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(732) 494-2727
Attorneys for Plaintiffs

JULIE F. PETRY and DAVE C. PETRY, her husband,

Plaintiffs,

vs.

WILKIN AND GUTTENPLAN and/or ABC CORP #1-10 (representing unknown companies or entities responsible for the accident in question)

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY
DOCKET NO.: MID-L-1881-17

Civil Action

NOTICE OF MOTION TO EDIT THE DE BENE ESSE DEPOSITION OF MARIA CHIARA CARTA, MD

To: Counsel

PLEASE TAKE NOTICE that the undersigned will apply to the above named Court, at the Superior Court of New Jersey, Middlesex County Courthouse, 56 Paterson Street, New Brunswick, New Jersey on Friday, May 25, 2018, at 9:00 a.m., in the forenoon or as soon thereafter as counsel may be heard, for an Order to edit the *de bene esse* deposition of Maria Chiara Carta, MD. SEE ATTACHED CERTIFICATION IN SUPPORT OF THIS MOTION.

Pursuant to *R.1:6-2(d)*, the undersigned:

( ) waives oral argument and consents to disposition on the papers.
( ) does not request oral argument at this time.
(XX) requests oral argument.
A proposed form of Order is annexed.

I hereby certify that an original and one copy of the Notice of Motion has been forwarded via: Electronic filing to the Clerk of the Superior Court, Middlesex County, New Brunswick, New Jersey and copies have been forwarded via Lawyers' Service to:

William E. Paulus, Esq.
Law Office of Gerard M. Green
500 College Road, Suite 402
Princeton, New Jersey 08540
Attorney(s) for Defendant(s), Wilkin and Guttenplan

Dated: 5/4/18

ADAM L. ROTHENBERG, ESQ.

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JULIE F. PETRY and DAVE C. PETRY, her husband, Plaintiffs, vs. WILKIN AND GUTTENPLAN and/or ABC CORP #1-10 (representing unknown companies or entities responsible for the accident in question) Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY DOCKET NO.: MID-L-1881-17 Civil Action **ORDER**

The above captioned matter, having been opened to the court by Levinson Axelrod, P.A., attorneys for the plaintiff and for good and sufficient cause shown;

It is on this _____day of , 2018

ORDERED that the de bene esse deposition of Dr. Carta shall hereby be redacted on the video to exclude:

- 34:3-8 is hereby stricken and shall be edited from the video.
- 51:21-53:14 is hereby stricken and shall be edited from the video.
- 59:22-60:12 is hereby stricken and shall be edited from the video.
- 63:10-65:4 is hereby stricken and shall be edited from the video.
- 83:15-85:12 is hereby stricken and shall be edited from the video.
- 96:4-13 is hereby stricken and shall be edited from the video.
- 96:24-97:13 and 97:16-98:8 is hereby stricken and shall be edited from the video.
- 105:8-106:1 is hereby stricken and shall be edited from the video.

- 113:16-114:5 is hereby stricken and shall be edited from the video.
- 126:17-131:1 is hereby stricken and shall be edited from the video.
- 134:1-21 is hereby stricken and shall be edited from the video.

ORDERED that a copy of the within Order shall be served upon all counsel of record within ____ days from the date hereof.

_____
J.S.C.

_____Opposed
_____Unopposed

ADAM L. ROTHENBERG # 031841993
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JULIE F. PETRY and DAVE C. PETRY, her husband, Plaintiffs, vs. WILKIN AND GUTTENPLAN and/or ABC CORP #1-10 (representing unknown companies or entities responsible for the accident in question) Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY DOCKET NO.: MID-L-1881-17 Civil Action **CERTIFICATION IN SUPPORT OF MOTION TO EDIT DE BENE ESSE OF MARIA CHIARA CARTA, MD**

ADAM L. ROTHENBERG, ESQ., of full, being duly sworn according to law, certifies as follows:

1. I am a Partner with the law firm of Levinson, Axelrod, P.A. and am personally responsible for the handling of this file. I am fully familiar with the facts that are stated herein.
2. This case arises from a motor vehicle accident which occurred on April 15, 2015. Ms. Julie Petry suffered serious injuries as a result of this accident.
3. Plaintiff alleges various orthopedic and neurologic injuries. Neurologic injuries include a closed head injury with vision impairment, speech impairment, processing and multi-tasking impairment, headaches, tinnitus, short-term memory deficit, dizziness and vertigo. Plaintiff

intends on presenting experts in the field of brain trauma, neuropsychology and audiology.

4. On April 19, 2018, the de bene esse deposition of Maria Chiara Carta, MD occurred. This is defendant's neurological expert. A copy of her report is appended hereto as **Exhibit A**. Her deposition is appended hereto as **Exhibit B**.
5. During the course of deposition, there are multiple objectionable portions as well as colloquy that need to be removed before this deposition is shown to a jury. This Motion is made in support of editing that videotape.
6. I have not briefed any of the sections that need to be removed because I believe that the majority will involve an agreement by the parties. If I receive any objection to the edits, I will respond with any legal basis that might be necessary.
7. We request the following excerpts to be stricken:
    - 34:3-8-this is an inappropriate colloquy and was objected to. Defendant objected to the question and the question was withdrawn.
    - 51:21-53:14-the question was leading and assumes fact and not in evidence concerning the triage report.
    - 59:22-60:12-Dr. Carta admits that she never reviewed any of the MRI films. Thus, this is Dr. Carta now explaining the findings that she did not see and repeating what they look like despite not having seen the films. In addition, in direct contravention of

James v. Ruiz and similar cases, the defendant sets forth that her opinions are in sync with those of a radiologist who is not testifying. Both the interpretation of the films and repeating of what a non-testifying expert has said is inappropriate.

- 63:10-65:4-this has similar problems to the prior section. The expert is being asked to give an opinion as to the cause of findings of a particular finding in the MRI report although this expert has never reviewed the MRI. The opinion as to what is contained on the MRI when she has not reviewed the MRI is inappropriate. This is compounded by the fact that the expert then opines the likely cause of the findings that she cannot be permitted to testify about.
- 83:15-85:12-this section is merely a colloquy and there is no answer to the questions.
- 96:4-13-this is a colloquy and should not be before the jury.
- 96:24-97:13 and 97:16-98:8-this involves colloquy and objections which are not relevant. This was cross examination and defense counsels commentary and objections should be stricken. The questioning was appropriate.
- 105:8-106:1-the expert simply starts talking without a question and proceeds to offer opinions which are not responsive to any question. Additionally, there was colloquy that should be stricken.

- 113:16-114:5-In response to the question posed, the witness repeats opinions rather than answering the questioning concerning the testing. This is a clear violation of *James v. Ruiz* and its progeny.
- 126:17-131:1-Defendant objected to the question and the response was inappropriate and unrelated. Since the question was objected to, it is withdrawn and the response being highly prejudicial and inappropriate should be stricken. I note that the plaintiff was married approximately twenty (20) years prior and this is a reference to some unrelated alleged sexual assault that occurred that has nothing to do with the head injury or concussion. There was no indication of any prior head trauma at any time and the reference to a sexual assault that occurred many years ago is both inappropriate and more prejudicial then appropriate in any sense. Also, there is no mention of any relationship between any prior trauma and her present condition in the expert report. In Dr. Carta's deposition, she also indicates on page 20 that she will provide no psychological opinions and on page 21 that she has no posttraumatic stress disorder opinions as well.
- 134:1-21-There are no questions but simply colloquy and objections. This should be stricken.

8. The sections cited are not likely to assist the jury and are generally precluded by the Rules of Evidence.

9. Based upon the aforegoing, we respectfully request that the Court grant our Motion to Strike the listed sections.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

ADAM L. ROTHENBERG

Date: 5/4/18

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JULIE F. PETRY and DAVE C. PETRY, her husband, Plaintiffs, vs. WILKIN AND GUTTENPLAN and/or ABC CORP #1-10 (representing unknown companies or entities responsible for the accident in question) Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY DOCKET NO.: MID-L-1881-17 Civil Action **PROOF OF SERVICE**

I hereby certify that an original and one copy of the Notice of Motion has been forwarded via: Electronic filing to the Clerk of the Superior Court, Middlesex County, New Brunswick, New Jersey and copies have been forwarded via Lawyers' Service to all counsel of record.

Geninemarie Ribaudo

Geninemarie Ribaudo

Dated: 5-4-18

Levinson Axelrod, P.A.

ATTORNEYS AT LAW

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May 4, 2018

Motions Clerk, Law Division
Middlesex County Superior Court
56 Paterson Street
New Brunswick, New Jersey 08903

Re: Petry, et al. v. Hollosi, et al.
Docket No.: MID-L-1881-17

Dear Sir/Madam:

Enclosed herein please find **Notice of Motion to Edit the *de bene esse deposition* of Dr. Maria Chiara Carta** returnable on May 25, 2018. Kindly charge our collateral account #146374 the amount of $50.00 for filing in connection with the above matter. Kindly forward a copy to the Judge charged with hearing the motion.

A copy of said Motion has been forwarded to all counsel of record.

Very truly yours,

ADAM L. ROTHENBERG

ALR/gmr
Enclosures

cc: William E. Paulus, Esq.

Via Lawyer's Service

EXHIBIT A

Maria Chiara Carta, M.D.
4 Becker Farm Road, 1st Floor
Roseland, NJ 07068

EXAMINEE INFORMATION

DATE OF EXAMINATION: November 29, 2017

EXAMINEE IDENTIFICATION INFORMATION:

Examinee Name:	Julie Petry
Address:	318 Crestwood Drive Milltown, NJ 08850
Home Phone:	732-220-1995
Date of Birth:	3/18/1967
Age:	50
Sex:	Female

CLIENT INFORMATION:

Attention:	William E. Paulus, Esquire
Firm:	Law Office of Gerard M. Green
Address:	500 College Road East, Suite 402 Princeton, NJ 08540
Telephone:	609-524-6666
File No.:	1170905628/WEP
Claim No.:	E3A69332 H2
D/I:	4/15/2015

IMPORTANT MESSAGE

INTRODUCTION:

Julie Petry was referred for a neurological independent medical evaluation (IME) at the request of the above client. A medical assistant was present during the examination. The IME process was explained to the examinee and she understood that no patient/doctor relationship exists and that a report would be sent to the requesting client. The examinee verbalized her understanding of the process and agreed to proceed with the evaluation. She reported no difficulties associated with this examination.

HISTORY OF PRESENT ILLNESS:

Ms. Petry is a 50-year-old female who came to the evaluation accompanied by her husband and related the following history: On 4/15/15, she was allegedly injured in a motor vehicle accident. The accident consisted of a low-speed collision with no airbag deployment. Her vehicle was struck by another car, which was making a left turn while she was pulling out of the post office parking lot. She did not lose consciousness.

The claimant states that she was "shaken up and nauseated" at the time of the incident. She was transported to the emergency room of Robert Wood Johnson University Hospital where she was evaluated for complaints of chest and hip pain, underwent a CAT scan of the chest and x-rays of the left hip and was released home. She was initially treated by her primary care physician, Dr. Marmora in New Brunswick.

A few days later, she elected to seek the care of a neurologist, Dr. Gainey, who in turn referred her to many other providers including neuropsychology, psychology, orthopedics, and pain management. She is currently under the care of Dr. Brian Greenwald who is a Neuro-physiatrist in the JFK Hospital System Head Injury Center who is overseeing all her other therapies, and has just prescribed her Ritalin. She was also told by her a pain management provider that she might benefit from the administration of acupuncture.

CURRENT COMPLAINTS:

The claimant has numerous complaints, which include frequent headaches, which are occuring two to six times weekly and are generally present upon awakening, are bi-parietal in location, and might spread to the vertex of scalp and retro-ocular regions, and are pressure and pounding in quality, often becoming migraine like and associated with nausea and blurriness of vision. She takes Tylenol and Motrin for symptomatic relief of her headaches.

She also complains of cervicalgia, which is bilateral radiates occipitally and into the shoulders and left jaw and is experiencing constant bilateral tinnitus that awakens her at night. She has convergence and depth perception issues with the left eye and her eyes "do not open at the same time" in the morning.

She is relating cognitive and processing issues, decreased memory, vertigo, a constant feeling of being off balance, cannot be overstimulated, often experiences anxiety and panic attacks, which makes her cognitive issues worse and is under the care of a psychologist for an alleged diagnosis of PTSD.

She experiences difficulties multi-tasking at work and becomes very fatigued as she goes through the day

Her left shoulder hurts all the time.

She experiences chronic hip and lumbar pain radiating into the posterior aspect of the lower extremities and buttocks, although she admits a history of back pain prior to the accident in question.

She used to be very physically active prior to the above mentioned accident, but does not attend the gym anymore, only attends physical therapy and does exercises at home. She does not run or do intensive cardiovascular workout or golf with her husband anymore.

She feels fatigued all the time, tires easily and stutters intermittently.

The medical records provided to me were reviewed: A **magnetic resonance imaging (MRI)** report of the lumbosacral spine performed on 8/25/03 revealed mild degenerative disc changes with slight posterior annular bulging at L5-S1.

Dr. David Lamb examined Ms. Petry on 9/22/03. She complained of low back and right buttock pain for a little over a year, severe and progressive. She treated with her primary care physician and was diagnosed with arthritis or viral infection in the joints. She underwent diagnostic studies, physical therapy, used anti-inflammatory medication and received chiropractic treatment with slow improvement of her symptoms. She had a history positive for cholecystectomy, pregnancy and breast augmentation. She was taking Norflex. **X-ray** report of the lumbar spine was negative. The MRI report was reviewed. She was diagnosed with discogenic low back pain, high pressure

sensitive. Epidural injections and intradiscal electrothermoplasty were discussed. She declined further intervention and wished to continue physical therapy and use of medications.

John Smith, a podiatrist (DPM), examined Ms. Petry on 2/13/08. Two months prior to exam, she came down in an inappropriate position on her right foot and tore ligament in the right foot arch. She developed swelling and a bruise in the area. She continued to experience discomfort with slow improvement. There was deficits in the medial band of the plantar aponeurosis proximally with slight herniation of the abductor loose muscle at the injury site. She was diagnosed with injury to the plantar fascia, not quite healed. Alteration to activity was discussed. An aggressive but gentle stretching program, ice applications, massage and supports for her shoe wear were discussed. Improvement was noted on 3/5/08. She was advised to cautiously increase her activity.

Dr. Marc Lamb evaluated Ms. Petry on 3/25/09. She complained of right greater than left wrist pain. She was a left handed dominant body builder fitness performer who developed right greater than left wrist pain several months prior to exam. Boxing activities and push-ups aggravated her symptoms. She used wrist braces and took anti-inflammatory medication with persistent discomfort. **X-ray** report revealed appropriate scapholunate interval increased with grip and lengthening of the ulna. She was diagnosed with rule out internal derangement of the wrist. A MRI was ordered and she was advised to continue wearing the braces and taking the medication. Wrist straps for use during boxing activities were recommended.

A lumbar spine **MRI** report performed on 6/4/09 revealed a diffuse L5-S1 disc bulge with small right paracentral disc protrusion and possible mild posterior displacement with potential for impingement on the right S1 nerve roots.

Dr. Jeffrey Miller examined Ms. Petry on 6/17/09. She complained of pain across the lower back. On 5/28/09, she sneezed and developed the acute onset of severe low back pain and some left leg pain. The pain improved and was intermittent. She had a history positive for episodic low back pain and bulging disc at L4-5. She underwent physical therapy with improvement. She was a heavy bodybuilder and was training heavily until 5/28/09. The MRI report was reviewed. She was examined and diagnosed with recurrent mechanical back pain secondary to degenerative disc disease at L5-S1. Physical therapy with a core stabilization program was recommended. She was advised to take Advil or Aleve as needed. Avoidance of heavy weight lifting activity was advised.

The patient was evaluated for physical therapy on 6/30/09.

Dr. Miller re-examined the patient on 7/15/09. She experienced recurrent, intermittent back pain. She was responding to therapy and was advised to continue. She returned on 8/19/09 having completed the course of therapy and begun an independent home exercise program. She would experience intermittent mechanical low back pain associated with certain activity levels. She was advised to remain diligent with a home exercise program and to avoid aggravating activity. Chiropractic treatment was discussed.

Dr. Arik Mizrachi evaluated Ms. Petry on 11/30/10. She complained of right elbow pain. She discontinued competitive weightlifting several months prior to exam and continued to experience elbow pain. There was occasional swelling in the elbow region. A right elbow **x-ray** report revealed questionable small fracture at the olecranon. A right elbow MRI was ordered. An elbow tendon injury was suspected.

X-ray report of the right elbow performed on 12/14/10 revealed questionable small fracture at the olecranon.

Dr. Mizrachi reviewed the x-ray report with the patient on 12/20/10. She had not undergone the MRI. She was advised to undergo the MRI and to apply ice to the elbow.

A right elbow **MRI** report performed on 12/20/10 revealed moderate tendinopathy in the distal triceps tendon.

Dr. Miller examined the patient on 2/16/11. She complained of recurrent right-sided low back pain for approximately one month with subtle increase of left-sided pain for approximately 10 days. She experienced occasional pain into the right leg. She had a history positive for chronic, mild, intermittent back pain for one and a half years. She had a history positive for surgery for a deviated septum. The MRI report from 2009 was reviewed. She was diagnosed with recurrent mechanical back pain and intermittent right, lumbar radiculopathy secondary to L5-S1 herniated nucleus pulposus. Physical therapy and Advil were recommended.

The patient was evaluated for physical therapy on 3/2/11.

She returned to Dr. Miller on 4/19/11 with the complaint of recurrent right-sided low back discomfort. She was unable to attend physical therapy due to no insurance. She performed a core stabilization program. She was diagnosed with recurrent mechanical back pain secondary to discogenic disease versus right sacroiliac joint arthropathy. A right sacroiliac joint injection under fluoroscopy was recommended and declined by the patient. Chiropractic treatment was advised.

Dr. David Lamb examined Ms. Petry on 9/16/13. She complained of recurrent low back pain and right leg pain. She was diagnosed with mechanical low back pain secondary to an annular tear, sacroiliac joint or arthritis. She was neurologically stable. Physical therapy was recommended.

Ms. Petry was evaluated for physical therapy on 12/9/13.

Luke Ryan, PA-C examined Ms. Petry on 4/8/14. She injured her back helping her dog into her house. The previous back treatment was noted. She was diagnosed with mechanical low back pain and a MRI was ordered. Aleve was recommended.

A lumbar spine **MRI** report performed on 4/16/14 revealed increased facet degeneration at L4-5 causing mild Grade I degenerative spondylolisthesis with increased disc bulging and thickening of ligamentum flavum hypertrophy. There was a new small left foraminal disc protrusion and new mild narrowing of the central spinal canal, left lateral recess and left neural foramen. The previously noted, right paracentral L5-S1 disc protrusion had decreased in size and the previously noted, mild displacement of the right S1 nerve roots had resolved.

Dr. Lamb examined the patient on 4/25/14. The MRI report was reviewed. She complained of back pain with some hip tenderness. She was diagnosed with mechanical low back pain secondary to two level degenerative disc disease and degeneration at L4-5 with a disc bulge at L5-S1. She was advised to continue a core stabilization exercise program and Flexeril, Relafen and Tramadol were prescribed.

Ms. Petry presented to the emergency department of Robert Wood Johnson University Hospital on 4/15/15 with injuries sustained in a low speed motor vehicle collision. The patient's vehicle was hit on the front passenger side. She complained of left hip, bilateral knee, left chest and shoulder pain. She had a history positive for mitral valve prolapse, anxiety and asthma. **X-ray** report of the left hip was negative. A **computed tomography (CT scan)** report of the thorax was negative. She was examined and diagnosed with muscle strain and chest contusion. Motrin and Valium were prescribed.

Dr. Patrick Gainey evaluated Ms. Petry on 4/23/15. The motor vehicle accident was noted. The patient's vehicle was pulling out of a parking lot when she struck a vehicle making a left-hand turn into her lane. She was thrown forward, but did not recall hitting her head. She did not recall parking her car or getting out of her car. Shortly after the accident, she developed paracervical pain radiating into the holocranium. She developed some nausea. She was treated in the emergency room and complained of pain across the left shoulder and left breast. In the days following the accident, she developed light sensitivity, especially when watching television; blurred vision; occasional double vision; dizziness, described as a spinning sensation when arising to an upright position; speech stuttering with occasional slurring of her words; daily headaches; scalp tenderness with burning to touch; photophobia associated with the headaches; cervical pain; difficulty with focus and attention and forgetfulness. She experienced word finding difficulty, mood swings, episodes of crying, tinnitus and fatigue. She had a history positive for rare episodes of headaches. The headaches were throbbing in nature and associated with nausea, vomiting and phono and photophobia. The previous headaches were described as mild. Anxiety and depression were noted. She was examined and diagnosed with concussion, followed by post-concussion syndrome, posttraumatic migraines, posttraumatic vertigo, paracervical pain and musculoskeletal pain. MRI studies of the brain and cervical spine were ordered and Robaxin was prescribed. Motrin was continued. Additional treatment would be recommended if the post-concussion symptoms did not resolved spontaneously.

A **MRI** report of the brain performed on 5/12/15 revealed multiple small foci of FLAIR signal involving the supratentorial white matter, nonspecific the differential considerations, including relatively premature mild microvascular ischemic changes, sequelae of prior infectious/inflammatory process and demyelinating disease. Given the history of headaches. The findings may partly represent migraine related changes.

A cervical spine **MRI** report performed on 5/13/15 revealed mild broad-based C5-6 disc herniations, causing diminution of the anterior subarachnoid space, narrowing of the lateral recess and bilateral foraminal stenosis. There was a mild left-sided C4-5 disc bulge causing diminution of the left anterior subarachnoid space. There were small focal bilateral C3-4 disc herniations, causing narrowing of the lateral recess and mild bilateral foraminal stenosis.

Dr. Gainey re-examined the patient on 5/14/15. She continued to experience daily dull headaches, persistent dizziness, described as a spinning sensation occurring with extension or flexion of the neck and rapid head movement and visual stimuli causing significant dizziness and balance issues. The patient's cognitive dysfunction was improving. She reported improvement of her cervical pain. The MRI study reports were reviewed. She had a history positive for migraines. A videonystagmography (VNG) was ordered.

A **VNG** report performed on 5/14/15 was suggestive of left-sided vestibular system dysfunction and evidence of central nervous system dysfunction manifested by saccade abnormalities. Due to the suggestion of central nervous system involvement and the differences/mismatch between positional and caloric testing further clinical evaluation may be necessary to determine a specific pathology. Targeted balance rehabilitation and a repeat VNG were recommended.

Ms. Petry returned to Dr. Gainey on 6/2/15 with improvement in her focus and attention. She continued to experienced headaches, reduced in intensity and sensitive to visual stimuli including bright light. The patient's husband notice stuttering and difficulty with word finding. She continued to report episodes of vertigo. The VNG was reviewed. The study was consistent with posttraumatic vertigo and vestibular rehabilitation was recommended. Nortriptyline was prescribed and physical therapy was ordered.

Dr. Miller evaluated Ms. Petry on 6/3/15. The motor vehicle accident was noted and the treatment history was reviewed. She complained of severe, posterior neck discomfort, midline low back discomfort, left shoulder and right hip pain and vertigo and concussion symptoms. She had a history positive for chronic intermittent low back pain from degenerative disc disease. She was examined and diagnosed with severe traumatic cervical sprain and strain injury; severe lumbar sprain and strain injury with pre-existing degenerative disease; posttraumatic rotator cuff tendinitis of left shoulder; right hip strain and post-concussion syndrome. Physical therapy would be recommended upon clearance from her neurologist. Motrin was continued.

Ms. Petry was evaluated for physical therapy on 6/16/15.

Dr. Gainey re-examined the patient on 6/30/15. She had phoned the doctor several weeks prior to exam and reported resolution of her headaches. She was advised not to begin the nortriptyline. On the day of exam, she developed a mild headache. She reported difficulty with reading and focus, occasional blurred vision and increased feeling of dizziness when exposed to certain visual stimuli. She had difficulty expressing her thoughts and complained of ongoing paracervical, shoulder and right hip pain. She reported pain into the right occipital region different from her typical headache. There was associated phonophobia. A neuropsychological evaluation was requested. Nortriptyline was prescribed.

Dr. Miller re-examined the patient on 7/16/15. She complained of ongoing neck, low back and right hip discomfort and reported improvement of her left shoulder pain. She continued to experience vertigo. Flexeril was prescribed and the use of Tylenol or Advil during the day was recommended. Physical therapy was continued. A lumbar spine MRI was ordered.

During therapy on 7/22/15, the patient complained of clicking in the left shoulder with decreased pain.

A lumbar spine **MRI** report performed on 8/4/15 revealed Grade I spondylolisthesis of L4 on 5 resulting in pseudo-bulge with facet hypertrophy contributing to left greater than right neural foraminal stenosis. There was a L5-S1 disc herniation indenting the anterior epidural space.

Dr. Gainey re-examined the patient on 8/11/15. She continued to experience difficulty with cognition, stuttering, slow speech, slow processing speed, mood changes, intermittent depression, dizziness, exacerbated by bright light and riding in a car at night inducing a feeling of nausea and spinning and feeling a way sensation. The headaches were minimal. She had difficulty having a conversation with more than one person. She was diagnosed with post-concussion syndrome, posttraumatic vertigo on a central basis and improving posttraumatic headaches. She was referred to a neuropsychologist and for a vestibular rehabilitation.

Ms. Petry was evaluated for vestibular rehabilitation on 8/22/15.

Dr. Miller re-examined the patient on 8/24/15. Slow but steady improvement of her neck, low back, right hip and left shoulder pain was noted. She would experience occasional right anterior thigh pain. She was diagnosed with posttraumatic cervical and lumbar spine with pre-existing L4-5 spondylolisthesis, right hip strain and posttraumatic rotator cuff tendinitis of the left shoulder. Physical therapy was continued and she was advised to increase her activity as tolerated.

Yelena Goldin, Ph. D. performed a neuropsychological evaluation of Ms. Petry on 9/2/15. The motor vehicle accident was noted. She reported a strong jolt to her head with neck, back, shoulder and hip injuries. She experienced a brief period of confusion, feeling shaken up and brief posttraumatic amnesia. She developed nausea. The treatment history was reviewed. On examination, she reported improved vertigo, dizziness, headaches and extreme photophobia; tendinitis, feeling overwhelmed, difficulty regulating emotion, stuttering, slurring when nervous, difficulty with reading and writing due to headaches and vertigo, difficulty sleeping, short-term memory problems, difficulty with verbal expression and difficulty with daily activity. She had not return to work since the accident. Psychological testing was performed. There was evidence of deficits in the aspects of visual information processing. She was advised to continue vestibular and physical therapies. Psychological and/or medical management of mood symptoms and psychotherapy were advised. Cognitive remediation would be recommended upon completion of vestibular therapy.

During therapy on 9/11/15, she reported some left hip pain.

She returned to Dr. Gainey on 9/22/15 having undergone a formal neuropsychological evaluation. The patient's symptoms were felt to be related to vestibular dysfunction. The patient's husband indicated she was performing better overall. She continued to experience vertigo symptoms. Some physical therapy treatment to her neck would induce a spinning sensation. She was able to compensate based on exercises and compensatory mechanisms taught by her vestibular therapist. She was advised to continue physical therapy for vestibular rehabilitation and to see a psychologist for treatment of her mood disorder consistent with anxiety and depression.

Dr. Miller examined the patient on 10/5/15. Overall improvement of her neck and low back discomfort was noted. She was advised to continue physical therapy and to slowly increase her activity as tolerated.

Dr. Gainey examined the patient on 10/29/15. She continued to experience difficulty with visual stimuli, loss of focus and attention when in a room with multiple people and the development of headaches, following vestibular exercise. Gradual improvement of the headaches was noted. She was advised to continue seeing the psychologist.

On 11/3/15, Ms. Petry was evaluated for psychological counseling in reference to the motor vehicle accident from 4/15/15. She sustained several injuries, including slipped and herniated discs and a traumatic brain injury. She had ongoing cognitive difficulties, including short-term memory loss, difficulty concentrating, frustration, irritability and vertigo. She was anxious and depressed. She reported a history of physical and sexual abuse. There was evidence of posttraumatic stress disorder. Psychological counseling was advised.

Dr. Miller re-examined the patient on 11/16/15. She reported a flare-up of her neck discomfort following traction treatment and physical therapy. She developed increased numbness into the left arm and recurrent low back discomfort. She was diagnosed status, posttraumatic cervical and lumbar sprain and strain with pre-existing Grade I spondylolisthesis at L4-5, L5-S1 central herniation and broad-based disc herniations at C5-6 and C6-7. She was advised to complete the course of physical therapy and to perform a home exercise program. Motrin was prescribed. The possible need for pain management was discussed.

Ms. Petry returned to Dr. Gainey on 11/18/15 with the complaint of increased paracervical pain and vertigo symptoms following traction treatment in therapy. Magnetic resonance angiogram (MRA) of the head and neck was ordered with and without gadolinium. A black blood study was ordered and physical therapy was discontinued until after the studies were performed.

Dr. Brian Greenwald evaluated Ms. Petry on 12/1/15. The motor vehicle accident and treatment history were reviewed. On examination, she complained of vertigo/dizziness, anxiety, impaired sleep, neck, shoulder and low back pain, blurred vision, ringing in the ears, light sensitivity, memory impairment, flashbacks, nightmares and headaches. She would frequently wear dark glasses for the light sensitivity. The patient's stuttering and slurred speech had improved. She was claustrophobic. She was examined and diagnosed with late effect intracranial injury, vestibular disorder, anxiety, insomnia, cervicalgia, lumbago, visual impairment, tendinitis, cognitive deficits, posttraumatic stress disorder and cephalgia. She was advised to continue vestibular and psychotherapy. Sertraline was prescribed. Neuropsychological testing and a neuro-optometric evaluation were recommended. Motrin was continued.

A **MRA** report of the neck performed on 12/3/15 revealed development of fully small right vertebral artery, terminating in the right posterior inferior cerebellar artery without acute dissection present.

Ms. Petry was examined and at Plastic Surgery Arts of NJ on 12/14/15. The motor vehicle accident was noted. She experienced point tenderness in the lateral aspect of the left breast found. She was scheduled to undergo an ultrasound and a mammography. A referral to a pain management specialist was discussed.

The patient resumed physical therapy on 12/23/15.

She returned to Dr. Miller on 12/30/15 with ongoing posterior neck and intermittent low back discomfort. She was placed at maximum medical improvement from physical therapy and advised to perform a home exercise program. Prolotherapy for the cervical and lumbar spine was discussed. She was referred to a specialist.

Ms. Petry returned to Dr. Gainey on 1/4/16 with dramatic improvement of her symptoms. She would experience a feeling of heaviness in her head with cognitive exertion which would resolve after a few minutes of rest. The headaches were intermittent and not disabling. She reported some pain over the left breast and indicated the pain was present since the accident. The pain was only present with pressure to the lateral aspect of the left breast. A soft tissue injury was suspected. She was released to return to work effective 1/7/16.

Dr. Greenwald re-examined the patient on 1/5/16. The MRA report was reviewed. She reported some improvement of her vertigo, dizziness and anxiety. She continued to experience sleep impairment and neck pain. There was ongoing tendinitis. The shoulder and low back pain had improved. Returning to work was discussed. She was referred to an audiologist and Motrin was continued. Vestibular and psychotherapy were continued.

Ms. Petry underwent hearing and tendinitis testing/evaluation on 2/3/16. She complained of constant tinnitus and hyperacusis since the motor vehicle accident in 2015. The tendinitis was in the right greater than left ear. Tinnitus retraining/hyperacusis therapy were recommended.

Dr. Gainey re-examined the patient on 3/7/16. She reported a setback of her cognitive function upon returning to work. The symptoms slightly improved, but she continued to have difficulty with multitasking. She continued to experience headaches and episodes of dizziness associated with rapid head movement. Vision therapy had been recommended. Cognitive therapy along with visual therapy was recommended.

Dr. Greenwald re-examined the patient on 4/19/16. She reported increased headaches and vestibular symptoms since returning to work. Motrin was continued and she was advised to perform a home vestibular exercise program. Psychotherapy was continued and the use of Wellbutrin was discussed. She was followed on 6/21/16 and Wellbutrin SR was added.

Dr. Miller re-evaluated Ms. Petry on 7/25/16. She continued to experience increased neck pressure with occasional tingling into the left arm and recurrent low back discomfort. She was undergoing visual and cognitive therapy, which increased her symptoms due to increased range of motion exercise. She was diagnosed with chronic mechanical neck pain status post-traumatic cervical sprain and strain injury with C5-6 and C6-7 broad-based disc herniations and chronic recurrent low back pain secondary to pre-existing L4-5 spondylolisthesis and posttraumatic lumbar sprain and strain with central L5-S1 herniated disc. Pain management was recommended.

Dr. Greenwald continue to follow the patient on 8/30/16. She decided not to take Wellbutrin. She was scheduled for pain management. A neuropsychological evaluation was recommended. Psychotherapy was continued. Motrin was renewed and Mobic was prescribed. Vision therapy was continued.

Dr. Michael Rosenberg evaluated Ms. Petry on 9/28/16. The motor vehicle accident and treatment history was reviewed. She did not recall the details of the accident. She complained of blurred vision, difficulty with convergence and reading, constant dizziness, described as imbalance when walking, difficulty with bright lights, occasional flashes of late lasting for a few seconds and slowed mental faculty. She had short-term memory problems. She underwent unremarkable neuro and neural ophthalmologic exams. A convergence insufficiency was suspected. Visual field testing and occupational therapy were recommended. There was no evidence of vestibular imbalance. The patient's symptoms were compatible with visual vestibular mismatch syndrome and vestibular rehabilitation and cognitive rehabilitation were recommended.

Yelena Goldin, Ph. D. performed a neuropsychological re-evaluation on 10/5/16. The treatment history was reviewed. She continued to experience visual difficulty, forgetfulness, difficulty focusing with distractibility and busy environments, sensory hypersensitivity, frequent debilitating headaches and fatigue, balance problems, anxiety and posttraumatic stress disorder. She was unable to resume driving. She had difficulty working. There was frequent interruption to her therapy due to insurance problems. Neuropsychological testing was performed. The patient's mood symptoms had improved. Neuropsychological treatment focusing on fatigue management and reducing the impact of cognitive difficulty was recommended. Ongoing psychotherapy was advised. Uninterrupted rehabilitation services including vision therapy and tinnitus retraining were recommended. The need for assistants while working was advised.

Dr. Didier Demesmin of University Pain Medicine Center evaluated Ms. Petry on 10/12/16. The motor vehicle accident from April 2015 was noted and the treatment history was reviewed. She experienced chronic low back pain prior to the motor vehicle accident. On examination, she complained of headaches and neck, shoulder and back pain. She was taking Topamax, Flexeril and ibuprofen. She reported worsening of her headaches. Tendinitis, vision changes, short-term memory loss, vertigo and delayed speech associated with the headaches were noted. She would also experience phono and photophobia associated with the headaches. The diagnostic study reports were reviewed. She was examined and diagnosed with cervical, lumbar radiculitis, headache and bilateral shoulder pain. Conservative treatment, including physical therapy and the use of medications was advised. She was referred to Dr. Tony George for a self-directed home exercise program.

Dr. George of University Pain Medicine Center evaluated Ms. Petry on 10/18/16. The treatment history was reviewed. She experienced chronic neck pain, headaches, bilateral shoulder pain and worsened low back pain since the accident. Photosensitivity associated with the headaches and numbness in the left hand were noted. She was examined and diagnosed with cervical, lumbar radiculitis, headache and bilateral shoulder pain. A post-concussion rehabilitation program was advised. She was referred to JFK or Kessler rehabilitation for further management of the post-concussive syndrome.

Dr. Greenwald continued to follow the patient on 11/1/16. She was awaiting cognitive remediation. She was advised to continue taking Motrin and Mobic and to continue her current treatment. Topamax was prescribed.

Dr. Demesin re-examined the patient on 11/7/16. She continued to experience throbbing headaches with tendinitis, vision changes, short-term memory loss and vertigo. She continued to experience neck pain into the shoulder blades and hands with numbness in the left hand and low back pain radiating into the left greater than right thigh. Post-concussion rehabilitation was ordered. She had cervicotrigeminal syndrome and an exercise program to help the posterior headaches was discussed. A home exercise program was advised. Samples of Pennsaid and Voltaren gel were dispensed. A referral to Kessler Rehabilitation was advised.

Ms. Petry was evaluated for physical therapy on 11/14/16.

Tasha Mott, Ph. D. performed a neuropsychological evaluation of Ms. Petry on 11/15/16. She was evaluated for cognitive rehabilitation. The accident and treatment history were noted. She discontinued taking Topamax due to side effects. She reported difficulty with multitasking, distractibility, difficulty focusing in a busy environment, forgetfulness, difficulty with verbal expression and emotional issues. She continued to experience headaches, chronic fatigue, balance problems, sensory, hypersensitivity, tendinitis and visual disturbance. She was scheduled to begin occupational therapy for vision therapy. The patient's exam was unchanged when compared to her exam in October 2016. Continued cognitive remediation was advised.

Dr. Rosenberg re-examined the patient on 11/25/16. She discontinued taking Topamax as it worsened her headaches. The headaches had improved. She would experience a mild migraine headache approximately once a week, not requiring medication. The dizziness and visual difficulties had improved. She was undergoing cognitive rehabilitation with improvement. Reading increased fatigue. Physical therapy and injections were discussed and vision therapy was continued.

Dr. George re-examined the patient on 12/8/16. She continued to experience headaches with tendinitis, blurred vision, short-term memory loss and vertigo; neck pain into the shoulder blades, upper extremities and hands and radiating to the posterior occipital regions; low back pain into the lower extremities, including the left greater than right thigh and bilateral shoulder pain. The diagnosis of instability of the sacroiliac joint was added. A left sacroiliac joint injection was recommended and physical therapy was continued. Samples of Voltaren gel were dispensed.

Ms. Petry was evaluated for occupational therapy on 12/13 and 12/29/16.

Dr. Greenwald continued to follow the patient on 1/3/17. She was advised to continue her current treatment. Excedrin migraine was recommended.

Ms. Petry returned to Dr. George on 1/13/17 with improvement of her symptoms. She was advised to continue physical and vision therapy. She had not begun using the Voltaren gel and was advised to use the medication as needed.

A note from Yelena Goldin, Ph. D. dated 10/16/17. Reviewed. The patient's treatment in relation to the motor vehicle accident in April 2015. In May 2017, Dr. Arnold Berman performed an orthopedic independent medical evaluation of the patient and felt the patient's injuries were fully resolved. It was felt, the patient had persistent neurobehavioral symptoms and neuropsychological impairments related cerebral concussion sustained in the motor vehicle accident.

Medical records outside my field of specialty were reviewed. They have not been addressed in this report, as they are outside my field of specialty. However, they are listed in the bibliography.

JOB DESCRIPTION:

Ms. Petry works for Milltown Borough as a recreation/SACC director. She works 35 hours a week. She has been there for 18 ½ years. She has no side jobs. She graduated from high school and attended college.

PAST MEDICAL HISTORY:

No pain medication was taken today. She suffers from asthma and mitral valve prolapse. She has undergone a cholecystectomy in 1991, a rhinoplasty in 1987 and a breast implants insertion in 1999. She has an allergy to Tylenol with codeine, aperipherin and Topomax. She has had a nasal fracture. She has had sprain/strain of the ankle/foot. She has had no other work related injuries. She was involved in a motor vehicle accident in1986/1987 with injury to the nose. She has seen a **chiropractor**, Dr. Pete Belizzi in Milltown, NJ for treatment lower back pain. Her **family doctor** is Dr. James Marmora in East Brunswick, NJ where she has gone for 15 years.

SOCIAL HISTORY:

She does not smoke. She previously participated in aerobics, jogging/running and weight lifting, but continues a walking program. She has difficulty with activities of daily living and also driving. She continues to accomplish taking out the trash, cooking, doing laundry, grocery shopping, cleaning, vacuuming and washing dishes at home with some difficulty.

Julie Petry was examined on November 29, 2017, at the Edison office.

Neurologic Physical Examination

Vital Signs

Ht.___63 inches____ Wt.___149 lb___ Pulse_76____ BP___120/80___

Ms. Petry had combed hair and was well nourished. She had no deformities. Her development was normal.

Auscultation of both carotids was normal.

Orientation

The examinee was oriented to time, place and person.

Memory

The examinee's recent, short-term and remote memory was normal.

Language

The examinee's verbal fluency, comprehension, repetition and naming were normal.

Fund of Knowledge

The examinee's awareness of current events, past history and vocabulary was normal. The claimant had a depressed affect and anxious mood, but in spite of her complaint of memory issues could recall all accident related treatment in great detail.

Cranial Nerves

Cranial nerve I (olfactory) was normal. Funduscopic examination for cranial nerve II (optic) was normal in both eyes and visual fields were intact. Cranial nerves III, IV and VI (oculomotor, trochlear, abducens) were normal. Cranial nerves V (facial sensation and corneal reflexes) and Cranial nerves VIII (hearing) were normal. Cranial nerves IX (glossopharyngeal) and X (vagus) were normal based on the presence of a gag reflex. Cranial nerve XI (accessory) was normal based on a normal shoulder shrug. Cranial nerve XII (hypoglossal) was normal based on a normal tongue protrusion.

Motor Extremities

Manual Muscle Check Upper Extremities:

	Right Side	Left Side
Deltoid	+5	+5
Subscapularis	+5	+5
Supraspinatus	+5	+5
Infraspinatus	+5	+5
Biceps	+5	+5
Triceps	+5	+5
Brachioradialis	+5	+5
Pectoralis	+5	+5
Serratus Anterior	+5	+5
Latissimus	+5	+5
Rhomboids	+5	+5
Extensor Carpi Radialis Longus and Brevis	+5	+5
Extensor Carpi Ulnaris	+5	+5
Flexor Carpi Radialis	+5	+5
Flexor Carpi Ulnaris	+5	+5
Extensor Pollicis Longus	+5	+5
Abductor Pollicis Longus and Extensor Pollicis Brevis	+5	+5
Extensor Digitorum Communis	+5	+5
Flexor Pollicis Longus	+5	+5
Abductor Pollicis Brevis	+5	+5
Adductor Pollicis	+5	+5
First Dorsal Interosseous	+5	+5
Abductor Digiti Minimi	+5	+5
Flexor Digitorum Superficialis II-V	+5	+5
Flexor Digitorum Profundus II-V	+5	+5

British Muscle Testing System +5=Normal, +4=Weak, +3=Able to move the joint against gravity, +2=Able to move joint if gravity eliminated, +1=Trace contraction, 0=No contraction

Manual Muscle Testing Lower Extremities:

	Right Side	Left Side
Psoas	+5	+5
Gluteus	+5	+5
Hip Abductors	+5	+5
Hip Adductors	+5	+5
Quadriceps	+5	+5
Hamstrings	+5	+5
Tibialis Anterior	+5	+5
Tibialis Posterior	+5	+5
Extensor Hallucis Longus	+5	+5
Flexor Hallucis Longus	+5	+5
Flexor Digitorum Longus	+5	+5
Extensor Digitorum Longus	+5	+5
Intrinsic Toe Flexors	+5	+5
Peronei	+5	+5
Gastrocsoleus	+5	+5

British Muscle Testing System +5=Normal, +4=Weak, +3=Able to move the joint against gravity, +2=Able to move joint if gravity eliminated, +1=Trace contraction, 0=No contraction

	Right Upper		Left Upper		Right Lower		Left Lower	
	Normal	Abnormal	Normal	Abnormal	Normal	Abnormal	Normal	Abnormal
Tone	X		X		X		X	
Strength	X		X		X		X	

	None	Abnormal	None	Abnormal	None	Abnormal	None	Abnormal
Abnormal Movements	X		X		X		X	
Atrophy	X		X		X		X	

Gait:

	Yes	No
Normal Based		
	Normal	Abnormal
Tandem Walking	X	
Heel-toe	X	
	Positive	Negative
Romberg		X

Coordination

Coordination testing was normal based on normal finger to nose, heel to shin, rapid alternating movements and fine movement testing.

Lasegue test, Spurling test and Lhermitte's test were negative.

There was tenderness to palpation of the cervical and lumbar spine, but no muscle spasm.

Spinal range of motion was normal

Tinel's sign was negative in the upper and lower extremities bilaterally. Phalen's sign was negative bilaterally.

Static Two Point Discrimination
Right

	Total Digit
Thumb	+5
Index	+5
Middle	+5
Ring	+5
Small	+5

Normal = 5-6 mm; > 6 mm = diminished sensation. This test determines sensory discrimination in the fingertips.

Left

	Total Digit
Thumb	+5
Index	+5
Middle	+5
Ring	+5
Small	+5

Normal = 5-6 mm; > 6 mm = diminished sensation. This test determines sensory discrimination in the fingertips.

	Normal	Abnormal
Stereognosis	X	
Graphestesia	X	

Reflexes:

	Biceps	Triceps	Brachioradialis
Right Side	+2	+2	+2
Left Side	+2	+2	+2

	Knee-Patellar	Ankle-Achilles
Left Side	+2	+2
Right Side	+2	+2

There was achiness and pressure in the scalp and cervical and lumbar spine region.

There was no edema and no skin color changes and no skin temperature changes.

The sweat pattern in the hands, feet and face was normal. The appearance of the nails of the hands and feet was normal. The appearance of the skin of the hands and feet was normal. She did not require the use of any assistive devices for ambulation.

IMPRESSION:

1. Chronic headaches.
2. Myofascial pain syndrome.

OTHER DIAGNOSES:

1. Anxiety and depression.
2. Prior history of degenerative joint disease and chronic lumbar pain.
3. History of gastroesophageal reflux disease.
4. History of chronic headaches.

CONCLUSION:

Ms. Petry was evaluated on 11/29/17 for symptoms she alleges are related to a 4/15/15 motor vehicle accident.

- An MRI report of the lumbosacral spine performed on 8/25/03 revealed mild degenerative disc changes with slight posterior annular bulging at L5-S1.
- On 9/22/03, x-ray report of the lumbar spine was negative.
- On 3/25/09, x-ray report revealed appropriate scapholunate interval increased with grip and lengthening of the ulna.
- A lumbar spine MRI report performed on 6/4/09 revealed a diffuse L5-S1 disc bulge with small right paracentral disc protrusion and possible mild posterior displacement with potential for impingement on the right S1 nerve roots.
- X-ray report of the right elbow performed on 12/14/10 revealed questionable small fracture at the olecranon.
- A right elbow MRI report performed on 12/20/10 revealed moderate tendinopathy in the distal triceps tendon.
- A lumbar spine MRI report performed on 4/16/14 revealed increased facet degeneration at L4-5 causing mild Grade I degenerative spondylolisthesis with increased disc bulging and thickening of ligamentum flavum hypertrophy. There was a new small left foraminal disc protrusion and new mild narrowing of the central spinal canal, left lateral recess and left neural foramen. The previously noted, right paracentral L5-S1 disc protrusion had

decreased in size and the previously noted, mild displacement of the right S1 nerve roots had resolved.

- On 4/15/15, x-ray report of the left hip was negative. CT scan report of the thorax was negative.
- A MRI report of the brain performed on 5/12/15 revealed multiple small foci of FLAIR signal involving the supratentorial white matter, nonspecific the differential considerations, including relatively premature mild microvascular ischemic changes, sequelae of prior infectious/inflammatory process and demyelinating disease. Given the history of headaches. The findings may partly represent migraine related changes.
- A cervical spine MRI report performed on 5/13/15 revealed mild broad-based C5-6 disc herniations, causing diminution of the anterior subarachnoid space, narrowing of the lateral recess and bilateral foraminal stenosis. There was a mild left-sided C4-5 disc bulge causing diminution of the left anterior subarachnoid space. There were small focal bilateral C3-4 disc herniations, causing narrowing of the lateral recess and mild bilateral foraminal stenosis.
- A VNG report performed on 5/14/15 was suggestive of left-sided vestibular system dysfunction and evidence of central nervous system dysfunction manifested by saccade abnormalities. Due to the suggestion of central nervous system involvement and the differences/mismatch between positional and caloric testing further clinical evaluation may be necessary to determine a specific pathology. Targeted balance rehabilitation and a repeat VNG were recommended.
- A lumbar spine MRI report performed on 8/4/15 revealed Grade I spondylolisthesis of L4 on 5 resulting in pseudo-bulge with facet hypertrophy contributing to left greater than right neural foraminal stenosis. There was a L5-S1 disc herniation indenting the anterior epidural space.
- A MRA report of the neck performed on 12/3/15 revealed development of fully small right vertebral artery, terminating in the right posterior inferior cerebellar artery without acute dissection present.

I question the presence of a causal relationship between a relatively minor accident, which did not result in airbag deployment or a documented history of concussion (defined as acute impairment in brain function due to trauma), according to this claimant initial records of care.

The claimant's emergency room records in fact only documented the presence of muscle strain and chest contusion and specifically stated that the claimant denied head trauma, loss of consciousness, or mood issues at the time of the accident in question

Obviously, the claimant has produced a significant number of subjective complaints following the accident in question, the nature of which is most likely not related to any documented organic issues and may be the consequence of psychological and psychiatric difficulties further commenting on which is beyond the scope of my specialty.

From a neurological standpoint, there is no evidence of any structural or posttraumatic central nervous system pathology in this claimant's neuro-radiological studies and it is my opinion that there are no permanent neurological issues with this case.

The above opinions are given within a reasonable degree of medical probability.

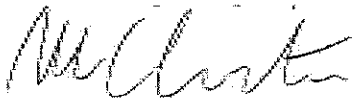
All history was obtained from the examinee and from many medical records made available for my review. All complaints expressed by the examinee as they relate to the above-noted history were documented. The neurological examination was complete and accurate relating to the above-noted incident. At the conclusion of the examination, the examinee left in the same condition as that noted upon arrival. No dissatisfaction was voiced.

I declare that the information contained within this document was prepared and is the work product of the undersigned and is true to the best of my knowledge and information.

As is customary, I am being paid for my time examining the examinee and reviewing the medical records provided to me in preparation of this report, as well as for any future services, which may be required such as review of additional records and/or future legal services referable to the above case.

The examinee's ID was requested and if available was checked prior to the examination. I did not engage in any doctor-patient relationship with the examinee, and the examinee is aware of this fact.

If I can be of further assistance to you regarding this matter, please feel free to contact me.



Maria Chiara Carta, M.D.
MCC:cmm/et/bd/lvm/kf

IN PREPARATION FOR THIS REPORT, THE FOLLOWING RECORDS WERE REVIEWED:

1. MRI report of the lumbosacral spine from Roseland Medical Imaging dated 8/25/03.
2. Notes from Dr. David Lamb dated 9/22/03, 9/16/13 and 4/25/14.
3. Notes from John Smith, DPM dated 2/13/08 and 3/5/08.
4. Note from Dr. Marc Lamb dated 3/25/09.
5. MRI reports of the lumbar spine, right elbow, brain and cervical spine from University Radiology dated 6/4/09, 12/20/10, 4/16/14, 5/12/15 and 5/13/15.
6. Notes from Dr. Jeffrey Miller dated 6/17/09, 7/15/09, 8/19/09, 2/16/11, 4/19/11, 6/3/15, 7/16/15, 8/24/15, 10/5/15, 11/16/15, 12/30/15 and 7/25/16.
7. Notes from Lifespan Therapy and Sports Rehab dated 6/30/09 and 7/14/09.
8. Notes from Dr. Arik Mizrachi dated 11/30/10 and 12/20/10.
9. X-ray reports of the right elbow from Princeton Radiology dated 11/30/10 and 12/14/10.
10. Notes from Jersey Physical Therapy of Milltown/East Brunswick dated 3/2/11 and 12/9/13.
11. X-ray reports of the chest from Robert Wood Johnson University Hospital dated 8/14/12, 8/1/13 and 8/31/14.
12. Note from Luke Ryan, PA-C, dated 4/8/14.
13. Notes from Plastic Surgery Arts of NJ dated 4/28/14 and 12/14/15.
14. Records from Robert Wood Johnson University Hospital dated 4/15/15.
15. Notes from Dr. Patrick Gainey dated 4/23/15, 5/14/15, 6/2/15, 6/30/15, 8/11/15, 9/22/15, 10/29/15, 11/18/15, 1/4/16 and 3/7/16.
16. Videonystagmography report dated 5/14/15.
17. Notes from Endurance Rehabilitation and Wellness Center dated 6/16/15 to 8/13/15; 8/26/15, 9/9/15 to 9/23/15; 10/2/15 to 11/11/15 and 12/23/15.
18. MRI report of the lumbar spine from East Brunswick Open Upright MRI dated 8/4/15.
19. Vestibular rehabilitation notes from JFK Johnson Rehabilitation Institute dated 8/22/15 to 11/17/15 and 12/8/15 to 3/29/16.
20. Notes from Yelena Goldin, Ph. D. dated 9/2/15, 10/5/16 an 10/16/17.
21. Psychological counseling notes dated 11/3/15 to 10/26/16; 12/15/16, 12/20/16, 1/9/17, 1/30/17 and 9/18/17.
22. Notes from Dr. Brian Greenwald dated 12/1/15, 1/5/16, 4/19/16, 6/21/16, 8/30/16 and 11/1/16.
23. MRA report of the neck from University Radiology dated 12/3/15.
24. Audiology testing reports dated 2/3/16 and 2/4/16.
25. Notes from Dr. Michael Rosenberg dated 9/26/16 and 11/25/16.
26. Notes from University Pain Medicine Center/Dr. Didier Demesmin/Dr. Tony George dated 10/12/16, 10/18/16, 11/7/16, 12/8/16 and 1/13/17.
27. Notes from Kessler Rehabilitation Center dated 11/14/16 to 3/27/17.
28. Note from Tasha Mott, Ph. D. dated 11/15/16.
29. Neuropsychological progress notes dated 11/22/16 to 2/28/17.
30. Occupational therapy notes from JFK Johnson Rehabilitation Institute dated 12/13/16 to 2/21/17.
31. Notes from Dr. Charles Heightstein dated 7/5/17, 7/21/17 and 8/7/17.

CURRICULUM VITAE
Of
MARIA CHIARA CARTA, M.D.

Personal Data:
Place of Birth: Merano, Italy
Citizenship: U.S.A

Foreign Languages:
Italian (Fluent)
English (Fluent)
Spanish (Good understanding of the language)
German (Advanced courses of German completed at the Os Saltzburg, Austria 1974 and 1979)

ECFMG Certification:
ECFMG examination taken and passed in Florence, Italy-July 1981

Licenses:
Licensure examination taken and passed in Florence, Italy –July 1981
Flex examination taken and passed -1983
New Jersey License #5237200

Certifications:
Diplomate of the American Board of Psychiatry and Neurology
- November 1987

Education:
Pre-Med 1969-1974
Classic Lyceum. Final Diploma of Classic Maturity with Honors.
Liceo Classico G. Carducci, Via delle Corse, Merano, Italy, 1972-1973.
One year as AFS foreign exchange student at West High School, Knoxville, Tennesse. NHS Membership and final high school diploma.

Medical School 1974-1980
University of Padua, affiliates Medical College of Verona, University Hospitals of Borgo Trento, Verona, Italy

One year clerkship in the Neurology Department of the Hospital of Borgo Roma, Verona, Italy under Professor H. Terzian, 1978-1979

Final Diploma of Doctor of Medicine and Surgery obtained Summa cum Laude – July 25, 1980. Based on graduation thesis: "Metabolic Complications of Head Trauma"

State examination for permanent license to practice medicine in Italy taken and passed – November 1980

Foreign Externship during Medical School – General Surgery elective at Recfhtsder Isar Uniiversity Hospital, Munich, West German – December 1980-January 1981

Post Graduate Training:
Six months of Cardiology at the Ospedale Generale Regionale, Bolzano, Italy. Rotation through the CCU, wards and special labs
January – June 1981

Straight Internal Medicine PGY I Internship completed at Einstein Medical Center, Southern Division, Philadephia, PA– July 1982-June1973

Neurology Residency PGY II through PGY IV at Temple University Hospital, Philadelphia, PA – July 1983-June 1986

Epilepsy Foundation Fellow at Thomas Jefferson University Hospital Philadelphia, PA under the supervision of Dr. Ruggero Fariello. Title of research project: "GABA Peptides: Endogenous Anti-Convulsant Compounds." – July 1986-June 1987

Research Associate in Neuroimmunology and Instructor in Neurology at Temple University Hospital, Philadelphia, PA, Chairman, Jeffrey Greenstein, M.D. – September 1987-September 1988

Dean's appointment as Research Instructor in Neurology at Temple University Hospital, Philadelphia, PA – January 1988

Neurological Regional Associates, Associate Physician – October 1988-July 2006

Laurel Evaluations, Part-time Associate – March 2006-Present

Solo Practice "Maria Chiara Carta, M.D., P.A."- Integrative Neurological Care, Hammonton, New Jersey –August 2006-Present

Memberships:

American Academy of Neurology
American Medical Association
Italian Medical Association
American Medical Women Association
Atlantic County Medical Society of New Jersey
State of New Jersey Medical Society
Yoga Research Society of Philadelphia

Abstracts:

M.C. MANGIONE, T.N. FERRARO, D.S. GARANT, G.T. GOLDEN, R.G. FARIELLO, T.A. HARE: **"GABA Peptides in Rat Brain."** Distribution and regional responses to gamma vinyl GABA (Soc Neurosc Abstr) accepted

M.C. MANGIONE, T.N. FERRARO, D.S. GARANT, G.T. GOLDEN, R.G. FARIELLO, T.A. HARE: **"Regional Increase of Free and Conjugated GABA in Rat Brain after Chemical Stimulation Epilepsia."** 28,5,87 pp 583

D.S. GARANT, M.C. MANGIONE, L.O. SIMPSON, G.T. GOLDEN, R.G. FARIELLO: **"Intra-Amygdaloid Tetanus Toxin in Cats: A Model of Limbic Epilepsy."** (Soc Neurosc Abstr) accepted

D.S. GARANT, M.C. MANGIONE, L.O. SIMPSON, G.T. GOLDEN, R.G. FARIELLO: **"Involvement of the Claustrum is a Focal Model of Epilepsy."** Epilepsy 28,5,1987 pp594-595

(Dr. Carta's marriage name was Mangione)

Publications: M.C. MANGIONE,T.N. FERRARO, G.T. GOLDEN, T.A. HARE AND R.G. FARIELLO: **"GABA Peptides, Endogenous Anti-Convulsant Compounds?"** AAN Abstracts, 1988

Conferences: **"Potential Role of GABA Peptides in Medicating Anti Convulsant Action in Rat Brain after GVG Administration"** Burroughs-Welcome Headquarters, Durham, North Carolina – May 19, 1987

Clinical Trials:

Phase III
1. Calcium Channel Blockers in Stroke Trial, Temple University Hospital, Philadelphia, PA -1985-1986

Phase III
2. MK 801 Antiepileptic Drug Trial, Thomas Jefferson University Hospital, Philadelphia, PA -1986-1987

Phase III
3. Lamotrigine Antiepileptic Drug, Trial, Thomas Jefferson University Hospital, Philadelphia, PA- 1987

Phase III
4. Betaseron Trial, Temple University Hospital, Philadelphia, PA -1987-1988

Phase III
5. Anti-Migraine and Dementia Agents at Neurological Regional Associates -1990
6. Post-Marketing surveillance studies for Imitrex and Maxalt at Neurological Regional Associates -1990's to present

Committees: Bioethics Committee Burlington County Memorial Hospital -1990-1995
Bioethics Committee Virtua Health System, Marlton Division -2003-2005

Teaching Appointments: Teaching attending, John F. Kennedy Hospital System, Cherry Hill Division, Cherry Hill, New Jersey -1988-2001

Book Reviews: "Life, Death and the Changin Brain" The Death of Enoch Wallace by Ira Black, M.D., NJ Journal of Medicine – July 2002

"Ethical Issues of Neurology" by Dr. James Bernat, NJ Journal of Medicine in print – November 2003

Affiliations: Penn Neuro Care System, Department of Neurology, University of Pennsylvania, Philadelphia, Pennsylvania

EXHIBIT B

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION - MIDDLESEX COUNTY

DOCKET NO. MID-L-1881-17

JULIE F. PETRY and DAVE C. PETRY, her husbands, Plaintiff, vs. WILKIN AND GUTTENPLAN and/or ABC CORP #1-10 (representing unknown companies or entities responsible for the accident in question), Defendants.	VIDEOTAPE DEPOSITION OF: MARIA CHIARA CARTA, M.D.

THURSDAY, APRIL 19, 2018

HAMMONTON, NEW JERSEY

1:54 p.m.

REPORTING SERVICES ARRANGED THROUGH
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LITIGATION SERVICES, LLC
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Phone: 1-973-359-8444 Fax: 1-973-359-1049

BEFORE:

JACQUELINE A. GEARY, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, at the offices of Integrative Neurological Care, 663 South White Horse Pike, Hammonton, New Jersey, on Thursday, April 19, 2018, commencing at 1:54 p.m., pursuant to Notice.

APPEARANCES:

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BY: WILLIAM E. PAULUS, ESQ.
For Defendant, Wilkin and Guttenplan

ALSO PRESENT:

JOSHUA GROSSMAN, VIDEOGRAPHER

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EXHIBITS

(EXHIBITS RETAINED BY COUNSEL)

(Fee Schedule received and marked for identification as Deposition Exhibit P-8, retained by counsel)

(Welcome to ExamWorks Form received and marked for identification as Deposition Exhibit P-9, retained by counsel)

(ExamWorks Registration Form marked for identification as Deposition Exhibit P-10, retained by counsel)

MR. ROTHENBERG: So clearly, in this case, Dr. Carta's report recites the opinions of non-treating -- I'm sorry, non-testifying individuals who have provided opinions. Concerning the present case of -- present case law, it would be inappropriate for Dr. Carta to refer to those opinions, specifically, for example, the MRI reports, what they contain, and providing that as a basis for her opinion, discussing the contents thereof. Since she never saw the reports and can't verify the veracity, they are hearsay. They were

never named as any experts by the defense. And so to the extent that, even if -- I've gotten a subpoena with respect to Dr. Visani, V-I-S-A-N-I, perhaps, even if he were to testify, he could not give an opinion as to what is in his MRI report because he was never named as an expert. Consequently, his interpretation of the MRI is it would still be inappropriate.

So to the extent that defense counsel intends to conditionally rely upon that, I will object. And to the extent that it pollutes the transcript, if it becomes so inextricably intertwined, I will suggest that that would be defense counsel's problem, not mine. So that as the Pandora's box is opened, it becomes part and parcel of the examination and I'm not going to waive any rights to have it stricken or have her entire testimony stricken on the basis of relying upon something which is inadmissible and in order for her to articulate an opinion. For example, for her to articulate an opinion concerning what's in the MRI of the brain, she would have had to have reviewed that and so she can't formulate an opinion on that basis.

And so I think that's particularly

problematic. I think defense counsel certainly has to be aware of that and I'm placing my objection on the record before we start.

MR. PAULUS: Thank you, counselor. Your objection is duly noted. However, I plan to protest on a case-by-case basis, as it were, in terms of whether there is a violation of the James, Ruiz opinion, so we'll go forward.

MR. ROTHENBERG: Well, I would look even further to the Hayes case, which says that, very clearly, you can't back-door inadmissible hearsay by virtue of an expert. So Hayes is a Supreme Court case, which my partner, Ms. Gozsa, was recently involved in, which further expounded upon the concepts and principles set forth in Hayes.

And to that extent, you know, you shall do as you shall do, but you know, I put it on the record. And to the extent that I have to spend time, money, and energy on that issue, I will seek to be reimbursed to the extent that there is any clear violation of the precautions.

MR. PAULUS: Again, counselor, your objection is on the record and we'll take it on a case-by-case basis.

MR. ROTHENBERG: In addition, I was sent --

when we took Dr. Carta's deposition February 8, 2018, at that time, we were in discovery, discovery was still open, and she was produced as a request that we had made long before and it had to actually be rescheduled. I think it may have actually been taken after the close of discovery simply because Dr. Carta's -- she had not been produced in a timely fashion, and by agreement, she was produced after the discovery end date. At that time, we asked for certain things, including her invoices, which we still have not received despite the fact that the court rules say that we're entitled to them and they should be produced with an expert report. And while oftentimes they're not, I made a request.

Second of all, at the deposition, Dr. Carta was asked to produce any studies she relied upon with respect to specific testimony concerning how head injuries occur and the forces involved in head injuries. We sent a letter -- her deposition was scheduled the following -- I think within two weeks, for trial testimony, and that deposition was unexpectedly adjourned for no reason whatsoever, the trial testimony. At that time, we had a trial date. So this deposition gets rescheduled. I was told -- actually, I was told the

reason why she was rescheduled was because she was going to appear live. Despite that representation, she was not produced live and she is now being taken in her office again, now two months hence plus.

During the deposition, I asked for certain studies. I was told that they would be supplied. Defense counsel said they would be supplied. When this was scheduled in March, I wrote a letter saying that I would not go forward unless the studies were provided at least a week ahead of time. I then wrote two weeks before this deposition saying that we still hadn't received the studies and I would not proceed unless they were produced a week ahead of time.

I received the studies by FAX yesterday, sixty-three pages of additional information, which I did not have, despite the fact that a representation would be made that they would be supplied. According to defense counsel, this was printed up last night. So apparently, despite a long time request and a representation that defense counsel -- or the witness was aware of certain studies, I didn't get a study. One is a book chapter. Another is something from the National Brain Injury Association, which is not adopted by

them. It is not a chapter. It's not a study. And we'll, I'm sure, have some time to discuss that.

But in any case, the sixty-three pages that was supplied, I object to insomuch as it was provided in an untimely fashion. Rather than adjourn this and further adjourn the trial date, I'm going forward, but I reserve my right to recall Dr. Carta if I am able to find -- I haven't had a chance to, obviously, do any research. The book that apparently this chapter is taken from she printed off on-line. In the short -- this was FAXed at one-fifty yesterday, so in the twenty-four hours that have passed, I have not had a chance to actually obtain the book myself, read the book, and be able to review it in an appropriate fashion. This is quite unfair to have a study that is produced essentially at trial. And this is like showing up at the courthouse steps with a study or book chapter for the first time. That's not appropriate.

Same thing with the article from the International Brain Injury Association website, whoever they are. So I place that objection on the record as well.

MR. PAULUS: Duly noted.

MR. ROTHENBERG: Will you be referring to the report -- I mean, to these studies?

MR. PAULUS: I don't know. We'll find out.

MR. ROTHENBERG: Okay.

MR. PAULUS: It depends -- you know, entirely up to you in terms of what your cross-examination is going to be. If you're asking whether I'm going to be referring to these reports in my direct examination of my expert, the answer is no. Is that a satisfactory answer, Adam?

MR. ROTHENBERG: Mr. Paulus, it is as good as I could possibly hope in this scenario we're sitting in.

MR. PAULUS: I don't know what that means, but let's proceed.

MR. ROTHENBERG: That means what else could I expect you to say.

MR. PAULUS: Fair enough, Adam. Are we ready?

MR. ROTHENBERG: It was a polite, respectful response. Yeah.

THE VIDEOGRAPHER: We are now on the record. This begins videotape number one in the deposition of Maria Chiara Carta, M.D. in the matter of Petry versus Wilkin, et al., in the Superior Court of New Jersey, Law Division, Middlesex County, Docket Number MID-L-1881-17.

Today is Thursday, April 19, 2018, and the time is two-o-five p.m. This deposition is being taken at 663 South White Horse Pike, Hammonton, New Jersey. The videographer is Joshua Grossman of Sentry Court Reporting and the Court Reporter is Jackie Geary of Sentry Court Reporting.

Will counsel and all parties present state their appearance and whom they represent.

MR. ROTHENBERG: Good afternoon. This is Adam L. Rothenberg of the firm Levinson Axelrod on behalf of Julie and David Petry.

MR. PAULUS: Good afternoon. William E. Paulus from the Law Firm of Gerard M. Green on behalf of the defendant, Wilkin and Guttenplan.

THE VIDEOGRAPHER: Will the Court Reporter please swear in the witness.

MARIA CHIARA CARTA, M.D., 663 South White Horse Pike, Hammonton, New Jersey, sworn.

VOIR DIRE

BY MR. PAULUS:

Q. Good afternoon, Dr. Carta.

A. Good afternoon.

Q. We are in your office in Hammonton for your videotaped deposition for trial. We thank you for agreeing to do this here today. Would you kindly give the jury the benefit of your educational background?

A. Yes. So I am a board-certified neurologist. I went to medical school at University of Padua in Italy. I graduated medical school with an M.D. Degree in 1980. Came to the United States for all my post-graduate training. I did one year of internal medicine at Albert Einstein Medical Center, a three-year neurology residency at Temple University Hospital, a one-year neurophysiology fellowship at Thomas Jefferson University Hospital. And then, '87, '88, I went back to Temple to teach residents and medical students.

In the end of 1988, I joined a private practice group in Burlington County, Maple Shade, New Jersey. And then, in 2006, I opened my own solo neurology practice here in Hammonton.

Q. Doctor, are you licensed to practice medicine in any state?

A. Yes, I'm licensed to practice medicine

in New Jersey since 1988.
Q. Any other states?
A. I have inactive licenses in Pennsylvania, that's when I was a resident, so -- and then I have an inactive license in Illinois, which I had obtained because I was originally going to transfer to Chicago and then that didn't happen.
Q. And do you practice in any particular specialty, medical specialty?
A. Yes, I am -- I practice general neurology.
Q. What is the -- what is neurology, for the jury's sake?
A. Neurology is a subspecialty of internal medicine. And neurologists see all diseases of the brain and the spinal cord, nerves and muscles. So seizures, strokes, MS, brain injuries, tumors. Many reasons. Neck root disorders, back root disorders, myasthenia, et cetera. So a long list.
Q. Do you treat patients with -- in this case -- strike that, Doctor.
In this case, the plaintiff, Ms. Petry, is alleging that she sustained a mild traumatic brain injury as a result of a motor

vehicle accident. Have you -- do you or have you treated any patients with brain injuries?
A. Yes, all the time.
Q. How many have you seen in the last year, for example?
A. Well, on average, I see two or three a week, a lot of adolescents from sports concussions, a lot of elderly with falls, and all kinds of people who fall and/or have concussions.
Q. Now, you're serving here as an expert on behalf of the defendant, my client, Wilkin and Guttenplan. How much of your practice is devoted to actually seeing patients versus doing forensic reports like you're doing here for us today?
A. I mostly see patients. About ninety percent of my practice consists of direct general patient neurology care, about ten percent consists of forensic reports.
Q. And of those ten percent, what kind of forensic reports do you perform?
A. You mean defense versus --
Q. Yes, defense versus plaintiff.
A. I mostly perform defense reports.
Q. Have you ever performed any forensic reports for a plaintiff?

A. Occasionally, if it's my own patient.
Q. Are you a board-certified neurologist, Doctor?
A. Yes.
Q. What does it mean to be a board-certified neurologist?
A. The American Board of Psychology and Neurology is a national organization that sets an examination at the end of your training, which consisted, when I took it, of a multiple choice one-day testing and followed several months later by an oral examination. So you have to go through the test and pass the test in order to become board-certified. Maybe similar to like a bar for attorneys, I would say.
Q. And how long have you been board-certified?
A. Since 1987.
Q. Doctor, are you affiliated, currently affiliated with any hospitals?
A. I'm affiliated with JFK and AtlantiCare as a visiting physician.
Q. What does that mean, to be a visiting physician?
A. It means that I do not admit to the

hospital, but I have access to records and I can see my patients, visit my patients if they're there and have access to the records.
Q. Have you ever had admitting privileges to a hospital?
A. Yes.
Q. When was that and where?
A. I was attending neurologist in the Virtua, JFK System, and Hammonton Hospital and Southern Ocean County Hospital from 1988 to, I would say, 2005 -- 2004, 2005. So I had visiting – I had consulting and admitting privileges at those hospitals.
Q. Have you published any papers or, yeah, papers on any particular field of neurology?
A. I published some abstracts during my fellowship and then I published some book reviews. They were – the abstracts were pertaining to animal neurochemistry research in epilepsy.
Q. And what is an abstract?
A. An abstract is something that you present at the national meeting or a specialty meeting.
Q. And have you given any presentations in the field of neurology?

A. I give presentations -- I've given presentations to colleagues and general audiences all through my career. They're generally -- they're slide presentations. They're generally informal, so I don't list them in my CV.

Q. How many patients do you treat a year, Doctor?

A. Well, I treat, let's see, maybe eighty, a hundred patients a week, so multiply that for the weeks of the year, so --

Q. And of those patients, what are some of the conditions that they -- are you treating them for on a daily --

A. I treat them for everything, migraines, seizures, strokes, muscular radiculopathies, neuropathies, diseases of the nerves, myasthenia, myopathies, which are diseases of the muscles, multiple sclerosis, concussions, et cetera.

Q. Doctor, you are being reimbursed for your -- and compensated for your time today, are you not?

A. Yes.

Q. And I'm correct, this is not the first time you've given videotaped deposition for trial?

A. That's correct.

MR. PAULUS: At this point, I would offer Dr. Maria Carta as an expert in the field of neurology.

BY MR. ROTHENBERG:

Q. I have some questions, Doctor. Doctor, is it fair to say you're not an orthopedist?

A. That is correct.

Q. And in this case, you're not going to be giving any orthopedic opinions?

A. That is correct.

Q. Now, you do treat neck and back injuries as part of your practice, correct?

A. If they have any neurological consequences, yes.

Q. You treat people with herniated disks with neurologic problems, correct?

A. I would only treat people with herniated disks if they have any nerve root or spinal cord diseases as a result of it.

Q. And in this case, you're not giving any opinions concerning the neck or back, correct?

A. Correct.

Q. You're not a psychologist?

A. Correct.

Q. You're not a psychiatrist?

A. Correct.

Q. And you're not going to be giving any opinions concerning the psychological condition of Ms. Petry, is that correct?

A. That's correct.

Q. You're not a neuropsychologist?

A. That's correct.

Q. And in this case, you're not going to be commenting upon any neuropsychological testing, is that correct?

A. Not unless you ask me.

Q. Well, you didn't give any opinions concerning any neuropsychological testing, correct?

A. That's correct.

Q. Now, neuropsychologists are something that you send your patients to on occasion, correct?

A. That's correct.

Q. And you rely upon them in treating your own patients, correct?

A. That's correct.

Q. And you rely upon them in treating your patients who have head injuries, is that correct?

A. That's correct.

Q. But in this case, you're not going to be offering and have not offered any opinions concerning the neuropsychiatric testing, is that correct?

A. That's correct.

Q. Now, you're not going to be giving any opinions concerning post-traumatic stress disorder?

A. That's correct.

Q. You're not a biomechanist?

A. No, I'm not.

Q. You're not a biomechanical engineer?

A. No, I'm not.

Q. You have no board certifications in brain injuries, correct?

A. I'm sorry?

Q. You have no board certifications in brain injuries?

A. That's correct.

Q. You've worked with head injuries in your residency and that's the only special training you ever had in head injuries, is that correct?

A. That's correct. I also wrote a graduate thesis about head injuries.

Q. Did you list that?

A. Yes.

Q. What's it listed as?
A. It's listed as a -- metabolic complication of head trauma.
Q. Where is that located?
A. It's in the first page.
Q. Metabolic changes of head trauma, that's, what, increase in heart rate, increase in what? What are the metabolic --
A. Partial oxygen, blood pressure, partial carbon monoxide pressure, neurochemical changes, respiratory function, everything concerning the alteration of body functions as a result of brain injuries.
Q. Do you get increased heart rate with head injuries?
A. Sometimes.
Q. Doctor, since that time in 1980, that was your last work in, specifically, in training, in head injuries, isn't that correct?
A. Yes.
Q. So it's been twenty-eight years, is that right, twenty-eight -- thirty-eight years since you were specifically involved in any specialty training with respect to head injuries, correct?
A. That's correct.

Q. And so for the thirty-eight years since, you've been involved in other aspects, more specifically, such as seizures, right?
A. Well, as I said before, I've seen seizures, strokes, and brain injuries two, three times a week, yes.
Q. Now, you've never been a medical director of a center for brain injuries, correct?
A. Correct.
Q. You reviewed the records of Dr. Greenwald, who is a medical director of a center for head injuries, correct?
A. That's correct.
Q. And you relied upon his records in formulating your opinions, is that correct?
A. That's correct.
Q. You reviewed the records of Dr. Golden, who is a specialist in head injuries, a neuropsychologist, right?
A. That's correct.
Q. And you relied upon her records, is that correct?
A. That's correct.
Q. And only five to six percent of your practice is actually dealing with head injuries,

isn't that correct?
A. That -- yeah, that would be correct.
Q. We took your deposition. I'm taking it straight from your deposition.
A. Okay.
Q. And of the practice, only five -- five or six percent of your practice has involved permanent mild traumatic brain injuries, isn't that correct?
A. That's correct.
Q. You indicated that you are presently affiliated with JFK?
A. JFK, Washington Township, yes.
Q. Is that JFK that's part of JFK in Edison?
A. No, no.
Q. Different JFK entirely?
A. That's the JFK -- I think now they call it Rowan University -- no, no. Actually, I stand corrected. It's now part of the Jefferson Health System.
Q. It's part of what, the Philadelphia hospital, the Jefferson --
A. Jefferson Health System merged with JFK, yes.

Q. The report that you wrote in this case was for a company called ExamWorks, right?
A. Yes.
Q. And you've been writing reports for them for, what, about thirteen years?
A. Yes, that sounds right.
Q. And you had indicated that you don't have a -- you don't have a contract with that company, is that right?
A. No -- not that I can find.
Q. Now, when your -- when Ms. Petry would come here, she would have to fill out a form concerning her history, is that correct?
A. Yes.
Q. And I have that form, which you have in front of you, it's the ExamWorks registration form, which I've marked as Plaintiffs' Exhibit 10 for identification.
A. Okay.
Q. Do you have that?
A. Yes.
Q. And you have such a strong relation -- strike that.
The company, ExamWorks, specializes in setting up defense examinations, isn't that correct?

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A. That's correct.
Q. And your relationship with them is, you're so affiliated with them that you're actually one of the doctors who is listed on their special registration form, isn't that correct?
A. Yes.
Q. Page one?
A. That's correct.
Q. So that you're one of the number of doctors that they choose to always send patients to and at a variety of different locations?
A. Yes.
Q. And in fact, you actually, even though we all drove down here to Mount Laurel for this deposition, the videotape --
A. You mean Hammonton?
Q. I'm sorry, Hammonton, we're in Hammonton. My mistake.
You originally thought that the examination you did for Ms. Petry was in the Mount Laurel office. Do you remember that during your deposition?
A. Yes.
Q. You reviewed your deposition before we started today?

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A. Yes.
Q. You've seen that, correct?
A. Yes.
Q. So -- but in fact, that was incorrect. You actually did the examination, according to the form, in Edison, right?
A. That's right.
Q. So you drove an hour and a half up to Edison from Hammonton to do an examination of Ms. Petry, correct?
A. That's incorrect.
Q. That is incorrect, you didn't drive up?
A. No, I drove from Mount Laurel to Edison, so that takes about an hour.
Q. Well, is Mount Laurel --
A. I think --
Q. Mount Laurel is closer than Hammonton --
A. Mount Laurel is much closer to Edison than Hammonton.
Q. So you drove an hour each way along with your nurse, Dottie. You took Dottie with you?
A. Dottie and I generally meet at the office.

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Q. So you and -- so Dottie, someone from your office, went all the way to Edison and you went all the way to Edison just to examine Ms. Petry for ExamWorks, right?
A. Yes.
Q. Now, you don't know how much -- how much ExamWorks paid you last year, do you?
A. I'm sorry?
Q. How much did ExamWorks pay you last year for all the work that you had done for them?
A. I don't know. That goes to the accountant.
Q. But even though you don't know how much they paid you, you do know it's ten percent of your income?
A. Yes, I would say so.
Q. You don't know how much it is, but it's ten percent?
A. Well --
Q. Does that make sense?
A. -- it's approximately ten percent.
Q. And most of your medical/legal work is actually done through this company?
A. That's correct.
Q. And you'll admit that they're at least

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ten percent of your income, right?
A. Yes.
Q. And you send -- you dictate the report, you send it to them, and they make corrections, they type it up, right?
A. No, they don't make corrections. They send back to me my dictation and I do the corrections.
Q. Well -- all right. So if they -- you made handwritten notes during the course of your review of Ms. -- when you spoke to Ms. Petry in person, right?
A. Yes.
Q. And you actually wrote down your diagnoses and your opinions, you sort of jotted them down on that handwritten piece of paper, right?
A. Yes.
Q. And so those were those -- the ones that you made at the time, right?
A. Yes.
Q. And do you have those handwritten notes in front of you?
A. Yes.
Q. Let me see if I can find my copy. Give me just a moment. Here we go. So one of

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the -- if we go to page two, for example --
A. Yes.
Q. -- and you said that they don't change anything. You make -- these are your opinions in your report, right?
A. This is my handwritten notes that I take while I see the patient. My opinions are in the typed report. Because after I handwrite this, I dictate a report and -- you know, which is, you know, much more comprehensive. This are just notes I jot down when I talk to the patient.
Q. On page three -- or two of your handwritten notes, it says A, slash, P. What is that?
A. Assessment, plan.
Q. And your opinion in this case, which we'll get to in length, but for this purpose, you have A/P and then it says other, right?
A. That's correct.
Q. And those are your other diagnoses, right?
A. That's correct.
Q. And in that, you diagnose a prior neck problem, correct?
A. Yes.

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Q. But that's not in your official report, is it?
A. It is in my official report. If you look at the summary of records --
Q. I'm looking at the opinions.
A. -- on page --
No, it's not in my opinions, but it is in the summary of records.
Q. There's a summary of records. Is there somewhere in the records where there's a prior neck problem anywhere?
A. Yes.
Q. Where?
A. Okay, so we're going back to -- okay, so -- okay, so I stand corrected. There is a prior lumbar spine problem and elbow and wrist.
Q. But in your notes, even though there is no record whatsoever from any provider at any time, you wrote prior neck problem even though there never was, right?
A. I wrote prior neck and back pain, actually.
Q. But, Doctor, I'm asking about the neck, so let's just focus on what I've asked you about. You understand what I've asked you, right?

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A. That's correct.
Q. Did you write prior neck?
A. Yes.
Q. And she never had any prior neck in any record at any time from any history from anywhere in the world that you're aware of?
A. Well, I don't really know that because I never received the records from her primary care physician.
Q. Did you ask Mr. --
A. It looks --
Q. Did you ask Mr. Paulus for those records?
A. No.
Q. Who provided you the records?
A. ExamWorks.
Q. And ExamWorks was hired by Mr. Paulus' firm in order to employ you, correct? Is that correct?
A. Yes, that's correct.
Q. And you never asked for those records, correct?
A. That's correct.
Q. And if they had something about a prior condition, you'd expect you would have been

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provided them, correct?
A. I would expect I would have been provided, yes.
Q. And you're not saying now that there's something in those records which indicates there's a prior neck problem, are you?
A. I don't know one way or the other, so I cannot comment on that.
Q. That's what I'm asking you. Are you claiming there is?
A. No, I'm not claiming. I said -- I just said I don't know one way or the other.
Q. But, Doctor, let's talk about, then, where it says prior neck. You had no basis for writing prior neck, correct?
A. That's -- well, it appears that that's inaccurate, yes.
Q. So then you send your notes -- you always send your notes to ExamWorks, right?
A. Yes.
Q. And somehow or another, in your final report, it doesn't say a prior neck under your diagnoses. Under other diagnoses, it doesn't have prior neck, does it?
A. That's correct.

Q. Thank you.
A. So I caught myself.
Q. Well, first, you made it up and then you caught yourself.
MR. PAULUS: Objection.
THE WITNESS: No.
MR. PAULUS: Argumentative.
THE WITNESS: Obviously --
BY MR. ROTHENBERG:
Q. Was it true when you wrote it the first time?
A. Obviously, when I reviewed everything before I dictated the report, I caught myself and corrected the inaccuracy.
Q. Why would you write prior neck if there was no history of prior neck?
A. I cannot --
MR. PAULUS: Objection, asked and answered. You can answer it, though.
BY MR. ROTHENBERG:
Q. Go ahead.
A. It appears that I wrote it, but again, I caught myself and corrected the inaccuracy.
Q. Are you sure that ExamWorks didn't correct it?

A. ExamWorks never corrects anything. I correct all the reports.
Q. The report doesn't have your address on it, right? It has a Roseland address, right?
A. That's correct.
Q. It has the name ExamWorks on the top?
A. That's correct.
Q. You send the report -- you send a dictation to them and they're the ones who type it up and then send it back to you, is that correct?
A. They type up my dictation and they send back to me and then I edit all the typos and, you know, and my -- the grammar and whatever I think is not in good form, yes.
Q. Now, you send them your notes from your review of the records, right?
A. Yes.
Q. But you don't have those notes because they either keep them or destroy them, correct?
A. I have them.
Q. No, the actual -- the handwritten notes that you made.
A. I have the handwritten notes.
Q. Of the review of the records?
A. Oh, the record review. Yeah, no, I don't have those. No.
Q. Doctor, just listen to me. You take the notes -- you make notes when you review the records, right?
A. Yes.
Q. And you send them to ExamWorks, right?
A. I think so, yes.
Q. And you don't have those records. They either keep them or they destroy them, correct?
A. Yes. I don't know what -- what happened with my notes, yeah.
Q. Doctor, you have been testifying three to five times a year for at least the last six or seven years, is that correct?
A. Yes.
Q. And each time you've testified, whether it's on videotape or on those very rare occasions where you actually come to court, you have testified on each and every occasion, when hired by an attorney, you've testified for the defense, correct?
A. Yes.
Q. In fact, you can't remember ever testifying on behalf of anyone -- any plaintiff who wasn't your patient, isn't that correct?

A. That would be correct, yes.
Q. And over the last ten years, you've only testified for the defense?
A. Yeah, that might be correct. I might have testified for my patient, but I don't remember any.
Q. Do you have a copy of your deposition? I can refresh your recollection.
A. Yes.
Q. Do you want to -- do you want me to refresh your recollection?
A. No, that's fine. I probably -- for at least ten years, yeah, that's correct.
Q. Now, how long have you actually been working for ExamWorks or the company that preceded them?
A. Since 2006.
Q. And ninety to ninety-five percent of the reports you actually write for medical/legal purposes are for defendants, correct?
A. That's correct.
Q. And the only time in which you're actually writing a report which isn't for a defendant is when you might be writing a report for your own patient?

A. That's correct.
Q. And you can't remember the name of a single plaintiff's lawyer you've actually worked for?
A. I don't remember plaintiff's or defense lawyers.
Q. Now, you charge a minimum of eight hundred and fifty dollars for an exam and report for defense purposes, is that correct?
A. Yes.
Q. And we were in your office two months ago to take your deposition. At that time, I asked for the bills for what you've charged in this case and you couldn't produce any evidence of what you charged in this case, is that correct, outside of for the deposition that was occurring that day?
A. That's correct. I told you, ExamWorks has the bills.
Q. Well, but -- so you bill for your patients when they come in, correct?
A. Yes.
Q. And when you provide treatment, you expect to get paid, correct?
A. Yes.
Q. And so --

A. Well, actually, you submit for payment to the insurance company.
Q. Right. And someone in your office actually follows up to make sure the insurance companies pay you, correct?
A. Yes, but that is for the office patients.
Q. Yes, and -- but you want to make sure you get paid for these exams, correct?
A. That's correct.
Q. But you can't produce any records for the particular exams you did in this case, is that correct?
A. The records are with ExamWorks. I told you, we FAX the visit record to ExamWorks and they do the charges.
Q. Right, Doctor. So how do you make sure you get paid if you don't keep track of it?
A. Well, then, you know, there is a check that comes at the end of the month.
Q. Right. How do you know whether you got paid for all the exams you did? You're doing, you know, ten or twelve a month, right?
A. Well, there is a checklist and my -- this is separate from the regular -- regular medical

billings, so --
Q. So you're doing them in Edison. You're doing them down here. You're doing them in Mount Laurel. How do you make sure you get paid for all those times you're doing exams for ExamWorks if you don't keep track of it?
A. I don't personally keep track of anything. I just do the work.
Q. But your office doesn't keep track of what they bill ExamWorks, is that correct?
A. Well --
Q. Is that correct or not? You can say it's not correct or it is correct.
MR. PAULUS: The witness can elaborate on her answer.
MR. ROTHENBERG: It's not a speaking objection. If you have an objection --
THE WITNESS: ExamWorks generates the bills -- I think I already explained this in the deposition. ExamWorks generate the bills and I get a check at the end of the month.
BY MR. PAULUS:
Q. So let me point out something --
A. And then there is a number -- there is a name list and it gets checked off. So that, I

suppose, would be the keeping track part.
Q. Dr. Carta, the jury wasn't there for your deposition. So when I ask you questions today, if you refer to the deposition, that's not helpful to anybody.
A. But you keep referring to --
Q. That's called cross-examination. So I'm cross-examining you with your prior testimony versus you citing to it, which they're not going to know. So it's different. And I'm going to ask you, if you will, just answer my questions.
So my question --
A. I did answer your question.
Q. Doctor, do you have records of what you charge ExamWorks? It's a yes or no question.
A. Not at the moment, no.
Q. And so you can't tell us how much you charged in this case, but at a minimum of eight hundred fifty dollars, plus another two hundred and fifty to five hundred dollars depending upon how many additional records you reviewed, correct?
A. Correct.
Q. And you actually have a fee schedule, which I've marked as P-8 for identification. Is that your -- if you don't mind me leaning forward --

thank you, Doctor. Is that your fee schedule?
A. Yeah, it looks like it.
Q. So that's -- that's actually what you're going to charge ExamWorks for the work in the case?
A. Yes.
Q. Okay. And so -- you also charged three thousand dollars for your videotaped deposition?
A. Yes.
Q. Or not -- it wasn't videotaped. I'm sorry. It was just an in-person deposition, right?
A. That's correct.
Q. And you charged three thousand dollars for that.
Now, as I understand it, you charge three thousand dollars for the first two hours, so it's fifteen hundred dollars an hour. How much per hour thereafter?
A. Well, that's actually not completely correct. I charge three thousand dollars for the first two hours, plus the review of all these massive records and any discussions. So you know, if you count two hours, would be fifteen hundred an hour, but if you count that discovery deposition

lasted over four hours and then two hours to review the records and then maybe another half an hour meeting, that would be a total of four plus two, six, and so it would be around five hundred, I guess, yeah.
Q. About how much, five thousand?
A. No.
Q. Eight thousand?
A. Three thousand divided by five and a half --
Q. So it's three thousand flat --
A. By six and a half. It's three thousand flat.
Q. Well, it says that you charge for extra hours. Didn't you charge for the extra hours in your deposition?
A. No.
Q. Why not? You said you do.
A. Because that is all that we were paid, I think. I don't know. I don't do the billings, sir.
Q. When we took your deposition, that was in your office, right?
A. Yes.
Q. And that's where all the billing

records would be for your patients, is that correct?
A. Well, they would be in the computer, yes.
Q. Okay. And the persons who do your billing and do your collections and receive the money and send out invoices, all that, are in this office where you did your deposition, right?
A. Yes.
Q. And you're being paid for today's deposition, right?
A. That's correct.
Q. And how much are you being paid for today's deposition?
A. As we already said, three thousand dollars.
Q. What about for prep time?
A. That's a flat fee. It includes the prep time and my review of these two binders of massive records.
MR. ROTHENBERG: I have no objection to her testifying as a neurologist.
MR. PAULUS: Thank you, counselor.

DIRECT EXAMINATION

BY MR. PAULUS:
Q. Dr. Carta, how many times did you physically examine the plaintiff, Ms. Petry?
A. Just once.
Q. And is it fair to say -- let me ask you. How long was the physical examination of Ms. Petry?
A. I generally take between twenty-five to forty-five minutes, depending on the complexity of the case. So that's the figure. Generally averages out to half an hour, thirty-five minutes.
Q. And did you take a history from her when you examined her?
A. Yes.
Q. Is a history significant when you examine the patient?
A. Absolutely.
Q. What's the significance of taking a history?
A. The significance of taking a history of a patient is that it gives the patient a chance to tell her story, that's why it's called history-taking, and relate all the symptoms that they are experiencing.
Q. And did you also -- you rendered two

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reports in this matter, is that correct?
A. Yes.
Q. When did you examine the patient?
A. It was November -- sorry. November 29, 2017.
Q. And in preparing those two reports, you reviewed and relied upon certain medical records, is that correct?
A. Yes.
Q. And those are actually the medical records in your binder that's in front of you, is that correct?
A. That's correct, the two binders.
Q. And how did you go about actually doing your neurological evaluation of the plaintiff, Ms. Petry?
A. So the way I go about this is the way I would examine any office patient for a clinical evaluation. I take a history and then I do an examination, which – with emphasis on the neurological examination.
Q. When you say you do an examination with emphasis on their neurological evaluation, what do you mean by that?
A. What I mean is that we put a few

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elements of the general physical examination, just like height, weight, blood pressure, and then we focus more on the neurological examination, which consists of five parts.
Q. What are those parts, Doctor?
A. The parts of the examination are mental status, cranial nerves examination, which is everything concerning the head and face, the motor examination, that concerns all the movement, function, and then the sensation testing, and then the reflexes.
Q. What were your findings on those five subjects?
A. Basically, Mrs. Petry had a normal neurological examination except for, on her mental status assessment, she seemed kind -- rather anxious, she had pressured speech, and depressed, appeared depressed, and at times, tearful.
Q. Doctor, for the remainder of my questions, I'm going to be asking you -- I want you to understand that I want all of your answers to be within -- if you express an opinion, I want all your answers to be within a reasonable degree of medical probability. Can you do that for us?
A. Yes.

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Q. What is the definition of a concussion?
A. A concussion is defined as acute impairment of brain function due to trauma.
Q. And what is a mild traumatic brain injury?
A. A mild traumatic brain injury is a somewhat outmoded, outdated term, but it's an injury resulting from a concussion. So the two are not exactly the same.
Q. When you just testified that a concussion or a mild traumatic brain injury means acute acceleration of brain function due to trauma --
A. Acute impairment of brain --
Q. Right. What does acute mean?
A. Acute means sudden and instantaneous.
Q. What kind of signs and symptoms show up normally -- show up immediately?
A. Well, there might -- there might or might not be loss of consciousness, impairment of consciousness. There might be headaches, nausea, dizziness, sometimes focal neurological functions, all the way to seizures.
Q. Doctor, I want you to refer to the

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Milltown Rescue Squad patient care report. Do you have that?
A. Yes.
Q. Tell me when you're ready?
A. Yes.
Q. I want you to look at the section of the report that's entitled status of arrival -- on arrival, rather.
A. Yes.
Q. What is written there?
A. What is written is that she was conscious, alert, oriented in the three spheres.
Q. What does that mean, Doctor?
A. That there was no impairment in the mental status.
Q. Is there any indication in the report that Ms. Petry sustained an injury to her -- an injury, according to the ambulance report?
A. Okay, I'm sorry, that she sustained --
Q. An injury.
A. An injury to the -- to the brain, no.
Q. What about any other part of her body?
A. Well, they -- they checked off parts injured and there was back, arm, and forearm, I believe shoulder.

Q. And where does that information that's noted in that Milltown Rescue Squad report come from?
A. That comes from what was related by Mrs. Petry.
Q. And that was on the day of the accident, was it not?
A. Yes.
Q. The rescue squad report has a section entitled Glasgow Coma Scale.
A. Yes.
Q. What's written there in the report?
A. So the Glasgow Coma Scale grades impairment of brain function based on scores of eye movements, best verbal response, best motor response. And these are all normal scores.
Q. Were the scores four for the eyes, five for verbal, and six for motor?
A. Yes.
Q. So as far as that is concerned, it was normal findings?
A. Yes.
Q. Is Ms. Petry's condition as documented in the rescue squad report consistent with a mild traumatic brain injury or a concussion?

A. No.
Q. Why not?
A. Because there is no documentation here of impairment in brain function.
Q. Do you know where the rescue squad took Ms. Petry?
A. Yes. They took her to New Brunswick, Robert Wood Johnson University Hospital.
Q. And I want you to go to the Robert Wood Johnson triage assessment form, please.
A. Yes.
Q. What does it say under assessment, Doctor?
A. Assessment, status post MVC, motor vehicle collision. Low speed. Hit on passenger front side. Restrained driver. Reports a car pulled out in front of her. No airbag deployment. Self-extricated. Complains of left hip pain, bilateral knee pain, and shoulder pain. No neck pain, no tenderness, no chest or abdominal pain.
Q. First of all, who provided the above history to the nurse in the triage form?
MR. ROTHENBERG: Objection to form.
BY MR. PAULUS:
Q. You may answer.

MR. ROTHENBERG: Go off the record.
THE VIDEOGRAPHER: Two-forty-six p.m., going off the record.
MR. ROTHENBERG: You can't lead her into who is saying it. First of all, how do we know it was a nurse. Triage oftentimes is done by a non-nurse --
MR. PAULUS: It's authored by the nurse.
MR. ROTHENBERG: Pardon?
MR. PAULUS: Because it's authored by the nurse.
MR. ROTHENBERG: What page are we talking about, please?
MR. PAULUS: Page one of one, department of emergency medicine, triage assessment form of adult.
BY MR. PAULUS:
Q. Do you have that, Doctor?
MR. ROTHENBERG: I do. Who says that --
THE WITNESS: Yes.
MR. ROTHENBERG: -- Shea Stevens --
MR. PAULUS: It says nursing signature, Shea Stevens -- Shae Stephs, rather, not Stevens.
MR. ROTHENBERG: Shea Stephs. How do we know she's a nurse? It doesn't say RN --
MR. PAULUS: It says nurse signature.
MR. ROTHENBERG: -- LPN. There's no

indication, so I --
MR. PAULUS: There is an indication, but your objection is on the record.
MR. ROTHENBERG: It says that's the person that signed it. The fact that --
MR. PAULUS: Nurse signature, yes.
MR. ROTHENBERG: You can contend, but you're leading her into saying it's a nurse. It's not appropriate.
MR. PAULUS: Your objection is on the record.
THE VIDEOGRAPHER: Two-forty-seven p.m., back on the record.
BY MR. PAULUS:
Q. Doctor, who had provided the information that we've been discussing in the triage report to the nurse?
A. This is the patient.
Q. Is that history consistent with a concussion or a mild traumatic brain injury?
A. No.
Q. Why not?
A. Because there is no complaint of anything related to brain function.
Q. What complaints would you be looking

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for if you thought there was a mild traumatic brain injury?
A. Headache, nausea, dizziness, alteration, confusion. So those are the main ones.
Q. Were any imaging studies of the head or neck done in the ER?
A. Yes.
Q. And what were they, to what parts of the body?
A. So they were CAT scan of the chest and then a hip x-ray.
Q. Were any imaging studies of the head or neck indicated in the ER?
MR. ROTHENBERG: Objection. Already asked and answered.
MR. PAULUS: No, I'm asking about --
MR. ROTHENBERG: That was the same question you just asked.
MR. PAULUS: No, it wasn't, but your objection is noted.
BY MR. PAULUS:
Q. Were imaging studies of the head or neck indicated in the ER?
A. No.
Q. Why not?

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A. Well, if the patient does not complain or does not demonstrate any -- does not complain of any symptoms or does not demonstrate any signs consistent with a brain issue, then the emergency room doctor wouldn't order an imaging study of the brain.
Q. I'd like you to also look at the -- from the emergency room record, take a look at the physician document by Dr. Punjabi. Do you see that?
A. Yes.
MR. ROTHENBERG: I'm sorry, what are we looking at?
MR. PAULUS: It's ED physician documents by Dr. Punjabi, the Robert Wood Johnson medical records.
BY MR. PAULUS:
Q. Do you have that, Doctor?
MR. ROTHENBERG: Hold on.
MR. PAULUS: Want to go off the record?
MR. ROTHENBERG: No, just wait for -- to find it since, apparently, this is -- it's not the next page or something like that, so --
BY MR. PAULUS:
Q. Do you have that, Doctor?
A. Yes.

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MR. ROTHENBERG: What page is this?
BY MR. PAULUS:
Q. Doctor, what page is it?
A. Page one-o-six. Robert Wood Johnson University Hospital at New Brunswick, ED physician document.
MR. PAULUS: Are you ready, Adam?
MR. ROTHENBERG: Uh-huh.
MR. PAULUS: Okay.
BY MR. PAULUS:
Q. Does the history of present illness section of Dr. Punjabi's record provide information relative to whether or not Ms. Petry suffered a concussion or a mild traumatic brain injury?
A. The complaints that were reported are pain in the left hip, lower back, and left side of the chest. And she denied head trauma, loss of consciousness, headache, or neck pain.
Q. Does the physical examination section of Dr. Punjabi's record provide information relative to whether or not Ms. Petry suffered a concussion or mild traumatic brain injury?
A. When he does neurological and psychiatric examination, he puts negative for weakness or emotional stress.

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Q. Doctor, have you had an opportunity to review plaintiffs' expert witness, Dr. Greenwald's report dated January 8, 2018?
A. Yes.
Q. I want you to refer to page five of the report.
A. Okay. So I just need to switch the binder.
Q. Take your time.
A. Here. Okay, page five?
Q. Right.
MR. ROTHENBERG: Wait, please.
MR. PAULUS: Take your time.
MR. ROTHENBERG: Which report are you looking at?
MR. PAULUS: Page five of Dr. Greenwald's report.
MR. ROTHENBERG: Dated?
THE WITNESS: 1/8/18.
MR. ROTHENBERG: I'm looking at page five.
MR. PAULUS: I didn't know whether you found it. Thank you.
BY MR. PAULUS:
Q. Dr. Greenwald has findings from the MRI, does he not?

MR. ROTHENBERG: MRI of what?
MR. PAULUS: The brain.
MR. ROTHENBERG: Objection. Let's go off the record.
THE VIDEOGRAPHER: Two-fifty-three p.m., going off the record.
MR. ROTHENBERG: She didn't comment about these findings of his. She can't comment – he looked at the MRI of the brain.
MR. PAULUS: These are findings. I'm asking – you haven't let me finish my question.
MR. ROTHENBERG: Doesn't matter. It's completely inappropriate because --
MR. PAULUS: Make your objection, if you want, Adam, that's fine. I haven't even begun to finish my questions on this element. And when all is said and --
MR. ROTHENBERG: Somehow or another, you jump from the emergency room to the MRI of the brain without even laying a foundation, number one. Number two is – which is, you know, your examination, you can do whatever you want and the order, but you're asking her to comment about one expert's report. That's not the role of an expert. The expert is to give opinions concerning what their

findings are and, specifically, here now, we're going to have a comment concerning Dr. Greenwald's findings, which are opinions.
MR. PAULUS: Well, no, there's a difference between findings and opinions, as you well know, and I'm going to be asking her about Dr. Greenwald's findings from the MRI. That's perfectly permissible.
MR. ROTHENBERG: It is not. We'll see what happens.
MR. PAULUS: See what happens, okay.
Go back on the record, please.
THE VIDEOGRAPHER: Two-fifty-four, back on the record.
BY MR. PAULUS:
Q. Doctor, what were Dr. Greenwald's findings from the 5/12/2015 MRI of the brain?
A. Multiple small foci of T2-FLAIR hyperintensity involving the periventricular and subcortical white matter were present. Graded ten in total, non-specific.
Q. And in terms that a jury can understand, please explain what the finding is describing in the MRI from -- that Dr. Greenwald relies upon?

A. So in plain English, this means that, on a gray background, which is the brain in this particular imaging sequence, you have a lot of cotton ball-ish looking white dots or greater than ten white dots. Those would be defined as increased signal or hyperintensity in the deep areas of the brain.
Q. Have you assumed in your opinions that these findings are accurate by Dr. Greenwald?
A. I -- yes. They're completely in sync with what the radiologist said in his report as well.
MR. ROTHENBERG: Objection. Move to strike.
And let's go off the record for a moment, please.
THE VIDEOGRAPHER: Two-fifty-six p.m., we're off the record.
MR. PAULUS: I don't want to go off the record.
MR. ROTHENBERG: I am asking to. She cannot say it's completely consistent with what the radiologist said. And you know it –
MR. PAULUS: These are findings.
MR. ROTHENBERG: She can't say it's consistent.

MR. PAULUS: Yes, she can say it. She's agreeing with your expert.
MR. ROTHENBERG: It doesn't –
MR. PAULUS: She's agreeing with your expert.
MR. ROTHENBERG: It doesn't matter. You cannot back-door – you know, you -- you're going to make a bad record, make a bad record, but it is completely –
MR. PAULUS: That's your opinion.
MR. ROTHENBERG: – inappropriate. No, it's actually the Supreme Court's opinion –
MR. PAULUS: I think you're interpreting the case law wrong.
MR. ROTHENBERG: And if you're going to let her continue to do this, I'm going to seek costs, just so you know. You should instruct your witness. Because if we were in court, the judge would have said take the jury out and he would have reprimanded her at this point and saying you can't do what you did –
MR. PAULUS: You know, Adam, I disagree with that completely. I don't like the characterization, but you've made your objection.
Let's go back on the record, please,

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videographer.
MR. ROTHENBERG: Mr. Paulus, while we're in court on trial, I'd prefer proper names, just --
MR. PAULUS: Fair enough.
MR. ROTHENBERG: Thank you.
THE VIDEOGRAPHER: Two-fifty-seven, back on the record.
BY MR. PAULUS:
Q. Do these findings in and of themselves necessarily mean the patient is going to have any signs or symptoms of an illness or disability?
A. You mean related to trauma or in general?
Q. In general.
A. No, not necessarily. In fact, they are non-specific. We see a lot of these findings in middle-aged brains.
Q. Doc, let me backtrack a little bit. What is an MRI?
A. An MRI is an imaging test of the brain. It's a picture of the brain anatomy.
Q. Dr. Greenwald expressed the opinion -- his opinion on page five of his report that the above findings is most likely secondary to the traumatic brain injury Ms. Petry sustained on 5 --

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4/15/2015. Do you agree with that opinion?
A. No.
Q. Why not?
A. Because you would have needed a massive brain injury to produce these findings.
Q. Is there any clinical history of a head injury severe enough to cause traumatic brain injury here in this case?
A. Absolutely not.
Q. If it's not a head injury or a mild traumatic brain injury, do you have an opinion as to the most likely cause of the finding of the multiple foci of the FLAIR signal?
A. Yes.
MR. ROTHENBERG: Objection. Off the record.
BY MR. PAULUS:
Q. And what is your opinion?
THE VIDEOGRAPHER: Two-fifty-eight p.m., going off the record.
MR. ROTHENBERG: She can't give an opinion about something she didn't review. It's the same thing as an expert asked at – you know, did you -- what's your opinion of the cause of the herniated disk. Well, I didn't look at the –
MR. PAULUS: No, this is in general.

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MR. ROTHENBERG: It's the exact same -- no, it's not. You asked specifically with respect to her. You're not asking generally. And hiding behind that in this case is pretense. It's not honest and it's not appropriate. So I want to place it on the record.
Go back on.
THE VIDEOGRAPHER: Two-fifty-nine, back on the record.
BY MR. PAULUS:
Q. Do you have an opinion as to the most likely cause?
MR. ROTHENBERG: Most likely cause of what? Objection, form.
MR. PAULUS: The multiple foci of the FLAIR signal.
MR. ROTHENBERG: For who?
MR. PAULUS: For your client, Mrs. Petry.
MR. ROTHENBERG: So you are asking about her in particular, which I object to. Go ahead.
BY MR. PAULUS:
Q. Go ahead, Doctor.
A. Am I answering?
Q. Yes, you're answering.
A. Yes, I do have an opinion. I think

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two elements stand out. One, she had a prior history of migraines, and two, she has a history of mitral valve prolapse, which can cause micro-embolism to the brain.
Q. Did Dr. Greenwald's report state that there was a cortical contusion of the brain on the 5/12/2015 MRI?
A. Yes.
Q. Doctor, I would like you to look at that again.
A. Okay. No, no. I'm sorry.
Q. What is the diagnostic significance that there is no finding of a cortical contusion?
A. A contusion is bruising, so that goes with significant brain injury. So another element or another part of information that tells us there is no brain injury here.
Q. Doctor, did Dr. Greenwald's report state that there was any evidence of an acute intracranial hemorrhage on the 5/12/2015 MRI?
A. No.
Q. What is an intracranial hemorrhage?
A. That's a bleed inside the skull cavity, can be inside the brain or outside the brain.

Q. And what is the diagnostic significance, if any, of there being no finding of an acute intracranial hemorrhage?

MR. ROTHENBERG: Objection.

BY MR. PAULUS:

Q. You can answer it.

A. Again, no -- no evidence of significant brain injury or head trauma.

Q. Doctor, do you have an opinion in this case to a reasonable degree of medical probability as to whether or not Ms. Petry sustained a permanent brain injury from the 4/15/2000 (sic) motor vehicle accident?

A. Yes.

Q. And what is your opinion, Doctor?

A. I don't think we have any documentation that she did.

Q. And what is the basis of that opinion?

A. The basis of that opinion is that all her initial records of care do not show any type of clinical indication that she sustained a brain injury.

Q. Do you hold all these opinions that you expressed here today to a reasonable medical degree of probability?

A. Yes.

MR. PAULUS: Thank you, Doctor. No further questions.

CROSS EXAMINATION

BY MR. ROTHENBERG:

Q. Doctor --

MR. ROTHENBERG: Let's go off the record for a moment. I'd just like to --

THE VIDEOGRAPHER: Three-o-two p.m., going off the record.

MR. ROTHENBERG: I want to take five.

MR. PAULUS: Sure.

(At this point, a short recess was taken, after which time the deposition resumed.)

THE VIDEOGRAPHER: This begins DVD number two. The time is three-twelve p.m. Back on the record.

BY MR. ROTHENBERG:

Q. Doctor, I want to cross-examination you, ask you some questions about your testimony

you've given so far. You wrote two reports in this case, correct?

A. Yes.

Q. And the purpose of those reports was to outline your relevant opinions, right?

A. Yes.

Q. And in those reports, you gave your opinions that you had in the case, right?

A. Yes.

Q. You told us what you actually reviewed and didn't review?

A. Yes.

Q. Now, today, in speaking about what you did and didn't review, your testimony today on direct was about only three documents, one, the Milltown Rescue Squad, written by some EMT, right?

A. Yes.

Q. The emergency room record, right?

A. Correct.

Q. And an MRI report of which you never actually looked at the film, correct?

A. Yes.

Q. And peripherally, I suppose, we discussed Dr. Greenwald's report, right?

A. Yes.

Q. And Dr. Greenwald was her treating physician who specializes in head injuries, right?

A. Amongst other doctors, it was one of the treating doctors.

Q. But you're aware that Dr. Greenwald is a specialist in head injuries, right?

A. Yes, he's a neurorehabilitational specialist.

Q. Now, in your report, you actually recited thirty-one items in the first report that you wrote, correct?

A. Yes.

Q. And in none of those records was, for example, Dr. Marmora's records, that's the -- that's her personal, her primary care physician that she had seen for the fifteen years before this accident and saw after the accident, right?

A. That's correct.

Q. So you didn't talk about those records today, correct?

A. That's right. I didn't have them.

Q. Now, when you dictated your report, you relied upon all these other records, correct?

A. Which other records?

Q. Well, the thirty-one items you listed,

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which included Dr. Golden's testing, she was a treating doctor, Dr. Rosenberg, the doctors who treated her for her problems with her eyes, her ears, her brain function. You had the reports of all these different doctors she's been seeing since April 15, 2015, right?

A. Yes.

Q. And you had Dr. Colachtorni (sp) and Dr. -- you didn't have Dr. Colachtorni. You had -- or Dr. Demesmin's records, right?

A. That's the pain management, yes.

Q. You didn't have those?

A. Yes, I did have those.

Q. You have Dr. Greenwald's reports, which you discussed in your second report, right?

A. Yes.

Q. You didn't actually review the records that he cites to. You just relied upon his recitation of those records in order to give you insight about what her history was?

A. That is only for Dr. Marmora's records. I have the other records that decides, like the neuropsychologist, et cetera.

Q. Now, the records that you referred to today are essentially -- the emergency room record

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has those -- has the EMT report, so we've got that, which has been previously marked as P-4 for identification. That's the emergency room record.

A. Yes.

Q. So it's not that big book of records that you have in front of you, right?

A. No, but we were talking about Dr. Greenwald's final report, if I understand you correctly.

Q. No, I'm asking you a different question. We already moved on from that one. So I'm not sure why you're flipping through --

A. I just thought you were talking about Dr. Greenwald's final report and you were saying I didn't have all the records. And I said, you're correct, I didn't have Dr. Marmora's records, but the other records that he lists, like Dr. -- the psychologist and the pain man, that he summarizes excerpts from their records as well, which I have.

Q. You never looked at Tara Arhakos' report --

A. Yes.

Q. -- she's the psychologist that's been treating her --

A. Yes, I did.

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Q. Oh, you did?

A. They're in my binder.

Q. It's in --

A. Mindful Moments. That's the --

Q. Did you have her report note? I don't see that.

A. Yes. Mindful Moments. And that's 11/5/15, that's the initial one, so I can find it.

Q. You have the report?

A. Yes, yes.

Q. I'm not talking about the treatment records. I'm talking about the report.

A. You mean final report?

Q. Yes, ma'am.

A. That I would have to look for. I have her initial -- her intake notes.

Q. Right. That's not what I'm asking about. She wrote a report to -- just like you wrote a report and said this is what I'm going to testify about and just like Dr. Greenwald wrote a report, you didn't see that report, correct?

A. No, I believe I saw her treatment notes, records.

Q. So it is correct that you did not see her report?

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A. Yes, that's what I just said.

Q. Thank you.

The records that you have there were tabbed by ExamWorks, isn't that correct?

A. Now, I wouldn't remember if they were tabbed by ExamWorks or my office manager, but yeah, probably they were tabbed by ExamWorks, yeah.

Q. Take out your deposition. I can refresh your recollection. Do you have that in front of you?

A. No.

MR. ROTHENBERG: If the Court Reporter doesn't mind handing -- I can't get out from behind this desk. Actually, I've got to take off the microphone.

BY MR. ROTHENBERG:

Q. I'm going to give you this because we might need this again down the road. I have a copy. I'm sure --

MR. PAULUS: I have a copy.

BY MR. ROTHENBERG:

Q. Defense counsel has his own copy. Here's a copy of your deposition transcript. You don't need to open it up quite yet.

A. Okay.

Q. Well, actually, let's turn to page forty-one, see if we can refresh your recollection.
MR. PAULUS: You said forty-one?
MR. ROTHENBERG: Yeah.
THE VIDEOGRAPHER: Excuse me, counsel?
MR. ROTHENBERG: Thank you.
BY MR. ROTHENBERG:
Q. On page forty-one, you indicated that, in fact, ExamWorks tabbed the records.
A. Okay.
Q. Right?
A. Yeah.
Q. And those were tabbed, actually, after you even wrote your report?
A. Yes. They were tabbed in preparation for the deposition.
Q. And they tabbed what you wanted them to tab?
A. Yes. They -- I requested that they be tabbed in chronological order and with color-coding depending on what kind of report it is, yes.
Q. Let's see if we can get some agreements first. You would agree that if your facts are wrong, then your opinion can be wrong?
A. Yes.

Q. You agree that once you start out with the wrong information, you are subject to bias in your conclusion?
MR. PAULUS: Object to the form of the question.
You can answer it.
THE WITNESS: Well, that's true in general, but not applied to this case.
BY MR. ROTHENBERG:
Q. Doctor, we'll leave the jury to decide that. So the question here is, do you agree with the premise that once you start out with the wrong information, you are subject to bias in your conclusions?
A. Again, that is not a yes or no answer for me. So that's true in general. It doesn't apply to this case. That's my answer.
Q. I didn't ask you about this case. Again, I'm asking you a general question, Doctor. So --
A. Well, in general --
Q. Do you want to argue?
A. No, no. In general --
- - -
(Discussion off the record)

- - -
BY MR. ROTHENBERG:
Q. Doctor, I'm asking you a general question and I asked you if we can get some agreements. And I believe I'm actually quoting you. If you'll turn to page one-sixty-seven. And this is your reference, actually, to Dr. Golden, but do you agree with the premise, in general, that once you start out with the wrong information, you are subject to bias in your conclusions?
A. That's true in general, yes.
Q. And so the same would be true to you, if you were -- if you had the wrong information, then you might be subject to bias in your conclusions?
A. I might, yes.
Q. So you agree now that you were wrong about her having a prior neck injury, correct?
A. No.
Q. You weren't wrong?
A. I was wrong about writing that she had a prior neck injury, which I corrected in my dictation.
Q. But you wrote that contemporaneous with meeting with the woman and taking a history

from her and asking her and she told you she had never had any neck problems. You reviewed all the medical records at that time and you still wrote that she had a prior neck injury even though you were sitting there right with the woman who already told you that wasn't the case and there was no basis for that, correct?
MR. PAULUS: Object to the form of the question.
THE WITNESS: I wrote that after I was done the examination in preparation for my report. And then, as I said three times before, when I dictated my report, I caught myself and corrected it.
BY MR. ROTHENBERG:
Q. Doctor, you agree that you shouldn't -- you should be unbiased and not an advocate for one side?
A. That's true, correct.
Q. Do you agree that it's very difficult to be unbiased when your livelihood depends upon your relationship with an organization?
MR. PAULUS: Objection.
THE WITNESS: My lively -- okay, this is a two-part question, so it cannot be answered -- again, cannot be answered yes or no. Because, A, my

livelihood does not depend on them for the most part, and B, you know, I -- I consider myself unbiased.

BY MR. ROTHENBERG:

Q. You would agree that the more pertinent information a doctor has, the greater the likelihood that their opinions will be accurate?

A. Yes.

Q. You agree that if two people have the same qualifications, the person with more information is generally more reliable?

A. Yes.

Q. Now, you agree that if someone treats a patient over a period of time, over and over and over, and has the same records as someone who sees the person on a one-time basis, the person who has seen them over a period of time, their opinions are likely to be more dependable than the one-time examiner?

MR. PAULUS: Objection.

THE WITNESS: Well, that depends. Because sometimes when you treat a patient for a long time, you generate your own bias.

BY MR. ROTHENBERG:

Q. Do you agree that doctors of equal

skill, ability, and honesty may disagree with your opinions in the case?

A. Absolutely.

Q. Now, at one point, Mr. Paulus asked you, you said -- he asked you, when you examine the patient. She was not your patient, correct?

A. Correct.

Q. In fact, you had her -- what I've marked as P-9 for identification, she had to sign a thing that said welcome to ExamWorks --

A. Yes.

Q. -- right?

And it says, this is not -- you're not my patient. There's no doctor/patient relationship. I'm not here to help you, cure you. I'm hired to examine you. Right?

A. Yes.

Q. Is that a decent paraphrase?

A. Yes.

Q. And as far as, you know, that familiarity and insight, if we had a roomful of women in their fifties, you couldn't pick her out of a crowd?

A. Well, I wouldn't know that until I see all the women in their fifties. Her face may look

familiar to me.

Q. Well, I asked you at your deposition whether or not you believe you would recognize her. You want to turn to page one-sixty-two?

A. Yes, that's exactly, but you didn't ask me the same question. You asked me if she had dark hair or what color hair or --

Q. Actually, turn to page one-sixty-two and I'll use the exact language I used there. So I tried to change it. We'll make it even more specific.

Outside of looking at the report and just reading off what the -- I'm sorry. Page one-sixty-two, line nine, for all fairness. I apologize. Take your time. Got it?

MR. PAULUS: Do you have it, Doctor?

THE WITNESS: Okay. That's what I said.

BY MR. ROTHENBERG:

Q. Doctor, I have to ask you -- I'm going to read it to you and ask you if this was your testimony.

Doctor, okay, outside of looking at the report and just reading off what the height and weight said, you wouldn't be able to pick her out of a line-up. Answer, that's correct.

Is that correct?

A. Yes. That's what I said, yes.

Q. Now, you agree that every doctor she saw after the emergency room, she gave complaints consistent with a mild traumatic brain injury, is that correct?

A. Yes.

Q. So let's talk about the factual basis, because we talked about how important that factual basis is. You reviewed the automobile accident report, right?

A. Yes.

Q. You did not review the video, is that correct?

A. That's correct.

Q. And you're aware that actually your report recites the way the accident happened incorrectly?

A. Yes.

Q. In fact, you said that the force of the accident, the speed of the accident, direction of the accident, some of that was wrong, right?

A. I'm sorry, say that again?

Q. With respect to your report, the force of the accident, the speed of the vehicle, and the

direction of impact, some of that was wrong, isn't that correct?

A. Well, I didn't put the speed of the vehicle or the force of the accident in it, so I'm not sure what kind of question you're asking.

Q. Turn to page one-sixty-nine. Let's see if I can refresh your recollection then. I was trying to save us some time. I'm sorry, one-sixty-eight, page twenty-four -- line twenty-four.

A. Yes.

Q. You put in your -- question, you put in your report and you said that, actually, the speed of the accident, the amount of force of the accident, and the light impact were all part of your opinion, correct. And you answered, that is part of my opinion, correct. But those were wrong, correct. Answer, I don't know -- well, some parts were wrong, yes.

A. That's the same I'm saying now, some parts were wrong, but I didn't put the speed or the force of the accident down in my report. So I think it's the same answer.

Q. Now, the amount of impact would change your opinion, isn't that correct?

A. If it was reliable.

Q. Doctor, but you assume that this was a low-speed impact, correct?

A. Well, I didn't assume, actually. There was --

Q. Doctor -- Doctor --

MR. PAULUS: She's --

BY MR. ROTHENBERG:

Q. I'm asking did you assume that. You weren't at the accident, right?

A. No.

Q. You didn't see the video of the accident, correct?

A. Correct.

Q. So you made assumptions about how the accident occurred, not -- in terms of how the accident occurred, you had it wrong in your report, correct?

MR. PAULUS: Objection. She didn't -- allow the witness to answer that she's --

MR. ROTHENBERG: I am.

MR. PAULUS: -- basing her assumption on and you cut her off.

BY MR. ROTHENBERG:

Q. Doctor, did you have that wrong?

MR. PAULUS: Asked and answered.

THE WITNESS: I had some things that were partially wrong here and then I had -- no, I'm not done answering, though. May I continue my answer?

BY MR. ROTHENBERG:

Q. No. Actually, no.

MR. PAULUS: If it's in response to the question as posed to you, yes, you can.

THE WITNESS: Okay.

MR. ROTHENBERG: Counsel, I didn't interrupt you.

MR. PAULUS: Actually, you did, quite a bit, counsel.

MR. ROTHENBERG: I objected. We went off the record. That's different.

MR. PAULUS: Well, I have objected to that question as asked. I object to the question.

MR. ROTHENBERG: Thank you.

THE WITNESS: So these are complex questions, so they require complex answers. So if you cut me off every time, we go back to the four hours of bullying. So here we are again.

BY MR. ROTHENBERG:

Q. That was an inappropriate comment, ma'am. I didn't bully you at all. And that kind of

comment I'm going to ask to be stricken. And in fact, if you do it again, I'm going to ask you be held in contempt. It is not appropriate in a courtroom proceeding --

MR. PAULUS: Are you threatening the witness?

MR. ROTHENBERG: No, I'm ask -- I'm putting it on the record right now, okay. I'll ask that this be stricken from the video record because it's not going to be shown to a jury, but that's not an appropriate comment.

BY MR. ROTHENBERG:

Q. Let's continue, Doctor. My question, Doctor, was whether or not your version of the accident was correct. Was it correct or not?

A. Some parts were correct, some other were incorrect.

Q. So let me ask you this. Were you at the accident?

A. No.

Q. Would the best version of the accident be a video that showed what occurred?

A. Yes.

Q. And there is a video of the accident. Were you aware of that?

A. No.
Q. And defense counsel didn't provide you a video which would show actually what happened, whether it was low speed or high speed, correct?
A. Correct.
Q. So you made some assumptions about how the accident happened based upon records you read, correct?
A. Well, that's what the records relate, so it fits with the history, so I wouldn't call them assumptions.
Q. So one of the things that you -- it's your opinion that the accident was at a low speed?
A. Yes.
Q. And that's based, in part, on the emergency room record?
A. Yes.
Q. And the emergency room record, if we can turn to page one of six, the history of present illness.
A. Yes.
Q. It says the history of present illness, Julie Petry is a forty-eight year old female who reports being the driver involved in an MVC immediately prior to arrival when she was

pulling out of a parking lot and hit a car in front of her vehicle making a left-hand turn. Is that true?
A. No.
Q. So the person who's writing this, either one or two things has happened here, either Ms. Petry is confused in giving a history or the person who's writing this doesn't know what they're talking about. Which one is it?
A. I wouldn't think they don't know what they're talking about. They just recorded it incorrectly. It looks like the nurse recorded it correctly.
Q. Well, it's wrong, it's just dead wrong, right? She wasn't pulling out of a parking lot, was she?
A. It's incorrect. Somebody pulled out and hit her.
Q. So is Ms. Petry confused in giving the history or is the person who's writing it confused about what happened?
A. I don't know the answer to that, but she reported that she was traveling at fifteen miles per hour, she reported.
Q. Well, wait, so that's -- that's -- she

reports traveling about fifteen miles per hour or maybe she was talking about the other car. Do you know?
A. Well, I doubt it if he wrote she reports. She must have --
Q. But she also reported that -- the person who wrote this also said Ms. Petry was pulling out of the post office, right?
A. Yes.
Q. So she got that part right, but not -- she got the speed right, but she didn't get what -- where the vehicles were coming from or even the impact or how the accident occurred. She only got that fact right?
A. Well, that's the first paragraph, yes, it appears to be incorrect.
Q. Well, why do you assume that the speed is correct and everything else is wrong?
A. Because when a physician writes she reports, they're generally writing or typing this while they're talking to the patient. So I think that would be correct. Also, there was no airbag deployment, which --
Q. What do you know about airbags? Nothing, right?

MR. PAULUS: Objection.
BY MR. ROTHENBERG:
Q. You testified at your deposition I know nothing about airbags. I'm not an expert on that. Correct?
A. I said I'm not an engineer, right.
Q. You don't even know if the vehicle had airbags, right?
A. Well, not for a fact, no.
Q. And you don't know what causes an airbag to go off from the angle of impact, do you?
A. Well, generally --
Q. No, no, we're -- I'm not talking about medical records, Doctor. I'm asking you about whether you're an expert on airbags. Yes or no?
A. No, not an expert on airbags. Let's leave it at that.
Q. And you don't know what would cause an airbag to come -- whether it would go off if it's a side impact, do you?
A. That depends on the airbag, I suppose.
Q. And it depends upon the angles of impact, right?
A. That's -- I think so, yes.
Q. Mechanically, what causes an airbag to

go off, do you know?
A. A high-impact collision.
Q. Mechanically, what causes an airbag to go off?
A. A force that's strong enough to cause deployment of the airbag.
Q. What kind of force?
A. An acceleration force.
Q. Actually, it's a deceleration force.
A. I'm sorry, a deceleration force.
Q. You don't know, do you?
A. No. I said I'm not an engineer, so I just --
Q. But you're going to give opinions on airbags today?
A. No, I never said that.
MR. PAULUS: Objection. Beyond the scope.
BY MR. ROTHENBERG:
Q. Is it fair to say that the force of impact is something that affects your ability to believe whether there's a traumatic brain injury?
A. I'm sorry, say that again?
Q. Do you agree that the force of impact is something that affects your ability to believe whether there is a traumatic brain injury?

A. The force of impact to the head, yes.
Q. And one of the things I did was ask you to provide studies. And before we started today's deposition, you didn't talk about any of those studies, but you had said that you're aware of studies concerning the force of impact, right?
A. Yes.
Q. And last night or yesterday afternoon, after two months, you provided some sort of documents that you think support your opinions concerning the force of impact.
A. Yes.
Q. Now, the first one is a book by A.I. King. Who is A.I. King?
A. He's an engineer.
Q. Do you know anything about his qualifications?
A. No, but he published a book on biomechanics of impact injury.
Q. But you don't have that book, right?
A. No.
Q. And he published a book that was, according to the markings on the document you provided us, you only provided us chapter two. You don't have the whole book, right?

A. No.
Q. Did you ever have the whole book?
A. No.
Q. You just found this on-line and decided to send it to us?
A. I found this through the links of the American Academy of Neurology, yes.
Q. Well, you said the American Academy of Neurology does not even use MBTI anymore, correct?
A. That's correct.
Q. MTBI, I'm sorry, mild traumatic brain injury, right?
A. That's correct.
Q. You said that's an outmoded term, correct?
A. Somewhat outmoded, yes.
Q. However, this engineer, the first page of the first paragraph -- of chapter two, the very first paragraph uses, because of the fact that effective treatment of TBI, even mild TBI -- MTBI is generally not available. So his book published here in 2018, the guy you want to rely upon for your opinions, uses that term specifically, right?
MR. PAULUS: Objection.
THE WITNESS: Yes.

BY MR. ROTHENBERG:
Q. And he says, despite, you know, despite the fact that he's an engineer, he says in that paragraph, the second paragraph, that he can't explain what the mechanism is of a brain injury, correct?
A. Well, he makes a generic statement that there are a lot of complex factors involved, yes.
Q. But he says I can't explain it. It says, however, there is still a divided opinion on the causes of traumatic brain injury because it is not clear whether linear acceleration or angular acceleration/velocity is the principal cause of TBI. Correct?
A. Yes.
Q. And he says that auto accidents, by the way, are the third leading cause of traumatic brain injuries, right?
A. Right.
Q. And that -- of that, there are two hundred and eighty thousand hospitalizations a year, two point two million emergency room visits associated with brain injuries here in the United States. Right?

A. Correct.
Q. But most of his article talks about sports injuries, isn't that correct?
A. That's where all the studies on concussion were done, yes, and experimental studies in dummies and laboratory animals, yes.
Q. And the test -- the information that he uses is based upon experiments with robot dummies, correct?
A. Some. Some are on -- in life, pilots, I think, and then another one on sports injury, and then there are some laboratory animals, yes. There is an extensive bibliography in this chapter. It has probably close to fifty references, so there are a lot of studies quoted in there.
Q. But Dr. King doesn't cite any of the new studies on brain injuries over the last ten years. Everything is harkening back -- he starts, studies in 1946 as to the causation. He talks about a 1985 study. So over the last thirty years, the development in traumatic brain injuries, he doesn't cite to any literature to speak of over the last thirty years.
A. Well, there are also 2007 studies, 2011 studies, 2008 studies. If you go through the

bibliography, you will see that.
Q. Go through his bibliography?
A. Yes.
Q. Now, this is -- this book, The Basis -- The Basics of Biomechanics of Brain Injury, that's something that's used for teaching engineering students?
MR. PAULUS: Object to the form of the question.
THE WITNESS: Not necessarily. Neurosurgeons would have to know this stuff, you know, scientists, concussion specialists, doctors, neurologists who evaluate football players in the field. So this is a summary of information.
BY MR. ROTHENBERG:
Q. Doctor, let's turn to questions for chapter two.
A. Okay. What page?
Q. It's forty-two of sixty-three that you FAXed over yesterday. It would be towards the rear.
A. Forty-two, okay.
Q. At the top, it says forty-two of sixty-three, questions for -- questions for chapter two.
A. Yes.

Q. Can you answer the question two point two, select a statement that is valid as it relates to brain injury?
MR. PAULUS: Are you --
THE WITNESS: Okay, so --
MR. PAULUS: Objection. Can we go off the record?
MR. ROTHENBERG: No. I'm asking --
MR. PAULUS: I want to place an objection.
MR. ROTHENBERG: No, no. We're in the middle of the question. You can place it afterwards.
BY MR. ROTHENBERG:
Q. Can you answer the question in the book?
MR. PAULUS: Note my objection.
THE WITNESS: Yes, probably it's three or four.
BY MR. ROTHENBERG:
Q. Well, which one is it? You have to choose -- it's select the statement that is valid. It's one, two, three, or four. This is a basic text.
MR. PAULUS: Objection to any question related to taking a test.

MR. ROTHENBERG: It's in the book she provided.
MR. PAULUS: She provided it, but she is not --
MR. ROTHENBERG: Counsel --
MR. PAULUS: I'm objecting to any question that -- I'm objecting to any questioning relating to taking a test from a book that was published by an engineer. You asked her for publication -- I'm finishing my objection.
MR. ROTHENBERG: Let's go off the video record, please.
MR. PAULUS: On the record then.
THE VIDEOGRAPHER: Three-forty-two p.m., we're going off the record.
MR. PAULUS: We produced a study that you requested. She didn't rely upon the engineer's opinions in that study. You asked for examples. She gave you the treatise. You're not going to question her and give her a quiz.
MR. ROTHENBERG: I am.
MR. PAULUS: You're not.
MR. ROTHENBERG: It's cross-examination. You can --
MR. PAULUS: It's so far afield --

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MR. ROTHENBERG: Then object at the time of trial and ask it be stricken, but don't talk on top of it. Speaking objections are inappropriate.
MR. PAULUS: I said objection.
MR. ROTHENBERG: Then you wanted to talk. So let's say let's go off the record and that's what we're supposed to do.
MR. PAULUS: That's my objection.
THE VIDEOGRAPHER: Three-forty-two p.m., back on the record.
BY MR. ROTHENBERG:
Q. Did you have enough time to find the answer?
A. What's that?
Q. Did you have enough time to find the answer in the chapter?
A. No. So I think it's either three or four.
Q. You don't know?
A. I'm not a hundred percent sure because I didn't take the test. This is not the purpose of this -- of this summary.
Q. Two point one, which one of the answers is correct, all the above or –
MR. PAULUS: Objection.

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THE WITNESS: No, it's not all of the above.
BY MR. ROTHENBERG:
Q. It's not?
A. No.
Q. Are you sure?
A. I'm sure.
Q. Do you have the answer key?
A. I'm sorry?
Q. Do you have the answer key?
A. I don't know. I have to look. I didn't -- I didn't look at that. Okay, so I said three or four. The answer key, I just found it, says four.
Q. What is number one, two point one, what's the answer?
A. Four.
Q. So you checked the answer key now?
A. Well, you did -- yeah, you directed me to it.
Q. I didn't direct you to it. I just said did you have it.
Doctor, you agree that, in terms of how the impact occurred, you rely upon someone who clearly wrote that the accident happened differently than it did, correct?

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A. Are you talking about the doctor or are you talking about the nurse?
Q. I'm talking about the --
A. Which one, because the nurse --
Q. -- the doctor's notes.
A. Because the nurse had it correct. The doctor had partially incorrect. So I relied -- the answer is I relied on both.
Q. Is it true that you don't know the force of impact in this accident?
A. Yes. I think we already went over that.
Q. Doctor, you don't know if there was enough force to cause a mild traumatic brain injury, correct?
A. No, I don't know that, but there was no traumatic brain injury here.
Q. Doctor, you don't know whether there was enough force to cause a mild traumatic brain injury, do you?
MR. PAULUS: Objection.
You can answer.
THE WITNESS: That's correct.
BY MR. ROTHENBERG:
Q. You didn't review any of the radiology

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in this case, correct?
A. Yeah, that's correct.
Q. Doctor, as part of your normal practice, you review MRIs?
A. Yes.
Q. MRIs of the brain, MRIs of the spine, MRIs of the lumbar spine, cervical spine --
A. Yes.
Q. -- right?
And those are all things that you're aware of that the other doctors in this case had reviewed, but you chose not to review them, right?
A. I didn't choose not to review them. I was not provided the studies.
Q. Did you ask for them?
A. I don't recall if I did or not.
Q. Did ask you for them?
A. I don't recall if I did or not.
Q. Do you have any records that you asked for them?
A. No, I don't think so.
Q. Talking about -- you reviewed all the treating doctors' opinions, correct?
A. The ones that were provided to me.
Q. And you saw Dr. Golden's opinions and

you saw Dr. Greenwald's opinions and you saw Dr. -- and Ms. Arhakos' opinions, correct?

A. Arhakos, yeah.

Q. And you don't agree with any of them, correct?

A. Correct.

Q. As far as the emergency room -- let's go back to the emergency room record. You would agree that she had a very elevated blood pressure when she arrived at the emergency room?

A. Well, it's mildly elevated. One-fifty-five over ninety is not highly elevated.

Q. Well, when she arrived, it was one-fifty-five over a hundred, right?

A. Right.

Q. And when she was seen by the EMTs, it was even higher, correct, Milltown Rescue Squad?

A. Okay, I have -- because I cannot see this page without magnification.

Q. One-sixty-five over one --

A. One -- yes.

Q. One-fifty six over ninety-four. So it was much higher even then?

A. Yes.

Q. She had a racing pulse at that point,

correct?

A. Yes.

Q. When she got to the emergency room, she actually did complain of neck pain, isn't that correct?

A. Well, the doctor's note says negative neck pain and then the nurse's note also says negative neck pain.

Q. So you're saying it's not correct?

A. I cannot -- let's see. She says paralumbar tenderness with mild spasm, tenderness over the left chest wall --

Q. I don't want you to read to me, Doctor.

A. You just asked me to --

Q. No, I didn't ask you to read to me. I said --

A. You just asked me what she complained about, so I'm making reference to the record --

Q. I didn't say --

A. -- and just asking what -- you're asking what she complained about.

Q. No, I didn't say that, Dr. Carta. I said did she complain of neck pain.

A. I do not find any complaint of neck

pain.

Q. Okay.

A. If I have a moment to look at the record --

Q. Then I'll show you. Then I'll show you. How's that?

A. Well, I can look through it.

Q. No, no, I'll show you. Let me show you what's been marked as P-4 for identification. And it says location of pain. This is from the emergency department nursing notes. Where does she have complaints --

A. I --

Q. I'm sorry, wait -- wait, wait, wait, wait, wait.

A. I can't see what --

Q. You see complaints of pain? And where does it say, neck? First thing listed.

A. That's -- I see hip, knee, and then something N -- N, and then looks like a nine and then a D, so I don't -- I cannot read what that says.

Q. So you're saying that you're looking at that record and you can't tell the word neck on that record, is that --

A. It looks like NGD or N9D. I mean --

Q. How many people have an N9D as a part of their body?

A. I don't know.

Q. What part of the body is an N9D?

A. It's illegible scribble as far as I'm concerned, so --

Q. I'm going to get that back from you.

If you will, looking at the emergency room record, if you'll turn to page three of six, from Dr. Kusum Punjabi.

A. Yes.

Q. And it says emergency department medical decision-making. He indicates that his initial considerations were cervical spine injuries, spinal cord injuries, concussion, intrathoracic injury and intra-abdominal injury, is that correct?

A. Yes. And then he proceeds to say --

Q. Doctor --

A. No --

Q. No, no, Doctor. That's the question. Okay. We're not going to express opinions. His initial consideration --

A. It's not an opinion. That's his differential diagnosis. That is --

Q. Doctor, Doctor, please, do not --
MR. ROTHENBERG: We're going to now go off the record.
THE VIDEOGRAPHER: Three-fifty p.m., going off the record.
MR. ROTHENBERG: I going to ask you to instruct her appropriately. This is a --
MR. PAULUS: I'm going to make a statement on the record.
Doctor, when counsel has a question for you that is a fair question, requires a yes or no answer, provide the yes or no answer, that's appropriate.
But I will also ask counsel to be considerate of the fact that sometimes it's not a yes or no question and it requires amplification. That's all I'm asking you to do.
MR. ROTHENBERG: I understand.
MR. PAULUS: And if both parties don't step on each other, that would be greatly appreciated.
MR. ROTHENBERG: And all I said was the initial considerations, that's the question.
MR. PAULUS: I understand that.
MR. ROTHENBERG: I didn't ask her any further.

MR. PAULUS: But I think we can all agree that --
MR. ROTHENBERG: Yes.
MR. PAULUS: -- let the other person answer the question.
MR. ROTHENBERG: Yes.
MR. PAULUS: Some questions aren't yes or no, Doctor. Some questions, even feel free to elaborate on or -- because that's part of the answer. And everybody will abide by that and it will be fair.
THE VIDEOGRAPHER: Three-fifty-one, back on the record.
BY MR. ROTHENBERG:
Q. Doctor, let's talk a little bit about mild traumatic brain injuries. You agree that the brain is not meant for rapid deceleration caused by a car accident?
A. Yes, caused by anything.
Q. You agree that there's been a lot of debate about the amount of force that can cause a concussion or brain injury?
A. That's correct.
Q. You agree that studies have indicated that it can be as low as one and a half Gs of force?

A. I haven't seen those studies, but that could be possible.
Q. Now, I also asked you for studies and you provided a study that involved -- let's see if I can find that study. Was that something you had had before this thing that you pulled out of the International Brain Injury Association website?
A. Yes.
Q. You had that before today or before yesterday?
A. Oh, yes.
Q. So who are Asghar Rezaei, Ghodrat Karot -- Karami, and Mariusz Ziejewski?
A. These are part -- these are part of the consortium of the International Brain Injury Association. I don't know them personally, so these are part of the staff of the International Brain Injury Association that issues information for patients and providers.
Q. Actually, doesn't the editors note -- and it says the views and opinions expressed in the articles contained in this neurotrauma letter are those of the authors and contributors alone and do not necessarily reflect the views, policy, or position of the International Brain Injury

Association or all the members of the NTL editorial board. The NTL is provided solely as an informational resource. Inclusion of any particular article does not establish or imply IBIA's endorsement of its contents.
Isn't that at the end of the article?
A. Absolutely.
Q. So they didn't endorse this article or adopt this article, did they?
A. No, but this is standard disclaimer that is at the end of any article.
Q. But you just claimed that they had endorsed this article, adopted the article, but in fact, at end of the article, it says exactly to the contrary, isn't that correct?
A. As I said, yes, that's correct, standard disclaimer.
Q. Doctor, do you know the qualifications of the authors?
A. Yes.
Q. What are the qualifications?
A. They are engineering experts.
Q. How do you know that? Because I went through the whole article and I actually did a little research and I tried to find some information

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and there's nothing listed as to what their qualifications --

A. Well, if you look at the end, its corresponding author, Mariusz Ziejewski, is listed as a Ph.D. in engineering department of North Dakota State University.

Q. What about the other two gentlemen?

A. I don't know the other two gentlemen. So it's the last -- generally, for scientific articles, the last name on the publication is the head or, you know, professor in the department and then the other two are collaborators.

Q. And they were doing testing with an FEHM. What is that?

A. I'm sorry?

Q. They were doing testing with an FEHM. Do you know what that is?

A. They're talking about the FEHM study.

Q. Right. What is an FEHM?

A. I think it's finite element simulations.

Q. It's a finite element head model. It's -- it's a dummy..

A. Yeah. Finite element head model, yeah, or sim -- used for simulation.

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Q. So they were hitting it with a weight of twelve pounds, right?

A. Yes.

Q. And so they're hitting -- they're basically hitting a dummy in the head with a twelve pound weight, right?

A. That's how experiments are done, yes.

Q. And that's your article that you rely upon with respect to head injuries in this case, right?

A. That is one of the articles, yes.

Q. So do you agree with -- by the way, going back to the book chapter with Dr. King, is he using an archaic and ill-advised term, MBTI -- or MTBI, I'm sorry?

A. No. It's a little bit outmoded. I never said -- I never used the word archaic. There is a lot of confusion, actually, in the language referring to this because the American Academy of Neurology and Neurosurgery are still trying to develop a standard nomenclature, if you will.

Q. Well, didn't you say that the American Academy of Neurology advises against the use of the term?

A. Yes. Well, it says that the term can be confusing, yes.

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Q. Doctor, isn't it a fact that you testified that the American Academy of Neurology actually advises against the use of that term?

A. Yes.

Q. Now, talking about mild traumatic brain injury or brain injury, the signs can be neurological deficits, right?

A. Sometimes.

Q. Vision problem?

A. Sometimes.

Q. Motor function problems?

A. Sometimes.

Q. Equilibrium problems?

A. Sometimes.

Q. Sensation problems?

A. Sometimes.

Q. Memory and cognitive deficits, correct?

A. Sometimes.

Q. When you saw Ms. Petry, she complained of headaches, correct?

A. Yes.

Q. Dizziness?

A. Yes.

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Q. Memory loss?

A. Yes.

Q. Nausea?

A. Yes.

Q. Cognitive dysfunction?

A. Yes.

Q. Concentration problems?

A. Yes.

Q. Sleep problems?

A. Yes.

Q. Post-traumatic stress disorder?

A. Correct.

Q. And she treated for all those problems?

A. Yes.

Q. And she had objectively measured vision problems, correct?

MR. PAULUS: Object to the question.

THE WITNESS: Well, if you look at the report of Dr. Rosenberg, it said that her neurologic and neuro-ophthalmologic examinations were unremarkable and he thought the visual problems were due to a convergence --

BY MR. ROTHENBERG:

Q. Doctor --

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A. -- insufficiency.
Q. Right, convergence insufficiency. So he found that there was a --
A. He didn't say a word about trauma, actually.
Q. Doctor, I'm not -- I didn't ask you any of the things that you just said and what you said was inappropriate. I'm going to ask that they be stricken. Again, you're not here to give opinions of other doctors and I didn't ask you Dr. Rosenberg's opinion. All I asked you was whether there was objective testing of her vision.
A. That was -- Dr. Rosenberg did objective testing of her vision. He did a full neuro-ophthalmological --
Q. Doctor --
A. -- evaluation.
Q. -- stick to the question. Did he do objective testing of the vision, yes or no?
A. Yes.
Q. And did it show a convergence insufficiency?
A. Yes.
Q. Now, there was also hearing testing, is that correct?

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A. Yes.
Q. And there was VNG testing, correct?
A. Correct.
Q. And those are testing all that you had, correct?
A. Well, I had the MRI of the brain. I had x-ray reports. You mean testing in general or --
Q. The ones that I just said, the VNG --
A. Okay, yes, yes.
Q. Thank you.
Now, you also took a history or you got that form from the patient, Ms. Petry, when she came in, the ExamWorks registration form?
A. Yes.
Q. And she indicated specifically what activities that she could do before or was doing before and ones that she's not doing now, including aerobics, jogging, weightlifting?
A. Yes.
Q. She indicated her difficulty in getting in and out of the shower, her difficulty in getting dressed, having vertigo, dizziness, fatigue, head spins when combing or blowing her hair, right?
A. Yes.

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Q. She had trouble getting up and down from the toilet at times?
A. Yes.
Q. She felt problems when she put her head down brushing her teeth. She wasn't able to drive and had been unable to drive since the accident, right?
A. Yes.
Q. She had cognitive decreases and vision issues, correct?
A. Correct.
Q. She indicated difficulty in activities of normal daily living, including cooking, washing clothes, grocery shopping, cleaning, vacuuming, washing dishes, sweeping, correct?
A. Yes.
Q. No indication that she had any of those difficulties beforehand, is there?
A. I don't know one way or the other.
Q. Doctor, do you have any records whatsoever that would indicate that she had any difficulty in activities of normal daily living before this accident?
A. No. That's what I said, I don't know.
Q. How much weight did she put on since

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the accident?
A. I don't know, but she related to her psychologist that she was concerned about her weight gain.
Q. Now, the reasons for your opinions are two-fold. Number one is this, that she didn't have any neurologic symptoms right after the accident and that -- reason number two was that -- the MRI, is that correct?
A. No, that's not correct. I also have reports from Dr. Gainey, who was a treating neurologist before Dr. Greenwald took up the care.
Q. So you have more reasons besides the two that you said?
A. Yes.
Q. Now, you testified at your deposition that those were the only two reasons, isn't that correct?
A. Well, I was not asked about Dr. Gainey's reports.
Q. No, I asked you what are the reasons for your opinions in this case. And you said the only two reasons are because of the lack of neurologic symptoms immediately following the accident and what was shown on the MRI report.

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Those are the only two reasons. Do you recall saying that?

A. Yes, maybe.

Q. So now you want to add a third reason, which is Dr. Gainey, which you didn't discuss today?

A. That's correct, but I think it's important.

Q. Now, you didn't have Dr. Marmora's records, where she saw Dr. Marmora the same week following this accident, correct?

A. Correct.

MR. ROTHENBERG: Give me -- let's go off the record for just one minute. I need to locate those records.

THE VIDEOGRAPHER: Four-o-three p.m., going off the record.

- - -

(At this point, a short recess was taken, after which time the deposition resumed.)

- - -

THE VIDEOGRAPHER: Four-o-four, back on the record.

BY MR. ROTHENBERG:

Q. Doctor, you have in front of you

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Dr. Marmora's records. This is the office visit of April 21, 2015, her treating physician, correct?

A. Yes.

Q. In history of present illness, she describes driving with a seat belt on and hit from passenger's side. No loss of consciousness. Felt nauseated, but did not vomit. That's a sign of head injury, correct?

A. It can be or can be a vasovagal response or it can be from the elevated blood pressure. So per se, it's not specific. It can be, yes.

Q. Sure. And that's all I'm asking you, is it can be, so we don't have to argue about it. That's why I'm using the can. You don't have to say is. So I'll ask you can so we can dispense with the speech.

Shortly after, had pain across the chest, back left hip, knees, and shins. Went to the emergency room. CT of chest was normal. X-ray of hip was normal as well. Hurts to take a deep breath. Was put on ibuprofen and Valium. Continues to feel dazed. Indicating that she had felt dazed at the time, correct?

A. She said she felt shaken up and

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nauseated.

Q. Has pain in the neck. Having headaches daily as well. Correct?

A. Yes.

Q. She, after walking around the park for an hour, had to be taken home. The patient complains of headache, confusion, visual changes, nausea, dizziness, and difficult concentrating, but denies vomiting, and worse with S, slash, S with recumbency. And I don't know what S, slash, S is. Do you?

A. Probably symptoms -- I don't know this abbreviation.

Q. The patient complains of headache, confusion, visual changes, nausea, dizziness, and difficulty concentrating. Are those all symptoms of a head injury?

A. They can be, yes.

Q. The patient is also experiencing fatigue, emotional lability, and somnolence. Are those all potential symptoms of a head injury?

A. Potential, yes.

Q. The patient's -- patient impaired performance with work performance. Is that a potential symptom of a head injury?

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A. Potentially, yes.

Q. You don't know whether she had any of these before, correct?

A. That's correct.

Q. Dr. Marmora, in this note, doesn't indicate that these are pre-existing conditions, does he?

A. That's correct.

Q. And in fact, treats her and then ultimately refers her to Dr. Gainey, is that correct?

A. Yes.

Q. And thereafter, he -- she returns to him in August and she's still having vision -- and I'm looking at a record which I'll mark as P-13 for identification. I'll just read it to you.

- - -

(Dr. Marmora Note marked for identification as Deposition Exhibit P-13, retained by counsel)

- - -

BY MR. ROTHENBERG:

Q. She's still going to vision and cognitive therapy. Still has ringing in the ears. Vision problems, are those a potential problem from

a head injury?
A. Yes.
Q. Ringing in the ears?
A. Potentially, yes.
Q. Neck injury, neck pain. It says neck hurts?
A. Potentially, yes.
Q. Still getting headaches?
A. Potentially, yes.
Q. So she complained of the problems and is still having the problems since the accident.
You saw Dr. Greenwald's records where she told Dr. Greenwald she's had these problems, the headaches, the nausea, the dizziness, the vertigo, the problem with her eyes, she's had all those problems since the accident, correct?
A. Well, that's what she told him, yes.
Q. So is she lying?
A. I don't know if she's lying or not. There is somewhat of a discrepancy between what Dr. Gainey says in the -- in his last visit and what she reports to Dr. Greenwald the next day.
Q. My question was, at the time following the accident, immediately following the accident, she's told everybody from the time since she left

the emergency room about these symptoms that she's having, correct?
A. Yes.
Q. Do you think she just made them up after the accident, is that what you're saying to this jury?
A. No, I will never say that.
Q. Well, I think that's what you did --
A. This is generally the stress that she has, but it is in complete contradiction with the fact that Dr. Gainey on, I think it was 1/4/16, the last visit, documenting a dramatic improvement in all her symptoms, so --
Q. Actually, see, that's where you're wrong. The last visit wasn't January 4, 2016, was it?
A. I'm sorry?
Q. The last visit wasn't January 4, 2016, was it?
A. 1/4/16, yes.
Q. That wasn't the last visit, was it?
A. Okay, that's the last visit I have with Dr. Gainey.
Q. Why didn't they give you the next visit on March 7, 2016?

A. I don't have that visit.
Q. Well, it would be nice to know that -- now, that note says, I just last evaluated her just prior to returning to work. When she returned to work, she noted a significant setback in her cognitive function. For the first week, she was completely disoriented and could not handle the workload.
Were you aware of that?
A. I know that's what she said to Dr. Gold -- Greenwald.
Q. But you just told us about Dr. Gainey and his opinions.
A. Well, I don't have that note from Dr. Gainey.
Q. Why didn't they give you Dr. -- this is going back to 2016. You have the note that preceded it.
A. Okay, so I don't have it. I have nine visits and the last one is 1/4/16.
Q. The headaches persist. Were you aware that she still had, over the past three weeks, she had sharp, stabbing pains in the right retro-orbital region? Were you aware of that?
A. That --

Q. She continues to have episodes of dizziness when making rapid head turns. Were you aware of that?
A. Yes, I know what her – all her complaints, even current complaints are.
Q. Well, this is Dr. Gainey. You were telling us that Dr. Gainey – Dr. Gainey said that she continues to demonstrate a history consistent with post-concussion syndrome, post-traumatic headaches, and post-traumatic vertigo on March 7, 2016.
A. Okay.
Q. He didn't say she was better, did he?
A. Well, but how come she is worse two months later when she has had a dramatic improvement on 1/4/16. That's what doesn't make any sense.
Q. But she improved. She wasn't as bad as she had been. Even the testing shows that. There was improvement between testing, wasn't there?
A. Yes.
Q. Okay. So she improved on neuropsychologic testing, but she didn't go back to baseline. She still had problems, right?
A. That's what they said, yes.
Q. And all the treating doctors say she

continues to have problems as a result of this accident and the only person who says she doesn't have a closed head injury is you.

A. That's correct.

MR. PAULUS: Note my objection to the question.

BY MR. ROTHENBERG:

Q. You were aware that she presented with Dr. Marmora six days later discussing having symptoms of concussion immediately following the accident, right?

A. Well, she complained of nausea and she complains of feeling dazed. So since we don't know if she had a concussion or not, that's what was -- I mean, since I don't think she had a concussion, those could have been non-specific symptoms.

Q. Seems like you want to just advocate for a lack of a head injury despite all the evidence that would suggest that there is.

MR. PAULUS: Objection.

BY MR. ROTHENBERG:

Q. Go ahead, answer the question, Doctor.

A. Well, the fact of the matter is that there is no documentation in her initial records of care that she sustained a concussion and then she

waits six days to see her primary care physician. And then she sees a neurologist and things seem to get better. And then, all of a sudden, she has all these problems. So that's the temporal profile. And then she has a lot of documented psychological problems, so -- including a history of physical and sexual --

Q. Wait a second. Now -- stop.

MR. ROTHENBERG: I move to strike --

MR. PAULUS: You opened the door.

MR. ROTHENBERG: No, I didn't.

MR. PAULUS: Yes, you did. You've been referring to all the treating records and now she's referring to --

MR. ROTHENBERG: She can't talk about --

MR. PAULUS: You certainly can question her about it.

MR. ROTHENBERG: Let's go off the record, please.

THE VIDEOGRAPHER: Going off the record.

(At this point, a short recess was taken, after which time the deposition resumed.)

MR. ROTHENBERG: What she said was wildly inappropriate. It is absolutely, without question, for her to raise something that has -- she's not giving any psychological opinions and for her to say that the reason why now, when she gets her back against the wall about not having Marmora's records and not having done a thorough examination and not having looked at Gainey --

Excuse me, Doctor, step out for just a second.

It is not appropriate for her to raise. It's not even -- there's no relationship. This is simply, you know, an attempt to somehow or another obfuscate and bring up something that is extremely painful, something that happened, you know, in a prior marriage, you know, decades and decades ago without any medical relationship. It's just simply one of those things that cries wild desperation and it is offensive.

And to the extent that -- you know, I don't even know what sanctions to ask for, to be honest with you, it's just so -- I'm so offended by it.

MR. PAULUS: Let me respond if I may. And I want you to hear my whole response before you

interject.

MR. ROTHENBERG: I'm not going to say a word.

MR. PAULUS: Thank you.

MR. ROTHENBERG: I'm not imputing it to you, so let me just be very clear.

MR. PAULUS: I know that you're not. You did not. I did not coach her --

MR. ROTHENBERG: I can't imagine you would.

MR. PAULUS: Thank you.

However, to a certain extent, counsel did open the door as to these -- as to that statement because you went over treating doctor records and you were asking whether these complaints are non-specific or could be related to a mild traumatic brain injury as is being alleged in this case. So is it far afield. With all due respect to my expert, I think we can reach an accommodation and preserve her testimony of this videotaped deposition by discussing whether or not we can excise that comment.

Is that fair?

MR. ROTHENBERG: We certainly can.

MR. PAULUS: So I'm taking it under advisement and I wish to talk to my expert with the

understanding that I am going to advise her that we're not going to go into that area of communication. And you can be present when that --

MR. ROTHENBERG: I don't need to be.

MR. PAULUS: Okay. Then let me talk to her.

MR. ROTHENBERG: I trust your integrity beyond reproach.

- - -

(At this point, a short recess was taken, after which time the deposition resumed.)

- - -

MR. PAULUS: With the permission of counsel for plaintiff, I did talk to my expert about the last testimony regarding -- the last bit of testimony, we'll leave it nameless, and we have agreed to strike that portion of the testimony. We feel that the door was opened by counsel, but for the interest of the clarity and the integrity of the record, we'll leave that alone and have that portion of the testimony stricken.

Is that fair?

MR. ROTHENBERG: Thank you.

MR. PAULUS: You're welcome.

THE VIDEOGRAPHER: Four-twenty p.m., back on

the record.

BY MR. ROTHENBERG:

Q. You mentioned Dr. Gainey a bunch of times and you mentioned that visit of January 4th. You didn't have the March 7, 2016 records, correct?

A. That's correct.

Q. Are you sure? Do you want to check?

A. No. I reviewed the chart almost page by page, so I have the dates written down.

Q. Well, you have the dates, but do you have the doctor's whole record there?

A. I made notes.

Q. Why don't you open up your book to the record --

A. No, no. I made notes of all the dates of Dr. Gainey's --

Q. No. Doctor, can you open up your book to Dr. Gainey's record.

A. Well, they're in chronological order, so the last one I have is 1/4/16.

Q. So look at January -- March 7th, I'm sorry. Let's go to March 7th.

A. This is the last one. Okay, let me look at -- if I have anything in March.

Q. Doctor, I'm going to come up here and

take a look over your shoulder.

A. JFK Rehab. So this is 1/4/16?

Q. Yes.

A. Dr. Gainey. Dr. Greenwald. JFK Rehab.

Q. Keep going.

A. February is radiology. Radiology. JFK Rehab. Oh, here it is. Okay. You're right. I'm --

Q. Now see, what's interesting --

A. Here's my list.

Q. I understand, but see -- so it didn't exist. You made a mistake again with respect to records. You have the record, right?

A. Yes.

Q. It existed, but you chose to ignore that record and didn't have it tabbed, right?

MR. PAULUS: Objection.

THE WITNESS: I didn't choose to ignore it. I couldn't find it and it's not in my handwritten list. So I, you know, made a mistake.

BY MR. ROTHENBERG:

Q. Well, you wanted to talk about how she had this remarkable recovery, but we know that --

A. She did --

Q. Wait, Doctor, I have to --

MR. PAULUS: Let him finish the question, Doctor.

BY MR. ROTHENBERG:

Q. You wanted to talk about a remarkable recovery, but the next note, the last note in which he sees her, he says that she's had -- she's actually had a significant setback, correct?

A. Yes.

Q. Okay. And at that point, he's recommending that she start cognitive therapy and vestibular rehabilitation, correct?

A. Yes.

Q. And he believes that she has a post-concussion syndrome, right?

A. Yes.

Q. So unlike what you testified about, where her position was on January 4th and how it didn't even -- it was all better, that wasn't the case. That, actually, it wasn't when he last saw her, right?

A. On March 7, '16, that's correct.

Q. And the reason he stopped seeing her was why?

A. He referred her to Dr. Greenwald.

Q. No, that's not the reason. Actually -- again, getting the facts right is important. The reason was because he moved to another state, just like she stated, and so she had to go to another doctor --

MR. PAULUS: Objection, mischaracterization of the testimony.

BY MR. ROTHENBERG:

Q. He moved and so she couldn't see him anymore, right?

MR. PAULUS: Objection to the form of the question.

MR. ROTHENBERG: What's the objection, sir?

MR. PAULUS: The objection is that he was -- the plaintiff was referred to Dr. Greenwald, which is true, and you're trying to characterize it saying that because Dr. Gainey's moving, that somehow she's giving incorrect statements. It's not -- she was right.

Also, on top of that, he didn't --

MR. ROTHENBERG: Hold on.

BY MR. ROTHENBERG:

Q. Doctor, it's important to get the facts right, correct?

A. Yes.

Q. And so you're relying upon all the records, aren't you, not just one particular record, are you?

A. Yes. I try to do that, yes.

Q. And so to be fair, you should look at the whole sum total of the records?

A. Yes. I try to do that, yes.

Q. Now, Doctor, with respect to the second reason that you don't think that there was a mild traumatic brain injury is because of your reading of the films, correct? Not reading of the films. I'm sorry. Your interpretation of the report, because you never saw the films.

A. That's correct.

Q. Now, you're aware that, we're talking about Dr. Greenwald, and Dr. Greenwald specifically indicates that he looked at the films and indicated that the reason why he gave the opinion he did is that she does not have a history of risk factors for any other disease processes, correct?

A. Correct.

Q. And that he looked at the films and determined that, based upon his review of this, that the most likely second -- most likely cause of any of the changes seen on the MRI of the brain were the

traumatic brain injury she sustained on April 15, 2015, correct?

A. That's what he says, yes.

Q. And that's his area of expertise, isn't it?

A. Interpreting films --

Q. No.

A. -- or formulating opinions on head trauma?

Q. On treating people with head trauma.

A. Okay. So he's not a radiologist, so that's his opinion about the MRI findings.

Q. Yes. You're not a radiologist either, right?

A. Correct.

Q. But you didn't even bother to look at the films, right?

A. It's not that I didn't bother. I didn't receive the films for review.

Q. Now, in your report, again, getting the facts right, you actually didn't even know that the first doctor that Ms. Petry saw following this accident was Dr. Marmora. You thought it was Dr. Gainey. You thought it was several weeks later, not the few days later as it was, actually?

A. No. Actually, my report, I said she was initially treated by her primary care physician, Dr. Marmora in New Brunswick.

Q. Which report do you write that?

A. My initial, my November 29, '17 report. That will be the paragraph above the last, so --

Q. That was in your second report or your first report?

A. The first report.

Q. I'm sorry, at your deposition you said -- when did she first see a doctor after the emergency room. Turn to page one-o-five. Turn to page one-of-five of your deposition. I don't want to be unfair to you. I was going with your deposition. If you're finding something different in your report now, I'm sorry, but you were asked.

Question, on page one-o-five, line thirteen, when did she first see a doctor after the emergency room. Answer, she saw a doctor. I have to go back to my records review. Doctor, what are you reviewing, your report. Answer, my report, yes. She saw Dr. Gainey on 4/23/15. Gainey.

So that was -- at that point, you thought Dr. Gainey was the first doctor, right?

MR. PAULUS: Objection.
THE WITNESS: Okay, ask the question again?
BY MR. ROTHENBERG:
Q. At the time when initially asked in your deposition, you thought it was Dr. Gainey, correct?
MR. PAULUS: Note my objection.
THE WITNESS: No. I said -- in the next question in the deposition, I said, according to the records I have, it looks like, from another report -- it looks like, from another report, she might have seen her primary care physician. So that's in the page of the deposition.
Q. Yes, sir -- yes, ma'am. And that's --
A. So -- so that's what -- so that's what the whole, my whole conversation said.
Q. Right. And you actually indicate, according to the records provided, that's the first doctor she saw. According the records I have, it looks like, from another report, she might have seen her primary care physician.
A. Yes.
Q. And you say Dr. Marmora. I say what were her complaints to Dr. Marmora. Answer, I don't have Dr. Marmora's report, but according to a

summary done by Dr. Greenwald, she was seen by Dr. Marmora on 4/21/15. She complained of feeling dazed, neck pain, headache, confusion, visual changes, nausea, dizziness, difficulty concentrating, fatigue, and emotional ability -- I thinks that's lability -- and somnolence impaired for over four months and feeling cold.
And that was from her family physician, right?
A. Yes.
Q. But you didn't have that --
A. So that is in my report then.
Q. But those -- that recounting of Dr. Greenwald was only in your second report. It wasn't even part of your first report, right?
A. No. Okay, I'm looking, it's page two, my first report, where I say, after I took the notes, the handwritten notes during the examination, where I said, she was initially treating -- treated by her primary care physician, Dr. Marmora in New Brunswick.
Q. But you didn't have the complaints at that point that she gave to Dr. Marmora. You didn't have his records, right?
A. That's correct, but I had -- I believe

your question was did I put in the report that she had seen Dr. Marmora. Yes, I put in the report that she saw Dr. Marmora and it's also in my handwritten notes.
Q. That was three questions ago. We had a different question. You're answering the old question.
MR. PAULUS: Note my objection.
BY MR. ROTHENBERG:
Q. You agree that there is no prior history of chronic headaches?
A. I'm sorry?
Q. She had no prior history of chronic headaches?
A. I don't know. I don't know that for a fact.
Q. Turn to page one-sixty of your deposition, please? You're not aware of -- page one-fifty-nine, line twenty, through one-sixty, line seven. Is it fair to say that you do not have any records that indicate that there were any prior history of chronic headaches?
A. So my answer was I don't know if there are no medical records because I don't have the records, any medical records for this patient

preceding 2015, which is the same answer I just gave you.
Q. Do you have any records which indicate that she had chronic headaches beforehand?
A. No, but there is --
Q. It's a yes or no question. Do you have any records where she had chronic headaches beforehand, yes or no?
A. No.
Q. Are you aware of any records that would indicate that she had a history of prior headaches?
A. I'm not aware because I didn't receive them.
Q. Are you aware of any prior treatment for headaches, dizziness, vertigo, balance problems, nausea, cognitive defects of any kind prior to this?
A. Can we go off the record?
Q. No, no. Please answer the question.
A. Well, I would answer the same way I just answered and I was instructed not to say that, so --
Q. Doctor, are you aware of any record which would indicate, or any document, thing of any kind that indicates that she had prior dizziness,

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vertigo, balance problem, eye problems, nausea, or cognitive defects?
A. I'm not aware of any documents, no.
Q. Are there any problems -- are you aware of any documents or things that would indicate she had neck problems or neck pain before this?
A. No, I'm not.
Q. Any history of confusion that you're aware of?
A. No, I'm not.
Q. Any history of visual changes that you're aware of beforehand?
A. No, I'm not.
Q. Any problems with difficulty concentrating that you're aware of?
A. No, I'm not.
Q. Are you aware of any problems with sleeping beforehand?
A. No, I'm not.
Q. She had a VNG test, is that correct?
A. Yes.
Q. And that demonstrates vestibular dysfunction?
A. Yes, that's what the report said.
Q. And for her it showed vestibular

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dysfunction on the left-hand side?
A. Yes.
Q. Okay. And that means that it's a balance issue, is that correct?
A. Yes.
Q. And is there any indication that she had any balance issues before this?
A. I don't have the records to comment one way or the other.
Q. Are you aware of anything that would indicate, from any person at any time, that indicates she had any balance issues before this?
A. Again, I don't have any records. I don't know for a fact whether she did or not.
Q. Are you claiming that she did?
A. No.
Q. Are you claiming --
A. I'm just saying I don't know.
Q. Let's talk about this. Are you claiming that she had cognitive defects beforehand?
A. No.
Q. Are you claiming that she had balance problems beforehand?
A. No. I just --
Q. Are you claiming that she had

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convergence problems beforehand?
A. No. I just said --
Q. Doctor --
A. The answer is we don't know.
Q. Doctor, just answer my question. Are you going to claim that she has visual impairment before this?
A. No.
Q. Chronic headaches before this?
A. No.
Q. Cognitive defects before this?
A. No.
Q. Vertigo before this?
A. No.
Q. You agree that these all started after the accident?
MR. PAULUS: Objection.
THE WITNESS: That's -- those are her subjectively reported complaints, yes.
BY MR. ROTHENBERG:
Q. You agree that you use subjective complaints to diagnose and treat your own patients?
A. Absolutely.
Q. Do you agree that the complaints she's given are consistent with a mild traumatic brain

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injury?
A. In general. I don't believe that applies to her, though.
Q. You agree that the complaints she gave are consistent with a mild traumatic brain injury?
A. They can be, yes.
Q. You agree that none of the complaints were inconsistent?
A. That's -- yes, that's correct.
Q. And your opinion, the only injuries she suffered was a lumbar strain and a chest contusion?
MR. PAULUS: Objection.
THE WITNESS: No. My -- well, my opinion, based on the emergency room records, is that, yes, she had sprain and strain and chest contusion.
BY MR. ROTHENBERG:
Q. Regardless of what we agreed to as the cause, whether you believe or not the cause of this accident was her present problems, you can't tell us when she's going to get better, can you?
A. No, I can't.
Q. And you can't tell me whether any of these problems are ever going to resolve, can you?
A. No, I can't.

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MR. ROTHENBERG: I have no further questions.
MR. PAULUS: Thank you, counsel.
BY MR. PAULUS:
Q. Doctor, just a few follow-up questions. What's the difference between an objective test versus subjective complaints?
A. Subjective complaints is what is reported by a patient, so I have pain or headache or this and that and that. And objective is what you find on diagnostic testing or the physical examination or both, the combination of both.
Q. And cross-examination questions came from plaintiffs' counsel about all of the complaints that plaintiff has had since the happening of the motor vehicle accident and they were vision problems, hearing problems, balance issues, fatigue, headaches, I may have left out a few, but of those complaints, can they be attributable to any other cause other than mild traumatic brain injury?
A. Yes, of course.
Q. Such as?
A. Such as depression.
Q. Anything else?
A. Medical issues.

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Q. Now, in preparation for your reports, you had medical records that you reviewed and relied upon, is that correct?
A. Yes.
Q. So even though we discussed only three of the medical records that stood out in your direct testimony, you looked at a whole binder full of medical records, did you not?
A. Yes.
Q. And they were part and parcel of your opinions, were they not?
A. Yes.
MR. PAULUS: No other questions. Thank you.
BY MR. ROTHENBERG:
Q. Doctor, objective tests, VNG test, objective?
A. Yes, but that's a --
Q. Doctor, not -- but is --
A. That requires some more complex answer.
Q. I apologize. Doctor, tell me if you can answer this question yes or no. Is a VNG test an objective test? Can you answer that yes or no?
A. Yes, but it doesn't tell us anything about the cause of a problem.

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Q. I didn't ask you the cause of the problem. I'm just asking whether --
A. That's the fact about VNGs.
Q. Wow. Doctor --
A. Just like EMGs or EEGs.
Q. Doctor, these questions are yes or no questions. If you cannot answer it yes or no, tell me you cannot answer it yes or no.
A. I cannot answer yes or no.
Q. You haven't heard the question yet.
MR. PAULUS: You did --
THE WITNESS: You just did ask me about VNG.
BY MR. ROTHENBERG:
Q. Is it an objective test?
A. Yes and no.
Q. Is a neuropsychological test an objective test?
A. Yes and no.
Q. Is an MRI an objective test?
A. Yes.
Q. Is a hearing test or tinnitus an objective test?
A. You can't -- tinnitus is a symptom. You cannot test --
Q. It's a yes or no question.

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MR. PAULUS: I think she's answering it.
THE WITNESS: No, because tinnitus is a symptom. You cannot measure tinnitus. You measure hearing and which frequencies the tinnitus is as -- is at.
MR. ROTHENBERG: Thank you. No further questions.
MR. PAULUS: No follow-up. Thank you, Doctor.
THE VIDEOGRAPHER: This concludes the deposition. The time is four-thirty-nine p.m. Going off the record.

(DEPOSITION CONCLUDED - 4:39 p.m.)

CERTIFICATE

STATE OF NEW JERSEY :
: SS
COUNTY OF CAMDEN :

I, JACQUELINE A. GEARY, Certified Court Reporter - Notary Public, within and for the State of New Jersey, do hereby certify that the proceedings, evidence, and objections noted are contained fully and accurately in the notes taken by me of the preceding deposition, and that this copy is a correct transcript of the same.

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