

In The Matter Of:

Allegrini v.

LMFIC

Jeffrey Lakin, M.D.

March 9, 2016

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Original File 3-9-16 - Allegrini v Reddick - Jeffrey Lakin.txt

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SUPERIOR COURT OF NEW JERSEY LAW DIVISION - CAMDEN COUNTY DOCKET NO. CAM-L-1884-14

ALDO ALLEGRINI, : CIVIL ACTION
Plaintiff, : Videotape
- vs - : Deposition of:
AYESHA Y. REDDICK and LIBERTY :
MUTUAL FIRE INSURANCE COMPANY, JEFFREY F. LAKIN, M.D.
Defendants. :
-----X

TRANSCRIPT of the deposition of the witness, called for Oral Examination in the above-captioned matter, said deposition being taken pursuant to Superior Court Rules of Practice and Procedure by and before CHERYL ANN RAKAUSKAS, Certified Court Reporter, (License No. X102030), and Notary Public of the State of New Jersey, at the offices of WELLS FARGO BUILDING, 800 West Main Street, Suite 201, Freehold, New Jersey, on Wednesday, March 9, 2016, commencing at approximately 12:56 p.m.

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1 I N D E X
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3 WITNESS EXAMINATION BY PAGE
4
5 JEFFREY F. LAKIN, M.D. Ms. McDonald 5, 15, 88
6 Mr. Cuneo 10, 46, 100
7
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9 * * *

12 E X H I B I T S
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14 EXHIBIT NO. DESCRIPTION PAGE
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16 (None marked.)
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A P P E A R A N C E S :

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BY: JACQUELINE V. MCDONALD, ESQUIRE
Attorneys for the Defendant

1 THE VIDEOGRAPHER: We are now on the
2 record. This begins DVD Number 1, in the deposition of
3 Jeffrey Lakin, M.D. In the Matter of Allegrini versus
4 LMFIC, in the Superior Court of New Jersey, Law
5 Division, Camden County, Docket Number L-1884-14.
6 Today is Wednesday, March 9, 2016, and
7 the time is 12:56 p.m. This deposition is being taken
8 at 800 West Main Street, Suite 201, Freehold, New
9 Jersey, at the request of Styliades & Jackson. The
10 Videographer is Robert Behrens of Thomas G. Oakes &
11 Associates, and the court reporter is Cheryl Rakauskas
12 of Thomas G. Oakes Associates.
13 Will counsel and all parties present
14 state their appearances and whom they represent.
15 MR. CUNEO: Yes. Thank you. David
16 Cuneo. I represent Plaintiff, Aldo Allegrini.
17 MS. McDONALD: Jacqueline McDonald,
18 Styliades & Jackson, representing the Defendant.
19 THE VIDEOGRAPHER: Will the court
20 reporter please swear in the witness.
21 THE COURT REPORTER: Doctor, raise your
22 right hand, please. Do you solemnly swear that the
23 testimony you're about to give today is the truth, the
24 whole truth, and nothing but the truth so help you God?
25 THE WITNESS: Yes, I do, so help me God.

Page 5

1 JEFFREY F. LAKIN, M.D.,
 2 Wells Fargo Building, 800 West Main Street, Suite 201,
 3 Freehold, New Jersey 07728, having been first duly
 4 sworn, was examined and testified as follows:
 5 EXAMINATION
 6 VOIR DIRE EXAMINATION BY MS. McDONALD:
 7 Q. Good afternoon, Doctor. As you know, my
 8 name is Jacqueline McDonald. And we're here today to
 9 talk about an examination you performed on the
 10 Plaintiff on May 13, 2015. Before we get into the
 11 substance of our discussion, I would like to give the
 12 Jury the benefit of your background.
 13 Would you please tell us about your
 14 educational background?
 15 A. Yes, I can. I graduated Muhlenberg College in
 16 1981, Summa Cum Laude, Phi Beta Kappa. I attended the
 17 University of Medicine and Dentistry, the New Jersey
 18 Medical School. I graduated in 1985. I did a two-year
 19 residency in general surgery at the Medical School,
 20 followed by four years of orthopedics at the Medical
 21 School, and I completed a one -- one-year fellowship at
 22 Columbia University Hospital.
 23 Q. Okay. And, Doctor, are you currently in
 24 the practice of orthopedics?
 25 A. Yes, I am.

Page 6

1 Q. Where do you practice?
 2 A. In Clifton.
 3 Q. And do you practice alone, or with
 4 associates?
 5 A. A solo practice.
 6 Q. Doctor, how long have you been in private
 7 practice?
 8 A. For about 24 years.
 9 Q. And what states do you have licenses in?
 10 A. In -- in New Jersey.
 11 Q. And is that license in good standing?
 12 A. Yes, it is.
 13 Q. Doctor, I see that on your curriculum
 14 vitae, which is a fancy word for a resume, you are
 15 board certified. Can you explain what that means?
 16 A. Yes, it is. I'm a board -- I'm a board
 17 certified orthopedic surgeon, and my -- my specialty is
 18 in orthopedic surgery. After completing an approved
 19 residency program, you have to take a written
 20 examination afterwards, which I successfully passed.
 21 Then you have to wait to be in practice, two years
 22 private practice, so that you can be peer reviewed by
 23 your peers, and also take an oral examination. At the
 24 year I passed my examination, there was no longer any
 25 grand -- grandfathering of your board certification,

Page 7

1 you had to recertify. I took the recertification test,
 2 and recertified for 2000 and -- 2004, and also just
 3 recently passed my recertification, which is good for
 4 2024. The recertification process, you have to submit
 5 your operative cases to be peer reviewed by the
 6 American Board of Orthopedic Surgery, you have to be
 7 peer reviewed by your peers, and then you have to
 8 complete a written examination.
 9 Q. So when you say "peer review," in other
 10 words, Doctor, other doctors in your specialty take a
 11 look at your cases and review the work that you did?
 12 A. Correct.
 13 Q. And does -- do all orthopedic surgeons
 14 have board certification?
 15 A. No, they do not.
 16 Q. Is it possible to go through in your
 17 whole career and not be board certified?
 18 A. Yes, it is.
 19 Q. And, Doctor, do you have any academic
 20 appointments?
 21 A. I was just a guest lecturer at the -- at the
 22 medical school.
 23 Q. And that's UMDNJ?
 24 A. Correct.
 25 Q. And do you have any hospital privileges,

Page 8

1 Doctor?
 2 A. Yes, I do.
 3 Q. Where?
 4 A. I actively have privileges at Children Memorial
 5 Hospital in Pompton Plains, and I also practice at same
 6 day surgical procedures in Clifton.
 7 Q. Doctor, you mentioned that you are in
 8 private practice. What kind of cases do you see in
 9 your private practice?
 10 A. Again, I take care of people with complaints in
 11 the musculoskeletal system, the spine, the extremities,
 12 and treatment of -- and the diagnosis of those
 13 problems, and treatment whether it be operative or
 14 nonoperative.
 15 Q. Do you see patients who have complaints
 16 of pain in their neck and back?
 17 A. Yes, I do.
 18 Q. Do you have -- see patients who have
 19 complaints of nerve pain in their arms and legs?
 20 A. Yes, I do.
 21 Q. Do you see patients who've been involved
 22 in motor vehicle accidents?
 23 A. Yes, I do.
 24 Q. Do you see patients who have those
 25 complaints who have not been involved in motor vehicle

Page 9

1 accidents?
 2 A. Yes, I do.
 3 Q. In the course of your practice, do you
 4 utilize MRIs?
 5 A. Yes, I do.
 6 Q. In fact, in medical school, were you
 7 trained in the reading of MRIs?
 8 A. Yes, I was.
 9 Q. And in the course of your practice, do
 10 you utilize a test called an EMG?
 11 A. Yes, I do.
 12 Q. In the course of your practice, do you
 13 refer people out for pain management injections?
 14 A. Yes, I do.
 15 Q. In the course of practice, do you perform
 16 surgeries?
 17 A. Yes, I do.
 18 Q. What kind of surgeries do you perform?
 19 A. Again, surgeries to the -- to the extremities,
 20 to the shoulders -- shoulders to the digits, and from
 21 the pel -- from the pelvis to the lower extremities.
 22 Q. Okay. During the course of your career,
 23 have you performed spinal surgeries?
 24 A. Yes, I have.
 25 MS. McDONALD: Okay. At this time, I

Page 10

1 would like to offer Dr. Lakin as an expert in
 2 orthopedic surgery.
 3 MR. CUNEO: Okay.
 4 VIOR DIRE EXAMINATION BY MR. CUNEO:
 5 Q. Yes, I have a few questions about what
 6 makes you uniquely qualified to examine Mr. Allegrini
 7 in this case.
 8 Doctor, you -- you said that your office
 9 is in Clifton, New Jersey?
 10 A. Correct.
 11 Q. And you have admission privileges at
 12 Children's Hospital, that's in Pompton Plains?
 13 A. Correct.
 14 Q. And that's -- what county is that?
 15 A. I believe that's Morris County.
 16 Q. Okay. So that's pretty far north of
 17 Camden; am I right?
 18 A. It -- it's -- it's about an hour and a half
 19 drive.
 20 MS. McDONALD: Objection. Go off the
 21 record.
 22 THE VIDEOGRAPHER: Off the record.
 23 1:03, we're going off the record.
 24 (Discussion held off the videotape
 25 record.)

Page 11

1 MS. McDONALD: This is voir dire. It's
 2 about the Doctor's qualifications, not about his
 3 geographic location. Dave, I know where you're going
 4 with this. If you want to ask those questions on
 5 cross, you can, but not now. And motion to strike
 6 THE VIDEOGRAPHER: Ready to go back on
 7 the record?
 8 MS. McDONALD: Yes.
 9 THE VIDEOGRAPHER: Just so you guys know,
 10 I forgot to mention it earlier, I have a 60-minute
 11 tape, so I'll give you a 5-minute warning when I need
 12 to change the tape.
 13 MS. McDONALD: Thanks.
 14 THE VIDEOGRAPHER: All right. The time
 15 is 1:03. Back on the record.
 16 BY MR. CUNEO:
 17 Q. Okay. So, Doctor, that's in -- that's
 18 not in New York City?
 19 A. Excuse me?
 20 Q. That's not in New York; right?
 21 A. Do you want to repeat the question again?
 22 Q. Is Morris County outside of New York
 23 City?
 24 A. Mor -- Morris County is in -- if we want to talk
 25 geography, I think it's northwest New Jersey.

Page 12

1 Q. Northwest. Okay. All right. And -- and
 2 you're aware that Mr. Allegrini resides in Camden?
 3 MS. McDONALD: Objection.
 4 MR. CUNEO: Yeah, I --
 5 MS. McDONALD: Off the record.
 6 MR. CUNEO: Go ahead.
 7 THE VIDEOGRAPHER: The time is 1:04.
 8 Going off the record.
 9 (Discussion held off the videotape
 10 record.)
 11 MS. McDONALD: Let's make it a continuing
 12 objection, the same grounds as before.
 13 MR. CUNEO: Okay.
 14 MS. McDONALD: Okay.
 15 THE VIDEOGRAPHER: The time is 1:04.
 16 Back on the record.
 17 BY MR. CUNEO:
 18 Q. All right. Doctor, I'll -- I'll ask --
 19 I'll reserve questions about why you were asked to
 20 perform this exam in total a bit later.
 21 Regarding your qualifications, is there
 22 anything unique about your practice that would make you
 23 uniquely qualified to ex -- conduct an examination of a
 24 gentleman who was -- who resides in Camden, and was
 25 involved in an accident in Camden, New Jersey, any

Page 13

1 unique qualifications?
2 MS. McDONALD: Objection to form. You
3 can answer, if you understand what Counsel means.
4 BY MR. CUNEO:
5 A. I -- I think, you know, to explain to the Jury,
6 I'm a board certified orthopedic surgeon. And I also
7 completed the recertification process --
8 Q. Okay.
9 A. -- twice. So if you want to talk about my
10 credentials, we can talk about my credentials. I'm a
11 board certified orthopedic surgeon.
12 Q. Okay. And you -- you mentioned that you
13 were a guest lecturer at UMDNJ?
14 A. Correct.
15 Q. And if you have a subspecialty, it
16 appears that that would be in hand surgery; is that
17 right?
18 A. Correct.
19 Q. You've identified yourself in the past as
20 a hand specialist?
21 A. Again, I practice -- my scope of practice, I'll
22 explain it to you very nicely, very calmly, is that I'm
23 a -- I'm an orthopedic surgeon. I did four years of
24 orthopedics. I did an extra year in hand -- hand --
25 hand and upper extremities. My practice consists of

Page 14

1 general orthopedics 50 percent, and 50 percent is
2 devoted to the upper extremities.
3 Q. Okay.
4 A. And my board certification is in general
5 orthopedics.
6 Q. General orthopedics?
7 A. Correct.
8 Q. So you're a general orthopedic surgeon?
9 A. Board certified.
10 Q. Okay. And the reason I mentioned the
11 guest lecturer, and you -- and you mentioned it, you
12 are a guest lecturer at the Department of Orthopedics
13 in New Jersey -- in New Jersey Medical School, section
14 of hand surgery; correct?
15 A. I gave a lecture -- I gave lectures at the
16 beginning of my practice, in my fellowship at that
17 time.
18 MR. CUNEO: Okay. All right. Well, like
19 I said, I'll reserve -- reserve some further questions
20 regarding why it is you were asked to examine
21 Mr. Allegrini in this case. No objection to his
22 qualifications at this time.
23 MS. McDONALD: Okay. Go off the record
24 for a second.
25 THE VIDEOGRAPHER: The time is 1:06.

Page 15

1 Going off the record.
2 (Discussion held off the videotape
3 record.)
4 MS. McDONALD: Motion to strike counsel's
5 argumentative remarks at the end of voir dire. We can
6 go back on.
7 THE VIDEOGRAPHER: The time is 1:07.
8 Back on the record.
9 DIRECT EXAMINATION BY MS. McDONALD:
10 Q. And, Doctor, now that we talked about
11 your qualifications, I would like to turn our attention
12 to the substance of the examination you performed on
13 the Plaintiff. That examination was performed on May
14 13, 2015?
15 A. Yes, it was.
16 Q. And you wrote up a report for that
17 examination?
18 A. Yes, I did.
19 Q. And that report is currently in front of
20 you; correct?
21 A. Yes, it is.
22 Q. And along with some records that you also
23 reviewed in conjunction with your examination?
24 A. Yes, it is.
25 Q. And you'll be referring to those from

Page 16

1 time to time during our discussion today to refresh
2 your memory?
3 A. Yes, I will.
4 Q. Okay. And, Doctor, you performed this
5 examination at the request of a company called IMX; is
6 that correct?
7 A. Correct.
8 Q. And that's a company that arrange --
9 makes arrangements for independent medical
10 examinations?
11 A. Yes, it is.
12 Q. And your role in this case is as an
13 independent medical examiner?
14 A. Yes, it is.
15 Q. And when you perform your examination,
16 there are certain rules governing those examinations;
17 correct?
18 A. Correct.
19 Q. And that's that you can't contact the
20 treating physicians of the Plaintiff; correct?
21 A. Correct.
22 MR. CUNEO: Objection to form.
23 BY MS. McDONALD:
24 Q. And that you are not permitted to -- you
25 know, strike that.

Page 17

1 And this was an examination you performed
2 on one occasion; correct?
3 A. Correct.
4 Q. And I believe you did issue a second
5 report on June 12, 2015 regarding an additional record
6 review you performed; correct?
7 A. Correct.
8 Q. Doctor, during our time together today,
9 I'm going to be asking you to make conclusions and
10 render opinions regarding the Plaintiff and their
11 medical conditions. I would ask that you keep those
12 opinions and conclusions within a reasonable degree of
13 medical certainty. Can we agree on that?
14 A. Yes, we can.
15 Q. And if for any reason you can't make a
16 conclusion within a reasonable degree of medical
17 certainty, you'll let me know?
18 A. Yes, I will.
19 Q. Great. Thank you, Doctor.
20 Turning our attention now to your
21 examination. The examination was performed in Cherry
22 Hill?
23 A. Yes. Yes, it was.
24 Q. Okay. And we've already kind of touched
25 on this, but in conjunction with your examination, you

Page 18

1 had certain records made available to you; correct?
2 A. Yes, I did.
3 Q. Can you tell us what some of those
4 records were?
5 A. Again, I had notes of the accident report, the
6 police report. Notes of Dr. Marc Kahn from 12/1/03
7 through 2/23/04. Notes of a chiropractor at Pennsauken
8 Spinal Rehab from 1/2/07 to 8/18/04. Notes of
9 Dr. Barry Gleimer, an orthopedic surgeon, from 4/12/07
10 to 9/17/03. Notes of Dr. Lipnack --
11 Q. Doctor, I'm just going to stop you for a
12 minute, because you're reading -- I know you're reading
13 from your report, but you've indicated Pennsauken Spine
14 and Rehab. Those dates were until August of 2014, and
15 for Dr. Gleimer, through September of '13; correct?
16 A. Correct.
17 Q. Okay. You said it was '03 and '04.
18 A. Sorry about that.
19 Q. Sure. Go ahead. I'm sorry.
20 A. And -- and notes of Dr. Eric Lipnack from
21 6/12/07 to 12/16/13. Notes of a pain management
22 specialist, Dr. Lee, from 10/17/13. Notes of Kennedy
23 Hospital System from 1/12/04. An operative report of
24 Dr. Marc Kahn from 1/12/04. History and physical of
25 Dr. Marc Kahn from 7/8/04. Procedures performed by

Page 19

1 Dr. Lee on 3/12/14, 4/19 -- 4/9/14. MRI reports of the
2 left shoulder, 11/20/03. Cervical spine from -- MRI
3 from 3/15/07. Electrical diagnostic testing from
4 7/10/07. MRI of the cervical spine report from
5 10/9/13. MRI report of the lumbar spine from
6 12/6/2013. EMGs on 1/28/2014. Notes of Cooper
7 Occupational Health Physical Medicine from 10/14/03 to
8 11/8/13. Notes of rehab physical therapy from 2/4/04
9 to 2/13/04. Photographs and Interrogatories of
10 Mr. Allegrini, as well an auto estimate.
11 Q. Okay. Thank you, Doctor.
12 You also had some diagnostic films
13 submitted for your review, as well; correct?
14 A. Yes, I did.
15 Q. And what studies were they?
16 A. I had the MRI of the cervical spine from
17 10/9/2013, as well as a M -- X-rays of the cervical
18 spine from 3/15/07. And I also had an MRI of the
19 lumbar spine.
20 Q. Okay. And that was from December 6,
21 2013?
22 A. Correct.
23 Q. And --
24 A. And -- and an MRI of the cervical spine from
25 3/15/07.

Page 20

1 Q. Great. Thank you, Doctor.
2 At the time of your examination of the
3 Plaintiff, did you obtain a history from him?
4 A. Yes, I did.
5 Q. And that was obtained directly from the
6 Plaintiff?
7 A. Yes, it was.
8 Q. And when you took that history, were you
9 dependent on his veracity when -- regarding what he
10 told you?
11 A. Yes, I did.
12 Q. And what was the history that he gave
13 you?
14 A. Again, at that time, he was a 40 year old male
15 that was a driver of a car that was struck on the
16 driver's side door by another vehicle. He did not go
17 to a hospital following the accident. And a couple of
18 days later, he went to a chiropractor, where he treated
19 approximately three times a week for six months. He
20 also saw various other physicians, including Dr. Barry
21 Gleimer, an orthopedic surgeon. He did not have any
22 surgery to his neck, or to his lower back, or to his
23 left shoulder. He was also seen by a physical medical
24 and rehab specialist, Dr. Lipnack. He was eventually
25 referred to a pain management specialist, Dr. Lee, who

Page 21

1 was the last doctor to treat him. And he had one
 2 injection to his neck and to his lower back.
 3 Q. And those injections were performed in
 4 2014?
 5 A. Correct.
 6 Q. And did you have any -- did the Plaintiff
 7 indicate to you that he had had any treatment after
 8 2014?
 9 A. No, he did not.
 10 Q. Did the Plaintiff also tell you what his
 11 present complaints were at the time of your
 12 examination?
 13 A. Yes, he did.
 14 Q. And, again, did you rely on his veracity
 15 in telling you those present complaints?
 16 A. Yes, I did.
 17 Q. What did he tell you?
 18 A. He told me that the -- no -- there was -- there
 19 was no pain in his shoulder at that time. He just had
 20 occasional discomfort with over activities to his left
 21 shoulder. His neck pain was occasional, made worse
 22 with sleeping. It didn't radiate into the upper
 23 extremities. There was no numbness, no tingling, no
 24 altered sensation. He just avoided heavy lifting. He
 25 stated that his lower back pain improved. He

Page 22

1 occasionally got some lower back pain with sitting,
 2 rarely gets it with long standing and walking. And it
 3 occasionally radiates to his legs, to his mid calves,
 4 and he avoids any heavy lifting, as it causes some
 5 increase in lower back pain.
 6 Q. Did he indicate what his past medical or
 7 surgical history was?
 8 A. Again, his past medical history, he denied any
 9 medical problems to his hypertension, diabetes, peptic
 10 ulcer disease, or any respiratory problems, metabolic
 11 problems. As far as his past surgery, he had no recent
 12 surgery in the past five years, but he did have a left
 13 shoulder surgery in 2004.
 14 Q. And did he indicate to you if he had had
 15 any previous injuries?
 16 A. Yes, he did.
 17 Q. And what did he tell you in that regard?
 18 A. He had a work accident that -- in 2003, that
 19 required surgery in 2004 by Dr. Kahn, for his left
 20 shoulder. And he was involved in a prior motor vehicle
 21 accident in 2006. And, again, at that time, he -- it
 22 was noted to have neck and lower back pain from that
 23 accident.
 24 Q. Okay. And did he give you any idea of
 25 what his social and work history was?

Page 23

1 A. At the time of -- of the accident, he was
 2 working repairing jewelry, and he did not miss any time
 3 from work following the accident.
 4 Q. Okay. And did he tell you that he had
 5 previously been employed as a butcher?
 6 A. No, he did not.
 7 Q. Okay. At that point, Doctor, did you
 8 begin your examination?
 9 A. Yes, I did.
 10 Q. And before we get into your examination,
 11 I would like to talk to you about two concepts, which
 12 is the concept of subjective complaints versus the
 13 concept of objective findings. Can you remark and
 14 explain the importance of that to the Jury?
 15 A. Again, subjective complaints is something the --
 16 the patient is telling you. It's their description of
 17 what hurts. And it has the word subjective,
 18 subjective, it doesn't have a reproducible quality. It
 19 can't be reproduced from one person to another, it's
 20 for that individual.
 21 Objective is a test that you can actually
 22 physically see, or physically perform, that's
 23 reproducible.
 24 Q. Okay. And reproducible from examination
 25 to examination, as well as within the same examination?

Page 24

1 A. Correct.
 2 Q. Okay. Which would be reproducible from
 3 doctor to doctor, as well?
 4 A. Correct.
 5 Q. Okay. Doctor, what did you find when you
 6 began your physical examination of the Plaintiff?
 7 A. Again, in this case, you know, just that he --
 8 he had complaints of pain in his neck, and he had
 9 complaints of pain in his lower back. And when I
 10 examine patients with pain in their neck and lower
 11 back, we want to find out is there any neurological
 12 involvement, which is important.
 13 And what happens is the -- the nerves,
 14 they come out of the spinal cord, and they go to
 15 specific motor regions, which gives you a strength.
 16 They go to specific sensory regions, which gives you
 17 sensation, and they go to different reflexes. So when
 18 you're examining someone with the spine and --
 19 complaints, and lower back complaints, you have to do a
 20 detailed neurological evaluation. And, besides that,
 21 you have to look for range of motion, to see if there's
 22 any limitation of motion, and you palpate for areas of
 23 tenderness. And then you do special tests to see if
 24 there's pressure on a nerve in the neck or the lower
 25 back.

Page 25

1 Q. And is that what you did on that
2 occasion -- on May 13th?
3 A. Yes, I did.
4 Q. And what did you find?
5 A. Again, as far as range of motion, Mr. Allegrini
6 had full range of motion of his cervical spine. And
7 when I did a detailed neurological examination testing,
8 each motor group, again, his shoulders, his elbow
9 strength, his wrist strength, and hand strength, they
10 were all normal. And his reflexes were symmetrical,
11 and his sensation was all intact. And that's
12 important, because if you have, for example, a
13 herniated disc in your neck between the fifth and sixth
14 vertebral body, it commonly presses on a C6 nerve root.
15 And the C6 nerve root is going to apply sensation to
16 these fingers, and it's also going to affect the wrist
17 extension, and it's also going to affect the biceps
18 reflex. So that all his motor examination was intact,
19 and all his sensation was intact, shows that
20 objectively there's no pressure on any nerve root. And
21 I, also, saw if there was any complaints of nerves
22 being trapped in his arms, such as Tinel's testing and
23 Phalen's testings for peripheral nerve entrapments, and
24 they were all normal.
25 Q. How do you perform Tinel's testing and

Page 26

1 Phalen's testing?
2 A. Again, Tinel's testing, you tap over the nerve,
3 and if there's a shooting pain in the distribution,
4 that means the nerve is under pressure at the wrist.
5 The Phalen's testing, you keep your hands like this for
6 60 seconds, if it reproduces pain, it's consistent with
7 carpal tunnel. So all the testing was negative. And
8 then we also -- I did a Spurling's test. And what you
9 do is we have your neck go back, and rotate it to one
10 side, and if there's a pinched nerve, you'll have pain
11 that will shoot down that one side. And then I did
12 more complicated tests, such as a Hoffman's and a
13 Lhermitte's sign, to see if there's any problems with
14 the spinal cord itself.
15 Q. And how do you perform those tests?
16 A. Again, a Hoffman, you flick the third finger up,
17 and if you see an abnormal motion in the thumb, that
18 means the spinal cord is under pressure. And
19 Lhermitte's, you go down with your neck, and if causes
20 a burning sensation into your hands and feet, it means
21 your -- your -- your -- or a shooting sensation,
22 there's pressure in the -- in the -- in the spinal
23 cord -- cord and spinal canal.
24 Q. And what were the results of those tests?
25 A. Everything was all negative.

Page 27

1 Q. And I know you already talked about
2 the -- the motor examination being normal, but just to
3 kind of express it in the nitty-gritty, you -- you
4 indicate five out of five motor examination. What does
5 that mean?
6 A. Five out of five is full strength.
7 Q. Okay. And that -- does that mean the
8 person can give resistance?
9 A. Strength -- strength against about 75 percent
10 resistance.
11 Q. Okay. And, reflexes, you indicate they
12 were one plus equal and react -- reactive bilaterally,
13 are you looking for reflexes that are the same on each
14 side?
15 A. Sym -- sym -- symmetrical, correct.
16 Q. Okay. And what did you find when you
17 examined the thoracic and lumbar spine?
18 A. Again, the range of motion was excellent. When
19 I asked him to keep his knees straight, and to bend
20 over to touch his toes, he was able to go within one
21 finger -- one inch of his fingertips to toes, with the
22 normal of six inches.
23 He also had, again, just a minimal
24 tenderness on palpation. Again, the neurological
25 examination, again, we test all the motor groups that

Page 28

1 are supplied by the lumbosacral nerve roots. And,
2 again, for a classic example, the -- between the L5 and
3 S1 disc becomes the S1 nerve root. And if the S1 nerve
4 root is involved, you're going to have a decrease of
5 the ankle reflex, which is S1. When you have decreased
6 sensation in the sole of your foot, then you're also
7 going to have decreased strength in plantar flexion,
8 which is when you're kind of standing on your
9 tippy-toes.
10 And, again, I tested the nerve roots that
11 go to each muscle group, they were all normal. I
12 tested the nerve roots that go to each sensory level,
13 all the sensation was intact. And when I tested the
14 reflexes that go to the lower extremities, they were
15 all normal. And then, again, there is a special test
16 done to see if there's any pressure in the spinal cord.
17 And those tests are, again, Clonus. And Clonus, if I
18 can describe it, is when you take the foot, and you go
19 up, your foot goes like that repetitively. If it's
20 more than six beats, it's positive. That means there's
21 a lot of pressure for -- in the spinal cord. And
22 there's also called a Babinski sign, where you take
23 your finger, or the end of a reflex hammer, and go
24 across, the toe is going to -- if they splay up, that
25 means the spinal cord is under a lot of pressure. And,

Page 29

1 again, downward Babinski, which was all negative. And,
 2 again, we do a straight leg raising test, to try to
 3 stretch the nerve to see if that reproduces pain.
 4 Q. How was that performed?
 5 A. The patient is lying supine, flat on their back,
 6 and you raise their leg 45 to 70 degrees. If that
 7 reproduces pain that shoots down into a dermatoma
 8 level, that's considered positive. I also do a sitting
 9 straight leg raise test, where I have them sit, and
 10 raise their leg up. And, in all these cases, it was
 11 all negative.
 12 Q. And then sitting in the -- the supine
 13 straight leg raising, is essentially the same movement;
 14 correct?
 15 A. Correct.
 16 Q. So it's the same test performed two
 17 different ways?
 18 A. Exactly.
 19 Q. Okay. And what would you expect to find
 20 in a positive test?
 21 A. Well, in a positive test, if someone had
 22 pressure on a nerve root, they would have sense -- loss
 23 of sensation in that nerve -- nerve root. They would
 24 have a loss of motor strength in that nerve root, and
 25 they would have a reflex loss.

Page 30

1 Q. Okay. I'm sorry, I -- I interrupted you,
 2 Doctor, I -- I think. Please continue with your
 3 discussion of the thoracic and lumbar examination.
 4 A. And, again, also for completeness sake,
 5 sometimes some people can have a pain in their hips
 6 that can be referred to their back. So we do a FABER's
 7 testing, which is bringing their leg up, and -- and
 8 placing it in external rotation and flexion, to see if
 9 that reproduces any hip pathology, or any pathology in
 10 the sacroiliac joints.
 11 Q. And how did that turn out?
 12 A. Negative.
 13 Q. And does that conclude your discussion of
 14 your exam of the thoracic and lumbar spine?
 15 A. Yes, it does.
 16 Q. Did you examine any other area of the
 17 Plaintiff?
 18 A. Yes, his left shoulder.
 19 Q. And what did you find on your examination
 20 of the left shoulder?
 21 A. Again, the range of motion testing. I did a
 22 full range of motion of his left shoulder, as compared
 23 to the right. There was no loss of motion. There was
 24 no tenderness to his shoulder at all in palpating the
 25 different structures, the muscles, and the bones.

Page 31

1 His strength, again, was all -- was all
 2 normal. And then we do special tests to see if you had
 3 a tear of a rotator cuff, such as a dropped arm test,
 4 where you bring the arm up, and then let it go down.
 5 If it goes down rapidly, it means you have a tear of
 6 the muscle of the shoulder. And there's four other
 7 muscles of the rotator cuff that were all individually
 8 tested. I did an external leg sign. I did the
 9 lift-off test for the subscapularis, as well as
 10 Hornblower's test for the -- also testing the rotator
 11 cuff, which were negative. And tried to reproduce pain
 12 with a -- to see if there was any problems with the
 13 biceps tendon, with his shoulder. Speed's testing,
 14 O'Brien's test were all negative. And he had no
 15 deformity and no atrophy of the left shoulder.
 16 Q. Okay. So is that, again, a normal
 17 examination of the left shoulder?
 18 A. Yes, he had a normal exam.
 19 Q. Okay. So, in sum, Doctor, your physical
 20 examination of the Plaintiff, was it essentially
 21 normal?
 22 A. Yes, it was.
 23 Q. And, again, what would you have expected
 24 to find if -- in a Plaintiff that was complaining of a
 25 traumatically induced clinically active herniated disc

Page 32

1 with radiculopathy?
 2 A. Again, you would -- you would find a -- a loss
 3 of sensation, a loss of strength, or asym -- asymmetry
 4 of the reflexes, or an absent reflex.
 5 Q. And would those -- would those findings
 6 be reproducible from examination to examination?
 7 A. Yes, they would.
 8 Q. Would you be -- expect his findings to be
 9 consistent from examination to examination?
 10 A. Yes, you would.
 11 Q. And that would be true whether the
 12 Plaintiff was having a good day or a bad day with
 13 regard to what his subjective complaints were?
 14 A. Correct.
 15 Q. Okay. Doctor, in addition to your
 16 physical examination, did you have the opportunity to
 17 review the films of the Plaintiff's MRIs?
 18 A. Yes, I did.
 19 Q. Let's discuss the -- your review of the
 20 films of the cervical MRIs first. I think you -- you
 21 reviewed the cervical MRI from the Plaintiff's prior
 22 accident in 2007, and then later reviewed the -- the
 23 examination that was performed in 2013?
 24 A. Correct.
 25 Q. Could please discuss them, and -- and

Page 33

1 what your findings were?
 2 A. Again, in the MRI of 2007, after the accident in
 3 2006, he did have a herniated disc at two levels, at
 4 C4-C5 and C5-C6. And, again, that was -- and his
 5 spinal cord was otherwise unremarkable.
 6 Q. Okay. Did they find, or, I'm sorry, did
 7 the prior MRI, the one that was performed in March of
 8 2007, indicate that there were degenerative findings?
 9 A. Yes, there was.
 10 Q. Okay. And would that be something you
 11 would expect to see in someone's of the Plaintiff's age
 12 and -- and history?
 13 A. Yes.
 14 Q. And how about the 2013 cervical MRI, what
 15 did you find when you reviewed those films?
 16 A. Again, it was a -- it was a normal MRI.
 17 Q. Okay. And did those findings agree with
 18 what the reading -- reading radiologist saw?
 19 A. Yes, they did.
 20 Q. Okay. Did you also have a chance to
 21 review the lumbar MRI study from December of 2013?
 22 A. Yes, I did.
 23 Q. And is that study available for our
 24 review today with the Jury?
 25 A. Yes, it is.

Page 34

1 MS. McDONALD: Let's go off the record
 2 for a moment so we can set that up.
 3 THE VIDEOGRAPHER: The time is 1:28.
 4 Going off the record.
 5 (Discussion held off the videotape
 6 record.)
 7 THE VIDEOGRAPHER: The time is 1:30.
 8 We're back on the record.
 9 BY MS. McDONALD:
 10 Q. So, Doctor, what are we looking at?
 11 A. Again, we're looking at the -- the lumbar spine,
 12 the lower spine. And we're looking at a cut, what we
 13 call a sagittal cut, which is going this way.
 14 Q. Okay. From the -- as if we cut the
 15 person in half from their head to their feet?
 16 A. Correct.
 17 Q. Okay. I'm sorry for the macabre image --
 18 imagery.
 19 Can you explain a little bit about the
 20 general anatomy of the lumbar spine, so -- so the Jury
 21 can get acclimated?
 22 A. Yes -- yes, I can. In the lumbar spine, there
 23 are bones, what we call vertebral bodies, and in
 24 between those vertebral bodies, there is disc, which
 25 are shock absorbers. And we have -- this over here is

Page 35

1 a bone, a vertebral body, a vertebral body, a vertebral
 2 body, and these are the discs. The white fluffy is
 3 the -- the white fluffy are the discs in between. And
 4 then behind the discs, you have the spinal cord. And
 5 this is a T2 image, so water is going to show up very,
 6 very, very brightly. And you can see the spinal cord
 7 has a lot of fluid in it, so it shows up very, very
 8 brightly. And the discs on the top, this is the top of
 9 the lumbar spine, these discs are very, very fluffy,
 10 very, very fluffy, and they have a lot of signal, and
 11 that shows that they have a lot of water, that they're
 12 well-hydrated.
 13 Q. Doctor, just before we continue on a more
 14 specific discussion, the -- I've seen in -- in the
 15 radiology reports in this case, and in other matters,
 16 something called the thecal sac. Can you discuss what
 17 that is, and what the function of that is?
 18 A. Okay. Well, the thecal sac, or another word is
 19 dural sac, that's a -- that contains -- that is a
 20 covering that contains the -- the spinal cord, and the
 21 nerve roots.
 22 Q. So is it possible for a nerve to be
 23 touching a thecal sac and not be touching the spinal
 24 cord?
 25 A. Could -- can -- do you want to repeat that again

Page 36

1 for me, please?
 2 Q. I guess I'm -- I'm -- I'm putting the
 3 question poorly, and I apologize. Is -- is the thecal
 4 sac there to protect the spinal cord?
 5 A. Well, the nerve roots -- what happens, below the
 6 L1 vertebral body, it's all just nerve roots.
 7 Q. Okay.
 8 A. And they're all encased in fluid in the thecal
 9 sac, and the nerve roots come at -- at specific levels
 10 between the intervertebral foramina.
 11 Q. Okay. Doctor, in this case, we're --
 12 we're mostly concerned with the discs at the L4-5 and
 13 L5-S1 level. Can you point them out for the Jury?
 14 A. Right over here.
 15 Q. Okay. Now, I notice they're darker in
 16 appearance than the other discs, is there some
 17 significance to that?
 18 A. Yeah -- yes, it -- it happens as we age, you
 19 lose water content. And when you lose water content,
 20 it's not going to show up as dark. And you can see
 21 these spaces also are narrower than the spaces over
 22 here. So -- so that's consistent in what we call
 23 degenerative disc disease.
 24 Q. Okay. And is that something that happens
 25 over years, months, weeks, days, which -- which is it?

Page 37

1 A. Years. Years. It's -- there's a genetic basis.
 2 It's degenerative disc -- disc -- degenerative disc
 3 disease.
 4 Q. So this examination was taken in
 5 December, and the -- the accident was in July. Would
 6 this degenerative process be something that was in
 7 existence before the motor vehicle accident?
 8 MR. CUNEO: Objection. Go off the
 9 record.
 10 THE VIDEOGRAPHER: The time is 1:34.
 11 Going off the record.
 12 (Discussion held off the videotape
 13 record.)
 14 MR. CUNEO: I'm going to object, and move
 15 to strike testimony about degenerative changes,
 16 degeneration, age related, or otherwise. Insofar, as
 17 it's not mentioned, referenced, or alleged anywhere in
 18 the Doctor's prior -- in his reports, including his
 19 review of the MRI study.
 20 MS. McDONALD: We can go back on.
 21 THE VIDEOGRAPHER: Counsel, the computer
 22 fell asleep.
 23 MS. McDONALD: What was the pending
 24 question?
 25 (Whereupon, the following question was

Page 39

1 can think of it as a jelly doughnut. And the outer
 2 covering is what we call the annulus fibrosus of the
 3 jelly doughnut. The inside of the jelly doughnut is
 4 the -- what we call the nucleus pulposus, which is the
 5 soft -- soft -- which is gelatinous material. And a
 6 bulge is just a little out pouch, and the jelly is just
 7 pushing a little bit on the outer aspect of the
 8 doughnut, you'll see like a little bubble. And a
 9 herniation is when the jelly busts through that outer
 10 coat, and presses on a nerve root. So, in this case,
 11 there's just a little, little out -- bubbled a little
 12 out pressing causing no significant neural compression.
 13 Q. So based on your review of the MRI of the
 14 lumbar spine, do you see anything there that would be a
 15 pain generator?
 16 A. No, he just has some disc bulging.
 17 Q. Okay. Now, your remark in your report
 18 that your reading of the MRIs films is in disagreement
 19 with what the radiologist saw? And I'm -- I'm
 20 directing you to Page 5 of your May 13th report.
 21 A. Correct.
 22 Q. Even if the -- and -- and just to put it
 23 out there, the radiologist found herniations at L4 and
 24 L5 -- L4-5 and L5-S1 with an annular tear. Are all
 25 herniations traumatically induced?

Page 38

1 read back by the court reporter:
 2 "QUESTION: So this examination was taken
 3 in December, and the -- the accident was in
 4 July. Would this degenerative process be
 5 something that was in existence before the
 6 motor vehicle accident?")
 7 THE VIDEOGRAPHER: The time is 1:37.
 8 Back on the record.
 9 BY MS. McDONALD:
 10 Q. Go ahead, Doctor, you can answer.
 11 A. Yes, there are -- yes, there are, because it
 12 takes years, and years, and years for these discs space
 13 to narrow, and the water content is -- is lost over
 14 time.
 15 Q. Okay.
 16 A. And we know that with degenerative disc disease,
 17 there's a genetic component. Also, trauma can
 18 accelerate it, such as occupations as a heavy laborer
 19 is associated with accelerated degenerative disc
 20 disease.
 21 Q. Okay. Now, Doctor, when you reviewed the
 22 films, what did you see?
 23 A. Well, again, there's just a little bit of
 24 bulging. There's a little bit of a bubble pressing out
 25 of the -- of the disc. Now, the disc itself is -- you

Page 40

1 A. No. No, most -- most are -- most come over
 2 degenerative aging process.
 3 Q. And are all herniations symptomatic?
 4 A. No, they're not.
 5 Q. And how about annular tears, are they all
 6 traumatically induced?
 7 A. No, they can be assoc -- they're -- they're --
 8 they're -- they are -- they are commonly associated
 9 with degenerative disease process.
 10 Q. And are all annular tears pain
 11 generators?
 12 A. No, they're usually not. There is -- in -- in
 13 the an -- annulus itself, there is not that many nerve
 14 fibers to it, so they're usually not -- they're --
 15 they're usually not pain generators.
 16 Q. Okay. And, in any case, here, did you
 17 see a -- a herniation or an annular tear?
 18 A. No, I did not.
 19 Q. Okay. And do you see anything on this
 20 study again that would be a pain generator?
 21 A. No, I did not.
 22 Q. We can -- let's close up the computer,
 23 and we'll -- we'll continue our discussion.
 24 MS. McDONALD: Let's go off the record.
 25 THE VIDEOGRAPHER: The time is 1:40.

Page 41

1 Going off the record
 2 (Discussion held off the videotape
 3 record.)
 4 MS. McDONALD: Okay. Ready to continue?
 5 THE WITNESS: Yes.
 6 MS. McDONALD: Let's go back on the
 7 record.
 8 THE VIDEOGRAPHER: The time is 1:41. We
 9 are back on the record.
 10 BY MS. McDONALD:
 11 Q. Now, Doctor, in your course of your
 12 practice as an orthopedic surgeon, do you read -- well,
 13 we've already discussed this, but you read MRI films;
 14 correct?
 15 A. Yes. Yes, I do.
 16 Q. How often do you do that?
 17 A. Every day.
 18 Q. And when you do that, are you doing this
 19 in a way to help you decide whether to render treatment
 20 such as surgery?
 21 A. Yes.
 22 Q. And would you say that it's important to
 23 put an MRI study in context with a clinical
 24 examination?
 25 MR. CUNEO: Objection, leading.

Page 42

1 MS. McDONALD: I'll rephrase it.
 2 BY MS. McDONALD:
 3 Q. Doctor, is an MRI study the only thing in
 4 which you base your conclusions or diagnoses on?
 5 A. No. Again, to explain to yourself, and also to
 6 the members of the Jury, the most important part of the
 7 exam is your taking the history, and you doing the
 8 physical examination, and the MRI is done to confirm
 9 your clinical impression, and to help guide care.
 10 Q. Now, in this case, your clinical -- what
 11 was -- what was the result of your clinical
 12 examination?
 13 A. Absolutely normal clinical examination.
 14 Q. And does that -- does that dovetail with
 15 your reading of the MRI study?
 16 A. Yes, it does.
 17 Q. Now, in this case, there was also a test
 18 called an EMG; correct?
 19 A. Correct.
 20 Q. And you reviewed that test; correct?
 21 A. Correct.
 22 Q. And what was the result of that test? Do
 23 you want to go off the record for a second so you
 24 can --
 25 A. Yeah.

Page 43

1 MS. McDONALD: Let's go off the record so
 2 the Doctor can get to that study.
 3 THE VIDEOGRAPHER: The time is 1:43.
 4 Going off the record.
 5 (Discussion held off the videotape
 6 record.)
 7 MS. McDONALD: It was done by Dr. Lipnack
 8 on January 28th. Do you want to look at my copy?
 9 THE WITNESS: No, I got it.
 10 MS. McDONALD: Okay. Ready?
 11 THE WITNESS: Yes.
 12 MS. McDONALD: Okay. I'm sorry.
 13 THE WITNESS: I was waiting for you.
 14 MS. McDONALD: Sorry.
 15 THE VIDEOGRAPHER: The time is 1:44.
 16 Back on the record.
 17 BY MS. McDONALD:
 18 Q. So I believe the pending question,
 19 Doctor, was what was the result of that test?
 20 A. It was read by Dr. Lipnack as L5 radiculopathy
 21 on the left.
 22 Q. Okay. Was that consistent with your
 23 physical examination of the Plaintiff?
 24 A. Again, when you look at the body of the report,
 25 usually when you have a radiculopathy, you're going to

Page 44

1 notice some fibrillations, you know, to those areas of
 2 the EMGs. I didn't see any here.
 3 Q. Okay.
 4 A. And then Dr. Lipnack, in the body of the report,
 5 he puts that there's polyphasic changes, which means
 6 that's a chronic radiculopathy, it's not acute
 7 radiculopathy.
 8 Q. Okay. And do EMG studies ever pick up
 9 findings that are not present on clinical examination?
 10 A. It's -- it's -- it's a poor test to -- to -- to
 11 order in this case.
 12 Q. Why is that, Doctor?
 13 A. Because when you have a normal -- normal
 14 neurological examination, there's no reason to get an
 15 EMG. If you don't suspect any peripheral nerve
 16 entrapment, like carpal tunnel, I examined for, or any
 17 peripheral nerve entrapment of the lower extremities,
 18 that would be an indication. If someone was a
 19 diabetic, or if someone has a thyroid disease, or you
 20 think the nerves are going to be, you order -- you can
 21 order it in those cases. But, in this case, in a
 22 normal exam, you can't, because there's a high
 23 incidence of people that -- what we call
 24 false/positive, they test positive, but don't have the
 25 disease. So it's not -- in -- in -- in this case, I

Page 45

1 wouldn't have ordered the test. And, again, it's a
2 very -- a low priority. It's a very, very low priority
3 test.
4 Q. Okay. And, again, would it be important
5 to place the findings on the EMG in context with the
6 clinical examination?
7 A. Correct.
8 Q. And, again, in this case, your clinical
9 examination was normal?
10 A. Correct.
11 Q. Doctor, now that we've had a chance to
12 discuss your review -- your examination of the
13 Plaintiff, and your review of his treatment records,
14 and especially your review of his diagnostic test
15 results, did you reach any conclusions with regard to
16 the Plaintiff's conditions?
17 A. Yes, I did.
18 Q. And what were they?
19 A. That within a reasonable degree of medical
20 certainty, he just sustained sprains to the cervical
21 spine, the lumbar spine, and the left shoulder as a
22 result of the motor vehicle accident of 7/19/2013.
23 And, also, within a reasonable degree of medical
24 probability, he sustained no permanent injuries, in my
25 field of speciality, that's related to this motor

Page 46

1 vehicle accident.
2 Q. Okay. And, again, Doctor, that -- that
3 is within a reasonable degree of medical certainty?
4 A. Yes, it is.
5 MS. McDONALD: I have no further
6 questions at this time.
7 CROSS-EXAMINATION BY MR. CUNEO:
8 Q. Okay. Doctor, as you know, I
9 represent --
10 THE WITNESS: Can we just go off the --
11 take a bathroom break, please?
12 MS. McDONALD: Oh, yes.
13 THE WITNESS: You know, when you're 50,
14 you got to take some water.
15 THE VIDEOGRAPHER: The time is 1:47.
16 Going off the record.
17 (Brief recess was taken.)
18 THE VIDEOGRAPHER: The time is --
19 THE WITNESS: Hold on.
20 THE VIDEOGRAPHER: The time is 1:51. We
21 are back on the record.
22 BY MR. CUNEO:
23 Q. So, Doctor, again, I represent the
24 Plaintiff, Aldo Allegrini, as you know. And what I
25 started to ask you earlier was that -- about your

Page 47

1 location. Your -- your office is Passaic -- in -- is
2 it Passaic County, or Morris County?
3 A. Passaic.
4 Q. Passaic County. Okay. And your
5 admission privileges are up there, as well; correct?
6 A. Correct.
7 Q. You don't have any offices down in Camden
8 County; correct?
9 A. No, I do not.
10 Q. And -- and you are -- you -- one of the
11 items that you did review was the police report;
12 correct?
13 A. Correct.
14 Q. And you saw that the Plaintiff is --
15 resides in Camden, the Defendant resides in Camden, the
16 accident happened in Camden, New Jersey; correct?
17 MS. McDONALD: Objection.
18 THE VIDEOGRAPHER: Off the record?
19 MS. McDONALD: Yes.
20 THE VIDEOGRAPHER: The time is 1:52.
21 Going off the record.
22 (Discussion held off the videotape
23 record.)
24 MS. McDONALD: Just for the future, all
25 objections, we'll go off the record.

Page 48

1 THE VIDEOGRAPHER: Okay.
2 MS. McDONALD: Just note my objection to
3 the line of questioning, and continuing objection to
4 the line of questioning on the grounds of relevancy.
5 Go ahead.
6 BY MR. CUNEO:
7 Q. Right. Now, Doctor, you -- I'm sorry.
8 THE VIDEOGRAPHER: The time is 1:53.
9 Back on the record.
10 BY MR. CUNEO:
11 Q. And, Doctor, you -- you characterized
12 your exam as an independent exam; am I right?
13 A. Correct.
14 Q. And you're aware that there's many
15 hospitals in the Camden County area; correct?
16 A. Correct.
17 Q. You're familiar with Cooper Hospital, Our
18 Lady of Lourdes Hospital, Virtua has three different
19 hospitals in Camden County, you've heard of Underwood,
20 Inspira Network; right? Do you understand the
21 question?
22 A. Yes, I do.
23 Q. Okay. Well, I see you look -- you're
24 looking at counsel. You're aware of --
25 MS. McDONALD: Objection. Go off the

Page 49

1 record.
 2 THE VIDEOGRAPHER: 1:53, going off the
 3 record.
 4 (Discussion held off the videotape
 5 record.)
 6 MS. McDONALD: Argumentative remark.
 7 Motion to strike.
 8 THE WITNESS: You know what, I got to go
 9 to the bathroom again.
 10 MS. McDONALD: Okay.
 11 (Brief recess was taken.)
 12 THE VIDEOGRAPHER: The time is 1:56.
 13 Back on the record.
 14 BY MR. CUNEO:
 15 Q. Okay. Doctor, before the break, I asked
 16 you whether you were familiar with the various
 17 hospitals in Camden County?
 18 A. I've heard their names.
 19 Q. Okay. And you -- you realize they're all
 20 associated with orthopedic practices? I'm sure you've
 21 heard of Regional Orthopedics, and Garden State in
 22 Cherry Hill, and South Jersey Orthopedics,
 23 Reconstructive Orthopedics, Central Orthopedics; am I
 24 right?
 25 A. Yeah, I've heard of them.

Page 50

1 Q. Okay. So I was asking about what
 2 subspecialty or specialty, other than general
 3 orthopedics you had, but your -- it appears that your
 4 subspecialty, if any, is in hand surgery; am I right?
 5 A. Again, I did four years of orthopedic training.
 6 I did, in orthopedic residency, an extra year in hand.
 7 My extra year in hand, a fellowship was devoted to
 8 study and research the upper extremity, but also I was
 9 at Columbia Presbyterian since I was a fellow. I took
 10 trauma call for Columbia Presbyterian Hospital, which
 11 involved every part of the body, for my attending. All
 12 I took was trauma call.
 13 Q. Now --
 14 A. And -- and -- and my path, and I certified,
 15 original exam in general orthopedics, which encompassed
 16 orthopedics, and also recertified -- re -- re --
 17 recertification in general orthopedics.
 18 Q. Okay. And then, in general, all
 19 orthopedic surgeons go through that gen -- general
 20 training, do they not?
 21 A. Correct.
 22 Q. And, in this case, you weren't hired by
 23 the Defendant? You weren't hired by the Defendant's
 24 attorney, you were hired by a company called IMX, I
 25 think you said; am I right?

Page 51

1 A. Correct.
 2 Q. And you do work for many services, I
 3 think you've testified in the past. IMX being one of
 4 them, another company called ExamWorks, another company
 5 call Prizm, another company called Medical Consultants.
 6 These are all companies that arranged for, as you
 7 characterized it, independent exams; am I right?
 8 A. Correct.
 9 Q. And when you do these independent exams,
 10 you always do them for Defendants involved in
 11 litigation; correct?
 12 A. No.
 13 Q. Always for Defendants?
 14 A. No, I -- I do exams also for Plaintiffs.
 15 Q. Are these your own patients?
 16 A. No, they're not.
 17 MR. CUNEO: Okay. Can we go off? Go off
 18 the record a second.
 19 THE VIDEOGRAPHER: The time is 1:58.
 20 Going off the record
 21 (Discussion held off the videotape
 22 record.)
 23 MR. CUNEO: I apologize.
 24 THE VIDEOGRAPHER: The time is 1:59, and
 25 we're back on the record.

Page 52

1 BY MR. CUNEO:
 2 Q. Doctor, do you remember I asked -- I
 3 asked to take what's called a discovery deposition, or
 4 a deposition of you earlier, of you -- of you in
 5 September of 2015 in the same room?
 6 A. Correct.
 7 Q. All right. And I asked you if you did
 8 exams for this IMX company. I asked you about whether
 9 you do exams for Defendants in -- in Workers' Comp.
 10 cases, and disability cases, do you recall?
 11 A. I can't recall the specifics.
 12 Q. All right. And I can show you, perhaps,
 13 beginning at the bottom of 16, I only have the one
 14 copy, but I asked you about Workers' Compensation; am I
 15 right?
 16 A. Again, I have to read through the whole
 17 transcript to get to the -- the context of where you're
 18 asking about.
 19 Q. You have to read through the whole
 20 transcript?
 21 A. Well, you're going to -- you're -- you're taking
 22 things out of -- I have to stay --
 23 MS. McDONALD: Why don't we go off the
 24 record until the Doctor reviews the relevant testimony.
 25 MR. CUNEO: Sure.

Page 53

1 THE VIDEOGRAPHER: The time is 2:00.
 2 Going off the record.
 3 (Discussion held off the videotape
 4 record.)
 5 MS. McDONALD: You don't have to go
 6 through the whole transcript.
 7 MR. CUNEO: All right. Yes, I don't want
 8 you to have to do that. Doctor, I asked you about
 9 IMX, and what types of matters do they refer you to?
 10 Perhaps, you can read along.
 11 THE WITNESS: Well, if you ask your
 12 question now, do I do Plaintiff work? Why don't you
 13 ask me that question, and I'll tell you the Plaintiff
 14 work that I did.
 15 MS. McDONALD: Doctor, just read Page 16
 16 and 17, and I think the context is pretty obvious, but
 17 go ahead and read it.
 18 THE WITNESS: Okay.
 19 MS. McDONALD: And Dave will ask you
 20 about it.
 21 THE WITNESS: Okay. Okay.
 22 MR. CUNEO: Have you read enough?
 23 THE WITNESS: Yeah.
 24 MR. CUNEO: Thank you.
 25 THE VIDEOGRAPHER: Ready to go back on?

Page 55

1 Q. And it could be cases for permanency
 2 ratings?
 3 A. Correct.
 4 Q. And Workers' Comp. cases, as I -- I think
 5 that's repetitive. And my question was, And is it
 6 always for the defense. And your answer was, Yes?
 7 A. Right, for -- for IMX, yes.
 8 Q. All right. Okay. Well, ExamWorks,
 9 ExamWorks hires you to do exams, as well; correct?
 10 A. Correct.
 11 Q. That's another company arranging for
 12 exams; correct?
 13 A. Correct.
 14 Q. And that's always for the defense, is it
 15 not?
 16 A. Correct.
 17 Q. And the other companies, Medical
 18 Consultant Network, that's always for the defense, is
 19 it not?
 20 A. Correct.
 21 Q. And there was only one other company --
 22 company that you mentioned during the course of your
 23 deposition, and that was Prizm?
 24 A. Correct.
 25 Q. And that's always for the defense, is it

Page 54

1 MR. CUNEO: Yes.
 2 THE VIDEOGRAPHER: The time is 2:01. We
 3 are back on the record.
 4 BY MR. CUNEO:
 5 Q. All right. So, Doctor, you had a chance
 6 to read over as much of the transcript you felt you
 7 needed to read; am I right?
 8 A. Correct.
 9 Q. All right. And in the end, you read
 10 page -- part of Page 16, and part of Page 17; correct?
 11 A. Correct.
 12 Q. And I asked you about this company IM --
 13 IMX, who you're -- you're doing work -- you do work
 14 for. In fact, that's who hired you to examine my
 15 client, Aldo Allegrini; correct?
 16 A. Correct.
 17 Q. And back in the previous deposition, I
 18 asked you what type of matters they refer you to. And
 19 they refer you to matters in the field of orthopedics;
 20 am I right?
 21 A. Correct.
 22 Q. And they refer you disability cases?
 23 A. Correct.
 24 Q. And Workers' Compensation cases?
 25 A. Correct.

Page 56

1 not?
 2 A. Correct.
 3 Q. Okay. So when you say you do exams for
 4 Plaintiffs, when is that?
 5 A. Again, that's referred to me by outside
 6 attorneys.
 7 Q. Okay. Would that be in Passaic County?
 8 A. Again, in Passaic County. It could be -- it --
 9 it could be Passaic County. It could be in -- in
 10 Bergen County.
 11 Q. And you -- you -- you said "again," did I
 12 ask you this before?
 13 A. What?
 14 Q. You said "again," you started the
 15 question with "again"?
 16 A. No, you said -- you asked me a question, I'm
 17 answering your question.
 18 MS. McDONALD: Objection.
 19 THE VIDEOGRAPHER: The time is 2:03.
 20 Going off the record.
 21 (Discussion held off the videotape
 22 record.)
 23 MS. McDONALD: Argumentative, and
 24 badgering the witness. And it's pretty evident that
 25 the Doctor has a habit of saying again at the beginning

Page 57

1 of his sentences, because he's done it throughout his
2 deposition.
3 THE WITNESS: Again.
4 MS. McDONALD: Yes. So motion to strike.
5 MR. CUNEO: I mean, I don't know if
6 that's grounds to strike. I mean, I wasn't sure what
7 he was referring to when he said "again."
8 MS. McDONALD: Well, it pretty clearly
9 is, but we'll argue later.
10 MR. CUNEO: Okay.
11 THE VIDEOGRAPHER: The time is 2:04.
12 Back on the record.
13 BY MR. CUNEO:
14 Q. All right. And -- and, Doctor, the
15 reports that you rendered in this case, they have at
16 the top of the report, Cherry Hill. But you don't have
17 an office in Cherry Hill, do you? The caption is
18 Jeffrey Lakin, board certified orthopedic surgery,
19 Cherry Hill, New Jersey. You don't have an office in
20 New Jersey, do you?
21 A. That's where I see the --
22 Q. I mean -- I mean in Cherry Hill, New
23 Jersey?
24 A. No.
25 Q. Okay. That's where you started to say

Page 58

1 you see patients?
2 A. Right, for -- for IMX.
3 Q. For IMX. Okay. And you'll -- you'll
4 travel down to Cherry Hill, New Jersey to see patients
5 on -- on one day a month, is it?
6 A. Correct.
7 Q. And, as I understand it, you'll see
8 anywhere between 10 to 20 patients in a single day in
9 the Cherry Hill location?
10 A. It -- it can vary -- it can vary between -- in a
11 range -- to a range of two to five, to five to twenty,
12 a range.
13 Q. Well, you -- you realize you did
14 previously testify that the range was 10 to 20?
15 A. Well, approximate. These are all approximate
16 numbers, they vary.
17 Q. Well, you did testify previously 10 to
18 20, so why are you saying 5 to 20 now?
19 A. It could -- it could be. There's some --
20 there's some months, like this month, I'm not going to
21 Cherry Hill. So is it once a month, no, it's not once
22 a month.
23 Q. All right. And -- and you travel at the
24 request of these companies, IMX, and ExamWorks, to see
25 patients in -- in Monmouth County, and Bergen County,

Page 59

1 and Middlesex County, Piscata -- in Mercer County,
2 Atlantic County; am I right?
3 A. Not Atlantic County.
4 Q. Not anymore?
5 A. I never saw patients in Atlantic County.
6 Q. Okay. But all the other counties?
7 A. At three locations for IMX, Cherry --
8 Q. Yes, but I asked you about other
9 companies, as well, you see them --
10 A. The -- the counties -- the counties were -- were
11 the loc -- the locations, again, if you want to repeat
12 the locations, we'll go through them one by one to see
13 if you're right.
14 Q. Well, you know what, I can refer to your
15 letterhead. Jeffrey Lakin, board certified orthopedic
16 surgery. It says New Jersey locations, Paramus, in
17 Bergen County, Piscataway, in Middlesex County,
18 Freehold, in Monmouth County, Cherry Hill, in Camden
19 County. It says Mays Landing, in Atlantic County, and
20 it says Kearney, in Hudson County, and Mercerville and
21 Ewing, in Mercer County. Do you want to take a look at
22 your letterhead?
23 A. No, I think we went over this in -- in the -- in
24 the deposition before, that I told you very clearly,
25 and if you want to read the transcripts, you can do

Page 60

1 that.
2 Q. No, I'll --
3 A. No, let's -- let's -- let's not be
4 argumentative. If you want a redeposition, for IMX, I
5 go one day a week, one day a month to Cherry Hill, some
6 months there's none. Like this month, I'm not there.
7 I go a half a day to see patients for IMX in Freehold,
8 which we're here today, and I go a half a day in Ewing.
9 Some months there might not be as many times as I go to
10 those locations.
11 Q. Okay. I'm not --
12 A. Those are generalities.
13 Q. Believe me, Doctor, I'm not trying to be
14 argumentative. What I asked you, however, was not
15 about IMX, I asked you about for the various companies
16 you do work for?
17 A. And --- and, again, in ExamWorks, there is three
18 half days, there is a half day in -- in Bergen County,
19 there is a half day in -- in Manalapan, and then there
20 is a -- a half day in New Brunswick.
21 Q. Okay. But you agree with me that you
22 travel to various other counties for the other
23 companies you do work for?
24 A. Correct. Yeah.
25 Q. And in those places, let's say, for

Page 61

1 example, in Cherry Hill, you have no staff there; am I
 2 right?
 3 A. Correct.
 4 Q. You have no files there?
 5 A. Correct.
 6 Q. No charts?
 7 A. Correct.
 8 Q. Do you take notes in connection with your
 9 exams?
 10 A. Yes, I do.
 11 Q. For example, these various findings that
 12 you reported at the time of your clinical exam, do you
 13 have notes reflecting your findings?
 14 A. I take notes when I dictate. So when I dictate
 15 the report, I have my notes.
 16 Q. All right. And you don't keep those
 17 notes?
 18 A. No, I don't.
 19 Q. And you don't have those notes with you?
 20 A. No, I do not.
 21 Q. If I asked you questions about those
 22 notes, you wouldn't be able to answer those questions;
 23 right?
 24 A. Correct.
 25 Q. And one -- one of the things that -- and

Page 62

1 this may be somewhat off point, but one thing that
 2 struck me about your testimony was you said that the
 3 patient, when asked about -- let me find it -- work
 4 history, that he didn't tell you that he had previously
 5 worked as a jeweler?
 6 MS. McDONALD: Objection.
 7 THE VIDEOGRAPHER: The time is 2:08.
 8 Going off the record.
 9 (Discussion held off the videotape
 10 record.)
 11 MS. McDONALD: That was not the
 12 testimony.
 13 MR. CUNEO: Yeah, it was the testimony.
 14 It was in direct response to your question.
 15 MS. McDONALD: Butcher. Butcher was the
 16 testimony.
 17 MR. CUNEO: Butcher. You're right.
 18 MS. McDONALD: You said jeweler.
 19 MR. CUNEO: Okay. Butcher. I'll correct
 20 that.
 21 THE VIDEOGRAPHER: The time is 2:09.
 22 Back on the record.
 23 BY MR. CUNEO:
 24 Q. Correction, Doctor, you testified that he
 25 didn't tell you he worked as a butcher?

Page 63

1 A. Correct.
 2 Q. Now, under work history, it says -- do
 3 you have it?
 4 A. Yes, I do.
 5 Q. It says he repairs jewelry, and did not
 6 miss time from work. He is presently working
 7 full-time, full duty. Now, that refers to the present;
 8 correct?
 9 A. Correct.
 10 Q. And there's no indication, at least in
 11 your report at that location, at that point in your
 12 report, that you asked him about his previous work
 13 experience?
 14 A. Correct.
 15 Q. And you -- you can't refer to your notes
 16 now, to determine whether or not you asked him about
 17 whether he ever worked in different fields before; am I
 18 right?
 19 A. Correct.
 20 Q. And with regard to your clinical
 21 findings -- well, no, let me save that for a minute.
 22 With regard to the cervical MRI studies
 23 that you looked at, you said that the 2007 study of the
 24 cervical spine, the MRI study of the cervical noted
 25 degenerative findings; correct?

Page 64

1 A. Correct.
 2 Q. And you said that that would be expected
 3 for a person of his age, and history?
 4 A. Correct.
 5 Q. And -- and then you said with regard to
 6 the 213 -- 2013 MRI, it was normal?
 7 A. Correct.
 8 Q. And so I'm confused, would you not be
 9 expected to find certain deg -- as you described them,
 10 degenerative findings in the 2013 study for him? I
 11 mean, after all, he's even older now, and he has the
 12 same life history, and he's older. So why don't you
 13 see any degenerative findings in the 2013 study?
 14 A. Again, there's -- there's -- they weren't done
 15 at the same location, the -- the same -- same
 16 technology, the same machine. It could -- it could be
 17 a variance, whatever -- whatever those films that were
 18 produced for that machine that day.
 19 Q. Okay. Well, you -- you said today that
 20 when you -- when you are -- reviewed the 2013 lumbar
 21 study, you noted certain degenerative findings;
 22 correct, that was your testimony today?
 23 A. Correct.
 24 Q. Now, in your report, you comment, and I'm
 25 going to refer you to your May 13, 2015 report, under

Page 65

1 review of special tests, which is Page 5.
2 A. Correct.
3 Q. You refer in the bottom paragraph to the
4 cervical MRI. And you see -- you see that according to
5 your report, contrary to what you testified today,
6 you -- you say revealed minal -- min -- mild
7 degenerative changes. I'm sorry, I misspoke. The 2007
8 report revealed mild degenerative changes; correct?
9 A. Correct.
10 Q. All right. And the 2013 report, you
11 don't note any findings --
12 A. Correct.
13 Q. -- of degeneration?
14 A. Correct.
15 Q. And today you testified that the lumbar
16 MRI study showed degenerative findings?
17 A. Correct.
18 Q. But you don't mention that in your
19 report, do you?
20 A. It is not mentioned.
21 Q. In fact, you say the -- you say your
22 review of the lumbar MRI was unremarkable, the spinal
23 cord was unremarkable?
24 A. Correct.
25 Q. All right. And you further say during

Page 66

1 your testimony, you pointed out on that -- that video
2 you -- you had -- we had the opportunity to look at,
3 that you see only a bulge?
4 A. Correct.
5 Q. And interestingly you say --
6 interestingly you say that that's -- your review
7 disagrees with, or is in variance with the -- the
8 radiologist who looked at the MRI studies?
9 A. Correct.
10 Q. And, in particular -- by the way, the
11 radiologist who looked at the MRI studies, he doesn't
12 have the benefit of a clinical exam, as you do;
13 correct?
14 A. Correct.
15 Q. That person is looking at MRI studies all
16 day long; correct?
17 A. It -- it -- it -- it depends. Radiologists,
18 they look at other films, too.
19 Q. All right. But --
20 A. I can't -- they -- they -- they usually look at
21 X-rays, they look at ultrasounds.
22 Q. Fair -- fair enough.
23 A. Like bone scans. So I don't know what the
24 radiologist was looking at all day.
25 Q. True. Okay. You would expect, though,

Page 67

1 that a radiologist at AIMS Diagnostic who looked at the
2 MRI film of the lumbar spine in this case quite
3 frequently looks at MRI studies? I mean, that's what
4 the patient does -- I mean, the -- the doctor does, as
5 a radiologist?
6 A. I can't -- I can't -- I can't qualify myself on
7 what someone else does during their day.
8 Q. Okay. With regard to that MRI study that
9 you disagreed with, the MRI report you disagreed with,
10 that person would be a neur -- a -- a radiologist whose
11 area of expertise is in reviewing diagnostic studies,
12 be it X-ray, ultrasound, CAT scans, MRIs; correct?
13 A. Correct.
14 Q. Again, with no familiarity or
15 relationship to the patient, correct, never met the
16 patient, more -- more likely than not?
17 A. I -- I can't -- I can't comment on someone
18 else's practice. I can't comment on someone else's,
19 who they know, what they know. I can't --
20 Q. Well --
21 A. I can't do that.
22 Q. Well, let's talk -- talk about your
23 practice.
24 A. Okay.
25 Q. You see a patient, you decide you should

Page 68

1 send them from an MRI, you send them to an MRI center,
2 the person goes in for an MRI.
3 A. Correct.
4 Q. What's your experience, in terms of how
5 that works, if you know?
6 A. In -- again, if I -- I think someone has a -- a
7 neurological finding, or they have a problem that I
8 think, or a -- a problem that I think warrants ordering
9 an MRI, I'll write a prescription for an MRI. The --
10 the patient gets an MRI. With the insurances today,
11 they have to make sure -- it has to get precertified,
12 if it's a private insurance. Then there are facilities
13 they go to, it depends which facilities which fits in
14 their network, out of their network, which facility
15 they can go to. Then they get the MRI study. I always
16 put in my films, provide films, so when they -- they
17 get -- they -- they go, when I write the prescriptions,
18 they come back with the films, so I can personally look
19 at their films.
20 Q. And I'm talking about the patient
21 experience. They walk into an MRI facility, they meet
22 with a technician, they go into a tube, and they have
23 the study done, and the report comes to you; correct?
24 A. Correct.
25 Q. They don't meet with the radiologist,

Page 69

1 they don't have a history taken by the radiologist,
 2 they are not examined by the radiologist; am I right?
 3 A. Correct.
 4 Q. The radiologist --
 5 A. Well, you know, that's up to the individual
 6 radiologist. I can't -- you know, I can't -- you know,
 7 typically, you know, that -- that can happen. I've
 8 seen some radiologists examine patients.
 9 Q. Okay.
 10 A. So I can't say that all the time.
 11 Q. So you don't necessarily agree with the
 12 proposition?
 13 A. No. No, because sometimes I've -- I've actually
 14 seen radiologists examine patients.
 15 Q. And you agree with me that in this case,
 16 the MRI study, according to the radiologist, re --
 17 revealed a broad based central posterior disc
 18 herniation, extending 2 millimeters posteriorly, with
 19 annular tear at L4-L5?
 20 A. Correct.
 21 Q. Also, in L5-S1, broad based disc
 22 herniation with annular tear indenting the thecal sac,
 23 which you talked about, the lateral recess and
 24 bilateral neural foraminal with the disc contacting the
 25 bilateral exiting L5 nerve root; correct?

Page 70

1 A. Correct.
 2 Q. So according to the radiologist that read
 3 the MRI study, (A) sees annular tears at -- at both L4
 4 and L5-S1; correct?
 5 A. Correct.
 6 Q. And what's an annular tear?
 7 A. Again, it's a high signal intensity in the
 8 annulus. It could be -- it's -- it's commonly
 9 associated with degeneration. It can also be
 10 associated with trauma, and it's usually asymptomatic.
 11 Q. So where you have an annular tear and a
 12 herniation of the disc, which is contacting the exiting
 13 nerve root, you say it's typically asymptomatic?
 14 A. Again, if we could just back off, and I could
 15 explain something to the Jury. Again --
 16 Q. No, you don't -- you don't need to do
 17 that, what you need to do is just answer the question.
 18 A. No, well, you --
 19 Q. Do you disagree with that?
 20 A. I -- I can't answer the question in that format,
 21 because --
 22 Q. Okay. Let me rephrase it. Do you
 23 disagree with the proposition that pressure on the
 24 nerve root is going to cause pain?
 25 A. Pressure on the -- it could cause pain.

Page 71

1 Q. Okay. Would you consider an MRI an
 2 objective study?
 3 A. Yes, I would.
 4 Q. And another objective study that you said
 5 that you ordered in the case of neurological type
 6 complaints would be an EMG study; correct?
 7 A. In this case, I wouldn't. Again, there has to
 8 be neurological findings, or a clinical indication,
 9 again, because there's high false/positives.
 10 Q. Right. And so you wouldn't?
 11 A. In -- in this case, I wouldn't order an EMG.
 12 Q. But you agree with me that in this case
 13 the treating physician did?
 14 A. Correct.
 15 Q. And, in this case, you disagree with the
 16 report, which revealed -- the EMG study, also an
 17 objective study; am I right?
 18 A. Correct.
 19 Q. I mean, you can't fake the findings, it's
 20 based on scientific data?
 21 A. But it -- it varies from -- it varies from day
 22 to day, it varies from exam -- it -- it varies on
 23 different examinations, it varies on the technique and
 24 how you did it.
 25 Q. But it's considered an objective --

Page 72

1 A. But there's a -- there's a -- there's a --
 2 there's a -- there's a -- there's a -- there's a
 3 variably way they place the needles. Where -- where
 4 they place the needles, what the -- where they -- the
 5 place of the studies, who's reading it, the time of the
 6 day. Your EMG can change throughout the day.
 7 Q. I see. In -- in this case --
 8 A. That's why it's not a great study, and we very
 9 rarely rely on it in a case. Unless you -- you -- when
 10 you look at the orthopedic literature, the times to get
 11 an EMG, a nerve conduction study test. Again, commonly
 12 if you think someone has a peripheral nerve entrapment,
 13 and a herniated disc. Or, commonly, if you think
 14 someone has a metabolic neuropathy from diabetes.
 15 Again, because we know there's a high false/positive
 16 rate with -- with EMGs. It's not a great test.
 17 Q. In this case, however, the doctor found
 18 it was reasonable and necessary to order the test;
 19 correct?
 20 A. I can't comment on the doctor's indications for
 21 ordering a test.
 22 Q. And you disagree with the finding? I
 23 think you disagree, or take issue with the objective
 24 data?
 25 A. Again, some of the objective data, usually if

Page 73

1 you're going to have a radiculopathy, you'll see
 2 fibrillations, it wasn't there. It will show
 3 polyphasic response. When there's polyphasic response,
 4 that means there's pressure on the nerve for a
 5 long-standing time.
 6 Q. Uh-huh.
 7 A. So I just read his report. But, you know, I --
 8 I -- you know, it -- I -- I -- to quantitate -- you
 9 know, you would have to ask the doctor that did it how
 10 he got to that reasoning.
 11 Q. Right. But his finding was a L5
 12 radiculopathy?
 13 A. That was his finding, correct.
 14 Q. And that would be consistent with
 15 pressure on a L5 nerve root, as reported in the MRI
 16 study; correct?
 17 A. I don't think -- the clinical exam is the most
 18 paramount.
 19 Q. Okay. I'm going to give you a chance to
 20 talk about the clinical exam again. But the doctor who
 21 was treating this patient, he ordered an MRI, which
 22 according to the radiologist revealed an L5 -- pressure
 23 on the L5 nerve root, which was consistent with the
 24 other objective test done, the EMG, which revealed --
 25 A. Here's -- here's --

Page 74

1 Q. -- an L5 radiculopathy --
 2 A. Here's where I would like to back off just --
 3 Q. -- am I right?
 4 A. No, I would just like to back off a little bit
 5 here, because I only can commentate on my
 6 interpretations of films.
 7 Q. Fair enough.
 8 A. And I -- and, again, we know that a disc
 9 herniation is the way as I described it. And the
 10 classic is when the disc material comes outside of that
 11 covering, and presses on a nerve root.
 12 Q. And you don't see that?
 13 A. I don't see that.
 14 Q. Okay. And one -- one last --
 15 A. And, again, -- and, again, there's -- there's a
 16 high -- and what -- what -- what this doctor -- with
 17 some doctors, there's a high -- what someone -- what --
 18 there's a controversy on what someone calls a bulge,
 19 and what someone calls a herniation.
 20 Q. Okay.
 21 A. It's very, very controversial. And there's a --
 22 and -- and different people -- one person will call it
 23 a bulge, another person might call it a herniation.
 24 Q. Uh-huh.
 25 A. When the -- the disc comes out, and it's -- it's

Page 75

1 squeezed when it comes out the spinal cord. There's no
 2 difference in opinion of that. And when it comes
 3 sequestered, when the disc material separates from the
 4 spinal cord, from -- from the disc, and goes into the
 5 spinal cord, there's no difference. Between bulges and
 6 herniations, what one person calls a bulge, another
 7 person can call it a herniation.
 8 Q. Okay. And, Doctor, one last question --
 9 A. And I can comment on what I saw on the films.
 10 In my films, there was no press --
 11 Q. And you did -- you have commented.
 12 A. There was no pressure on the nerve roots.
 13 Q. We've talked about the false/positives
 14 three, or four, or five times now. Can I ask you
 15 another question?
 16 A. Yes, you may.
 17 Q. All right. The L5 radiculopathy, you
 18 characterized it as chronic?
 19 A. It could be. I -- I --
 20 Q. Would you agree with me that findings in
 21 excess of three months on an EMG study would be
 22 considered chronic?
 23 A. It depends. It varies in tech -- in technique.
 24 I didn't do the exam. I don't know where they placed
 25 the needles. Again, there's a lot of subjective

Page 76

1 components to the test.
 2 Q. But this test was done six months after
 3 the injury. Would any finding be determined to be
 4 considered chronic six months after the injury?
 5 A. Again, I didn't do the exam.
 6 Q. I'm -- I'm -- I'm not --
 7 A. I didn't -- I didn't --
 8 Q. -- asking you about what your exam
 9 revealed.
 10 A. I can -- I can read the reading. The most
 11 important thing is that the patient is absolutely
 12 normal neurologically.
 13 Q. I get that, that's your opinion, Doctor.
 14 But you characterized --
 15 A. But that's an objective -- that's an objective
 16 test that's -- that -- that we're look -- this is --
 17 that's an objective test.
 18 Q. Okay. Now, let me finish the question,
 19 and just if you can --
 20 A. That's doesn't have a false/positive.
 21 Q. I understand that you think there's
 22 false/positives. I just want to ask you about your
 23 testimony, that the finding was chronic, and what you
 24 implied by that?
 25 A. It -- it could be.

Page 77

1 Q. It could be. But the test was done six
2 months after the injury; correct?
3 A. Correct.
4 Q. And isn't it commonly known, or commonly
5 agreed upon orthopedic surgeons that a finding on an
6 EMG would always be chronic if after six months?
7 A. It varies. You can't -- you can't --
8 Q. You disagree with that?
9 A. Some terms of chronic that they use -- chronic,
10 it varies.
11 Q. Well, the -- the -- the terms that you
12 might use would be acute or chronic; correct? Right,
13 chronic versus acute, that's -- I'm asking you, that's
14 the two terms that --
15 A. Correct.
16 Q. -- you might use?
17 And acute would only be capable of being
18 determined within the first three months after the
19 inj -- injury; correct?
20 A. It depends. You can't see any changes on an EMG
21 the first three weeks. You have to wait three weeks to
22 see at least changes on the EMG.
23 Q. All right. So what was the significance
24 then -- then of you char -- characterizing the finding
25 as chronic?

Page 78

1 A. Again, I said -- I didn't say chronic, I said
2 there was some -- there was increased polyphasic
3 activity, which goes along to pointing there were signs
4 that it might be chronic.
5 Q. All right. So you did not mean to
6 suggest --
7 A. And then --
8 Q. -- that because the finding, although you
9 believe it may have been a false/positive, you did not
10 mean to suggest the finding would be inconsistent with
11 trauma?
12 A. Correct.
13 Q. All right. Let's -- let -- let me talk
14 about the clinical exam that you -- you -- you
15 characterized as paramount; correct?
16 A. Correct.
17 Q. You -- you conducted as many as -- as 20
18 exams on patients in the Cherry Hill office in -- at
19 one time?
20 A. Correct.
21 Q. And it -- it would be my speculation,
22 perhaps, that your clinical exam was normal on all 20
23 of those patients?
24 MS. McDONALD: Objection.
25 THE VIDEOGRAPHER: The time is 2:24.

Page 79

1 Going off the record.
2 (Discussion held off the videotape
3 record.)
4 MS. McDONALD: We don't have the records
5 of all 20 patients. It's speculative, and it's
6 argumentative. You can go back on.
7 THE VIDEOGRAPHER: The time is 2:24.
8 Back on the record.
9 BY MR. CUNEO:
10 Q. Let me -- let me rephrase that, Doctor,
11 that question.
12 Do you -- you don't keep your notes on
13 your various exams; correct?
14 A. Correct.
15 Q. But, in this case, you say that the
16 clinical findings were completely normal?
17 A. Correct.
18 Q. And, based upon that, you wouldn't have
19 even ordered an EMG study; correct?
20 A. Correct.
21 Q. In fact, considering your findings on
22 clinical exam, I believe it would be unlikely that you
23 would have even ordered an MRI; am I right?
24 A. No, usually in -- in -- in a setting of -- if --
25 if -- with a normal neurological examination, and I saw

Page 80

1 this patient, I wouldn't -- I wouldn't order a -- an
2 MRI. Again, there's other factors that might -- if the
3 patient had, you -- you know, a -- a -- a weight
4 change, or it was considered cancer, you would consider
5 susceptible lesion, or is under a great amount of pain,
6 I might consider it. But --
7 Q. But let me ask you about this patient,
8 rather than some other hypothetical patient.
9 Considering the history, and considering your clinical
10 exam of this patient, would you have ordered an MRI?
11 A. No, I wouldn't have.
12 Q. And would you have ordered an EMG?
13 A. No, I wouldn't have.
14 Q. And you're aware that Aldo Allegrini had
15 no history leading up to this accident of ongoing neck
16 or back complaints; correct?
17 A. He did have a motor vehicle in 2006.
18 Q. Right. But his -- his contention was
19 that those complaints, if any, resolved very soon
20 thereafter; correct?
21 A. Correct.
22 Q. And I'm sure that you've worked with
23 Ms. McDonald before; correct?
24 A. No, I haven't.
25 Q. You've worked with her office, I'm sure,

Page 81

1 many times?
2 A. I -- I can't recall.
3 Q. You've worked with many, many defense
4 lawyers; true?
5 A. Correct.
6 Q. And if there is a history of complaints,
7 a history of injury, a history of prior injury --
8 accidents, that -- those records are supplied to you,
9 correct, typically?
10 A. Again, I -- I take a history, and -- and records
11 that are supplied to me, I use those records as part of
12 the review.
13 Q. And you have not seen any records
14 reflecting any ongoing complaints leading up to this
15 accident; true?
16 A. Correct.
17 Q. Mr. Allegrini contends that he was in a
18 motor vehicle accident, and, thereafter, developed neck
19 and back pain; correct?
20 A. Correct.
21 Q. And his primary ongoing complaint relates
22 to the low back; correct?
23 A. Correct.
24 Q. Now, his doctor chose to order some
25 studies, as you know, the MRI, the EMG; correct?

Page 82

1 A. Correct.
2 Q. And his doctor's clinical findings also
3 differed from yours; am I right?
4 A. I reviewed some of the records, and the clinical
5 findings, and -- and the -- and the records I reviewed
6 were pretty consistent with my findings.
7 Q. Okay. Well, this patient, Aldo
8 Allegrini, had an accident, went to his doctor, and
9 said, Doc, I was in an accident, I have all of this
10 pain that's radiating in my -- to my extremities. And
11 that was his complaints, right, he complained of
12 numbness and tingling into his hand, pain in the low
13 back, and he received chiropractic care; correct?
14 A. Correct.
15 Q. Now, this patient's physicians referred
16 him for studies, and then provided treatment; correct?
17 A. Correct.
18 Q. And the treatment included pain
19 management care; correct?
20 A. Correct.
21 Q. And part of the treatment of the pain
22 management care involved a lumbar epidural steroid
23 injection, and a cervical nerve block?
24 A. Correct.
25 Q. This patient also tells you, according to

Page 83

1 your testimony, that his doctors treated him, and that
2 his complaints have improved?
3 A. Correct.
4 Q. Now, by contrast, you would have examined
5 this patient, and sent him home; am I right?
6 A. Again, you asked me about my examination of the
7 patient. I didn't find anything neurologically, and
8 would I order these tests, and the answer is, no.
9 Q. You agree with me that this patient
10 indicates that the treatment helped him?
11 A. Yes.
12 Q. And the treatment was -- included not
13 only conservative care, but invasive care?
14 A. Correct.
15 Q. What -- what the doctors characterize as
16 operative procedures?
17 A. Correct.
18 Q. And those operative procedures, including
19 an epidural injection, they're generally done under
20 general anesthesia?
21 A. No.
22 Q. Okay. Not always, sometimes?
23 A. They're usually local and IV sedation.
24 Q. IV sedation. Okay.
25 A. Sometimes it's just straight local.

Page 84

1 Q. And what you're doing is you're injecting
2 a steroid into the spinal canal?
3 A. Correct.
4 Q. And the doctors -- I don't know, do you
5 do any -- any -- any pain management procedures?
6 A. No, I do not.
7 Q. But you do surgery?
8 A. Correct.
9 Q. And you -- you explain risks and side
10 effects associated with the procedures?
11 A. Correct.
12 Q. And are you familiar that side effects
13 and risks associated with an epidural injection, for
14 example, include death, paralysis, many different types
15 of side effects?
16 A. Correct.
17 Q. Would you agree with me that a patient
18 would likely be in some great degree of discomfort in
19 order to undergo such a procedure?
20 A. Again, they couldn't -- the -- the risks or
21 those possibilities are very, very, very, very, very,
22 very, very, very, very rare.
23 Q. Okay.
24 A. That you described about. And, again, that's an
25 individual's choice whether a patient wants to go for a

Page 85

1 procedure or not, an elective procedure.
 2 Q. All right. So you -- you -- you
 3 believe -- well, strike that.
 4 The -- the last question on that. Your
 5 opinion in this case is primarily based upon your
 6 clinical exam; correct? You find that the MRI is
 7 somewhat insignificant, you find that the EMG, which
 8 demonstrates a false/positive, is irrelevant, you
 9 wouldn't have even ordered it, so your finding of no
 10 permanency in this case is primarily based upon this
 11 clinical exam of yours?
 12 A. No, again, I examined the patient, and the
 13 history and physical are the most paramount portion of
 14 the exam. Again, we know that even the general
 15 population, any of us, 50 to 60 percent of us can have
 16 a disc herniation or a disc bulge in the MRI. So
 17 looking at the MRI alone is very, very dangerous, based
 18 on if you just look at the MRI, that means 50 to 60
 19 percent of the population is going to get injections,
 20 or going to get surgery. So you have to correlate with
 21 the clinical findings.
 22 Q. Right. And --
 23 A. No. No, let me finish. Don't interrupt, you
 24 asked me a question.
 25 Q. I'm sorry. Go ahead.

Page 86

1 A. Sorry about that. Again, in this patient,
 2 there's normal neurological findings. I found no
 3 pressure on the nerve roots in my exam. The -- the MRI
 4 supported my clinical findings of showing no pressure
 5 on a nerve root. So the MRI was in agreement with my
 6 clinical findings.
 7 Q. And the same can be said for the EMG,
 8 which you -- which you disregard, and -- and pointed
 9 out on a few occasions, often have false/positives;
 10 correct?
 11 A. I wouldn't have -- it's -- yeah, I wouldn't have
 12 ordered them under the circumstance.
 13 Q. So -- so, Doctor, you are conducting
 14 independent -- what you characterize as independent
 15 medical exams throughout the State of New Jersey at the
 16 request of four different companies that do nothing but
 17 defense exams; correct?
 18 A. No, that's mischaracterizing it. It's for
 19 companies that I just see for -- for -- outside of my
 20 office, I just see ExamWorks patients, and -- and
 21 the -- and the -- and the IMX patients. Just two
 22 companies.
 23 Q. Okay. And the other companies you do
 24 defense exams for your office, I guess, is what you
 25 mean to say?

Page 87

1 A. Correct.
 2 Q. So you're doing defense exams for four
 3 different companies?
 4 A. Correct.
 5 Q. And you are a doctor who is able to
 6 testify that it doesn't really matter what the MRI
 7 shows, it doesn't really matter what the EMG shows, as
 8 long as my testimony is that the clinical exam was
 9 normal?
 10 A. Again, it's a mischaracterization. I treat --
 11 when I first do an independent medical evaluation, I
 12 tell the patient this is an independent medical
 13 evaluation. It's the same way I examine a patient in
 14 my own practice, but the only thing is I can't discuss
 15 treatment with you, and I can't answer any questions.
 16 When I examine somebody in my practice, I do a complete
 17 history, I do a complete physical examination. Again,
 18 if the patient is -- if I think an MRI is indicated for
 19 that patient, I'll order an MRI to -- to support my
 20 clinical findings, and not clinical findings. If
 21 someone is completely normal neurologically -- normal
 22 neurological, and there's no other indications, I
 23 wouldn't order an MRI. But if a patient has
 24 neurological findings suggestive, I would order an MRI.
 25 Q. Okay. So, again, this patient comes to

Page 88

1 you, and says, I had a motor vehicle accident, now I'm
 2 in all kinds of pain, it's in my arms, it's in my legs,
 3 you, even with your own patients, would have relied
 4 upon your clinical exam, and not ordered any studies?
 5 A. History, physical exam --
 6 Q. And history?
 7 A. History, physical examination, and objective
 8 testing.
 9 Q. That's your testimony?
 10 A. Yes, it is.
 11 MR. CUNEO: All right. Thank you,
 12 Doctor.
 13 MS. McDONALD: Okay. I'm going to have
 14 some redirect.
 15 REDIRECT EXAMINATION BY MS. McDONALD:
 16 Q. Doctor, you were asked a bunch of
 17 questions not about your examination itself, but about
 18 the location in which your examination was performed.
 19 Do people in Camden County have diff -- physical or
 20 anatomical differences from people in Morris or Bergen
 21 County?
 22 A. No, just preferences, Giants versus Eagles.
 23 Q. And do your orthopedic examinations
 24 change depending on your locality?
 25 A. No, it does not.

Page 89

1 Q. And how many days a month, on average,
 2 are you out of your office doing examinations for an --
 3 an entity like IMX or ExamWorks?
 4 A. About four -- four days.
 5 Q. And that's four days in total a month?
 6 A. Correct.
 7 Q. What percentage of your practice is
 8 devoted to your private prac -- practice, which is how
 9 I'm going to refer to it, versus your practice doing
 10 IMEs?
 11 A. Approximately 75 percent.
 12 Q. So 75 percent is your private practice?
 13 A. Correct.
 14 Q. And in the course of your private
 15 practice, do you treat Plaintiff -- people who are
 16 Plaintiffs in lawsuits?
 17 A. Yes, I do.
 18 Q. And when you treat people who are
 19 Plaintiffs in lawsuits, do you sometimes deal with
 20 Plaintiff's attorneys, as well?
 21 A. Yes, I do.
 22 Q. Okay. So, in your -- in the course of
 23 private practice, you deal with Plaintiff's attorneys?
 24 A. Correct.
 25 Q. Okay. And would it be fair to say that

Page 90

1 you've dealt with many Plaintiff's attorneys?
 2 A. Yes, I have, many.
 3 Q. Would it be fair to say you've dealt --
 4 you've -- you've been involved in many cases in which
 5 your Plaintiff -- patient is a Plaintiff?
 6 A. Correct.
 7 Q. Okay.
 8 A. Or else -- or else -- or else referred to me by
 9 Plaintiff's attorneys.
 10 Q. Okay. You were asked about how many
 11 patients you see in the course of the day when you're
 12 performing IMEs. How many patients can you see in the
 13 course of a day in your private practice?
 14 A. Anywhere up -- up to 30, the average is about
 15 20.
 16 Q. Okay. And when you perform an
 17 examination, is there any difference in what -- in what
 18 you do, depending on whether you're doing an IME, or
 19 you're seeing a patient in your private practice?
 20 A. No, there is not.
 21 Q. You were asked about what -- what you do
 22 with your notes on an examination. Are your notes
 23 reflected in your report?
 24 A. Yes, they are.
 25 Q. And are -- are the reports then, in

Page 91

1 essence, an amalgamation of your notes from the
 2 examination?
 3 A. Correct.
 4 Q. You were also asked about the fact that
 5 you performed a -- a fellowship in -- in hand surgery.
 6 50 percent of your practice is devoted to general
 7 orthopedics?
 8 A. Correct.
 9 Q. And your education covered every part of
 10 the body?
 11 A. Yes, it did.
 12 Q. And in the course of your -- the
 13 50 percent of your practice in which you devote to
 14 general orthopedics, you treat every part of the body?
 15 A. Yes, I do.
 16 Q. Okay. When you have patients who have
 17 negative clinical examinations, but are complaining of
 18 pain, do you sometimes refer them for treatment, like
 19 physical therapy?
 20 A. Yes.
 21 Q. Do you sometimes await the results of
 22 that physical therapy before you make opinions about
 23 further testing?
 24 A. Yes, I do.
 25 Q. You were asked about the presence of

Page 92

1 degenerative findings, or the remark about a presence
 2 of a -- of degenerative findings in Plaintiff's 2007
 3 cervical MRI versus the 2013 MRI. Do you recall that
 4 discussion on cross-examination?
 5 A. Yes.
 6 Q. If you -- would you expect to see
 7 degenerative findings in a 40 year old with the
 8 Plaintiff's general history?
 9 A. Yes.
 10 Q. If you saw findings on an MRI, which you
 11 had expected to see, would you consider them normal?
 12 MR. CUNEO: Objection.
 13 THE VIDEOGRAPHER: The time is 2:38.
 14 Going off the record.
 15 (Discussion held off the videotape
 16 record.)
 17 MR. CUNEO: Okay. A continuing objection
 18 to this line, which is leading, unless you want me to
 19 object to each question?
 20 MS. McDONALD: You can continue to
 21 object, but I'm not suggesting an answer. Go ahead.
 22 THE WITNESS: Yes.
 23 MS. McDONALD: And we're not --
 24 MR. CUNEO: Do you want me to continue to
 25 object?

Page 93

1 MS. McDONALD: No, you can have a
2 continuing objection.
3 MR. CUNEO: Okay. Continuing objection.
4 Okay. Fair enough.
5 THE VIDEOGRAPHER: Going back on the
6 record. The time is 2:38. Back on the record.
7 BY MS. McDONALD:
8 Q. Doctor, you can answer the question.
9 A. Yes.
10 Q. You were asked about the objective nature
11 of an MRI. And can explain what about an MRI test,
12 or -- yeah, test is objective?
13 A. Again, it's -- it's -- it's -- it's -- it's
14 taken. It's done. It's part of something you feel.
15 It's -- it's -- it's something -- it's something you
16 feel, it's something you would see, something to put
17 your eyes on.
18 Q. Is it possible for different doctors to
19 interpret what they see on those films differently?
20 A. Very common.
21 Q. And is that part, that interpretation, is
22 that somewhat objective on the part of the doctors?
23 A. Yes. Yes. And, again, it's also use of
24 terminology.
25 Q. Okay. And that use of terminology,

Page 94

1 you're saying, can be objective -- subjective?
2 A. Correct.
3 Q. Is it the same with EMGs? Well, first,
4 can describe how an EMG is an objective test?
5 A. Again, it -- it gives -- it -- it -- it -- it --
6 it gives out data that's measurable.
7 Q. And can interpretation of that data vary
8 from doctor to doctor?
9 A. Yes, it can.
10 Q. And, in that way, is the interpretation
11 of the EMG subjective?
12 A. Yes.
13 Q. In this case, does the EMG jive with your
14 physical examination of the Plaintiff?
15 A. No, it does not.
16 Q. So regardless of whether the findings on
17 the EMG are described as chronic, or not, do they jive
18 with your physical examination?
19 A. No, they do not.
20 Q. Doctor, I'm going to ask you to refer to
21 some of the Plaintiff's treatment -- well, strike that,
22 before I get to that.
23 Doctor, does the -- the fact that
24 treatment was rendered, or an injection was performed
25 necessarily indicate that there was a -- a specific

Page 95

1 underlying injury?
2 A. No, it does not.
3 Q. Okay. In this case, in fact you noted
4 that the Plaintiff's MRI of the cervical spine
5 performed in 2013 was -- was normal; correct?
6 A. Correct.
7 Q. And that also agreed with the findings of
8 the radiologist; correct?
9 A. Correct.
10 Q. But the Plaintiff had -- had,
11 nevertheless, had injections to the cervical spine;
12 correct?
13 A. Correct.
14 Q. And -- and when we talk about an -- an
15 injection being an operative procedure, we're not
16 talking about cutting someone up -- open --
17 A. No.
18 Q. -- we're talking about a needle?
19 A. Correct.
20 Q. All right. Getting back to the
21 Plaintiff's treatment records. I'm going to ask you to
22 refer to reports. Would you like time to go -- to get
23 to there in your file?
24 A. Yes.
25 MS. McDONALD: Let's go off the record.

Page 96

1 THE VIDEOGRAPHER: The time is 2:41.
2 Going off the record.
3 (Discussion held off the videotape
4 record.)
5 MR. CUNEO: Are we going beyond the scope
6 of cross here with treatment records?
7 MS. McDONALD: I don't think so. You can
8 argue it, but you're talking -- well, yes, about it.
9 Do you want to object now, or later?
10 MR. CUNEO: Well, I don't know what
11 you're going to ask.
12 MS. McDONALD: Okay. Well, let's go back
13 on. Are you there, Doctor?
14 THE WITNESS: Yes, which ones do you
15 want?
16 MS. McDONALD: September 17, 2013, with
17 Dr. Gleimer.
18 MR. CUNEO: All right. And you think
19 we've covered that on direct and cross?
20 MS. McDONALD: Yes.
21 MR. CUNEO: Okay. Yes, well, I do object
22 to questions about that.
23 MS. McDONALD: Okay. We can go back on.
24 I'm sorry, Doctor, are you ready?
25 THE WITNESS: Yes.

Page 97

1 THE VIDEOGRAPHER: The time is 2:42.
 2 Back on the record.
 3 BY MS. McDONALD:
 4 Q. Doctor, looking at the -- the report by
 5 Dr. Gleimer, the only other orthopedic surgeon to
 6 have -- to have examined the Plaintiff in this case,
 7 I'm going to direct you to his physical examination, in
 8 particular, his neurological examination performed on
 9 September 17, 2013. Can you discuss the results of the
 10 neuro -- neurological examination?
 11 A. Again, he revealed in the upper extremities
 12 normal deep tendon reflexes, strength and sensation,
 13 the same as myself. And for the lower extremities, he
 14 put the deep tendon reflexes, the patellar and
 15 achilles, were intact bilaterally. And, again, he just
 16 gives a -- a straight leg raising test going to the
 17 thigh on the left, which is not a positive finding. It
 18 has to go down to the toes, as I described the test
 19 before.
 20 Q. Okay. So -- and is that examination
 21 consistent with your neurological examination of the
 22 Plaintiff?
 23 A. Yes, it is.
 24 Q. Going to Dr. Lee's treatment records.
 25 MS. McDONALD: And we can go off the

Page 99

1 A. 2013?
 2 Q. Yes, it's his first examination.
 3 A. Yes. Again, the reflexes were the same as mine,
 4 one out of four. The motor examination was five over
 5 five for the right. And, again, the same as myself, he
 6 found one over four reflexes, and motor, five over
 7 five.
 8 Q. Okay. And he doesn't comment on
 9 sensation; correct?
 10 A. Correct.
 11 Q. And I'm going to -- rather than go
 12 through every examination, I'm going to go to the March
 13 20, 2014 examination.
 14 A. Which doctor?
 15 Q. Dr. Lee, I'm sorry.
 16 A. Correct.
 17 Q. Can you comment on Dr. Lee's exam --
 18 neurological examination of the lumbar spine at that
 19 time?
 20 A. Again, it was the same as mine, one out of four,
 21 reflexes. Motor strength, five over five, in the right
 22 lower extremity. And the same with the left lower
 23 extremity, one out of four, which I found. And, also,
 24 motor strength, five over five, which I found.
 25 Q. And the straight leg raising test on that

Page 98

1 record for a second so the Doctor can get that.
 2 THE VIDEOGRAPHER: The time is 2:44.
 3 Going off the record.
 4 (Discussion held off the videotape
 5 record.)
 6 MR. CUNEO: I renew the objection,
 7 regarding questions about Dr. Lee's treatment, which
 8 wasn't discussed on direct or cross.
 9 MS. McDONALD: Okay. We'll go to October
 10 17, 2013.
 11 THE WITNESS: Correct.
 12 MS. McDONALD: Ready to go back on?
 13 THE WITNESS: Yes.
 14 MS. McDONALD: Okay.
 15 THE VIDEOGRAPHER: The time is 2:44.
 16 Back on the record.
 17 BY MS. McDONALD:
 18 Q. Doctor, I'd -- I'd like to direct you to
 19 Dr. Lee's examination of the Plaintiff done a month
 20 after Dr. Gleimer on October 17, 2013. Can you discuss
 21 Dr. Lee's neurologic exam of the Plaintiff's lumbar
 22 spine?
 23 A. Again, he found -- we're talking about
 24 October --
 25 Q. The 17th?

Page 100

1 date?
 2 A. Was negative.
 3 Q. What -- looking at Dr. Lee's last
 4 reported examination of the Plaintiff on May 1, 2014,
 5 was there any change in the lumbar examination?
 6 A. No.
 7 Q. Okay. Was there any reports of
 8 examinations that you reviewed, or physical
 9 examinations of the Plaintiff, clinical examinations of
 10 the Plaintiff after Dr. Lee's examination of May 1,
 11 2014?
 12 A. No, there wasn't.
 13 Q. Other than your own?
 14 A. No.
 15 MS. McDONALD: Okay. Nothing further.
 16 Thank you.
 17 MR. CUNEO: I just have one follow-up
 18 question.
 19 RE-CROSS-EXAMINATION BY MR. CUNEO:
 20 Q. Doctor, you've -- you've testified that
 21 you did a clinical exam of the patient's shoulder?
 22 A. Correct.
 23 Q. The -- the exam -- the -- the shoulder
 24 that he had surgery on?
 25 A. Correct.

1 Q. And your findings were completely normal
 2 with regard to this shoulder that he had surgery on?
 3 A. Yeah, and so was it by his treating physician
 4 when he released him from care.
 5 Q. Which -- which treating physician?
 6 A. Marc Kahn.
 7 Q. From 2007?
 8 A. Correct, he -- he found a normal examination at
 9 that time, also.
 10 MR. CUNEO: Okay. Off the record.
 11 THE VIDEOGRAPHER: The time is 2:47.
 12 Going off the record.
 13 (Discussion held off the videotape
 14 record.)
 15 MR. CUNEO: Move to strike the response
 16 and the reference to Marc Kahn. It's nonresponsive, as
 17 well as inadmissible under -- I'm drawing a blank on
 18 the name, the case name right now, but move to strike
 19 that.
 20 MS. McDONALD: Okay. You opened the
 21 door, but go ahead.
 22 MR. CUNEO: No, I understand that. He's
 23 relying upon records that are not in the record.
 24 MS. McDONALD: He did say that he
 25 reviewed them.

1 THE WITNESS: I reviewed them.
 2 MR. CUNEO: Not in the record, I know
 3 that you reviewed them. There's a case, you can't
 4 testify to some other doctor's findings, which I was
 5 shocked to see that you asked him about the MRI and the
 6 EMG studies, frankly. But, you're right, you did open
 7 that door. But, in any event, let's go back on the
 8 record.
 9 THE VIDEOGRAPHER: The time is 2:48.
 10 We're back on the record.
 11 MR. CUNEO: No further questions.
 12 THE VIDEOGRAPHER: That concludes the
 13 deposition. The time is 2:48. Going off the record.
 14 (Videotape deposition was concluded at
 15 2:48 p.m.)
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CERTIFICATE OF OFFICER

I, CHERYL ANN RAKAUSKAS, a Certified Court Reporter and Notary Public of the State of New Jersey, do hereby certify that prior to the commencement of the examination the witness was duly sworn by me.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcription of the testimony as taken stenographically by and before me on the date, time, and place aforementioned.

I DO FURTHER CERTIFY that I am neither a relative, employee, attorney, not counsel to any parties involved; that I am neither related to nor employed by any such attorney or counsel; and that I am not financially interested in the outcome of this action.

 CHERYL ANN RAKAUSKAS, C.C.R.
 A NOTARY PUBLIC OF THE STATE OF NEW JERSEY
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	23:15;24:7;25:5,8;26:2,16; 27:18,23,24,25;28:2,10,15, 17;29:1,2;30:4,21;31:1,16, 23;32:2;33:2,4,16;34:11; 35:25;38:23;40:20;42:5; 43:24;45:1,4,8;46:2,23; 49:9;50:5;52:16;56:5,8,11, 14,15,25;57:3,7;59:11; 60:17;64:14;67:14;68:6; 70:7,14,15;71:7,9;72:11,15, 25;73:20;74:8,15,15;75:25; 76:5;78:1;80:2;81:10;83:6; 84:20,24;85:12,14;86:1; 87:10,17,25;93:13,23;94:5; 97:11,15;98:23;99:3,5,20	anesthesia (1) 83:20 ankle (1) 28:5 annular (9) 39:24;40:5,10,17;69:19, 22;70:3,6,11 annulus (3) 39:2;40:13;70:8 anymore (1) 59:4 apologize (2) 36:3;51:23 appearance (1) 36:16 appearances (1) 4:14 appears (2) 13:16;50:3 apply (1) 25:15 appointments (1) 7:20 approved (1) 6:18 approximate (2) 58:15,15 approximately (2) 20:19;89:11 area (3) 30:16;48:15;67:11 areas (2) 24:22;44:1 argue (2) 57:9;96:8 argumentative (6) 15:5;49:6;56:23;60:4,14; 79:6 arm (2) 31:3,4 arms (3) 8:19;25:22;88:2 arrange (1) 16:8 arranged (1) 51:6 arrangements (1) 16:9 arranging (1) 55:11 asleep (1) 37:22 aspect (1) 39:7 assoc (1) 40:7 associated (7) 38:19;40:8;49:20;70:9,10; 84:10,13 Associates (3) 4:11,12;6:4 asym (1) 32:3	asymmetry (1) 32:3 asymptomatic (2) 70:10,13 Atlantic (4) 59:2,3,5,19 atrophy (1) 31:15 attended (1) 5:16 attending (1) 50:11 attention (2) 15:11;17:20 attorney (1) 50:24 attorneys (5) 56:6;89:20,23;90:1,9 August (1) 18:14 auto (1) 19:10 available (2) 18:1;33:23 average (2) 89:1;90:14 avoided (1) 21:24 avoids (1) 22:4 await (1) 91:21 aware (4) 12:2;48:14,24;80:14
	against (1) 27:9 age (4) 33:11;36:18;37:16;64:3 aging (1) 40:2 agree (9) 17:13;33:17;60:21;69:11, 15;71:12;75:20;83:9;84:17 agreed (2) 77:5;95:7 agreement (1) 86:5 ahead (8) 12:6;18:19;38:10;48:5; 53:17;85:25;92:21;101:21 AIMS (1) 67:1 Aldo (5) 4:16;46:24;54:15;80:14; 82:7 alleged (1) 37:17 Allegrini (12) 4:3,16;10:6;12:2;14:21; 19:10;25:5;46:24;54:15; 80:14;81:17;82:8 alone (2) 6:3;85:17 along (3) 15:22;53:10;78:3 altered (1) 21:24 although (1) 78:8 always (9) 51:10,13;55:6,14,18,25; 68:15;77:6;83:22 amalgamation (1) 91:1 American (1) 7:6 amount (1) 80:5 anatomical (1) 88:20 anatomy (1) 34:20	asymmetry (1) 32:3 asymptomatic (2) 70:10,13 Atlantic (4) 59:2,3,5,19 atrophy (1) 31:15 attended (1) 5:16 attending (1) 50:11 attention (2) 15:11;17:20 attorney (1) 50:24 attorneys (5) 56:6;89:20,23;90:1,9 August (1) 18:14 auto (1) 19:10 available (2) 18:1;33:23 average (2) 89:1;90:14 avoided (1) 21:24 avoids (1) 22:4 await (1) 91:21 aware (4) 12:2;48:14,24;80:14	
		B	
		Babinski (2) 28:22;29:1 back (55) 8:16;11:6,15;12:16;15:6, 8;20:22;21:2,25;22:1,5,22; 24:9,11,19,25;26:9;29:5; 30:6;34:8;37:20;38:1,8; 41:6,9;43:16;46:21;48:9; 49:13;51:25;53:25;54:3,17; 57:12;62:22;68:18;70:14; 74:2,4;79:6,8;80:16;81:19, 22;82:13;93:5,6;95:20; 96:12,23;97:2;98:12,16; 102:7,10 background (2) 5:12,14 bad (1) 32:12 badgering (1) 56:24 Barry (2) 18:9;20:20 base (1) 42:4 based (8) 39:13;69:17,21;71:20;	

79:18;85:5,10,17	bottom (2) 52:13;65:3	can (73) 5:15;6:15,22;11:5;13:3, 10;15:5;17:13,14;18:3; 23:13,21;27:8;28:18;30:5,6; 34:2,19,21,22;35:6,16,25; 36:13,20;37:20;38:10,17; 39:1;40:7,22;42:24;43:2; 44:20;46:10;51:17;52:12; 53:10;58:10,10;59:14,25; 68:15,18;69:7;70:9;72:6; 74:5;75:7,9,14;76:10,10,19; 79:6;85:15;86:7;90:12; 92:20;93:1,8,11;94:1,4,7,9; 96:7,23;97:9,25;98:1,20; 99:17	6:15,17;7:17;13:6,11; 14:9;50:14;57:18;59:15
basis (1) 37:1	break (2) 46:11;49:15	canal (2) 26:23;84:2	Cervical (18) 19:2,4,16,17,24;25:6; 32:20,21;33:14;45:20; 63:22,24,24;65:4;82:23; 92:3;95:4,11
bathroom (2) 46:11;49:9	Brief (2) 46:17;49:11	cancer (1) 80:4	chance (4) 33:20;45:11;54:5;73:19
beats (1) 28:20	brightly (2) 35:6,8	capable (1) 77:17	change (5) 11:12;72:6;80:4;88:24; 100:5
becomes (1) 28:3	bring (1) 31:4	caption (1) 57:17	changes (6) 37:15;44:5;65:7,8;77:20, 22
began (1) 24:6	bringing (1) 30:7	car (1) 20:15	char (1) 77:24
begin (1) 23:8	broad (2) 69:17,21	care (8) 8:10;42:9;82:13,19,22; 83:13,13;101:4	characterize (2) 83:15;86:14
beginning (3) 14:16;52:13;56:25	Brunswick (1) 60:20	career (2) 7:17;9:22	characterized (5) 48:11;51:7;75:18;76:14; 78:15
begins (1) 4:2	bubble (2) 38:24;39:8	carpal (2) 26:7;44:16	characterizing (1) 77:24
behind (1) 35:4	bubbled (1) 39:11	case (34) 10:7;14:21;16:12;24:7; 35:15;36:11;39:10;40:16; 42:10,17;44:11,21,25;45:8; 50:22;57:15;67:2;69:15; 71:5,7,11,12,15;72:7,9,17; 79:15;85:5,10;94:13;95:3; 97:6;101:18;102:3	charts (1) 61:6
Behrens (1) 4:10	Building (1) 5:2	cases (12) 7:5,11;8:8;29:10;44:21; 52:10,10;54:22,24;55:1,4; 90:4	Cherry (14) 17:21;49:22;57:16,17,19, 22;58:4,9,21;59:7,18;60:5; 61:1;78:18
below (1) 36:5	bulge (6) 39:6;66:3;74:18,23;75:6; 85:16	burning (1) 26:20	Cheryl (1) 4:11
bend (1) 27:19	bulges (1) 75:5	busts (1) 39:9	Children (1) 8:4
benefit (2) 5:12;66:12	bulging (2) 38:24;39:16	butcher (6) 23:5;62:15,15,17,19,25	Children's (1) 10:12
Bergen (5) 56:10;58:25;59:17;60:18; 88:20	bunch (1) 88:16	C	
besides (1) 24:20	burning (1) 26:20	C4-C5 (1) 33:4	Chiropractic (1) 82:13
Beta (1) 5:16	busts (1) 39:9	C5-C6 (1) 33:4	chiropractor (2) 18:7;20:18
beyond (1) 96:5	butcher (6) 23:5;62:15,15,17,19,25	C6 (2) 25:14,15	choice (1) 84:25
biceps (2) 25:17;31:13			chose (1) 81:24
bilateral (2) 69:24,25			chronic (14) 44:6;75:18,22;76:4,23; 77:6,9,9,12,13,25;78:1,4; 94:17
bilaterally (2) 27:12;97:15	call (12) 34:13,23;36:22;39:2,4; 44:23;50:10,12;51:5;74:22, 23;75:7	CAT (1) 67:12	circumstance (1) 86:12
bit (6) 12:20;34:19;38:23,24; 39:7;74:4	called (9) 9:10;16:5;28:22;35:16; 42:18;50:24;51:4,5;52:3	cause (2) 70:24,25	City (2) 11:18,23
blank (1) 101:17	calls (3) 74:18,19;75:6	causes (2) 22:4;26:19	classic (2) 28:2;74:10
block (1) 82:23	calmly (1) 13:22	causing (1) 39:12	clearly (2) 57:8;59:24
board (13) 6:15,16,16,25;7:6,14,17; 13:6,11;14:4,9;57:18;59:15	calves (1) 22:3	center (1) 68:1	client (1) 54:15
bodies (2) 34:23,24	Camden (14) 4:5;10:17;12:2,24,25; 47:7,15,15,16;48:15,19; 49:17;59:18;88:19	Central (2) 49:23;69:17	Clifton (3) 6:2;8:6;10:9
body (10) 25:14;35:1,1,2;36:6; 43:24;44:4;50:11;91:10,14			clinical (33) 41:23;42:9,10,11,13;44:9; 45:6,8;61:12;63:20;66:12;
bone (2) 35:1;66:23			
bones (2) 30:25;34:23			
both (1) 70:3			

71:8;73:17,20;78:14,22; 79:16,22;80:9;82:2,4;85:6, 11,21;86:4,6;87:8,20,20; 88:4;91:17;100:9,21	26:12	contacting (2) 69:24;70:12	cross (4) 11:5;96:6,19;98:8
clinically (1) 31:25	component (1) 38:17	contains (2) 35:19,20	CROSS-EXAMINATION (2) 46:7;92:4
Clonus (2) 28:17,17	components (1) 76:1	contends (1) 81:17	cuff (3) 31:3,7,11
close (1) 40:22	compression (1) 39:12	content (3) 36:19,19;38:13	Cum (1) 5:16
coat (1) 39:10	computer (2) 37:21;40:22	contention (1) 80:18	CUNEO (54) 4:15,16;10:3,4;11:16; 12:4,6,13,17;13:4;14:18; 16:22;37:8,14;41:25;46:7, 22;48:6,10;49:14;51:17,23; 52:1,25;53:7,22,24;54:1,4; 57:5,10,13;62:13,17,19,23; 79:9;88:11;92:12,17,24; 93:3;96:5,10,18,21;98:6; 100:17,19;101:10,15,22; 102:2,11
College (1) 5:15	concept (2) 23:12,13	contingency (1) 41:23;45:5;52:17;53:16	currently (2) 5:23;15:19
Columbia (3) 5:22;50:9,10	concepts (1) 23:11	continue (6) 30:2;35:13;40:23;41:4; 92:20,24	curriculum (1) 6:13
comment (7) 64:24;67:17,18;72:20; 75:9;99:8,17	concerned (1) 36:12	continuing (5) 12:11;48:3;92:17;93:2,3	cut (3) 34:12,13,14
commentate (1) 74:5	conclude (1) 30:13	contrary (1) 65:5	cutting (1) 95:16
commented (1) 75:11	concluded (1) 102:14	contrast (1) 83:4	
common (1) 93:20	concludes (1) 102:12	controversial (1) 74:21	D
commonly (7) 25:14;40:8;70:8;72:11,13; 77:4,4	conclusion (1) 17:16	controversy (1) 74:18	
Comp (2) 52:9;55:4	conclusions (4) 17:9,12;42:4;45:15	Cooper (2) 19:6;48:17	dangerous (1) 85:17
companies (11) 51:6;55:17;58:24;59:9; 60:15,23;86:16,19,22,23; 87:3	conditions (2) 17:11;45:16	copy (2) 43:8;52:14	dark (1) 36:20
company (11) 16:5,8;50:24;51:4,4,5; 52:8;54:12;55:11,21,22	conduct (1) 12:23	cord (18) 24:14;26:14,18,23,23; 28:16,21,25;33:5;35:4,6,20, 24;36:4;65:23;75:1,4,5	darker (1) 36:15
compared (1) 30:22	conducted (1) 78:17	Correction (1) 62:24	data (5) 71:20;72:24,25;94:6,7
Compensation (2) 52:14;54:24	conducting (1) 86:13	correlate (1) 85:20	date (1) 100:1
complained (1) 82:11	conduction (1) 72:11	counsel (4) 4:13;13:3;37:21;48:24	dates (1) 18:14
complaining (2) 31:24;91:17	confirm (1) 42:8	counsel's (1) 15:4	Dave (2) 11:3;53:19
complaint (1) 81:21	confused (1) 64:8	counties (4) 59:6,10,10;60:22	David (1) 4:15
complaints (21) 8:10,15,19,25;21:11,15; 23:12,15;24:8,9,19,19; 25:21;32:13;71:6;80:16,19; 81:6,14;82:11;83:2	conjunction (2) 15:23;17:25	County (33) 4:5;10:14,15;11:22,24; 47:2,2,4,8;48:15,19;49:17; 56:7,8,9,10;58:25,25;59:1,1, 2,3,5,17,17,18,19,19,20,21; 60:18;88:19,21	day (23) 8:6;32:12,12;41:17;58:5, 8;60:5,5,7,8,18,19,20;64:18; 66:16,24;67:7;71:21,22; 72:6,6;90:11,13
complete (3) 7:8;87:16,17	connection (1) 61:8	couple (1) 20:17	days (6) 20:18;36:25;60:18;89:1,4, 5
completed (2) 5:21;13:7	conservative (1) 83:13	course (12) 9:3,9,12,15,22;41:11; 55:22;89:14,22;90:11,13; 91:12	deal (2) 89:19,23
completely (3) 79:16;87:21;101:1	consider (4) 71:1;80:4,6;92:11	Court (5) 4:4,11,19,21;38:1	dealt (2) 90:1,3
completeness (1) 30:4	considered (5) 29:8;71:25;75:22;76:4; 80:4	covered (2) 91:9;96:19	death (1) 84:14
completing (1) 6:18	considering (3) 79:21;80:9,9	covering (3) 35:20;39:2;74:11	December (4) 19:20;33:21;37:5;38:3
complicated (1)	consistent (8) 26:6;32:9;36:22;43:22; 73:14,23;82:6;97:21	credentials (2) 13:10,10	decide (2)

41:19;67:25 decrease (1) 28:4 decreased (2) 28:5,7 deep (2) 97:12,14 Defendant (3) 4:18;47:15;50:23 Defendants (3) 51:10,13;52:9 Defendant's (1) 50:23 defense (8) 55:6,14,18,25;81:3;86:17, 24;87:2 deformity (1) 31:15 deg (1) 64:9 degeneration (3) 37:16;65:13;70:9 degenerative (21) 33:8;36:23;37:2,2,6,15; 38:4,16,19;40:2,9;63:25; 64:10,13,21;65:7,8,16;92:1, 2,7 degree (6) 17:12,16;45:19,23;46:3; 84:18 degrees (1) 29:6 demonstrates (1) 85:8 denied (1) 22:8 Dentistry (1) 5:17 Department (1) 14:12 dependent (1) 20:9 depending (2) 88:24;90:18 depends (4) 66:17;68:13;75:23;77:20 deposition (10) 4:2,7;52:3,4;54:17;55:23; 57:2;59:24;102:13,14 dermatoma (1) 29:7 describe (2) 28:18;94:4 described (5) 64:9;74:9;84:24;94:17; 97:18 description (1) 23:16 detailed (2) 24:20;25:7 determine (1) 63:16 determined (2)	76:3;77:18 developed (1) 81:18 devote (1) 91:13 devoted (4) 14:2;50:7;89:8;91:6 diabetes (2) 22:9;72:14 diabetic (1) 44:19 diagnoses (1) 42:4 diagnosis (1) 8:12 diagnostic (5) 19:3,12;45:14;67:1,11 dictate (2) 61:14,14 diff (1) 88:19 differed (1) 82:3 difference (3) 75:2,5;90:17 differences (1) 88:20 different (11) 24:17;29:17;30:25;48:18; 63:17;71:23;74:22;84:14; 86:16;87:3;93:18 differently (1) 93:19 digits (1) 9:20 DIRE (4) 5:6;10:4;11:1;15:5 DIRECT (6) 15:9;62:14;96:19;97:7; 98:8,18 directing (1) 39:20 directly (1) 20:5 disability (2) 52:10;54:22 disagree (6) 70:19,23;71:15;72:22,23; 77:8 disagreed (2) 67:9,9 disagreement (1) 39:18 disagrees (1) 66:7 disc (26) 25:13;28:3;31:25;33:3; 34:24;36:23;37:2,2,2;38:16, 19,25,25;39:16;69:17,21,24; 70:12;72:13;74:8,10,25; 75:3,4;85:16,16 discomfort (2) 21:20;84:18	discovery (1) 52:3 discs (8) 35:2,3,4,8,9;36:12,16; 38:12 discuss (7) 32:19,25;35:16;45:12; 87:14;97:9;98:20 discussed (2) 41:13;98:8 discussion (25) 5:11;10:24;12:9;15:2; 16:1;30:3,13;34:5;35:14; 37:12;40:23;41:2;43:5; 47:22;49:4;51:21;53:3; 56:21;62:9;79:2;92:4,15; 96:3;98:4;101:13 disease (8) 22:10;36:23;37:3;38:16, 20;40:9;44:19,25 disregard (1) 86:8 distribution (1) 26:3 Division (1) 4:5 Doc (1) 82:9 Docket (1) 4:5 Doctor (79) 4:21;5:7,23;6:6,13;7:10, 19;8:1,7;10:8;11:17;12:18; 15:10;16:4;17:8,19;18:11; 19:11;20:1;21:1;23:7;24:3, 3,5;30:2;31:19;32:15;34:10; 35:13;36:11;38:10,21; 41:11;42:3;43:2,19;44:12; 45:11;46:2,8,23;48:7,11; 49:15;52:2,24;53:8,15;54:5; 56:25;57:14;60:13;62:24; 67:4;72:17;73:9,20;74:16; 75:8;76:13;79:10;81:24; 82:8;86:13;87:5;88:12,16; 93:8;94:8,8,20,23;96:13,24; 97:4;98:1,18;99:14;100:20 doctors (7) 7:10;74:17;83:1,15;84:4; 93:18,22 Doctor's (5) 11:2;37:18;72:20;82:2; 102:4 done (12) 28:16;42:8;43:7;57:1; 64:14;68:23;73:24;76:2; 77:1;83:19;93:14;98:19 door (3) 20:16;101:21;102:7 doughnut (4) 39:1,3,3,8 dovetail (1) 42:14 down (8)	26:11,19;29:7;31:4,5; 47:7;58:4;97:18 downward (1) 29:1 Dr (28) 10:1;18:6,9,10,15,20,22, 24,25;19:1;20:20,24,25; 22:19;43:7,20;44:4;96:17; 97:5,24;98:7,19,20,21; 99:15,17;100:3,10 drawing (1) 101:17 drive (1) 10:19 driver (1) 20:15 driver's (1) 20:16 dropped (1) 31:3 duly (1) 5:3 dural (1) 35:19 During (6) 9:22;16:1;17:8;55:22; 65:25;67:7 duty (1) 63:7 DVD (1) 4:2
E			
			Eagles (1) 88:22 earlier (3) 11:10;46:25;52:4 education (1) 91:9 educational (1) 5:14 effects (3) 84:10,12,15 elbow (1) 25:8 elective (1) 85:1 Electrical (1) 19:3 else (4) 67:7;90:8,8,8 else's (2) 67:18,18 EMG (26) 9:10;42:18;44:8,15;45:5; 71:6,11,16;72:6,11;73:24; 75:21;77:6,20,22;79:19; 80:12;81:25;85:7;86:7;87:7; 94:4,11,13,17;102:6 EMGs (4) 19:6;44:2;72:16;94:3 employed (1)

<p>23:5 encased (1) 36:8 encompassed (1) 50:15 end (3) 15:5;28:23;54:9 enough (4) 53:22;66:22;74:7;93:4 entity (1) 89:3 entrapment (3) 44:16,17;72:12 entrapments (1) 25:23 epidural (3) 82:22;83:19;84:13 equal (1) 27:12 Eric (1) 18:20 especially (1) 45:14 essence (1) 91:1 essentially (2) 29:13;31:20 estimate (1) 19:10 evaluation (3) 24:20;87:11,13 Even (7) 39:22;64:11;79:19,23; 85:9,14;88:3 event (1) 102:7 eventually (1) 20:24 evident (1) 56:24 Ewing (2) 59:21;60:8 ex (1) 12:23 Exactly (1) 29:18 exam (31) 12:20;30:14;31:18;42:7; 44:22;48:12,12;50:15; 61:12;66:12;71:22;73:17, 20;75:24;76:5,8;78:14,22; 79:22;80:10;85:6,11,14; 86:3;87:8;88:4,5;98:21; 99:17;100:21,23 EXAMINATION (82) 5:5,6,9;6:20,23,24;7:8; 10:4;12:23;15:9,12,13,17, 23;16:5,15;17:1,21,21,25; 20:2;21:12;23:8,10,24,25, 25;24:6;25:7,18;27:2,4,25; 30:3,19;31:17,20;32:6,6,9,9, 16,23;37:4;38:2;41:24;42:8, 12,13;43:23;44:9,14;45:6,9,</p>	<p>12;79:25;83:6;87:17;88:7, 15,17,18;90:17,22;91:2; 94:14,18;97:7,8,10,20,21; 98:19;99:2,4,12,13,18; 100:4,5,10;101:8 examinations (9) 16:10,16;71:23;88:23; 89:2;91:17;100:8,9,9 examine (9) 10:6;14:20;24:10;30:16; 54:14;69:8,14;87:13,16 examined (7) 5:4;27:17;44:16;69:2; 83:4;85:12;97:6 examiner (1) 16:13 examining (1) 24:18 example (5) 25:12;28:2;61:1,11;84:14 exams (15) 51:7,9,14;52:8,9;55:9,12; 56:3;61:9;78:18;79:13; 86:15,17,24;87:2 ExamWorks (7) 51:4;55:8,9;58:24;60:17; 86:20;89:3 excellent (1) 27:18 excess (1) 75:21 Excuse (1) 11:19 existence (2) 37:7;38:5 exiting (2) 69:25;70:12 expect (5) 29:19;32:8;33:11;66:25; 92:6 expected (4) 31:23;64:2,9;92:11 experience (3) 63:13;68:4,21 expert (1) 10:1 expertise (1) 67:11 explain (9) 6:15;13:5,22;23:14;34:19; 42:5;70:15;84:9;93:11 express (1) 27:3 extending (1) 69:18 extension (1) 25:17 external (2) 30:8;31:8 extra (3) 13:24;50:6,7 extremities (11) 8:11;9:19,21;13:25;14:2;</p>	<p>21:23;28:14;44:17;82:10; 97:11,13 extremity (3) 50:8;99:22,23 eyes (1) 93:17</p> <p style="text-align: center;">F</p> <p>FABER's (1) 30:6 facilities (2) 68:12,13 facility (2) 68:14,21 fact (7) 9:6;54:14;65:21;79:21; 91:4;94:23;95:3 factors (1) 80:2 fair (6) 66:22,22;74:7;89:25;90:3; 93:4 fake (1) 71:19 false/positive (5) 44:24;72:15;76:20;78:9; 85:8 false/positives (4) 71:9;75:13;76:22;86:9 familiar (3) 48:17;49:16;84:12 familiarity (1) 67:14 fancy (1) 6:14 far (3) 10:16;22:11;25:5 Fargo (1) 5:2 feel (2) 93:14,16 feet (2) 26:20;34:15 fell (1) 37:22 fellow (1) 50:9 fellowship (4) 5:21;14:16;50:7;91:5 felt (1) 54:6 few (2) 10:5;86:9 fibers (1) 40:14 fibrillations (2) 44:1;73:2 fibrosus (1) 39:2 field (2) 45:25;54:19 fields (1)</p>	<p>63:17 fifth (1) 25:13 file (1) 95:23 files (1) 61:4 film (1) 67:2 films (17) 19:12;32:17,20;33:15; 38:22;39:18;41:13;64:17; 66:18;68:16,16,18,19;74:6; 75:9,10;93:19 find (15) 24:5,11;25:4;27:16;29:19; 30:19;31:24;32:2;33:6,15; 62:3;64:9;83:7;85:6,7 finding (12) 68:7;72:22;73:11,13;76:3, 23;77:5,24;78:8,10;85:9; 97:17 findings (40) 23:13;32:5,8;33:1,8,17; 44:9;45:5;61:11,13;63:21, 25;64:10,13,21;65:11,16; 71:8,19;75:20;79:16,21; 82:2,5,6;85:21;86:2,4,6; 87:20,20,24;92:1,2,7,10; 94:16;95:7;101:1;102:4 finger (3) 26:16;27:21;28:23 fingers (1) 25:16 fungertips (1) 27:21 finish (2) 76:18;85:23 first (7) 5:3;32:20;77:18,21;87:11; 94:3;99:2 fits (1) 68:13 five (16) 22:12;27:4,4,6,6;58:11, 11;75:14;99:4,5,6,7,21,21, 24,24 flat (1) 29:5 flexion (2) 28:7;30:8 flick (1) 26:16 fluffy (4) 35:2,3,9,10 fluid (2) 35:7;36:8 followed (1) 5:20 following (3) 20:17;23:3;37:25 follows (1) 5:4</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>follow-up (1) 100:17</p> <p>foot (3) 28:6,18,19</p> <p>foramina (1) 36:10</p> <p>foraminal (1) 69:24</p> <p>forgot (1) 11:10</p> <p>form (2) 13:2;16:22</p> <p>format (1) 70:20</p> <p>found (8) 39:23;72:17;86:2;98:23; 99:6,23,24;101:8</p> <p>four (14) 5:20;13:23;31:6;50:5; 75:14;86:16;87:2;89:4,4,5; 99:4,6,20,23</p> <p>frankly (1) 102:6</p> <p>Freehold (4) 4:8;5:3;59:18;60:7</p> <p>frequently (1) 67:3</p> <p>front (1) 15:19</p> <p>full (4) 25:6;27:6;30:22;63:7</p> <p>full-time (1) 63:7</p> <p>function (1) 35:17</p> <p>further (6) 14:19;46:5;65:25;91:23; 100:15;102:11</p> <p>future (1) 47:24</p>	<p>genetic (2) 37:1;38:17</p> <p>gentleman (1) 12:24</p> <p>geographic (1) 11:3</p> <p>geography (1) 11:25</p> <p>gets (2) 22:2;68:10</p> <p>Giants (1) 88:22</p> <p>gives (5) 24:15,16;94:5,6;97:16</p> <p>Gleimer (6) 18:9,15;20:21;96:17;97:5; 98:20</p> <p>God (2) 4:24,25</p> <p>goes (5) 28:19;31:5;68:2;75:4; 78:3</p> <p>Good (4) 5:7;6:11;7:3;32:12</p> <p>governing (1) 16:16</p> <p>graduated (2) 5:15,18</p> <p>grand (1) 6:25</p> <p>grandfathering (1) 6:25</p> <p>Great (6) 17:19;20:1;72:8,16;80:5; 84:18</p> <p>grounds (3) 12:12;48:4;57:6</p> <p>group (2) 25:8;28:11</p> <p>groups (1) 27:25</p> <p>guess (2) 36:2;86:24</p> <p>guest (4) 7:21;13:13;14:11,12</p> <p>guide (1) 42:9</p> <p>guys (1) 11:9</p>	<p>hands (2) 26:5,20</p> <p>happen (1) 69:7</p> <p>happened (1) 47:16</p> <p>happens (4) 24:13;36:5,18,24</p> <p>head (1) 34:15</p> <p>Health (1) 19:7</p> <p>heard (4) 48:19;49:18,21,25</p> <p>heavy (3) 21:24;22:4;38:18</p> <p>held (18) 10:24;12:9;15:2;34:5; 37:12;41:2;43:5;47:22;49:4; 51:21;53:3;56:21;62:9;79:2; 92:15;96:3;98:4;101:13</p> <p>help (4) 4:24,25;41:19;42:9</p> <p>helped (1) 83:10</p> <p>here's (3) 73:25,25;74:2</p> <p>herniated (4) 25:13;31:25;33:3;72:13</p> <p>herniation (10) 39:9;40:17;69:18,22; 70:12;74:9,19,23;75:7; 85:16</p> <p>herniations (4) 39:23,25;40:3;75:6</p> <p>high (6) 44:22;70:7;71:9;72:15; 74:16,17</p> <p>Hill (13) 17:22;49:22;57:16,17,19, 22;58:4,9,21;59:18;60:5; 61:1;78:18</p> <p>hip (1) 30:9</p> <p>hips (1) 30:5</p> <p>hired (4) 50:22,23,24;54:14</p> <p>hires (1) 55:9</p> <p>History (26) 18:24;20:3,8,12;22:7,8, 25;33:12;42:7;62:4;63:2; 64:3,12;69:1;80:9,15;81:6,7, 7,10;85:13;87:17;88:5,6,7; 92:8</p> <p>Hoffman (1) 26:16</p> <p>Hoffman's (1) 26:12</p> <p>Hold (1) 46:19</p> <p>home (1)</p>	<p>83:5</p> <p>Hornblower's (1) 31:10</p> <p>Hospital (9) 5:22;7:25;8:5;10:12; 18:23;20:17;48:17,18;50:10</p> <p>hospitals (3) 48:15,19;49:17</p> <p>hour (1) 10:18</p> <p>Hudson (1) 59:20</p> <p>hurts (1) 23:17</p> <p>hypertension (1) 22:9</p> <p>hypothetical (1) 80:8</p>
I			
<p style="text-align: center;">G</p> <p>Garden (1) 49:21</p> <p>gave (3) 14:15,15;20:12</p> <p>gelatinous (1) 39:5</p> <p>gen (1) 50:19</p> <p>general (16) 5:19;14:1,4,6,8;34:20; 50:2,15,17,18,19;83:20; 85:14;91:6,14;92:8</p> <p>generalities (1) 60:12</p> <p>generally (1) 83:19</p> <p>generator (2) 39:15;40:20</p> <p>generators (2) 40:11,15</p>	<p>H</p> <p>habit (1) 56:25</p> <p>half (8) 10:18;34:15;60:7,8,18,18, 19,20</p> <p>hammer (1) 28:23</p> <p>hand (13) 4:22;13:16,20,24,24,25; 14:14;25:9;50:4,6,7;82:12; 91:5</p>	<p>idea (1) 22:24</p> <p>identified (1) 13:19</p> <p>IM (1) 54:12</p> <p>image (2) 34:17;35:5</p> <p>imagery (1) 34:18</p> <p>IME (1) 90:18</p> <p>IMEs (2) 89:10;90:12</p> <p>implied (1) 76:24</p> <p>importance (1) 23:14</p> <p>important (6) 24:12;25:12;41:22;42:6; 45:4;76:11</p> <p>impression (1) 42:9</p> <p>improved (2) 21:25;83:2</p> <p>IMX (16) 16:5;50:24;51:3;52:8; 53:9;54:13;55:7;58:2,3,24; 59:7;60:4,7,15;86:21;89:3</p> <p>inadmissible (1) 101:17</p> <p>inch (1) 27:21</p> <p>inches (1) 27:22</p> <p>incidence (1) 44:23</p> <p>include (1) 84:14</p> <p>included (2) 82:18;83:12</p> <p>including (3)</p>	

20:20;37:18;83:18	interpret (1) 93:19	Jury (8) 5:12;13:5;23:14;33:24; 34:20;36:13;42:6;70:15	4:4
inconsistent (1) 78:10	interpretation (3) 93:21;94:7,10	K	lawsuits (2) 89:16,19
increase (1) 22:5	interpretations (1) 74:6		lawyers (1) 81:4
increased (1) 78:2	Interrogatories (1) 19:9	Kahn (6) 18:6,24,25;22:19;101:6, 16	leading (4) 41:25;80:15;81:14;92:18
indenting (1) 69:22	interrupt (1) 85:23	Kappa (1) 5:16	least (2) 63:10;77:22
independent (9) 16:9,13;48:12;51:7,9; 86:14,14;87:11,12	interrupted (1) 30:1	Kearney (1) 59:20	lecture (1) 14:15
indicate (7) 21:7;22:6,14;27:4,11; 33:8;94:25	intervertebral (1) 36:10	keep (5) 17:11;26:5;27:19;61:16; 79:12	lecturer (4) 7:21;13:13;14:11,12
indicated (2) 18:13;87:18	into (10) 5:10;21:22;23:10;26:20; 29:7;68:21,22;75:4;82:12; 84:2	Kennedy (1) 18:22	lectures (1) 14:15
indicates (1) 83:10	invasive (1) 83:13	kind (5) 8:8;9:18;17:24;27:3;28:8	Lee (4) 18:22;19:1;20:25;99:15
indication (3) 44:18;63:10;71:8	involved (9) 8:21,25;12:25;22:20;28:4; 50:11;51:10;82:22;90:4	kinds (1) 88:2	Lee's (7) 97:24;98:7,19,21;99:17; 100:3,10
indications (2) 72:20;87:22	involvement (1) 24:12	knees (1) 27:19	left (14) 19:2;20:23;21:20;22:12, 19;30:18,20,22;31:15,17; 43:21;45:21;97:17;99:22
individual (2) 23:20;69:5	irrelevant (1) 85:8	known (1) 77:4	leg (9) 29:2,6,9,10,13;30:7;31:8; 97:16;99:25
individually (1) 31:7	issue (2) 17:4;72:23	L	legs (3) 8:19;22:3;88:2
individual's (1) 84:25	items (1) 47:11		L1 (1) 36:6
induced (3) 31:25;39:25;40:6	IV (2) 83:23,24	L-1884-14 (1) 4:5	letterhead (2) 59:15,22
inj (1) 77:19	J	L4 (2) 39:23;70:3	level (3) 28:12;29:8;36:13
injecting (1) 84:1		Jackson (2) 4:9,18	L4-5 (2) 36:12;39:24
injection (6) 21:2;82:23;83:19;84:13; 94:24;95:15	Jacqueline (2) 4:17;5:8	L4-L5 (1) 69:19	Lhermitte's (2) 26:13,19
injections (4) 9:13;21:3;85:19;95:11	January (1) 43:8	L5 (10) 28:2;39:24;43:20;69:25; 73:11,15,22,23;74:1;75:17	license (1) 6:11
injuries (2) 22:15;45:24	Jeffrey (4) 4:3;5:1;57:18;59:15	L5-S1 (4) 36:13;39:24;69:21;70:4	licenses (1) 6:9
injury (7) 76:3,4;77:2,19;81:7,7; 95:1	jelly (5) 39:1,3,3,6,9	laborer (1) 38:18	life (1) 64:12
inside (1) 39:3	Jersey (18) 4:4,9;5:3,17;6:10;10:9; 11:25;12:25;14:13,13; 47:16;49:22;57:19,20,23; 58:4;59:16;86:15	Lady (1) 48:18	lifting (2) 21:24;22:4
insignificant (1) 85:7	jeweler (2) 62:5,18	Lakin (5) 4:3;5:1;10:1;57:18;59:15	lift-off (1) 31:9
Insofar (1) 37:16	jewelry (2) 23:2;63:5	Landing (1) 59:19	likely (2) 67:16;84:18
Inspira (1) 48:20	jive (2) 94:13,17	last (5) 21:1;74:14;75:8;85:4; 100:3	limitation (1) 24:22
insurance (1) 68:12	joint (1) 30:10	later (5) 12:20;20:18;32:22;57:9; 96:9	line (3) 48:3,4;92:18
insurances (1) 68:10	July (2) 37:5;38:4	lateral (1) 69:23	Lipnack (6) 18:10,20;20:24;43:7,20; 44:4
intact (5) 25:11,18,19;28:13;97:15	June (1) 17:5	Laude (1) 5:16	literature (1) 72:10
intensity (1) 70:7		Law (1)	litigation (1) 51:11
interestingly (2) 66:5,6			little (10)

34:19;38:23,24;39:6,7,8, 11,11,11;74:4 LMFIC (1) 4:4 loc (1) 59:11 local (2) 83:23,25 locality (1) 88:24 location (6) 11:3;47:1;58:9;63:11; 64:15;88:18 locations (5) 59:7,11,12,16;60:10 long (4) 6:6;22:2;66:16;87:8 longer (1) 6:24 long-standing (1) 73:5 look (14) 7:11;24:21;43:8,24;48:23; 59:21;66:2,18,20,21;68:18; 72:10;76:16;85:18 looked (4) 63:23;66:8,11;67:1 looking (10) 27:13;34:10,11,12;48:24; 66:15,24;85:17;97:4;100:3 looks (1) 67:3 lose (2) 36:19,19 loss (6) 29:22,24,25;30:23;32:2,3 lost (1) 38:13 lot (6) 28:21,25;35:7,10,11; 75:25 Lourdes (1) 48:18 low (4) 45:2,2;81:22;82:12 lower (17) 9:21;20:22;21:2,25;22:1, 5,22;24:9,10,19,24;28:14; 34:12;44:17;97:13;99:22,22 lumbar (20) 19:5,19;27:17;30:3,14; 33:21;34:11,20,22;35:9; 39:14;45:21;64:20;65:15, 22;67:2;82:22;98:21;99:18; 100:5 lumbosacral (1) 28:1 lying (1) 29:5	34:17 machine (2) 64:16,18 Main (2) 4:8;5:2 makes (2) 10:6;16:9 male (1) 20:14 management (6) 9:13;18:21;20:25;82:19, 22;84:5 Manalapan (1) 60:19 many (15) 40:13;48:14;51:2;60:9; 78:17;81:1,3,3;84:14;89:1; 90:1,2,4,10,12 Marc (5) 18:6,24,25;101:6,16 March (3) 4:6;33:7;99:12 material (3) 39:5;74:10;75:3 Matter (3) 4:3;87:6,7 matters (4) 35:15;53:9;54:18,19 May (10) 5:10;15:13;25:2;39:20; 62:1;64:25;75:16;78:9; 100:4,10 Mays (1) 59:19 McDonald (80) 4:17,17;5:6,8;9:25;10:20; 11:1,8,13;12:3,5,11,14;13:2; 14:23;15:4,9;16:23;34:1,9; 37:20,23;38:9;40:24;41:4,6, 10;42:1,2;43:1,7,10,12,14, 17;46:5,12;47:17,19,24; 48:2,25;49:6,10;52:23;53:5, 15,19;56:18,23;57:4,8;62:6, 11,15,18;78:24;79:4;80:23; 88:13,15;92:20,23;93:1,7; 95:25;96:7,12,16,20,23; 97:3,25;98:9,12,14,17; 100:15;101:20,24 MD (2) 4:3;5:1 mean (13) 27:5,7;57:5,6,22,22; 64:11;67:3,4;71:19;78:5,10; 86:25 means (11) 6:15;13:3;26:4,18,20; 28:20,25;31:5;44:5;73:4; 85:18 measurable (1) 94:6 Medical (23) 5:18,19,20;7:22;9:6; 14:13;16:9,13;17:11,13,16;	20:23;22:6,8,9;45:19,23; 46:3;51:5;55:17;86:15; 87:11,12 Medicine (2) 5:17;19:7 meet (2) 68:21,25 members (1) 42:6 Memorial (1) 8:4 memory (1) 16:2 mention (2) 11:10;65:18 mentioned (7) 8:7;13:12;14:10,11;37:17; 55:22;65:20 Mercer (2) 59:1,21 Mercerville (1) 59:20 met (1) 67:15 metabolic (2) 22:10;72:14 mid (1) 22:3 Middlesex (2) 59:1,17 might (7) 60:9;74:23;77:12,16;78:4; 80:2,6 mild (2) 65:6,8 millimeters (1) 69:18 min (1) 65:6 minal (1) 65:6 mine (2) 99:3,20 minimal (1) 27:23 minute (2) 18:12;63:21 mischaracterization (1) 87:10 mischaracterizing (1) 86:18 miss (2) 23:2;63:6 misspoke (1) 65:7 moment (1) 34:2 Monmouth (2) 58:25;59:18 month (9) 58:5,20,21,22;60:5,6;89:1, 5;98:19 months (11)	20:19;36:25;58:20;60:6,9; 75:21;76:2,4;77:2,6,18 Mor (1) 11:24 more (5) 26:12;28:20;35:13;67:16, 16 Morris (5) 10:15;11:22,24;47:2; 88:20 most (7) 40:1,1,1;42:6;73:17; 76:10;85:13 mostly (1) 36:12 motion (13) 11:5;15:4;24:21,22;25:5, 6;26:17;27:18;30:21,22,23; 49:7;57:4 motor (21) 8:22,25;22:20;24:15;25:8, 18;27:2,4,25;29:24;37:7; 38:6;45:22,25;80:17;81:18; 88:1;99:4,6,21,24 move (3) 37:14;101:15,18 movement (1) 29:13 MRI (68) 19:1,2,4,5,16,18,24;32:21; 33:2,7,14,16,21;37:19; 39:13;41:13,23;42:3,8,15; 63:22,24;64:6;65:4,16,22; 66:8,11,15;67:2,3,8,9;68:1, 1,2,9,9,10,15,21;69:16;70:3; 71:1;73:15,21;79:23;80:2, 10;81:25;85:6,16,17,18; 86:3,5;87:6,18,19,23,24; 92:3,3,10;93:11,11;95:4; 102:5 MRIs (6) 9:4,7;32:17,20;39:18; 67:12 much (1) 54:6 Muhlenberg (1) 5:15 muscle (2) 28:11;31:6 muscles (2) 30:25;31:7 musculoskeletal (1) 8:11 myself (3) 67:6;97:13;99:5
M			N
macabre (1)			name (3) 5:8;101:18,18 names (1) 49:18 narrow (1)

<p>38:13 narrower (1) 36:21 nature (1) 93:10 necessarily (2) 69:11;94:25 necessary (1) 72:18 neck (13) 8:16;20:22;21:2,21;22:22; 24:8,10,24;25:13;26:9,19; 80:15;81:18 need (3) 11:11;70:16,17 needed (1) 54:7 needle (1) 95:18 needles (3) 72:3,4;75:25 negative (9) 26:7,25;29:1,11;30:12; 31:11,14;91:17;100:2 nerve (41) 8:19;24:24;25:14,15,20, 23;26:2,4,10;28:1,3,3,10,12; 29:3,22,23,23,24;35:21,22; 36:5,6,9;39:10;40:13;44:15, 17;69:25;70:13,24;72:11, 12;73:4,15,23;74:11;75:12; 82:23;86:3,5 nerves (3) 24:13;25:21;44:20 Network (4) 48:20;55:18;68:14,14 neur (1) 67:10 neural (2) 39:12;69:24 neuro (1) 97:10 neurologic (1) 98:21 neurological (16) 24:11,20;25:7;27:24; 44:14;68:7;71:5,8;79:25; 86:2;87:22,24;97:8,10,21; 99:18 neurologically (3) 76:12;83:7;87:21 neuropathy (1) 72:14 nevertheless (1) 95:11 New (21) 4:4,8;5:3,17;6:10;10:9; 11:18,20,22,25;12:25;14:13, 13;47:16;57:19,20,22;58:4; 59:16;60:20;86:15 nicely (1) 13:22 nitty-gritty (1)</p>	<p>27:3 none (1) 60:6 nonoperative (1) 8:14 nonresponsive (1) 101:16 normal (30) 25:10,24;27:2,22;28:11, 15;31:2,16,18,21;33:16; 42:13;44:13,13,22;45:9; 64:6;76:12;78:22;79:16,25; 86:2;87:9,21,21;92:11;95:5; 97:12;101:1,8 north (1) 10:16 northwest (2) 11:25;12:1 note (2) 48:2;65:11 noted (4) 22:22;63:24;64:21;95:3 notes (22) 18:5,6,7,8,10,20,21,22; 19:6,8;61:8,13,14,15,17,19, 22;63:15;79:12;90:22,22; 91:1 notice (2) 36:15;44:1 nucleus (1) 39:4 Number (2) 4:2,5 numbers (1) 58:16 numbness (2) 21:23;82:12</p>	<p>20:5 obvious (1) 53:16 occasion (2) 17:2;25:2 occasional (2) 21:20,21 occasionally (2) 22:1,3 occasions (1) 86:9 Occupational (1) 19:7 occupations (1) 38:18 October (3) 98:9,20,24 off (61) 10:20,22,23,24;12:5,8,9; 14:23;15:1,2;34:1,4,5;37:8, 11,12;40:24;41:1,2;42:23; 43:1,4,5;46:10,16;47:18,21, 22,25;48:25;49:2,4;51:17, 17,20,21;52:23;53:2,3; 56:20,21;62:1,8,9;70:14; 74:2,4;79:1,2;92:14,15; 95:25;96:2,3;97:25;98:3,4; 101:10,12,13;102:13 offer (1) 10:1 office (9) 10:8;47:1;57:17,19;78:18; 80:25;86:20,24;89:2 offices (1) 47:7 often (2) 41:16;86:9 old (2) 20:14;92:7 older (2) 64:11,12 once (2) 58:21,21 one (33) 5:21;17:2;21:1;23:19; 26:9,11;27:12,20,21;33:7; 47:10;51:3;52:13;55:21; 58:5;59:12,12;60:5,5;61:25, 25;62:1;74:14,14,22;75:6,8; 78:19;99:4,6,20,23;100:17 ones (1) 96:14 one-year (1) 5:21 ongoing (3) 80:15;81:14,21 only (9) 42:3;52:13;55:21;66:3; 74:5;77:17;83:13;87:14; 97:5 open (2) 95:16;102:6 opened (1)</p>	<p>101:20 operative (6) 7:5;8:13;18:23;83:16,18; 95:15 opinion (3) 75:2;76:13;85:5 opinions (3) 17:10,12;91:22 opportunity (2) 32:16;66:2 oral (1) 6:23 order (12) 44:11,20,21;71:11;72:18; 80:1;81:24;83:8;84:19; 87:19,23,24 ordered (10) 45:1;71:5;73:21;79:19,23; 80:10,12;85:9;86:12;88:4 ordering (2) 68:8;72:21 original (1) 50:15 orthopedic (22) 6:17,18;7:6,13;10:2;13:6, 11,23;14:8;18:9;20:21; 41:12;49:20;50:5,6,19; 57:18;59:15;72:10;77:5; 88:23;97:5 orthopedics (18) 5:20,24;13:24;14:1,5,6, 12;49:21,22,23,23,50:3,15, 16,17;54:19;91:7,14 otherwise (2) 33:5;37:16 out (23) 9:13;24:11,14;27:4,6; 30:11;36:13;38:24;39:6,11, 12,23;52:22;66:1;68:14; 74:25;75:1;86:9;89:2;94:6; 99:4,20,23 outer (3) 39:1,7,9 outside (4) 11:22;56:5;74:10;86:19 over (16) 21:20;26:2;27:20;34:25; 36:14,21,25;38:13;40:1; 54:6;59:23;99:4,6,6,21,24 own (4) 51:15;87:14;88:3;100:13</p>
	O		
	<p>Oakes (2) 4:10,12 object (6) 37:14;92:19,21,25;96:9, 21 Objection (20) 10:20;12:3,12;13:2;14:21; 16:22;37:8;41:25;47:17; 48:2,3,25;56:18;62:6;78:24; 92:12,17;93:2,3;98:6 objections (1) 47:25 objective (18) 23:13,21;71:2,4,17,25; 72:23,25;73:24;76:15,15,17; 88:7;93:10,12,22;94:1,4 objectively (1) 25:20 O'Brien's (1) 31:14 obtain (1) 20:3 obtained (1)</p>		
			P
			<p>Page (6) 39:20;53:15;54:10,10,10; 65:1 pain (36) 8:16,19;9:13;18:21;20:25; 21:19,21,25;22:1,5,22;24:8, 9,10;26:3,6,10;29:3,7;30:5; 31:11;39:15;40:10,15,20; 70:24,25;80:5;81:19;82:10,</p>

<p>12,18,21;84:5;88:2;91:18 palpate (1) 24:22 palpating (1) 30:24 palpation (1) 27:24 paragraph (1) 65:3 paralysis (1) 84:14 paramount (3) 73:18;78:15;85:13 Paramus (1) 59:16 part (11) 42:6;50:11;54:10,10; 81:11;82:21;91:9,14;93:14, 21,22 particular (2) 66:10;97:8 parties (1) 4:13 Passaic (7) 47:1,2,3,4;56:7,8,9 passed (3) 6:20,24;7:3 past (6) 13:19;22:6,8,11,12;51:3 patellar (1) 97:14 path (1) 50:14 pathology (2) 30:9,9 patient (33) 23:16;29:5;62:3;67:4,15, 16,25;68:10,20;73:21; 76:11;80:1,3,7,8,10;82:7,25; 83:5,7,9;84:17,25;85:12; 86:1;87:12,13,18,19,23,25; 90:5,19 patients (23) 8:15,18,21,24;24:10; 51:15;58:1,4,8,25;59:5; 60:7;69:8,14;78:18,23;79:5; 86:20,21;88:3;90:11,12; 91:16 patient's (2) 82:15;100:21 peer (4) 6:22;7:5,7,9 peers (2) 6:23;7:7 pel (1) 9:21 pelvis (1) 9:21 pending (2) 37:23;43:18 Pennsauken (2) 18:7,13 people (9)</p>	<p>8:10;9:13;30:5;44:23; 74:22;88:19,20;89:15,18 peptic (1) 22:9 percent (9) 14:1,1;27:9;85:15,19; 89:11,12;91:6,13 percentage (1) 89:7 perform (8) 9:15,18;12:20;16:15; 23:22;25:25;26:15;90:16 performed (19) 5:9;9:23;15:12,13;16:4; 17:1,6,21;18:25;21:3;29:4, 16;32:23;33:7;88:18;91:5; 94:24;95:5;97:8 performing (1) 90:12 perhaps (3) 52:12;53:10;78:22 peripheral (4) 25:23;44:15,17;72:12 permanency (2) 55:1;85:10 permanent (1) 45:24 permitted (1) 16:24 person (11) 23:19;27:8;34:15;64:3; 66:15;67:10;68:2;74:22,23; 75:6,7 personally (1) 68:18 Phalen's (3) 25:23;26:1,5 Phi (1) 5:16 Photographs (1) 19:9 physical (20) 18:24;19:7,8;20:23;24:6; 31:19;32:16;42:8;43:23; 85:13;87:17;88:5,7,19; 91:19,22;94:14,18;97:7; 100:8 physically (2) 23:22,22 physician (3) 71:13;101:3,5 physicians (3) 16:20;20:20;82:15 pick (1) 44:8 pinched (1) 26:10 Piscata (1) 59:1 Piscataway (1) 59:17 place (4) 45:5;72:3,4,5</p>	<p>placed (1) 75:24 places (1) 60:25 placing (1) 30:8 Plains (2) 8:5;10:12 Plaint (2) 89:15;90:5 Plaintiff (29) 4:16;5:10;15:13;16:20; 17:10;20:3,6;21:6,10;24:6; 30:17;31:20,24;32:12; 43:23;45:13;46:24;47:14; 53:12,13;90:5;94:14;95:10; 97:6,22;98:19;100:4,9,10 Plaintiffs (4) 51:14;56:4;89:16,19 Plaintiff's (14) 32:17,21;33:11;45:16; 89:20,23;90:1,9;92:2,8; 94:21;95:4,21;98:21 plantar (1) 28:7 please (7) 4:20,22;5:13;30:2;32:25; 36:1;46:11 plus (1) 27:12 pm (2) 4:7;10:2,15 point (4) 23:7;36:13;62:1;63:11 pointed (2) 66:1;86:8 pointing (1) 78:3 police (2) 18:6;47:11 polyphasic (4) 44:5;73:3,3;78:2 Pompton (2) 8:5;10:12 poor (1) 44:10 poorly (1) 36:3 population (2) 85:15,19 portion (1) 85:13 positive (6) 28:20;29:8,20,21;44:24; 97:17 possibilities (1) 84:21 possible (3) 7:16;35:22;93:18 posterior (1) 69:17 posteriorly (1) 69:18</p>	<p>pouch (1) 39:6 prac (1) 89:8 practice (34) 5:24;6:1,3,5,7,21,22;8:5,8, 9;9:3,9,12,15;12:22;13:21, 21,25;14:16;41:12;67:18, 23;87:14,16;89:7,8,9,12,15, 23;90:13,19;91:6,13 practices (1) 49:20 precertified (1) 68:11 preferences (1) 88:22 Presbyterian (2) 50:9,10 prescription (1) 68:9 prescriptions (1) 68:17 presence (2) 91:25;92:1 present (5) 4:13;21:11,15;44:9;63:7 presently (1) 63:6 press (1) 75:10 presses (3) 25:14;39:10;74:11 pressing (2) 38:24;39:12 pressure (17) 24:24;25:20;26:4,18,22; 28:16,21,25;29:22;70:23,25; 73:4,15,22;75:12;86:3,4 pretty (5) 10:16;53:16;56:24;57:8; 82:6 previous (3) 22:15;54:17;63:12 previously (4) 23:5;58:14,17;62:4 primarily (2) 85:5,10 primary (1) 81:21 prior (5) 22:20;32:21;33:7;37:18; 81:7 priority (2) 45:2,2 private (11) 6:6,22;8:8,9;68:12;89:8, 12,14,23;90:13,19 privileges (4) 7:25;8:4;10:11;47:5 Prizm (2) 51:5;55:23 probability (1) 45:24</p>
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<p>problem (2) 68:7,8</p> <p>problems (6) 8:13;22:9,10,11;26:13; 31:12</p> <p>procedure (4) 84:19;85:1,1;95:15</p> <p>procedures (6) 8:6;18:25;83:16,18;84:5, 10</p> <p>process (6) 7:4;13:7;37:6;38:4;40:2,9</p> <p>produced (1) 64:18</p> <p>program (1) 6:19</p> <p>proposition (2) 69:12;70:23</p> <p>protect (1) 36:4</p> <p>provide (1) 68:16</p> <p>provided (1) 82:16</p> <p>pulposus (1) 39:4</p> <p>pushing (1) 39:7</p> <p>put (5) 39:22;41:23;68:16;93:16; 97:14</p> <p>puts (1) 44:5</p> <p>putting (1) 36:2</p>	<p>radiologist (18) 33:18;39:19,23;66:8,11, 24;67:1,5,10;68:25;69:1,2,4, 6,16;70:2;73:22;95:8</p> <p>Radiologists (3) 66:17;69:8,14</p> <p>radiology (1) 35:15</p> <p>raise (4) 4:21;29:6,9,10</p> <p>raising (4) 29:2,13;97:16;99:25</p> <p>Rakauskas (1) 4:11</p> <p>range (10) 24:21;25:5,6;27:18;30:21, 22;58:11,11,12,14</p> <p>rapidly (1) 31:5</p> <p>rare (1) 84:22</p> <p>rarely (2) 22:2;72:9</p> <p>rate (1) 72:16</p> <p>rather (2) 80:8;99:11</p> <p>ratings (1) 55:2</p> <p>re (3) 50:16,16;69:16</p> <p>reach (1) 45:15</p> <p>react (1) 27:12</p> <p>reactive (1) 27:12</p> <p>read (17) 38:1;41:12,13;43:20; 52:16,19;53:10,15,17,22; 54:6,7,9;59:25;70:2;73:7; 76:10</p> <p>reading (9) 9:7;18:12,12;33:18,18; 39:18;42:15;72:5;76:10</p> <p>Ready (6) 11:6;41:4;43:10;53:25; 96:24;98:12</p> <p>realize (2) 49:19;58:13</p> <p>really (2) 87:6,7</p> <p>reason (3) 14:10;17:15;44:14</p> <p>reasonable (6) 17:12,16;45:19,23;46:3; 72:18</p> <p>reasoning (1) 73:10</p> <p>recall (4) 52:10,11;81:2;92:3</p> <p>received (1) 82:13</p>	<p>recent (1) 22:11</p> <p>recently (1) 7:3</p> <p>recertification (5) 7:1,3,4;13:7;50:17</p> <p>recertified (2) 7:2;50:16</p> <p>recertify (1) 7:1</p> <p>recess (3) 46:17;49:11;69:23</p> <p>Reconstructive (1) 49:23</p> <p>record (82) 4:2;10:21,22,23,25;11:7, 15;12:5,8,10,16;14:23;15:1, 3,8;17:5;34:1,4,6,8;37:9,11, 13;38:8;40:24;41:1,3,7,9; 42:23;43:1,4,6,16;46:16,21; 47:18,21,23,25;48:9;49:1,3, 5,13;51:18,20,22,25;52:24; 53:2,4;54:3;56:20,22;57:12; 62:8,10,22;79:1,3,8;92:14, 16;93:6,6;95:25;96:2,4; 97:2;98:1,3,5,16;101:10,12, 14,23;102:2,8,10,13</p> <p>records (15) 15:22;18:1,4;45:13;79:4; 81:8,10,11,13;82:4,5,9;95:21; 96:6;97:24;101:23</p> <p>RECROSS-EXAMINATION (1) 100:19</p> <p>redemption (1) 60:4</p> <p>redirect (2) 88:14,15</p> <p>refer (13) 9:13;53:9;54:18,19,22; 59:14;63:15;64:25;65:3; 89:9;91:18;94:20;95:22</p> <p>reference (1) 101:16</p> <p>referenced (1) 37:17</p> <p>referred (5) 20:25;30:6;56:5;82:15; 90:8</p> <p>referring (2) 15:25;57:7</p> <p>refers (1) 63:7</p> <p>reflected (1) 90:23</p> <p>reflecting (2) 61:13;81:14</p> <p>reflex (5) 25:18;28:5,23;29:25;32:4</p> <p>reflexes (11) 24:17;25:10;27:11,13; 28:14;32:4;97:12,14;99:3,6, 21</p> <p>refresh (1)</p>	<p>16:1</p> <p>regard (8) 22:17;32:13;45:15;63:20, 22;64:5;67:8;101:2</p> <p>Regarding (6) 12:21;14:20;17:5,10;20:9; 98:7</p> <p>regardless (1) 94:16</p> <p>Regional (1) 49:21</p> <p>regions (2) 24:15,16</p> <p>Rehab (4) 18:8,14;19:8;20:24</p> <p>related (2) 37:16;45:25</p> <p>relates (1) 81:21</p> <p>relationship (1) 67:15</p> <p>released (1) 101:4</p> <p>relevancy (1) 48:4</p> <p>relevant (1) 52:24</p> <p>relied (1) 88:3</p> <p>rely (2) 21:14;72:9</p> <p>relying (1) 101:23</p> <p>remark (4) 23:13;39:17;49:6;92:1</p> <p>remarks (1) 15:5</p> <p>remember (1) 52:2</p> <p>render (2) 17:10;41:19</p> <p>rendered (2) 57:15;94:24</p> <p>renew (1) 98:6</p> <p>repairing (1) 23:2</p> <p>repairs (1) 63:5</p> <p>repeat (3) 11:21;35:25;59:11</p> <p>repetitive (1) 55:5</p> <p>repetitively (1) 28:19</p> <p>rephrase (3) 42:1;70:22;79:10</p> <p>report (30) 15:16,19;17:5;18:5,6,13, 23;19:4,5;39:17,20;43:24; 44:4;47:11;57:16;61:15; 63:11,12;64:24,25;65:5,8, 10,19;67:9;68:23;71:16;</p>
Q			
<p>qualifications (5) 11:2;12:21;13:1;14:22; 15:11</p> <p>qualified (2) 10:6;12:23</p> <p>qualify (1) 67:6</p> <p>quality (1) 23:18</p> <p>quantitate (1) 73:8</p> <p>quite (1) 67:2</p>			
R			
<p>radiate (1) 21:22</p> <p>radiates (1) 22:3</p> <p>radiating (1) 82:10</p> <p>radiculopathy (9) 32:1;43:20,25;44:6,7; 73:1,12;74:1;75:17</p>			

<p>73:7;90:23;97:4 reported (3) 61:12;73:15;100:4 reporter (4) 4:11,20,21;38:1 reports (7) 19:1;35:15;37:18;57:15; 90:25;95:22;100:7 represent (4) 4:14,16;46:9,23 representing (1) 4:18 reproduce (1) 31:11 reproduced (1) 23:19 reproduces (4) 26:6;29:3,7;30:9 reproducible (5) 23:18,23,24;24:2;32:6 request (4) 4:9;16:5;58:24;86:16 required (1) 22:19 research (1) 50:8 reserve (3) 12:19;14:19,19 residency (3) 5:19;6:19;50:6 resides (4) 12:2,24;47:15,15 resistance (2) 27:8,10 resolved (1) 80:19 respiratory (1) 22:10 response (4) 62:14;73:3,3;101:15 result (4) 42:11,22;43:19;45:22 results (4) 26:24;45:15;91:21;97:9 resume (1) 6:14 revealed (8) 65:6,8;69:17;71:16;73:22, 24;76:9;97:11 review (18) 7:9,11;17:6;19:13;32:17, 19;33:21,24;37:19;39:13; 45:12,13,14;47:11;65:1,22; 66:6;81:12 reviewed (16) 6:22;7:5,7;15:23;32:21, 22;33:15;38:21;42:20; 64:20;82:4,5;100:8;101:25; 102:1,3 reviewing (1) 67:11 reviews (1) 52:24</p>	<p>right (64) 4:22;10:17;11:14,20;12:1, 18;13:17;14:18;30:23; 36:14;48:7,12,20;49:24; 50:4,25;51:7;52:7,12,15; 53:7;54:5,7,9,20;55:7,8; 57:14;58:2,23;59:2,13;61:2, 16,23;62:17;63:18;65:10, 25;66:19;69:2;71:10,17; 73:11;74:3;75:17;77:12,23; 78:5,13;79:23;80:18;82:3, 11;83:5;85:2,22;88:11; 95:20;96:18;99:5,21; 101:18;102:6 risks (3) 84:9,13,20 Robert (1) 4:10 role (1) 16:12 room (1) 52:5 root (16) 25:14,15,20;28:3,4;29:22, 23,24;39:10;69:25;70:13, 24;73:15,23;74:11;86:5 roots (9) 28:1,10,12;35:21;36:5,6, 9;75:12;86:3 rotate (1) 26:9 rotation (1) 30:8 rotator (3) 31:3,7,10 rules (1) 16:16</p>	<p>56:25;58:18;94:1 scans (2) 66:23;67:12 School (6) 5:18,19,21;7:22;9:6;14:13 scientific (1) 71:20 scope (2) 13:21;96:5 second (5) 14:24;17:4;42:23;51:18; 98:1 seconds (1) 26:6 section (1) 14:13 sedation (2) 83:23,24 seeing (1) 90:19 sees (1) 70:3 send (2) 68:1,1 sensation (13) 21:24;24:17;25:11,15,19; 26:20,21;28:6,13;29:23; 32:3;97:12;99:9 sense (1) 29:22 sensory (2) 24:16;28:12 sent (1) 83:5 sentences (1) 57:1 separates (1) 75:3 September (4) 18:15;52:5;96:16;97:9 sequestered (1) 75:3 services (1) 51:2 set (1) 34:2 setting (1) 79:24 shock (1) 34:25 shocked (1) 102:5 shoot (1) 26:11 shooting (2) 26:3,21 shoots (1) 29:7 shoulder (18) 19:2;20:23;21:19,21; 22:13,20;30:18,20,22,24; 31:6,13,15,17;45:21;100:21, 23;101:2</p>	<p>shoulders (3) 9:20,20;25:8 show (4) 35:5;36:20;52:12;73:2 showed (1) 65:16 showing (1) 86:4 shows (5) 25:19;35:7,11;87:7,7 side (7) 20:16;26:10,11;27:14; 84:9,12,15 sign (3) 26:13;28:22;31:8 signal (2) 35:10;70:7 significance (2) 36:17;77:23 significant (1) 39:12 signs (1) 78:3 single (1) 58:8 sit (1) 29:9 sitting (3) 22:1;29:8,12 six (7) 20:19;27:22;28:20;76:2,4; 77:1,6 sixth (1) 25:13 sleeping (1) 21:22 social (1) 22:25 soft (2) 39:5,5 sole (1) 28:6 solemnly (1) 4:22 solo (1) 6:5 somebody (1) 87:16 someone (15) 24:18;29:21;44:18,19; 67:7,17,18;68:6;72:12,14; 74:17,18,19;87:21;95:16 someone's (1) 33:11 sometimes (7) 30:5;69:13;83:22,25; 89:19;91:18,21 somewhat (3) 62:1;85:7;93:22 soon (1) 80:19 Sorry (13) 18:18,19;30:1;33:6;34:17;</p>
	S		
	<p>S1 (4) 28:3,3,3,5 sac (7) 35:16,18,19,23;36:4,9; 69:22 sack (1) 30:4 sacroiliac (1) 30:10 sagittal (1) 34:13 same (20) 8:5;12:12;23:25;27:13; 29:13,16;52:5;64:12,15,15, 15,16;86:7;87:13;94:3; 97:13;99:3,5,20,22 save (1) 63:21 saw (9) 20:20;25:21;33:18;39:19; 47:14;59:5;75:9;79:25; 92:10 saying (3)</p>		

43:12,14;48:7;65:7;85:25; 86:1;96:24;99:15	18:11	29:5,12	tears (3)
South (1)	straight (7)	supplied (3)	40:5,10;70:3
49:22	27:19;29:2,9,13;83:25;	28:1;81:8,11	tech (1)
space (1)	97:16;99:25	support (1)	75:23
38:12	Street (2)	87:19	technician (1)
spaces (2)	4:8;5:2	supported (1)	68:22
36:21,21	strength (14)	86:4	technique (2)
special (4)	24:15;25:9,9,9;27:6,9,9;	Sure (7)	71:23;75:23
24:23;28:15;31:2;65:1	28:7;29:24;31:1;32:3;97:12;	18:19;49:20;52:25;57:6;	technology (1)
specialist (4)	99:21,24	68:11;80:22,25	64:16
13:20;18:22;20:24,25	stretch (1)	surgeon (9)	telling (2)
speciality (1)	29:3	6:17;13:6,11,23;14:8;	21:15;23:16
45:25	strike (11)	18:9;20:21;41:12;97:5	tells (1)
specialty (3)	11:5;15:4;16:25;37:15;	surgeons (3)	82:25
6:17;7:10;50:2	49:7;57:4,6;85:3;94:21;	7:13;50:19;77:5	tenderness (3)
specific (5)	101:15,18	surgeries (4)	24:23;27:24;30:24
24:15,16;35:14;36:9;	struck (2)	9:16,18,19,23	tendon (3)
94:25	20:15;62:2	surgery (20)	31:13;97:12,14
specifics (1)	structures (1)	5:19;6:18;7:6;10:2;13:16;	terminology (2)
52:11	30:25	14:14;20:22;22:11,12,13,19;	93:24,25
speculation (1)	studies (13)	41:20;50:4;57:18;59:16;	terms (4)
78:21	19:15;44:8;63:22;66:8,11,	84:7;85:20;91:5;100:24;	68:4;77:9,11,14
speculative (1)	15;67:3,11;72:5;81:25;	101:2	test (40)
79:5	82:16;88:4;102:6	surgical (2)	7:1;9:10;23:21;26:8;
Speed's (1)	study (30)	8:6;22:7	27:25;28:15;29:2,9,16,20,
31:13	33:21,23;37:19;40:20;	susceptible (1)	21;31:3,9,10,14;42:17,20,
spinal (21)	41:23;42:3,15;43:2;50:8;	80:5	22;43:19;44:10,24;45:1,3,
9:23;18:8;24:14;26:14,18,	63:23,24;64:10,13,21;65:16;	suspect (1)	14;72:11,16,18,21;73:24;
22,23;28:16,21,25;33:5;	67:8;68:15,23;69:16;70:3;	44:15	76:1,2,16,17;77:1;93:11,12;
35:4,6,20,23;36:4;65:22;	71:2,4,6,16,17;72:8,11;	sustained (2)	94:4;97:16,18;99:25
75:1,4,5;84:2	73:16;75:21;79:19	45:20,24	tested (4)
spine (27)	Styliades (2)	swear (2)	28:10,12,13;31:8
8:11;18:13;19:2,4,5,16,18,	4:9,18	4:20,22	testified (6)
19,24;24:18;25:6;27:17;	subjective (8)	sworn (1)	5:4;51:3;62:24;65:5,15;
30:14;34:11,12,20,22;35:9;	23:12,15,17,18;32:13;	5:4	100:20
39:14;45:21,21;63:24;67:2;	75:25;94:1,11	sym (2)	testify (4)
95:4,11;98:22;99:18	submit (1)	27:15,15	58:14,17;87:6;102:4
splay (1)	7:4	symmetrical (2)	testimony (13)
28:24	submitted (1)	25:10;27:15	4:23;37:15;52:24;62:2,12,
sprains (1)	19:13	symptomatic (1)	13,16;64:22;66:1;76:23;
45:20	subscapularis (1)	40:3	83:1;87:8;88:9
Spurling's (1)	31:9	system (2)	testing (14)
26:8	subspecialty (3)	8:11;18:23	19:3;25:7,22,25;26:1,2,5,
squeezed (1)	13:15;50:2,4		7;30:7,21;31:10,13;88:8;
75:1	substance (2)	T	91:23
staff (1)	5:11;15:12	T2 (1)	testings (1)
61:1	successfully (1)	35:5	25:23
standing (3)	6:20	talk (10)	tests (8)
6:11;22:2;28:8	suggest (2)	5:9;11:24;13:9,10;23:11;	24:23;26:12,15,24;28:17;
started (3)	78:6,10	67:22,22;73:20;78:13;95:14	31:2;65:1;83:8
46:25;56:14;57:25	suggesting (1)	talked (4)	Thanks (1)
state (3)	92:21	15:10;27:1;69:23;75:13	11:13
4:14;49:21;86:15	suggestive (1)	talking (5)	thecal (6)
stated (1)	87:24	68:20;95:16,18;96:8;	35:16,18,23;36:3,8;69:22
21:25	Suite (2)	98:23	therapy (3)
states (1)	4:8;5:2	tap (1)	19:8;91:19,22
6:9	sum (1)	26:2	thereafter (2)
stay (1)	31:19	tape (2)	80:20;81:18
52:22	Summa (1)	11:11,12	thigh (1)
steroid (2)	5:16	tear (8)	97:17
82:22;84:2	Superior (1)	31:3,5;39:24;40:17;69:19,	third (1)
stop (1)	4:4	22;70:6,11	26:16
	supine (2)		Thomas (2)

<p>4:10,12 thoracic (3) 27:17;30:3,14 though (1) 66:25 three (9) 20:19;48:18;59:7;60:17; 75:14,21;77:18,21,21 throughout (3) 57:1;72:6;86:15 thumb (1) 26:17 thyroid (1) 44:19 times (5) 20:19;60:9;72:10;75:14; 81:1 Tinel's (3) 25:22,25;26:2 tingling (2) 21:23;82:12 tippy-toes (1) 28:9 Today (12) 4:6,23;5:8;16:1;17:8; 33:24;60:8;64:19,22;65:5, 15;68:10 toe (1) 28:24 toes (3) 27:20,21;97:18 together (1) 17:8 told (3) 20:10;21:18;59:24 took (4) 7:1;20:8;50:9,12 top (3) 35:8,8;57:16 total (2) 12:20;89:5 touch (1) 27:20 touched (1) 17:24 touching (2) 35:23,23 trained (1) 9:7 training (2) 50:5,20 transcript (4) 52:17,20;53:6;54:6 transcripts (1) 59:25 trapped (1) 25:22 trauma (5) 38:17;50:10,12;70:10; 78:11 traumatically (3) 31:25;39:25;40:6 travel (3)</p>	<p>58:4,23;60:22 treat (5) 21:1;87:10;89:15,18; 91:14 treated (2) 20:18;83:1 treating (5) 16:20;71:13;73:21;101:3, 5 treatment (18) 8:12,13;21:7;41:19;45:13; 82:16,18,21;83:10,12;87:15; 91:18;94:21,24;95:21;96:6; 97:24;98:7 tried (1) 31:11 true (4) 32:11;66:25;81:4,15 truth (3) 4:23,24,24 try (1) 29:2 trying (1) 60:13 tube (1) 68:22 tunnel (2) 26:7;44:16 turn (2) 15:11;30:11 Turning (1) 17:20 twenty (1) 58:11 twice (1) 13:9 two (7) 6:21;23:11;29:16;33:3; 58:11;77:14;86:21 two-year (1) 5:18 type (2) 54:18;71:5 types (2) 53:9;84:14 typically (3) 69:7;70:13;81:9</p>	<p>underlying (1) 95:1 Underwood (1) 48:19 unique (2) 12:22;13:1 uniquely (2) 10:6;12:23 University (2) 5:17,22 Unless (2) 72:9;92:18 unlikely (1) 79:22 unremarkable (3) 33:5;65:22,23 up (20) 15:16;26:16;28:19,24; 29:10;30:7;31:4;34:2;35:5, 7;36:20;40:22;44:8;47:5; 69:5;80:15;81:14;90:14,14; 95:16 upon (6) 77:5;79:18;85:5,10;88:4; 101:23 upper (5) 13:25;14:2;21:22;50:8; 97:11 use (6) 77:9,12,16;81:11;93:23, 25 usually (9) 40:12,14,15;43:25;66:20; 70:10;72:25;79:24;83:23 utilize (2) 9:4,10</p>	<p>video (1) 66:1 VIDEOGRAPHER (48) 4:1,10,19;11:6,9,14;12:7, 15;14:25;15:7;34:3,7;37:10, 21;38:7;40:25;41:8;43:3,15; 46:15,18,20;47:18,20;48:1, 8;49:2,12;51:19,24;53:1,25; 54:2;56:19;57:11;62:7,21; 78:25;79:7;92:13;93:5;96:1; 97:1;98:2,15;101:11;102:9, 12 VIDEOGRAPHER (1) 10:22 videotape (19) 10:24;12:9;15:2;34:5; 37:12;41:2;43:5;47:22;49:4; 51:21;53:3;56:21;62:9;79:2; 92:15;96:3;98:4;101:13; 102:14 VIOR (1) 10:4 Virtua (1) 48:18 vitae (1) 6:14 VOIR (3) 5:6;11:1;15:5</p>	
		V	W	
		<p>variably (1) 72:3 variance (2) 64:17;66:7 varies (8) 71:21,21,22,22,23;75:23; 77:7,10 various (6) 20:20;49:16;60:15,22; 61:11;79:13 vary (4) 58:10,10,16;94:7 vehicle (11) 8:22,25;20:16;22:20;37:7; 38:6;45:22;46:1;80:17; 81:18;88:1 veracity (2) 20:9;21:14 versus (6) 4:3;23:12;77:13;88:22; 89:9;92:3 vertebral (7) 25:14;34:23,24;35:1,1,1; 36:6</p>	<p>wait (2) 6:21;77:21 waiting (1) 43:13 walk (1) 68:21 walking (1) 22:2 wants (1) 84:25 warning (1) 11:11 warrants (1) 68:8 water (6) 35:5,11;36:19,19;38:13; 46:14 way (7) 34:13;41:19;66:10;72:3; 74:9;87:13;94:10 ways (1) 29:17 Wednesday (1) 4:6 week (2) 20:19;60:5 weeks (3) 36:25;77:21,21 weight (1) 80:3 well-hydrated (1) 35:12</p>	
		U		
		<p>ulcer (1) 22:10 ultrasound (1) 67:12 ultrasounds (1) 66:21 UMDNJ (2) 7:23;13:13 under (9) 26:4,18;28:25;63:2;64:25; 80:5;83:19;86:12;101:17 undergo (1) 84:19</p>		

Wells (1) 5:2		48:8;49:2	2:04 (1) 57:11
weren't (3) 50:22,23;64:14	Y	1:56 (1) 49:12	2:08 (1) 62:7
West (2) 4:8;5:2	year (6) 6:24;13:24;20:14;50:6,7; 92:7	1:58 (1) 51:19	2:09 (1) 62:21
what's (3) 52:3;68:4;70:6	years (12) 5:20;6:8,21;13:23;22:12; 36:25;37:1,1;38:12,12,12; 50:5	1:59 (1) 51:24	2:24 (2) 78:25;79:7
Whereupon (1) 37:25	York (3) 11:18,20,22	10 (3) 58:8,14,17	2:38 (2) 92:13;93:6
white (2) 35:2,3		10/14/03 (1) 19:7	2:41 (1) 96:1
whole (5) 4:24;7:17;52:16,19;53:6	0	10/17/13 (1) 18:22	2:42 (1) 97:1
who's (1) 72:5		10/9/13 (1) 19:5	2:44 (2) 98:2,15
whose (1) 67:10	03 (1) 18:17	10/9/2013 (1) 19:17	2:47 (1) 101:11
who've (1) 8:21	04 (1) 18:17	11/20/03 (1) 19:2	2:48 (3) 102:9,13,15
within (8) 17:12,16;23:25;27:20; 45:19,23;46:3;77:18	07728 (1) 5:3	11/8/13 (1) 19:8	20 (9) 58:8,14,18,18;78:17,22; 79:5;90:15;99:13
witness (22) 4:20,25;41:5;43:9,11,13; 46:10,13,19;49:8;53:11,18, 21,23;56:24;57:3;92:22; 96:14,25;98:11,13;102:1	1	12 (1) 17:5	2000 (1) 7:2
word (3) 6:14;23:17;35:18	1 (3) 4:2;100:4,10	12/1/03 (1) 18:6	2003 (1) 22:18
words (1) 7:10	1/12/04 (2) 18:23,24	12/16/13 (1) 18:21	2004 (3) 7:2;22:13,19
work (15) 7:11;22:18,25;23:3;51:2; 53:12,14;54:13,13;60:16,23; 62:3;63:2,6,12	1/2/07 (1) 18:8	12/6/2013 (1) 19:6	2006 (3) 22:21;33:3;80:17
worked (6) 62:5,25;63:17;80:22,25; 81:3	1/28/2014 (1) 19:6	12:56 (1) 4:7	2007 (7) 32:22;33:2,8;63:23;65:7; 92:2;101:7
Workers' (4) 52:9,14;54:24;55:4	1:03 (2) 10:23;11:15	13 (4) 5:10;15:14;18:15;64:25	201 (2) 4:8;5:2
working (2) 23:2;63:6	1:04 (2) 12:7,15	13th (2) 25:2;39:20	2013 (16) 19:21;32:23;33:14,21; 64:6,10,13,20;65:10;92:3; 95:5;96:16;97:9;98:10,20; 99:1
works (1) 68:5	1:06 (1) 14:25	16 (3) 52:13;53:15;54:10	2014 (6) 18:14;21:4,8;99:13;100:4, 11
worse (1) 21:21	1:07 (1) 15:7	17 (6) 53:16;54:10;96:16;97:9; 98:10,20	2015 (5) 5:10;15:14;17:5;52:5; 64:25
wrist (3) 25:9,16;26:4	1:08 (1) 34:3	17th (1) 98:25	2016 (1) 4:6
write (2) 68:9,17	1:30 (1) 34:7	1981 (1) 5:16	2024 (1) 7:4
written (2) 6:19;7:8	1:34 (1) 37:10	1985 (1) 5:18	213 (1) 64:6
wrote (1) 15:16	1:37 (1) 38:7		24 (1) 6:8
X	1:40 (1) 40:25	2	28th (1) 43:8
X-ray (1) 67:12	1:41 (1) 41:8	2 (1) 69:18	
X-rays (2) 19:17;66:21	1:43 (1) 43:3	2/13/04 (1) 19:9	3
	1:44 (1) 43:15	2/23/04 (1) 18:7	3/12/14 (1) 19:1
	1:47 (1) 46:15	2/4/04 (1) 19:8	3/15/07 (3)
	1:51 (1) 46:20	2:00 (1) 53:1	
	1:52 (1) 47:20	2:01 (1) 54:2	
	1:53 (2)	2:03 (1) 56:19	

19:3,18,25 30 (1) 90:14	18:10		
4			
4/12/07 (1) 18:9 4/19 (1) 19:1 4/9/14 (1) 19:1 40 (2) 20:14;92:7 45 (1) 29:6			
5			
5 (3) 39:20;58:18;65:1 50 (7) 14:1,1;46:13;85:15,18; 91:6,13 5-minute (1) 11:11			
6			
6 (1) 19:20 6/12/07 (1) 18:21 60 (3) 26:6;85:15,18 60-minute (1) 11:10			
7			
7/10/07 (1) 19:4 7/19/2013 (1) 45:22 7/8/04 (1) 18:25 70 (1) 29:6 75 (3) 27:9;89:11,12			
8			
8/18/04 (1) 18:8 800 (2) 4:8;5:2			
9			
9 (1) 4:6 9/17/03 (1)			