 17 of visual changes prior to this accident? 18 A. Not that is recorded. 19 Q. Are there any indications of nausea 20 prior to this accident? 21 A. Yes. She had headaches, which were 22 associated with nausea, vomiting, photophobia, 23 phonophobia. 24 Q. When was that? 25 A. That was, according to a neurologist,</p>
<p style="text-align: right;">Page 110</p> <p>1 date of the accident at the emergency room. 2 MR. ROTHENBERG: That's not what she 3 said. Actually she said she didn't complain of -- 4 MR. PAULUS: Right. I meant to say 5 the opposite of that. 6 BY MR. ROTHENBERG: 7 Q. Doctor, did she have any prior history 8 of confusion, to your knowledge? 9 A. No. 10 Q. Prior to this accident, did she have -- 11 and my questions were prior to this accident, so I 12 was very clear. 13 MR. ROTHENBERG: The emergency room 14 isn't prior to the accident, is it? 15 MR. PAULUS: If your question -- 16 MR. ROTHENBERG: Is it, Counsel? 17 MR. PAULUS: If your question was 18 prior to the accident, then I withdraw the 19 objection. 20 MR. ROTHENBERG: Thank you. 21 BY MR. ROTHENBERG: 22 Q. Doctor, we can make this easy. I'm 23 asking you about prior to this accident, did she 24 have any history of neck pain? 25 A. Not that's recorded.</p>	<p style="text-align: right;">Page 112</p> <p>1 she had episodes of headaches which are in the 2 bifrontal imperial orbital region brought on by 3 excessive reading, eye strain or if she skipped 4 meals. 5 Q. What are you reading from? 6 A. I'm reading from Dr. Gainey's report of 7 4/23/15. 8 Q. When did she have those prior problems? 9 A. He doesn't -- just says she has a past 10 medical history significant for episodes of 11 headaches. 12 Q. Can I see that, please? 13 A. Yes. 14 (Witness complied.) 15 Q. Okay. What does it say under there in 16 terms of history, so we're clear? 17 A. She has not had a headache in two years. 18 She had not had a severe headache in ten years. 19 Q. Okay. So the headaches and the 20 condition that you described, she hadn't had for ten 21 years before this accident; is that correct? 22 A. That's what she said to Dr. Gainey, yes. 23 Q. Okay. Prior to this accident, did she 24 have any history of difficulty concentrating? 25 A. Not that we know.</p>

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1 Q. Okay. Did she have any history of
2 fatigue prior to this accident?
3 A. Not that we know.
4 Q. What is somnolence?
5 A. Sleepiness.
6 Q. Had she had problems with somnolence
7 prior to this accident?
8 A. Not that we know.
9 Q. And do you believe that she had these
10 problems when she saw Dr. Marmora on April 15, 2015?
11 A. She didn't see Dr. Marmora on
12 April 15th, she saw him on April twenty -- I don't
13 have any records.
14 Q. I'm sorry, you're correct?
15 A. April twenty --
16 Q. April 21st?
17 A. -- first.
18 Q. According to this -- according to doctor
19 -- to your recounting of Dr. Greenwald's report, she
20 saw Dr. Marmora on April 21, 2015. Do you believe
21 that she had those problems when she saw him on that
22 date?
23 A. That's what she told him, yes.
24 Q. And what is your explanation for those
25 problems on that date?

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1 A. I don't have an explanation because I
2 don't have any reason to believe they are related to
3 this accident.
4 Q. That wasn't my question. Do you have an
5 explanation for those complaints at that time?
6 MR. PAULUS: Object to the form of
7 question. Asked and answered.
8 THE WITNESS: Nope.
9 BY MR. ROTHENBERG:
10 Q. Do you agree that your opinions are only
11 as good as the information on which they are based?
12 A. Well, define information.
13 Q. I can't. You can't answer that
14 question?
15 A. Sure, I can. But information is not
16 just the medical records provided, it's what I got
17 from my taking the history and my examination of the
18 patient, so that's a very broad.
19 Q. It certainly is. And you agree that
20 your opinions are only as good as the information on
21 which they are based?
22 MR. PAULUS: Objection. Asked and
23 answered.
24 MR. ROTHENBERG: Well, she didn't
25 answer.

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1 MR. PAULUS: You may not like the
2 answer, but she answered the question.
3 MR. ROTHENBERG: Well, she didn't
4 answer the question --
5 MR. PAULUS: She said --
6 MR. ROTHENBERG: -- she said
7 information is very broad, and I agree.
8 MR. PAULUS: That's the answer to
9 your question.
10 MR. ROTHENBERG: It wasn't an answer
11 to the question, it was a conversation.
12 Mr. Paulus, I'm not going around and
13 around circles with you.
14 BY MR. ROTHENBERG:
15 Q. Ma'am, can you answer the question?
16 MR. PAULUS: Objection. Asked and
17 answered.
18 You can answer.
19 BY MR. ROTHENBERG:
20 Q. Do you agree your opinions are only as
21 good as the information on which they are based?
22 MR. PAULUS: Objection.
23 THE WITNESS: Once again, only if
24 information is defined as the sum of the medical
25 records and my assessment of this patient.

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1 BY MR. ROTHENBERG:
2 Q. Okay. So if your assessment of the
3 patient is off, then your opinions may be off;
4 right?
5 A. Well, you cannot cherry pick one thing
6 at a time because it's an integration of the
7 assessment and the information provided --
8 Q. Okay.
9 A. -- and my clinical expertise and my
10 technical knowledge and the time I spent reviewing
11 these records, et cetera.
12 Q. Are you agreeing that if your factual
13 information is incomplete, your conclusions are
14 subject to being inconsistent with the facts?
15 MR. PAULUS: Object to the form of
16 the question.
17 You can answer.
18 THE WITNESS: I don't understand the
19 question.
20 BY MR. ROTHENBERG:
21 Q. Do you agree that if the factual
22 information you have is incomplete, then your
23 conclusions are subject to being inconsistent with
24 the facts since you don't have all the facts?
25 MR. PAULUS: Same objection.

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1 THE WITNESS: If my information is
 2 incomplete?
 3 BY MR. ROTHENBERG:
 4 Q. Yes, Doctor.
 5 A. Well, the way I can answer that is if
 6 I'm provided with additional information, I may or
 7 may not change my opinion.
 8 Q. Do you agree if the facts you rely upon
 9 are wrong or erroneous, then you can't be confident
 10 about the validity of your opinions?
 11 MR. PAULUS: Object to the form of
 12 the question.
 13 You can answer it.
 14 THE WITNESS: Again, I don't
 15 understand what you are asking.
 16 BY MR. ROTHENBERG:
 17 Q. If the information that you have, that
 18 you based your opinions on is wrong, can you be
 19 confident about your opinions?
 20 MR. PAULUS: Same objection.
 21 You can answer.
 22 THE WITNESS: Well, if it was
 23 completely wrong, of course not. A lot of these
 24 things are subject to interpretation.
 25 BY MR. ROTHENBERG:

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1 Q. Do you agree, Doctor, that a doctor who
 2 is giving medical opinions about an injury or
 3 disability suffered by a party to a lawsuit should
 4 be objective and not be an advocate for either side?
 5 MR. PAULUS: Object to the form of
 6 the question.
 7 MR. ROTHENBERG: What's the
 8 objection?
 9 MR. PAULUS: You can answer the
 10 question if you understand it.
 11 MR. ROTHENBERG: No. What's the
 12 objection.
 13 MR. PAULUS: I don't have to give you
 14 my --
 15 MR. ROTHENBERG: Yes, you do.
 16 Actually, you do. The rules say you
 17 do. So you don't want to, that's fine but the rules
 18 say you have to.
 19 MR. PAULUS: I'm objecting to the
 20 form of the question.
 21 THE WITNESS: So what is the
 22 question?
 23 MR. ROTHENBERG: Sure.
 24 BY MR. ROTHENBERG:
 25 Q. Doctor, would you agree with the

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1 proposition that a physician who is giving medical
 2 opinions about an injury or a disability suffered by
 3 a party to a lawsuit should be objective and not
 4 attempt to serve as an advocate of either side?
 5 A. Of course.
 6 Q. Would you agree that to the extent a
 7 medical expert gives opinions that reflects a
 8 failure to be objective, those opinions should be
 9 discounted?
 10 MR. PAULUS: Same Objection.
 11 You can answer the question if you
 12 understand it.
 13 THE WITNESS: Okay. So you have to
 14 rephrase that because this is kind of convoluted.
 15 BY MR. ROTHENBERG:
 16 Q. Would you agree that the more pertinent
 17 information a doctor has, the greater likelihood
 18 that the medical opinions will be accurate?
 19 A. Yes.
 20 Q. Do you agree that when there's a
 21 conflict of medical opinions between physicians of
 22 equal qualifications, the opinion of the physician
 23 who has had the benefit of greater information is
 24 more reliable?
 25 MR. PAULUS: Object to the form of

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1 the question.
 2 You can answer it.
 3 THE WITNESS: Are you talking about
 4 treating physician versus evaluating physician?
 5 BY MR. ROTHENBERG:
 6 Q. No. I'm talking about two people who
 7 are looking at a patient and they both have the same
 8 qualifications, the person with the more information
 9 is going to be more reliable; aren't they?
 10 MR. PAULUS: Objection.
 11 THE WITNESS: Well, the patient --
 12 yes, again, subject to the definition of
 13 information.
 14 BY MR. ROTHENBERG:
 15 Q. Would you agree, Doctor, that a treating
 16 physician who sees a patient on multiple occasions,
 17 that their opinion is more reliable than someone who
 18 sees a patient on one time --
 19 MR. PAULUS: Objection.
 20 MR. ROTHENBERG: -- all other things
 21 being equal.
 22 THE WITNESS: Well, there is a
 23 distinction between treatment and evaluation. My
 24 evaluation -- when I do this evaluation, they are
 25 done the same exact way that I would evaluate any

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1 office patient that I treat.
 2 BY MR. ROTHENBERG:
 3 Q. Do you think that someone who sees a
 4 patient on a one-time basis, their opinion would be
 5 as reliable than someone who sees the patient over
 6 many times over a course of time?
 7 MR. PAULUS: Object to the form of
 8 the question.
 9 You can answer it.
 10 THE WITNESS: Their opinion is more
 11 reliable, yeah. But his opinion was she was getting
 12 better.
 13 BY MR. ROTHENBERG:
 14 Q. Whose opinion?
 15 A. Dr. Gainey.
 16 Q. What about Dr. Greenwald?
 17 A. Dr. Greenwald, yeah. What about Dr.
 18 Greenwald?
 19 Q. How many times did Dr. Gainey see the
 20 patient, by the way?
 21 A. Three, four times.
 22 Q. How many times did Dr. Greenwald see the
 23 patient?
 24 A. A lot, many, many times.
 25 Q. What type of training does Dr. Gainey

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1 have in recognizing head injuries, anything special?
 2 A. I don't know Dr. Gainey.
 3 Q. Okay. Do you know Dr. Greenwald?
 4 A. No.
 5 Q. Okay. Do you have any special training
 6 with respect to head injuries?
 7 A. Actually, yes.
 8 Q. Okay. What is that?
 9 A. I was -- I did my thesis on
 10 neurosurgical complication of brain injury, so I was
 11 in the intake department of my hospital when I --
 12 when I copulated all the data to write my graduation
 13 thesis.
 14 Q. That's all the special training? You
 15 don't have any special board certification?
 16 A. I saw plenty of head injuries throughout
 17 my residency. I do four, five head injury
 18 evaluations a week here in my office, so I have a
 19 lot of experience.
 20 Q. Doctor, are you board certified in brain
 21 injuries?
 22 A. No.
 23 Q. Okay. Do you know whether -- do you
 24 know anything about Dr. Greenwald's qualifications?
 25 A. No.

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1 Q. Are you familiar with the board
 2 certification in brain injury medicine?
 3 A. I cannot say that I am.
 4 Q. Okay.
 5 A. I know that there are some
 6 certifications for athletes, which is not -- will
 7 not --
 8 Q. What are you looking at?
 9 A. American Academy of Neurology.
 10 Q. Do you know whether there's a board
 11 certification in brain injury?
 12 A. I'm not quite sure right now.
 13 Q. Okay. Have you ever been a medical
 14 director of a center for brain injuries?
 15 A. No.
 16 Q. Have you ever been affiliated with any
 17 type of facility that specializes in brain injuries?
 18 A. What do you mean by, affiliated?
 19 Q. It's a broad question, Doctor. So you
 20 can throw anything out there that you think is your
 21 relationship to some sort of facility that
 22 specializes in brain injuries?
 23 A. Yes. So I was an attending physician in
 24 the Virtua Health System for almost 20 years and
 25 they are affiliated -- were affiliated with Martin

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1 Rehabilitation Hospital, so we did all their
 2 consults on brain injury patients for seizures,
 3 movement disorders, et cetera.
 4 Q. I'm sorry. You were at Virtua?
 5 A. I was an attending neurologist at
 6 Virtua, yes.
 7 Q. And there's a whole group at Virtua who
 8 specialize in brain injuries. Correct?
 9 A. There is a whole group of people at
 10 Martin Rehabilitation Hospital.
 11 Q. What's the name of it?
 12 A. Martin, it's right next door to the old
 13 Garden State Rehabilitation.
 14 Q. And you weren't part of the group that
 15 specialized in brain injuries. Correct?
 16 A. No. But I was part of the consulting --
 17 Q. Is that correct?
 18 A. -- neurologists to assess brain injury
 19 patient.
 20 Q. Doctor, you were an attending at Virtua.
 21 They have a specialty group at Martin Rehabilitation
 22 that specializes in brain injuries?
 23 A. We did all their consults --
 24 Q. Okay.
 25 A. -- for the rehabilitation doctors.

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1 Q. And there are doctors there who
2 specialize in brain injuries; is that correct?
3 A. Yes.
4 Q. And you would be called in to do
5 consults concerning movement disorders; is that
6 correct?
7 A. Seizures.
8 Q. And seizures?
9 A. Cognitive dysfunction.
10 Q. But you were not actually part of the
11 brain injury group; is that correct?
12 A. Yes. That would be neurorehabilitation,
13 that's the physical medicine and rehabilitation
14 branch.
15 Q. You agree that medicine is not an exact
16 science?
17 A. I'm sorry?
18 Q. Do you agree that medicine is not an
19 exact science?
20 A. Yes.
21 Q. Do you agree there can be differences of
22 opinion among qualified physicians regarding the
23 same patient for their treatment and diagnosis?
24 A. Of course.
25 Q. Would you agree that a medical opinion

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1 based upon a limited single physical examination and
2 limited medical history is more likely to be
3 erroneous than one based on a number of physical
4 exams and detailed medical histories from a doctor
5 who has treated a patient over time?
6 MR. PAULUS: Object to the form of
7 the question.
8 You can answer.
9 THE WITNESS: Not necessarily.
10 BY MR. ROTHENBERG:
11 Q. Why don't you agree?
12 A. Because in this type of evaluation, I
13 very often have the benefit of extensive records
14 than -- that another physician might not have.
15 Q. Except in this particular case, the
16 doctor that we're talking about, so let's maybe talk
17 about you and Dr. Greenwald. Dr. Greenwald had more
18 records than you. Correct?
19 A. Yes.
20 Q. And you actually looked to him for his
21 recounting of the records in order to actually know
22 what occurred with certain doctors. Correct?
23 A. Correct.
24 Q. So he had more information than you did,
25 right?

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1 A. I don't know the information Dr.
2 Greenwald had because all I can go by is this
3 summary report. I don't know. I haven't seen his
4 books or whatever he has.
5 Q. Doctor, you had his 36-page report and
6 his medical records. Correct?
7 A. Yes.
8 Q. Okay. And having reviewed it, you're
9 aware that he had more information than you did in
10 rendering your opinions; is that correct?
11 MR. PAULUS: Object to the form of
12 the question. Asked and answered.
13 THE WITNESS: No, it's not correct --
14 BY MR. ROTHENBERG:
15 Q. Okay.
16 A. -- because I don't know, I haven't seen
17 it. So that's your answer.
18 Q. Who had more information, you or Dr.
19 Greenwald?
20 A. I don't know that.
21 Q. Well, you would agree that if a treating
22 physician has seen the patient over time and has
23 more records, more interaction with the patient,
24 that their opinion is going to likely be more
25 dependable than someone who has seen her on a single

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1 time with less records?
2 MR. PAULUS: Object to the form of
3 the question.
4 THE WITNESS: Again, this depends.
5 BY MR. ROTHENBERG:
6 Q. On what?
7 A. Well, because actually --
8 Q. What does it depend on?
9 A. I'm just looking -- just give me a
10 minute, so Dr. Greenwald's records review starts
11 with the date of the accident. I had actually -- as
12 I said before the point I was trying to make, I have
13 records about this patient all the way back to 2003.
14 Q. Okay. Is there any indication of a mild
15 traumatic brain injury prior to this accident?
16 A. Not in my records, no.
17 Q. Doctor, have you ever made a mistake in
18 diagnosis?
19 A. Of course. Every physician has done
20 that.
21 Q. Do you agree that other doctors of equal
22 skill, ability and honesty might disagree with your
23 opinions in this case?
24 A. Of course.
25 Q. Are you aware of any other doctor,

<p style="text-align: right;">Page 129</p> <p>1 besides yourself, who has an opinion that this woman 2 did not suffer a concussion as a result of this 3 extent? 4 A. The emergency room doctor. 5 Q. Okay. Anyone else? 6 A. No. 7 Q. Are you aware of any neurologist who's 8 of the opinion that this person didn't suffer a 9 concussion as a result of this accident? 10 A. No. 11 Q. Are you aware of any person who 12 specializes in brain injury or brain trauma who has 13 an opinion that this person didn't suffer a 14 concussion as a result of this accident? 15 A. No. 16 Q. Are you aware of any person who 17 specializes in brain injuries, in brain trauma has 18 an opinion that she's not suffered mild traumatic 19 brain injury as a result of this accident? 20 A. No. 21 Q. Are you aware of any neurologist who saw 22 the patient -- or Ms. Petry following this accident 23 who's of the opinion that she did not suffer mild 24 traumatic brain injury besides yourself? 25 A. No.</p>	<p style="text-align: right;">Page 131</p> <p>1 any orthopaedic impairment? 2 A. I cannot comment on orthopaedic 3 impairment. 4 Q. How much time did you spend with Ms. 5 Petry when you examined her? 6 A. I cannot recall specifically. 7 Generally, I spend between 35 and 45 minutes 8 examining these patients. 9 Q. What do you do during the 35 or 10 45 minutes? 11 A. I take a history, write down my notes, 12 and then I do an examination. 13 Q. And the entire time is spent with the 14 person? 15 A. Yes. 16 Q. Okay. Is it fair to say you didn't see 17 Ms. Petry to treat her? 18 A. That's correct. 19 Q. You weren't there to make her any 20 better. Correct? 21 A. That's correct. 22 Q. And Dr. Greenwald has opined that her 23 present condition is permanent. Outside of what we 24 think has caused it, do you have an opinion as to 25 whether her present problems are permanent or not?</p>
<p style="text-align: right;">Page 130</p> <p>1 Q. So you're just -- the reason why you 2 have an opinion that she didn't suffer a mild 3 traumatic brain injury and everybody else did, 4 you're just smarter than they are? 5 MR. PAULUS: Object to the form of 6 the question. 7 MR. ROTHENBERG: Why is it? 8 THE WITNESS: I never said that. 9 BY MR. ROTHENBERG: 10 Q. Well, why is it? Why is your opinion 11 different from everybody else, all these people saw 12 her over this period of time, people specialize in 13 brain injuries and you're the only one that says 14 there is no brain injury? 15 A. Because there is no documentation that 16 this -- in the immediate record of care that this 17 patient sustained any brain injury. 18 Q. Doctor, do you have any opinions 19 concerning her orthopaedic injuries? 20 A. No. 21 Q. You have no opinions concerning whether 22 or not she suffered a cervical disk injury? 23 A. No. 24 Q. And you have no opinions concerning 25 whether or not any disk injury or back injury caused</p>	<p style="text-align: right;">Page 132</p> <p>1 A. Well, that depends if you're talking 2 about neurological or psychiatric issues. 3 Q. Okay. Well, what are her neurologic 4 problems that you believe are present are permanent? 5 Regardless of causation, do you have 6 any neurologic diagnoses? 7 A. Yes. She has chronic headaches and a 8 myofascial pain syndrome, as I put in my report. 9 Q. What about visual problems? 10 A. She is relating visual issues, yes. 11 Q. Does she have permanent visual 12 impairments? 13 A. That's what Dr. Greenwald said. 14 Q. I am asking you, Doctor. 15 A. I think she has visual issues that are 16 not related to the accident. 17 Q. That's not my question. All right. 18 We're not talking about -- we can argue about 19 causation forever. My questions now are not about 20 causation so every time you go back and you go, I 21 don't think they are related, you already told me 22 what you think is or isn't related, so that's not my 23 question. 24 A. Okay. 25 Q. My question is, does she have permanent</p>

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1 visual problems in your opinion?
 2 A. Yes. She's complains of permanent
 3 visual problems.
 4 Q. And does she have permanent problems
 5 with balance?
 6 A. Yes. That's what she relates.
 7 Q. Does she have permanent problems with
 8 headaches?
 9 A. That's what she subjectively relates,
 10 yes.
 11 Q. I'm asking you your opinion as to
 12 whether or not they are permanent or not. Are they
 13 permanent?
 14 MR. PAULUS: She gave you an answer.
 15 MR. ROTHENBERG: No. She said,
 16 that's what she relates.
 17 MR. PAULUS: That's her answer.
 18 MR. ROTHENBERG: That's not my
 19 question.
 20 BY MR. ROTHENBERG:
 21 Q. In your opinion, does she have a
 22 permanent problem with headaches?
 23 A. Yes. She complains of chronic
 24 headaches.
 25 Q. Okay. Does she have permanent cognitive

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1 defects?
 2 A. That's what she complains of, yes.
 3 Q. Do you have a psychiatric diagnosis for
 4 her? You said it depends on whether you're talking
 5 about psychiatric problems. What psychiatric
 6 problems are permanent, if any? Are you going to
 7 withhold opinions on that?
 8 A. Well, she appeared anxious and
 9 depressed.
 10 Q. Okay. Was Ms. Petry cooperative?
 11 A. Yes.
 12 Q. Did she answer your questions when you
 13 asked her?
 14 A. Absolutely.
 15 Q. Doctor, is it fair to say that the type
 16 of complaints that Ms. Petry gave are consistent
 17 with mild traumatic brain injury?
 18 A. They are consistent in general, yes.
 19 Q. Are there any complaints that she gave
 20 which are inconsistent with mild traumatic brain
 21 injury?
 22 A. No.
 23 Q. You had talked about -- I think you used
 24 at one point a word, a symptom complex --
 25 A. Yes.

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1 Q. -- can you explain what that means
 2 generally?
 3 A. A symptom complex is also called a
 4 syndrome, so post-concussive syndrome means a
 5 symptom complex which consist, like in this case, of
 6 a number of complaints of symptoms, which are the
 7 headaches, the dizziness, the vision, the cognitive
 8 complaints and all that, that's a symptom complex.
 9 Q. So if we look at instead of symptoms,
 10 such as someone who is throwing up, has headaches,
 11 stomachache, body aches, that might be symptoms that
 12 are consistent with the flu. Correct?
 13 A. Yes.
 14 Q. And that would be --
 15 A. They might also be consistent with
 16 migraines, so its called a differential diagnosis.
 17 Q. Okay. And what is a differential
 18 diagnosis?
 19 A. That's the sorting out process of what a
 20 patient's problem might be based on the symptom
 21 complex.
 22 Q. Doctor, do you rely upon subjective
 23 complaints in making diagnosis with your own
 24 patients?
 25 A. Of course.

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1 MR. ROTHENBERG: Let's take a couple
 2 minutes.
 3 (There was a brief recess taken.)
 4 BY MR. ROTHENBERG:
 5 Q. Doctor, Carta-7 for identification is
 6 the neurological examination, those ten pages, you
 7 filled out contemporaneous with the exam?
 8 A. Yes.
 9 Q. Okay. And then the ExamWorks
 10 registration form that -- you had Ms. Petry fill
 11 that out?
 12 A. Yeah.
 13 Q. That's in this one --
 14 A. Yes.
 15 Q. -- Carta-8 for identification. Is that
 16 filled out ahead of time?
 17 A. That's filled out when they come to the
 18 office.
 19 Q. Okay. And these other doctors, do you
 20 know who they are?
 21 A. Nope. Well, I know one. I know one of
 22 them.
 23 Q. Who's that?
 24 A. Dr. Peacock.
 25 Q. Did he kill her in the study or the

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1 library?
 2 MADAM COURT REPORTER: Say it again.
 3 A. I'm sorry?
 4 MR. PAULUS: It's a joke.
 5 MR. ROTHENBERG: It's a joke about
 6 the old board game Clue.
 7 THE WITNESS: Yeah. I know Clue.
 8 MR. ROTHENBERG: Okay.
 9 BY MR. ROTHENBERG:
 10 Q. Doctor, I note that on this ExamWorks
 11 registration form, there are ten doctors listed and
 12 multiple locations listed. You actually are on this
 13 company's official form, did you know that?
 14 A. I'm sorry?
 15 Q. This is their official ExamWorks
 16 Registration Form; is that correct?
 17 A. Yes.
 18 Q. And is this the registration form they
 19 use for neurologic exams, to your knowledge?
 20 A. I think so, yes.
 21 Q. At the bottom, it also says Qual Med
 22 Evaluations. Who's Qual Med Evaluations?
 23 A. That was the company that was bought out
 24 by ExamWorks.
 25 Q. Okay.

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1 A. I think.
 2 Q. Is -- you do enough examinations for
 3 ExamWorks that you're actually listed on their
 4 official form. Correct?
 5 A. This form?
 6 Q. Yes, ma'am.
 7 MR. PAULUS: Object to the form of
 8 the question.
 9 THE WITNESS: Well, yeah. They list
 10 all the doctors who do exams for them.
 11 BY MR. ROTHENBERG:
 12 Q. And do you do exams at all of these,
 13 what, ten locations?
 14 A. No.
 15 Q. Which?
 16 A. I only go to Edison and Mount Laurel.
 17 Q. So this exam wasn't done in Mount Laurel
 18 like you said because the X is marked Edison.
 19 Correct?
 20 A. That's correct.
 21 Q. So were you wrong about where the exam
 22 was done?
 23 A. Yes. Yes.
 24 Q. Okay.
 25 A. I don't -- you know, go to Edison once

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1 every other month, so -- that was on oversight.
 2 Q. That's almost a two-hour drive from
 3 here, right?
 4 A. No. I live in Mount Laurel, so it's one
 5 hour.
 6 Q. Okay. And --
 7 A. Forty-five minutes.
 8 Q. Mount Laurel to Edison. How fast do you
 9 drive?
 10 A. Very fast.
 11 Q. How many other people did you see that
 12 day?
 13 A. I don't know.
 14 Q. Did you review this entire form?
 15 A. Yes.
 16 Q. Okay. And in this, Ms. Petry on this
 17 date actually lists a lot of additional complaints
 18 that you didn't put in the report; is that correct?
 19 Problems with daily living?
 20 A. Well, I related that she cannot be
 21 overstimulated. She was anxious. She was more
 22 physically active prior to the accident, so those
 23 were problems with daily living, also there is a
 24 section here after the records review.
 25 Q. What --

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1 A. Hold on. Hold on.
 2 Q. I'm sorry. I apologize. Go ahead.
 3 A. She has difficulties with activities of
 4 daily living and driving. She continues to take out
 5 the trash, cook, do laundry, grocery shopping,
 6 clean, vacuuming and washing dishes at home with
 7 some difficulties. She previously saw -- I
 8 documented, difficulties with daily living.
 9 Q. You actually listed what she could do
 10 instead of what she couldn't do, right?
 11 A. I listed both because I said she had
 12 difficulties with activities of daily living and
 13 driving.
 14 Q. Okay.
 15 A. She washes dishes with some difficulty,
 16 so I listed...
 17 Q. Why didn't you list everything that was
 18 in her self-reporting form?
 19 A. What are you referring to?
 20 Q. I'm looking at page 5 where she lists a
 21 lot of different things, not all of which are in
 22 your report. Why didn't you list all of them?
 23 MR. PAULUS: Note my objection.
 24 THE WITNESS: I did list all of them.
 25 BY MR. ROTHENBERG:

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1 Q. Okay.

2 A. If you don't tell me what you're

3 referring to, then -- I can find it for you.

4 Q. This Carta-9 for identification, what is

5 this, Ma'am?

6 A. I think this is the face, the face sheet

7 of this same form.

8 Q. I note some of your diplomas indicate

9 Carta Mangione and some or just Carta?

10 A. Yes.

11 Q. Can you explain?

12 A. That was my married name.

13 Q. Which was?

14 A. Mangione.

15 Q. Okay. When did you start -- or stop

16 using Mangione?

17 A. Maybe 2004, 2005, I don't remember

18 specifically.

19 Q. Approximately?

20 A. Yeah, over ten years ago.

21 Q. Okay. Who defines -- let me rephrase my

22 question. I will be back to it in a second. Give

23 me a minute.

24 Was Ms. Petry injured in the car

25 accident in your opinion?

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1 A. You mean permanently injured?

2 Q. Nope. Did she suffer any type of injury

3 in the car accident in your opinion?

4 A. I think she had some soft tissue

5 injuries, yes.

6 Q. What soft tissue injuries did she

7 suffer? Do you want to tell me what you're

8 referring to?

9 A. I'm referring to the emergency room.

10 She probably had a lumbar sprain, chest contusion,

11 she had muscle strain, chest contusion. She was

12 prescribed anti-inflammatories.

13 Q. Okay.

14 A. Yeah. So...

15 Q. So muscle strain and what?

16 A. Chest contusion.

17 Q. She said -- you said she had a muscle

18 strain of what?

19 A. Lumbar.

20 Q. Okay. What about the neck?

21 A. She had no neck case complaints --

22 Q. Okay.

23 A. -- in the emergency room.

24 Q. I don't -- I'm not asking your basis at

25 this point. I simply want to know what injuries you

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1 agree she suffered as a result of the car accident.

2 Can you tell me that?

3 A. She suffered of lumbar sprain and chest

4 contusion.

5 Q. Is that it?

6 A. Yes.

7 Q. Okay. So all the doctors who have been

8 treating her for this car accident for all the other

9 ailments subsequent to that accident, are they all

10 fools or liars?

11 MR. PAULUS: Object to the form of

12 the question.

13 THE WITNESS: I never said that.

14 BY MR. ROTHENBERG:

15 Q. I want to know. In your opinion, are

16 they fools or liars?

17 A. No.

18 Q. Is she a fool or a liar?

19 MR. PAULUS: Note my objection.

20 THE WITNESS: No.

21 BY MR. ROTHENBERG:

22 Q. Is there any reason why her complaints

23 should be disbelieved that she gave to Dr. Marmora?

24 A. I don't think her complaint -- her

25 subjective complaints should be disbelieved, that's

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1 what she is experiencing.

2 Q. Okay. Is it fair to say that she's

3 treated since eight days following this car accident

4 for a head injury?

5 MR. PAULUS: Object to the form of

6 the question.

7 THE WITNESS: You're going to have

8 repeat that.

9 BY MR. ROTHENBERG:

10 Q. Is it fair to say that she's treated for

11 a head injury since eight days following the car

12 accident?

13 MR. PAULUS: Note my objection.

14 THE WITNESS: Well, she has treated,

15 but she didn't have a head injury.

16 BY MR. ROTHENBERG:

17 Q. That's not my question, Doctor.

18 MR. PAULUS: That's her answer.

19 THE WITNESS: But that's the answer.

20 MR. ROTHENBERG: So we're going to

21 keep going -- you want to sit here all day, we'll

22 sit here all day. I don't care.

23 MR. PAULUS: That's fine. That's a

24 legitimate answer.

25 MR. ROTHENBERG: No, it's not. I

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1 didn't ask her --
 2 MR. PAULUS: Your question was
 3 objectionable, number one --
 4 MR. ROTHENBERG: No, it's not.
 5 MR. PAULUS: -- number two, she gave
 6 you an answer in spite of objection.
 7 BY MR. ROTHENBERG:
 8 Q. Doctor, has she treated for a head
 9 injury since April 21, 2015?
 10 MR. PAULUS: Note my objection.
 11 You can answer.
 12 MR. ROTHENBERG: It's a yes-or-no
 13 question.
 14 MR. PAULUS: You don't have to answer
 15 yes or no, Doctor.
 16 THE WITNESS: I cannot answer this
 17 question with a yes or no without an explanation.
 18 BY MR. ROTHENBERG:
 19 Q. Has she treated for a head injury since
 20 April 21, 2015?
 21 MR. PAULUS: Same objection.
 22 THE WITNESS: I cannot -- again, same
 23 answer. I cannot answer this question with a yes or
 24 no without an explanation.
 25 BY MR. ROTHENBERG:

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1 Q. Has she treated -- give me an
 2 explanation, Doctor. Has she treated since
 3 April 21, 2015, for a head injury?
 4 A. She has treated for subjective
 5 complaints of headaches, dizziness and all her
 6 various symptomatic complaints, but there was no
 7 head injury.
 8 Q. You're the only person who says there's
 9 no head injury. Correct?
 10 MR. PAULUS: Object to the form of
 11 question.
 12 MR. ROTHENBERG: That you are aware
 13 of?
 14 THE WITNESS: That is correct.
 15 BY MR. ROTHENBERG:
 16 Q. Okay. Do you believe that Ms. Petry has
 17 lied about her complaints?
 18 A. No.
 19 Q. Do you believe that the doctors who
 20 treated her don't know what they are doing?
 21 MR. PAULUS: Object to the form of
 22 the question.
 23 THE WITNESS: No.
 24 BY MR. ROTHENBERG:
 25 Q. What are the neuro physiatrist?

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1 A. A neuro physiatrist is a physical
 2 medicine rehabilitation physician who subspecializes
 3 in neurological rehabilitation.
 4 Q. They specialize in head injuries?
 5 A. Some of them do.
 6 Q. And does Dr. Greenwald specialize in
 7 head injuries?
 8 A. Yes.
 9 Q. What percentage of your practice is
 10 dealing with patients who deal -- who have head
 11 injuries?
 12 A. As I said before, in a week for -- I
 13 would do maybe four, five clinical evaluations for
 14 head injury. I see 20 patients a day, so that's --
 15 you can do the math.
 16 Q. You treat --
 17 A. So 5, 6 percent.
 18 Q. 5 of 6 percent of your practice?
 19 A. Yeah. Even more because I especially
 20 see younger patients for mild concussions, maybe 10
 21 percent.
 22 Q. How many -- what percentage of your
 23 practice involves patients with permanent mild
 24 traumatic brain injuries?
 25 A. Same answer. Because I treat the

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1 syndrome, I treat the symptoms. So I treat
 2 headaches and I treat dizziness and a lot of other
 3 complaints.
 4 Q. 5 or 6 percent of your practice?
 5 A. Maybe close to ten, closer to ten.
 6 Q. According to your records, Ms. Petry
 7 when she saw you has frequent headaches, cervicalgia
 8 tinnitus, convergence problems, cognitive deficits,
 9 decreased memory, vertigo, problems with balance,
 10 left shoulder pain, chronic hip pain, lumbar pain,
 11 lower extremity pain and back pain; is that correct?
 12 A. Yes.
 13 Q. And the only injury that you agree that
 14 she had as a result of this from her present
 15 complaints is what?
 16 A. I believe we just mentioned that. She
 17 -- okay. So according to the emergency room record,
 18 she had a chest contusion, lumbosacral sprain. She
 19 has -- so that's myofascial pain syndrome and she's
 20 also subjectively complaining of chronic headaches.
 21 Q. Who told you that Ms. Petry -- I think
 22 you indicated she was a bodybuilder. Who told you
 23 she was a bodybuilder?
 24 A. It is somewhere in the records. I --
 25 you know, we can go through this again but I know I

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1 saw it somewhere.
2 Q. You don't know?
3 A. No, I'm not sure. Right now I couldn't
4 find it.
5 Q. Okay. And just to be absolutely clear
6 we talked about the MRI of the brain. You also
7 referred to MRIs of the spine, both from 2009 on
8 forward to, I suppose, the present. You didn't
9 review any of those films. Correct?
10 A. Correct.
11 Q. How much weight has she put on since the
12 accident?
13 A. I don't know if I have the answer to
14 that.
15 Q. Do you have an opinion as to the reason
16 why she's put on weight since the accident?
17 A. That could be due to inactivity,
18 changing diet, medication. It could be a number of
19 factors.
20 Q. I understand that it could be that she
21 just eats more but my question is, do you have an
22 opinion with a reasonable degree of medical
23 probability as to the reason why she's put on weight
24 since the accident?
25 A. No.

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1 Q. You want to get out of here today,
2 right, so if I ask you a question and you don't have
3 an answer, say I don't know. If you -- don't
4 speculate, don't guess and so -- you know that was
5 the typical one where you ultimately said, I don't
6 know. And I'm just trying to save time, okay.
7 MR. PAULUS: Just for the record, I
8 mean, I appreciate you're trying to speed along the
9 process. However, I don't appreciate you
10 admonishing the doctor and her answers.
11 She's giving you complete answers.
12 You may not like the answers but I think she's
13 trying to answer the question that you ask. They
14 are leading and compound, I'm not bothering to
15 object. I want to move it along too but just so the
16 record is clear.
17 MR. ROTHENBERG: Leading is okay
18 because this is an adversarial situation, number
19 one. Number two --
20 MR. PAULUS: No. It's a discovery
21 deposition.
22 MR. ROTHENBERG: It's still
23 adversarial. We can argue about it --
24 MR. PAULUS: I just want to put that
25 on the record.

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1 MR. ROTHENBERG: -- I don't feel like
2 arguing about it, Mr. Paulus. I have a great deal
3 of respect for you. I appreciate you coming to the
4 aid of your witness but when I ask her a question
5 and she answers with, it could be lots of things,
6 that wasn't my question.
7 My question was whether or not she
8 had an opinion as to the cause and so speculation,
9 she's already been instructed not to do. And then
10 when I asked her whether or not she actually had an
11 opinion, when we discussed it, she came out and said
12 she didn't.
13 So that wasn't responsive. And
14 that's why I engendered my direction and we wasted
15 another five minutes on this conversation in trying
16 to get out of here. So we will agree to disagree.
17 How's that?
18 MR. PAULUS: That's fine.
19 BY MR. ROTHENBERG:
20 Q. How soon after a head injury does
21 someone have to begin to have any type of complaints
22 which would give rise to a belief that someone
23 suffered a head injury?
24 A. The complaint should be immediate.
25 Q. Immediate?

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1 A. A concussion is defined as acute
2 impairment of brain function due to trauma, so she
3 should have complained of headaches, dizziness,
4 visual, even nausea, sometimes neck pain as soon as
5 she came to the emergency room.
6 Q. Are you aware of athletes who have
7 concussions play an entire game, don't see a doctor,
8 don't have any complaints at the time and don't see
9 anybody with complaints for days?
10 A. Yes, I am.
11 Q. Do those people have head injuries?
12 A. Yes, they do. But you cannot compare
13 Mrs. Petry to athletes. It's -- they have a
14 difficult physiology.
15 Q. Well, Ms. Petry was an athlete.
16 Correct?
17 A. She has a history of having been a
18 bodybuilder. Again, we went over that, I don't know
19 where it is in the record but I know I saw it.
20 Q. Well, actually, Ms. Petry wasn't a
21 bodybuilder, she engaged in fitness competitions.
22 Correct?
23 A. Correct.
24 Q. She wasn't a bodybuilder, was she?
25 A. I don't know that.

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1 Q. You don't know that she was a
 2 bodybuilder. Correct?
 3 A. That's correct, I already said..
 4 Q. Okay. But you're aware that, in fact,
 5 that she was involved in athletics on a competitive
 6 basis?
 7 A. Yes.
 8 Q. Okay. So she was, as by definition, an
 9 athlete. Yes?
 10 A. Okay. Was.
 11 Q. Well, at the time of this accident, she
 12 was still involved in competitive athletics; wasn't
 13 she?
 14 A. I don't know that.
 15 Q. Was she or was she not?
 16 A. I don't know.
 17 Q. Did you check for tinnitus?
 18 A. Tinnitus is a subjective complaint, so
 19 you cannot objectively check for tinnitus. Tinnitus
 20 means ringing in the ears and the patient just says,
 21 my ears are ringing.
 22 Q. Isn't a VNG test a way of objectively
 23 testing for tinnitus?
 24 A. No. VNG test the vestibular ocular
 25 system so it can -- it checks for dizziness and it

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1 checks the pathway between the acoustic nerve and
 2 the brain.
 3 Q. She had a positive VNG test, did she
 4 not?
 5 A. She had a VNG test, which showed a
 6 left-sided vestibular system dysfunction which has
 7 nothing to do with tinnitus because the vestibular
 8 system controls balance, not hearing.
 9 Q. I appreciate it. Remember when I told
 10 you about correcting me, thank you for correcting
 11 me. I forgot. Okay. So I'm confused.
 12 But she did have a positive VNG.
 13 Correct?
 14 A. Yes.
 15 Q. And it showed a positive vestibular
 16 deficiency. Correct?
 17 A. Left-sided, yes.
 18 Q. And did she have any prior vestibular
 19 deficiencies prior to this accident?
 20 A. I don't know that.
 21 Q. She did also have hearing testing.
 22 Correct? By an ENT?
 23 A. I believe so, yes.
 24 Q. And the ENT did objective testing for
 25 tinnitus, didn't he?

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1 A. As I said, there is no objective testing
 2 for tinnitus because by definition tinnitus is a
 3 subjective symptom. The patient tells you, I have
 4 tinnitus. You cannot see the tinnitus. You cannot
 5 measure the tinnitus. You cannot record the
 6 tinnitus. You can test for hearing loss and say in
 7 your report the patient complains of tinnitus.
 8 There is no way to objectively document tinnitus.
 9 Q. Are you sure of that as everything else
 10 that you've said in this case?
 11 A. What's that?
 12 Q. Are you as sure of that as everything
 13 else you've said in this case?
 14 A. Yes.
 15 Q. So when a doctor does a test where they
 16 say, you hear this ringing in your ear, tell us what
 17 the frequency is and then they try to match the
 18 frequency; is that an objective test?
 19 A. That's a test of hearing function.
 20 Q. Okay. Does it --
 21 A. The reason they try to match the
 22 frequency is because if you find the matching
 23 frequency, you can fit the patient with a masking
 24 device.
 25 Q. Who was Ms. Petry referred to by --

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1 referred to Dr. Gainey by?
 2 A. Dr. Marmora.
 3 Q. Okay. So in your report where you talk
 4 about the first person she saw being Dr. Gainey in
 5 your first one, you neglected to indicate that she
 6 had seen Dr. Marmora first; right?
 7 MR. PAULUS: Object to the form of
 8 the question.
 9 THE WITNESS: Yes. We have already
 10 gone through that, sir.
 11 BY MR. ROTHENBERG:
 12 Q. Why did you leave out her seeing Dr.
 13 Marmora in the let's say -- you know, in an effort
 14 to be complete when you first saw her and you asked
 15 her who she saw and what doctors she saw, why did
 16 you leave out Dr. Marmora in the first report?
 17 MR. PAULUS: Objection.
 18 THE WITNESS: I didn't leave it out.
 19 She didn't tell me. I told her to tell me all the
 20 doctors that she had seen and -- okay, she saw Dr.
 21 Marmora.
 22 Yeah, you're correct. Okay, my
 23 mistake. Let's go -- actually I didn't leave it
 24 out. It says, She was initially treated by primary
 25 care physician, Dr. Marmora in New Brunswick.

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1 MR. ROTHENBERG: My mistake. I'm
 2 human.
 3 MR. PAULUS: We all are.
 4 BY MR. ROTHENBERG:
 5 Q. What's the test where you go like this,
 6 (indicating) where you touch your fingers one at a
 7 time like the Itsy-Bitsy Spider?
 8 A. It's a test of dexterity or
 9 coordination.
 10 Q. That's what that's called?
 11 A. Yes. Alternate finger touching.
 12 Q. Alternate finger touching. And did you
 13 do that with her?
 14 A. Yes.
 15 Q. Did she have any difficulty with it?
 16 A. Nope.
 17 Q. Did she ever tell -- you indicated in
 18 your report that she had chronic headaches, and I
 19 think we talked about this before. Can you tell me
 20 which doctor said that she had chronic headaches or
 21 which prior history?
 22 A. Excuse me.
 23 (Doctor stepped out and returned.)
 24 BY MR. ROTHENBERG:
 25 Q. Can you identify whose record or what

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1 records you relied upon for your accounting in your
 2 report, on page 20, that she had a history of
 3 chronic headaches?
 4 A. Dr. Gainey.
 5 Q. Right. We talked about Dr. Gainey and
 6 he never said it was chronic. In fact, he said that
 7 -- in fact, she hadn't had one for ten years of a
 8 severe and only two years for one that was mild, I
 9 believe --
 10 A. Yeah.
 11 Q. -- if I paraphrase. So my question
 12 again is, what do you rely upon for history of
 13 chronic headaches?
 14 A. Well, I believe she had more headaches,
 15 that's what's listed in Dr. Gainey's report based on
 16 MRI findings.
 17 Q. Doctor, you indicated --
 18 A. I relied on MRI.
 19 Q. -- history?
 20 A. I relied on MRI findings.
 21 Q. That's not a history, Doctor. My
 22 question is, you indicated that she had given a
 23 history or somewhere was a history of chronic
 24 headaches. Where is the history of chronic
 25 headaches? Is there one?

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1 A. Not any treating providers' notes.
 2 Q. But despite the fact that she didn't
 3 have a history of chronic headaches, you've come to
 4 an opinion that she did, even though it's not
 5 reported in any physician including her treating
 6 physician, Dr. Marmora, who she had treated with for
 7 15 years before the accident?
 8 MR. PAULUS: Object to the form of
 9 the question.
 10 You can answer.
 11 THE WITNESS: I don't have any
 12 records from Dr. Marmora preceding this accident, so
 13 I cannot say one way or the other.
 14 BY MR. ROTHENBERG:
 15 Q. Do you have an opinion that she had
 16 chronic headaches?
 17 A. Yes.
 18 Q. And what's that based on?
 19 A. It's based on a normal MRI.
 20 Q. There are no medical records nor is
 21 there any indication of any physician that she had
 22 had chronic headaches; is that correct?
 23 A. I don't know if there are no medical
 24 records because I don't have a primary care
 25 physician's records preceding the accident --

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1 preceding 2015.
 2 Q. None of the records that you have
 3 concerning this patient's treatment at any point,
 4 because you do have some records from some doctors
 5 before this. Correct?
 6 A. Yes, but not from a primary care
 7 physician.
 8 Q. I don't know whether you do or don't,
 9 Doctor. All I know is that of all the records that
 10 you reviewed, you never saw anybody indicating that
 11 she had a history of chronic headaches; is that
 12 correct?
 13 A. That is correct.
 14 Q. The Itsy-Bitsy Spider test we were
 15 talking about, that was called the finger touching?
 16 A. Alternate finger touching or fine
 17 movement.
 18 Q. What's the purpose of that test?
 19 A. It's to test dexterity.
 20 Q. Why do you do it? And what does it tell
 21 you?
 22 A. It tells you about fine motor function,
 23 which is a function regulated by the brain as
 24 opposed to lower center in the neuraxis.
 25 Q. Did other doctors indicate that she had

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1 difficulty with that finger touching test, to your
 2 knowledge?
 3 A. Okay. So we have to go back to Dr.
 4 Gainey's initial report.
 5 Q. Dr. Gainey is just one doctor. Are you
 6 going to go through all the doctors or you just like
 7 Dr. Gainey? My question is, is any other doctor --
 8 A. I cannot answer that question right now
 9 because I would have to look back at the specific
 10 records.
 11 Q. Remember what I said, yes, no, I don't
 12 know. So when I ask --
 13 MR. PAULUS: That's her answer. She
 14 said she'd have to go through the records before she
 15 could give you an answer.
 16 BY MR. ROTHENBERG:
 17 Q. Do you want to go through all the
 18 doctors' records and tell me whether she had any
 19 difficulty with any of those testing -- any of that
 20 test --
 21 A. Do I want to go, no? But if you want me
 22 to do that, then I will do that. So what is most
 23 important was anyway the initial evaluation, so...
 24 Q. Do you remember her crying during your
 25 examination with her?

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1 A. Well, she was anxious -- I can't say I
 2 remember one way or the other, so...
 3 Q. Can you describe Ms. Petry at all?
 4 A. No.
 5 Q. Physically, you don't know what she
 6 looks like? Blonde? Brunette? Grey hair? Black
 7 hair?
 8 A. No, I'm not sure.
 9 Q. Okay. Outside of looking at the report
 10 and just reading off what the height and weight
 11 said, you wouldn't be able to pick her out of a
 12 lineup?
 13 A. That's correct.
 14 Q. According to your report, Dr. Gainey
 15 indicates she had a history positive for rare
 16 episodes of headaches; is that correct?
 17 A. Yes.
 18 Q. Okay. So your opinion is that she had
 19 chronic headaches instead of rare headaches as
 20 described to Dr. Gainey; is that correct?
 21 A. Yes.
 22 MR. PAULUS: Object to the form of
 23 the question.
 24 BY MR. ROTHENBERG:
 25 Q. Is it fair to say that every doctor that

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1 she saw of the records you reviewed following this
 2 accident, indicated complaints consistent with a
 3 traumatic brain injury?
 4 A. Not every doctor, no.
 5 Q. Okay. I'm sorry. Every doctor after --
 6 is it fair to say that every doctor after the
 7 emergency room that she saw, she gave complaints
 8 that were consistent with a mild traumatic brain
 9 injury?
 10 A. That she gave complaints to every doctor
 11 consistent or that --
 12 Q. She gave complaints consistent?
 13 A. Yes. She gave complaints, yes.
 14 Q. What is vestibular dysfunction?
 15 A. The vestibular is the part of inner ear
 16 that controls balance.
 17 Q. Dr. Gainey felt that she had vestibular
 18 dysfunction; is that correct?
 19 A. Yes.
 20 Q. And he felt it was related to the car
 21 accident?
 22 A. Yes.
 23 Q. Did she have vestibular dysfunction in
 24 your opinion?
 25 A. No.

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1 Q. Why not?
 2 A. Because she didn't have any objective
 3 signs of vestibular dysfunction.
 4 Q. What testing did you do to elicit any
 5 signs of vestibular dysfunction?
 6 A. I checked her balance and her cerebella
 7 function and her fine motor function and her
 8 hearing.
 9 Q. How did you check her balance?
 10 A. I checked her balance by examining her
 11 gait and finger to nose, heel to shin testing and I
 12 checked for dysmetria, D-Y-S-M-E-T-R-A, which is a
 13 sign of cerebella dysfunction.
 14 Q. Is vestibular dysfunction something that
 15 someone will always display on -- any time they are
 16 examined?
 17 A. Well, you either have it or you don't
 18 have it.
 19 Q. Is it sporadic in its appearance?
 20 A. That depends on the cause of the
 21 problem.
 22 Q. Do you believe that Dr. Goldin's
 23 neuropsychological testing is reliable?
 24 A. I cannot comment on neuropsychological
 25 testing.

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1 Q. Why not?
 2 A. I am not a neuropsychologist.
 3 Q. But as a neurologist who deals with
 4 people with head injuries, you utilize
 5 neuropsychologists. Correct?
 6 A. Yes.
 7 Q. And just like, you know, for example we
 8 talked about you looked at a radiologist's report.
 9 Correct?
 10 A. Correct.
 11 Q. And in this case, you actually relied
 12 upon radiologist's reports; right?
 13 A. Yes.
 14 Q. And so in cases in which you provide
 15 treatment, you rely upon neuropsychologist's
 16 reports. Correct?
 17 A. Correct.
 18 Q. And so were the findings of Dr. Goldin
 19 in this case reliable?
 20 A. Well, I don't know.
 21 Q. Why not?
 22 A. Because it did not take the correct
 23 history.
 24 Q. What was incorrect about Dr. Goldin's
 25 history?

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1 A. Okay. So I just want to make sure we
 2 are talking about the same physician, the same
 3 provider because this has neuropsychological report,
 4 yes.
 5 So Dr. Goldin says on 10/5/16, that
 6 she was -- that Ms. Petry was taken by ambulance to
 7 Robert Wood Johnson in New Brunswick with complaints
 8 of severe nausea and headache. That is nowhere in
 9 the records.
 10 Q. I didn't ask you about the --
 11 A. You asked me if he was reliable, so this
 12 is not --
 13 Q. You're actually correct.
 14 A. Okay.
 15 Q. Was her testing reliable?
 16 A. I cannot comment about that.
 17 Q. Why not?
 18 A. Because I'm not a neuropsychologist.
 19 Q. Well, what did her testing show?
 20 A. Her testing shows difficulties in
 21 multiple cognitive domains.
 22 Q. Is there anything that you believe is
 23 unreliable about the testing?
 24 MR. PAULUS: Objection. Asked and
 25 answered.

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1 THE WITNESS: Well --
 2 BY MR. ROTHENBERG:
 3 Q. These are tests you rely upon normally.
 4 Correct?
 5 A. Yes.
 6 Q. So is there anything unreliable about
 7 the testing done by Dr. Goldin?
 8 A. I cannot comment on neuropsychological
 9 evaluation. I was not there when she did the
 10 neuropsychological testing and, you know, a lot of
 11 those results are subject to patient -- the
 12 patient's cooperation and willingness to perform.
 13 Q. Okay. So if a doctor, such as Dr.
 14 Goldin, makes a mistake concerning the initial
 15 history, then their report is not reliable; is that
 16 correct?
 17 A. No, I didn't say is that.
 18 Q. Well, you said the reason why you
 19 consider her report unreliable is because she made a
 20 mistake in the initial history. Correct?
 21 A. Nope. I didn't say that.
 22 Q. What is the reason you find her report
 23 unreliable?
 24 A. Because once you start out with the
 25 wrong information, as we were saying before, you're

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1 subject to bias in your conclusions.
 2 Q. So when you started out with the wrong
 3 information about how the accident occurred and the
 4 speed of the accident and which direction the cars
 5 were going and the amount of force, are you subject
 6 to the same problems?
 7 MR. PAULUS: Object to the form of
 8 the question.
 9 THE WITNESS: We are not talking
 10 about the accident here.
 11 BY MR. ROTHENBERG:
 12 Q. I'm asking you a question. You said
 13 when you start out with the wrong information from
 14 the very beginning, and that's the basis for your
 15 opinions, then you're subject to being wrong.
 16 In your case, are you subject to
 17 being wrong about your opinions?
 18 MR. PAULUS: Objection. Asked and
 19 answered.
 20 THE WITNESS: The accident -- the way
 21 the accident occurred is not the basis for my
 22 opinion.
 23 BY MR. ROTHENBERG:
 24 Q. You put it in your report and you said
 25 that actually the speed of the accident, the amount

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1 of force of the accident and the light impact were
 2 all a part of your opinion. Correct?
 3 A. That is part of my opinion, correct.
 4 Q. But those were wrong. Correct?
 5 MR. PAULUS: Objection. Asked and
 6 answered.
 7 THE WITNESS: I don't know -- well,
 8 some parts were wrong, yes.
 9 BY MR. ROTHENBERG:
 10 Q. If a patient stutters, is that something
 11 you'd expect to see every time you see the patient?
 12 A. Depends.
 13 Q. On what?
 14 A. On how nervous they are.
 15 Q. What is hyperacusis,
 16 H-Y-P-E-R-A-C-U-S-I-S?
 17 A. Hyperacusis?
 18 Q. Yes, Doctor?
 19 A. It's sensitivity to noise, just like
 20 phonophobia.
 21 Q. How do you test for that?
 22 A. It's a symptom, so it's something
 23 subjectively reported by the patient. There is no
 24 way of objectively testing for that.
 25 Q. What type of doctor is Michael

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1 Rosenberg?
 2 A. I cannot tell you right now.
 3 Q. Okay. Was Dr. Rosenberg a treating
 4 physician or an examining physician on behalf of an
 5 insurance company?
 6 A. Okay. It appears that he was a treating
 7 physician.
 8 Q. Did you have any opinions concerning her
 9 pain?
 10 A. What --
 11 MR. PAULUS: Object to the form of
 12 question.
 13 BY MR. ROTHENBERG:
 14 Q. Do you have any opinions concerning
 15 whether she has pain following -- from this
 16 accident?
 17 A. Well, I think she's experiencing pain,
 18 but it's not from this accident.
 19 Q. What do you think she's experiencing
 20 pain from?
 21 A. I'm not sure.
 22 Q. Okay. Are problems with headaches,
 23 chronic fatigue, balance problems, sensory problems,
 24 hypersensitivity and visual disturbance all problems
 25 consistent with a mild traumatic brain injury?

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1 MR. PAULUS: Objection. Asked and
 2 answered.
 3 You can answer.
 4 THE WITNESS: They can be, yes.
 5 BY MR. ROTHENBERG:
 6 Q. Did -- do patients who have mild
 7 traumatic brain injuries, can they benefit from
 8 cognitive remediation?
 9 A. Yes.
 10 Q. How and why?
 11 A. Because when you undergo cognitive
 12 remediation therapy, you actually sprout new
 13 connections between brain cells. And that has been
 14 verified.
 15 Q. Now, the ischemic changes that you saw
 16 in the brain, that means brain death; is that
 17 correct?
 18 A. Nope.
 19 Q. The parts where there's ischemia --
 20 A. Um-hmm.
 21 Q. -- is the brain dead?
 22 A. Well, there is scar tissue in the brain
 23 due to -- yes.
 24 Q. And if a person has ischemic areas in
 25 the brain, will they benefit from cognitive

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1 remediation?
 2 A. Yeah -- well, depends if those changes
 3 give cognitive problems or not.
 4 Q. Okay. Normally is cognitive remediation
 5 done with somebody who has areas of brain that are
 6 infarcted?
 7 A. Yes, if they have deficits.
 8 Q. What parts of her brain do you believe
 9 were with a pre-existing injury?
 10 A. Well, I don't know if it was a
 11 pre-existing injury because, as we already said, I
 12 don't have a primary care physician's complete
 13 record of care. According to the MRI report, she
 14 had diffuse ischemic white matter disease.
 15 Q. What is diffuse ischemic white matter
 16 disease?
 17 A. So what it means is that somebody has
 18 areas of degeneration or lack of blood supply in
 19 mostly the deep tissue of the brain and they are
 20 diffuse.
 21 Q. What does diffuse mean?
 22 A. All over.
 23 Q. So all over her brain, she had a diffuse
 24 ischemic injury?
 25 A. Well, I wouldn't call it injury. She

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1 had findings consistent with ischemic white matter
 2 disease. Ischemia is a medical term that means from
 3 lack of blood supply.
 4 Q. When did she get this ischemic -- I'm
 5 sorry, you used the word again, I didn't write it
 6 down. Say it again. It's --
 7 A. Subcortical ischemic white matter
 8 disease.
 9 Q. What was the cause of the white matter
 10 disease, in your opinion?
 11 A. Probably, she had migraines for a long
 12 time. Most likely.
 13 Q. That would be a symptom, migraines.
 14 What caused the white matter disease?
 15 A. Migraine is actually not -- migraine is
 16 a type of headache where because of the
 17 pathophysiology, you can have constriction of the
 18 smallest of the arteries that go deep into the
 19 tissue of the brain. So over time, over long
 20 periods of time, migraine patients develop ischemic
 21 subcortical white matter disease.
 22 Q. What's the possibilities that a mild
 23 traumatic brain injury will cause white matter
 24 disease?
 25 A. Well, there is actually -- unless --

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1 unless you have a significant brain injury, there is
 2 no white matter disease. There is temporary
 3 malfunction in biochemical and electrical signaling
 4 in the brain.
 5 Q. If someone has severe headaches as a
 6 result of a mild traumatic brain injury, will that
 7 cause white matter disease?
 8 A. Not in a month it won't.
 9 Q. How long?
 10 A. As I said, it happens over a long period
 11 of time. So let's say if somebody starts having
 12 migraines in their 20s, they will have -- most of
 13 the patients, by their 40s, mid 40s, late 40s, early
 14 50s, they will have ischemic subcortical white
 15 matter disease.
 16 Q. So you're saying it takes 20 or 30 years
 17 for you to develop white matter disease?
 18 A. Yes.
 19 Q. And do people have white matter disease
 20 without any manifestations?
 21 A. Sometimes.
 22 Q. What percentage of people with white
 23 matter disease have no outward manifestation?
 24 A. You can't determine a percentage because
 25 there is a lot of redundancy or function in the

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1 brain.
 2 Q. Right. So how many people -- what
 3 percentage of people with white matter disease have
 4 no outward manifestation?
 5 A. There is no percentage because every
 6 human being is different, so there are no
 7 percentages I can quote you.
 8 Q. What percentage of people with white
 9 matter disease will show symptoms?
 10 A. Once again, there is no percentage
 11 because every human being is biologically different.
 12 Q. Are there any studies that indicate what
 13 percentage of people will show symptoms as a result
 14 of white matter disease?
 15 A. I would have to look that up.
 16 Q. So you don't know?
 17 A. I don't have that right now, no.
 18 Q. Okay. Did -- what did any of her
 19 treating physicians --
 20 A. Excuse me. My staff has to leave now.
 21 (Off the record.)
 22 BY MR. ROTHENBERG:
 23 Q. What did any of her treating physicians
 24 indicate was the cause of any of the findings with
 25 respect to the MRI of the brain?

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1 A. I don't know right now. I would have to
 2 look it up.
 3 Q. In your opinion how many years had the
 4 condition of her brain as seen on the MRI existed?
 5 A. I cannot say for sure. But, most
 6 likely, several decades because that's what we see
 7 clinically.
 8 Q. So at least 20 years?
 9 A. Could be, yes.
 10 Q. All right. And is there any indication
 11 of any chronic problems as a result of this
 12 condition over the 20 years prior to the accident?
 13 A. Well, I don't have that information
 14 because I don't have 15 years of records from Dr.
 15 Marmora, so we don't know exactly. But they are
 16 premorbid -- pre-accident condition.
 17 Q. Well, you have records you reviewed,
 18 they were pre-accident, and you've got other
 19 doctors' review of records, right, and you got the
 20 patient who was interviewed, is there any evidence
 21 that you're aware of that would indicate that she
 22 had manifested any problems as a result of this
 23 pre-existing condition, in your opinion?
 24 A. So as I already said, I cannot answer
 25 this question because I don't have her complete

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1 primary care physician medical record.
 2 Q. What was the importance of looking at a
 3 podiatrist record?
 4 A. I cannot comment on podiatry. It is not
 5 my specialty.
 6 Q. Well, you looked at Dr. Lamb, what kind
 7 of doctor is he?
 8 A. A podiatrist.
 9 Q. No. That's Dr. Mizrachi,
 10 M-I-Z-R-A-C-H-I, Dr. Lamb, I think, is an
 11 orthopaedist. She also saw Dr. Smith, he's a DPM,
 12 looked at those records from before this accident;
 13 right?
 14 A. Um-hmm.
 15 Q. Yes?
 16 A. Yes.
 17 Q. You looked at Dr. Miller's records, he's
 18 an orthopaedist. Correct?
 19 A. Yes.
 20 Q. You were aware when you saw Ms. Petry
 21 the first time -- or you only saw her once, right?
 22 A. Yes.
 23 Q. Okay. You were aware that when you saw
 24 Ms. Petry, she had been under the care of Dr.
 25 Marmora for 15 years as her primary care physician;

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1 right?
 2 A. Yes.
 3 Q. Okay. And following that examination,
 4 did you ever ask for Dr. Marmora's records?
 5 A. No.
 6 Q. Did you think you needed Dr. Marmora's
 7 records to see if she had had any problems as a
 8 result of any type of white matter disease before
 9 the accident?
 10 A. Well, no, not at that time.
 11 Q. Okay. You never wanted to see the
 12 primary care physician that she had seen for
 13 15 years?
 14 MR. PAULUS: Objection.
 15 THE WITNESS: It's not that I didn't
 16 want to see them, they were not provided to me.
 17 BY MR. ROTHENBERG:
 18 Q. Well, then you saw that Dr. Greenwald
 19 reviewed Dr. Marmora's records; right?
 20 A. Yes.
 21 Q. And at that point, did you think to
 22 yourself, well, I'd like to see those records now?
 23 A. Well, Dr. Greenwald starts with the note
 24 from Dr. Marmora on 4/21/15, so I didn't have any of
 25 the older records, so...

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1 Q. You don't know whether he did or didn't.
 2 Correct?
 3 A. Well, he didn't put it in his summary,
 4 so that's all I have to go by.
 5 Q. That's not my question, Doctor. When
 6 you saw his report, did you think to yourself, I'd
 7 like to see those records?
 8 A. Which records.
 9 Q. Dr. Marmora's records?
 10 A. Which ones? Before or following?
 11 Q. Did you ever ask -- did you ever say to
 12 yourself, you know what, I'd like to see the primary
 13 care physician's records?
 14 A. I didn't ask for -- to see the primary
 15 care physician's records, no.
 16 Q. Okay. You indicated in language you
 17 tested the verbal fluency, comprehension, repetition
 18 and names. How is that tested?
 19 A. That was tested with mini mental status
 20 and also by just listening to her speaking and her
 21 history providing skills and how she answered the
 22 questions.
 23 Q. Doctor, can you show me -- please ask us
 24 the questions that you would have asked of the
 25 patient in order to show us what that examination

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1 was?
 2 A. Okay.
 3 Q. What have you taken out, Doctor?
 4 A. Mini mental status examination. You
 5 wanted to hear that. We can go a few items on this.
 6 Q. Did you give her the whole MME?
 7 A. Yes.
 8 Q. Where is it? Did she fill it out?
 9 A. I'm sorry?
 10 Q. Did she fill it out?
 11 A. No. This is something that I take while
 12 I talk to the patient.
 13 Q. Every time?
 14 A. Yes. For cognitive, sure.
 15 Q. May I see it, please?
 16 A. (Witness complied.)
 17 MR. ROTHENBERG: We will mark this as
 18 the next one.
 19 (The court reporter marked
 20 Carta-10, Mini Mental Status Examination
 21 Form, for purposes of identification.)
 22 BY MR. ROTHENBERG:
 23 Q. And you went through this entire thing?
 24 A. Yes.
 25 Q. And you go through this every time?

<p style="text-align: right;">Page 181</p> <p>1 A. For cognitive complaints, yes. 2 Q. Who defines a concussion as an acute 3 impairment of brain function due to trauma? 4 A. The American Academy of Neurology. 5 Q. And is there some book that you refer to 6 for that definition or? 7 A. No. 8 Q. Where would I find that definition? 9 A. On the American Academy of Neurology 10 website. 11 Q. And they define a concussion is defined 12 as an acute impairment of brain function due to 13 trauma; is that correct? 14 A. Yes. 15 Q. And is there anywhere in which it is 16 defined how soon the symptoms will appear as a 17 result of a concussion? 18 A. Acute impairment of brain function, so 19 that means immediate. 20 Q. So what I'm asking you, is there 21 somewhere where it indicates that those symptoms 22 will be immediate? 23 A. Acute means immediate. Acute is right 24 away. 25 Q. Is that somewhere that's written?</p>	<p style="text-align: right;">Page 183</p> <p>1 Q. Is confusion a sign or symptom of a 2 concussion? 3 A. It can be. 4 Q. Did she suffer a hip injury? 5 A. I cannot comment on that, that's 6 orthopaedics. 7 Q. Did she suffer a knee injury? 8 A. I can't comment on that, that's 9 orthopaedics. 10 Q. Did she suffer neck injury? 11 A. I cannot comment on that, that's 12 orthopaedics. 13 Q. And do you have an opinion as to whether 14 she has post-traumatic stress disorder? 15 A. Nope. 16 Q. You do not have an opinion? No opinion, 17 Doctor? 18 A. Well, I'm not a psychiatrist, so I 19 cannot comment on that. 20 Q. I want you to assume hypothetically that 21 Ms. Petry following this accident, on the day of the 22 accident, complained of disorientation, headache and 23 -- that's it, in addition to what she complained of 24 in the emergency room, would that change your 25 opinion at all concerning whether or not she</p>
<p style="text-align: right;">Page 182</p> <p>1 A. No. 2 Q. Okay. Was there an indication that Ms. 3 Petry was confused at the scene of the accident? 4 A. Not in the medical record. Other than 5 what she relates later on. 6 Q. So she related being confused at the 7 scene of the accident; is that correct? 8 A. Well, she related that she was shaken 9 and dazed, shaken up and nauseated, so... 10 Q. In your report, the first page, you 11 indicate that Ms. Petry was allegedly injured. Why 12 do you use the word, allegedly? 13 A. Because that's what she relates. 14 Q. Well, you agree that she was injured. 15 Correct? 16 A. She had a lumbosacral sprain and a chest 17 contusion. 18 Q. Is nausea a sign of a concussion? 19 A. It can be. 20 Q. Is it a symptom of a concussion? 21 A. Well, it's -- nausea is not a sign, 22 nausea is a symptom. Sorry, I need to clarify that. 23 Q. Is disorientation a sign or a symptom of 24 a concussion? 25 A. It can be.</p>	<p style="text-align: right;">Page 184</p> <p>1 suffered a mild traumatic brain injury? 2 A. I don't assume. I can't assume. 3 Q. Well, Doctor, you have to assume because 4 -- see you got to -- 5 A. No. No. No, I don't. 6 Q. You actually do. So this is actually 7 the case when it comes to these cases and so rather 8 than -- you know, we're going to have this issue 9 when we do this next week when we appear. So I'm 10 going to ask you the same question again. I'm 11 entitled to ask the question. 12 And if you don't answer the question, 13 then I'm going to make the judge bring you down to 14 the courthouse to get you to answer the question 15 because we are entitled -- you're not entitled to 16 the facts, you're entitled to your opinions. And so 17 I'm asking you to assume certain facts. You don't 18 necessarily have every fact, do you? 19 MR. PAULUS: Object to the form of 20 question. Just -- 21 MR. ROTHENBERG: You would agree you 22 don't have every fact. Correct? 23 MR. PAULUS: Listen, Adam, just ask 24 the hypothetical. 25 Respond to the hypothetical according</p>

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1 to the court rules.
 2 THE WITNESS: Okay.
 3 MR. ROTHENBERG: Thank you. I
 4 appreciate it.
 5 THE WITNESS: Okay.
 6 BY MR. ROTHENBERG:
 7 Q. Doctor, I want you to assume that Ms.
 8 Petry at the emergency room had also complained of
 9 nausea and headache, as well as some confusion or
 10 being dazed, would that have changed your opinions
 11 in any way concerning whether or not she had
 12 suffered a mild traumatic brain injury?
 13 MR. PAULUS: Note my objection.
 14 You can answer the question.
 15 THE WITNESS: If she had complained
 16 of it in the emergency room then, yes.
 17 BY MR. ROTHENBERG:
 18 Q. How would it change your opinion if
 19 those complaints were registered in the emergency
 20 room?
 21 A. Then I would have thought she sustained
 22 a mild concussion, which by definition improves over
 23 time in most patients.
 24 Q. Now, assuming that those were the facts
 25 and she still has those complaints today --

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1 A. Which facts?
 2 Q. I just gave you a hypothetical where we
 3 recited specific findings in the emergency room that
 4 were in addition of those that were in the record.
 5 Do you remember that?
 6 A. Yes.
 7 Q. Okay. If we assume that those were the
 8 facts and she has her present complaints now, would
 9 you agree that those complaints were caused by a
 10 mild traumatic brain injury?
 11 MR. PAULUS: Objection.
 12 You can answer the question.
 13 THE WITNESS: Okay. This is a
 14 two-part question. If she had these complaints --
 15 had had these complaints in the emergency room,
 16 would I agree that she might have sustained a mild
 17 concussion at that time, yes.
 18 The second part of the answer is even
 19 if she had sustained -- I'm assuming, assuming, I
 20 don't like to assume, that she had sustained a mild
 21 concussion, are these present symptoms related to
 22 it, no.
 23 BY MR. ROTHENBERG:
 24 Q. And why in your opinion would they not
 25 be related, even if she had given those complaints

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1 in the emergency room?
 2 A. Because in the vast majority of
 3 patients, unless there are other pre-existing
 4 issues, symptoms of post-concussion syndrome resolve
 5 within a month, as it was documented -- or improved
 6 within a month or two months. In children, it takes
 7 a little bit longer.
 8 Q. So these doctors who treat people for
 9 years for a mild traumatic brain injuries, they are
 10 treating people needlessly because most people
 11 resolve within a few months; right?
 12 MR. PAULUS: Object to the form of
 13 the question.
 14 THE WITNESS: No, that's not it.
 15 BY MR. ROTHENBERG:
 16 Q. Okay. Well, why do they keep treating
 17 people for years and years when most complaints
 18 resolve in a few months?
 19 MR. PAULUS: Object to the form of
 20 the question.
 21 THE WITNESS: Because a doctor is
 22 trying to help patients and, you know, these doctors
 23 are still trying to help her.
 24 MR. ROTHENBERG: I believe that's all
 25 the question I have.

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1 MR. PAULUS: Thank you. No
 2 questions.
 3 MS. KUHN: No questions.
 4 - - -
 5 (Deposition concluded at 5:33 p.m.)
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CERTIFICATION

I, Lynda DiGrazio-Smith, a NJ Certified Court Reporter (License No. 2212) and Notary Public of the State of New Jersey, do hereby certify that the proceedings, evidence, and objections upon the deposition of MARIA CHIARA CARTA, M.D., are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter, on February 7, 2018, and that this is a true and correct transcript of same.

I further certify that I am neither an attorney nor counsel of any of the parties in the above proceedings, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in the outcome of the within proceedings.



Lynda DiGrazio-Smith
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