

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX: CIVIL TERM: PART IA-8

-----X
INA ALLICK-DIALLO, MARIA DAVIS
AND RAHIM DAVIS,

Plaintiffs,

-against-

Index No.
300445/15

WOKARY DIT BOUBACA OUONOGO and
MOHAMED DIAKITE,

Defendants.

-----X

851 Grand Concourse
Bronx, New York 10451
June 27, 2018

B E F O R E: HONORABLE DONALD A. MILES,
Justice of the Supreme Court, and a
jury of six plus two alternates.

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

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Rachel E. Robinson
Senior Court Reporter

1 CROSS EXAMINATION

2 BY MR. JONES:

3 Q. Good morning, doctor, how are you.

4 A. Good.

5 Q. We just met for the first time today, right?

6 A. We did.

7 Q. And you've testified in court before?

8 A. I have.

9 Q. And how many times during the course of the year do you
10 think you testify in court for your patients?

11 A. Every year it's a little different, I think the average
12 is probably four to five.

13 Q. And when you do testify in court you testify
14 exclusively for plaintiffs, would that be correct?

15 A. Yes.

16 Q. And over the course of how many years have you been
17 testifying for your patients?

18 A. Fifteen.

19 Q. Fifteen, and averaging about four to five times per
20 year?

21 A. Yeah. I never kept a specific record.

22 Q. Give or take?

23 A. Give or take it's probably between 75 and 85 times.

24 Q. And you're charging \$12,000 for your testimony here in
25 court, correct, collectively between yesterday and today?

1 A. At this current time, yes.

2 Q. Could it be more if we keep you here later?

3 A. Yes.

4 Q. It could be more?

5 A. My time away from my office, I had to cancel my
6 business and my office today. You know, ten years ago the price
7 was probably a little different.

8 Q. Well, how many patients do you see in an afternoon?

9 A. I work -- I see patients. Sometimes I see four,
10 sometimes I see 12 or 15, so it depends. I also have another
11 business that I run, so it's not just seeing patients.

12 Q. And do you enjoy privileges at any hospitals here in
13 New York?

14 A. I do. Mount Sinai Beth Israel.

15 Q. Mount Sinai?

16 A. Mount Sinai Beth Israel has become one. It use to be
17 Beth Israel and Mount Sinai and now they're assembled.

18 Q. On what days during the week do you perform your
19 surgeries?

20 A. I don't perform surgeries anymore.

21 Q. You do not?

22 A. No.

23 Q. So you don't do surgeries anymore and you're charging
24 \$12,000 for time out of your office. Are you telling us that had
25 you been in your office you would have made \$12,000 just seeing

1 patients in the last 24 hours?

2 A. So I have another business that I work on.

3 Q. What would that be?

4 A. It's a health care startup. So my business relations
5 and my health care startup could have been much more than \$12,000
6 had I met with the people and created a business relationship
7 with them.

8 Q. So you're testifying for plaintiffs in Supreme Court,
9 Bronx County, is also a side business for you, would you agree
10 with that?

11 A. No.

12 Q. And when did you stop doing surgeries?

13 A. December of '2016.

14 Q. And what's the reason for that, doctor?

15 A. I have an ongoing disability.

16 Q. And so how many surgeries did you perform in 2015?

17 A. Approximately three hundred and fifty.

18 Q. Now doctor, you testified earlier that you referred the
19 plaintiff for surgery or recommended that she have surgery,
20 correct?

21 A. Yes.

22 Q. Obviously you're not going to perform those surgeries,
23 correct?

24 A. When I first recommended her for surgery I was
25 performing surgeries, but subsequent to that I was indicating her

1 for surgery, but I would not have been the one to perform the
2 surgery.

3 Q. Do your records contain any referrals to other
4 surgeons?

5 A. I don't believe they do.

6 Q. I didn't see any when I reviewed your chart, so I can
7 save you the time.

8 You didn't refer her to any other surgeon?

9 A. I didn't, however, she never agreed to undergo the
10 surgery. So first I would like to have my patients say, I think
11 I do want the surgery and then I refer them to someone who will
12 do the surgery.

13 Q. So in the course of your conversations, even in 2018
14 when you saw the plaintiff, did you tell her you're no longer
15 performing surgeries?

16 A. Yes.

17 Q. And when you told her that, did you at that time
18 suggest to her, well, I could recommend you to a different
19 surgeon? That's a yes or no question, please.

20 A. No.

21 Q. Now doctor, you're not a radiologist, correct?

22 A. That's correct.

23 Q. Your board certification is in orthopedic surgeon,
24 correct?

25 A. Correct.

1 Q. In an area of practice which you no longer perform,
2 correct?

3 A. A surgical aspect, yes.

4 Q. You spent much of your day yesterday going through
5 films, correct?

6 A. Yes.

7 Q. And going through various pathologies that you
8 identified, whether it be the knee, the shoulder, the neck and
9 the lumbar spine. You remember all of that?

10 A. And the wrist and the hip.

11 Q. You remember all of that?

12 A. I do.

13 Q. And doctor, you mentioned earlier at the break
14 yesterday and a little earlier today about having learned about a
15 prior accident involving your patient, Ms. Davis, you remember
16 that? You recall that testimony yesterday?

17 A. Maybe in the past it was mentioned.

18 MS. KIM: Objection. I think when I posed the
19 question it was a hypothetical. I said suppose or assume.

20 THE COURT: Sustained.

21 MR. JONES: Let me rephrase the question.

22 Q. Doctor, I want to talk a few minutes about taking a
23 history from the patient, okay. And you would agree that taking
24 the history from a patient is an important component of the
25 interview process?

1 A. It's an integral part.

2 Q. I mean, it's important?

3 A. It has some merits.

4 Q. The reason it has merits, in every one of your reports
5 you didn't leave it out; you considered it important?

6 A. I believe it's an important facet.

7 Q. And if you're going to testify in court and give the
8 jury an opinion on causation, in other words, whether or not the
9 accident of July 24, 2014 actually caused her problems, you would
10 want to know if she had any prior similar injuries, correct?
11 Would that be one of the reasons you would ask?

12 A. Yes.

13 Q. So you asked her that question, didn't you?

14 A. Yes.

15 Q. And in fact, Doctor Joyce Goldenberg, your associate,
16 asked the plaintiff that question on August 5, 2014. Did you see
17 that in your chart? Take a look at it.

18 A. I think, yes, August 5th of 2014.

19 Q. Tell the jury what Doctor Joyce Goldenberg noted in her
20 records with respect to having taking the history from Ms.
21 Davis?

22 A. She took a history --

23 Q. Just the note. It says patient denies any prior
24 similar injuries, something to that effect?

25 A. Patient denies previous injuries or prior history to

1 the involved areas.

2 MR. JONES: Thank you.

3 Q. So that was her first visit to Central Park Physical
4 Medicine, correct?

5 A. I believe so.

6 Q. And on your first visit with the plaintiff she also
7 denied prior similar injuries, correct?

8 A. Yes.

9 Q. And you just stated before on direct examination from
10 Ms. Kim that you reviewed the IME reports of Doctor Buckner and
11 Doctor Carciente, correct?

12 A. Yes.

13 Q. And they specifically asked this particular plaintiff
14 if she had any prior similar injuries, did you see that component
15 in the report?

16 A. I believe so.

17 Q. And she denied it to them, too?

18 A. I think so, yes.

19 Q. So yesterday, doctor, on your hypothetical when you
20 were asked by plaintiff's counsel, you stated that if she had a
21 prior similar injury it wouldn't affect your opinion. Did I hear
22 you correctly or was that incorrect?

23 A. Can you repeat that.

24 Q. I believe you were asked the question by Ms. Kim
25 yesterday as to whether or not if the plaintiff had a prior

1 injury in 2000 and 2002. Would that affect your opinion about
2 causation in this case? Do you recall that question in sum and
3 substance?

4 A. For the most part, yes. Every one is dependent on the
5 finer points of the past medical history.

6 Q. Dependent in the sense that you rely upon the
7 truthfulness of your patient, correct?

8 A. Partially that, plus I rely on medical records that
9 have to do maybe with an old injury so I can see the extent of it
10 and the type of care that they received and or any ongoing
11 complaints prior to this accident which would mean that there's
12 ongoing inflammation and dysfunction in this area.

13 Q. Now I'm going to ask you to refine your answer to yes
14 or no for the next series of questions, okay?

15 A. Yes.

16 Q. Are you aware that the plaintiff had an accident in
17 2002, a motor vehicle accident?

18 A. Yes.

19 Q. And how did you learn that?

20 A. Not sure.

21 Q. Was it this morning maybe in the courthouse speaking
22 with the attorney?

23 A. I think it was in preparation for this, I never saw any
24 records having to do with it nor do I know a specific date. And
25 I believe if I remember correctly, that it was maybe only the low

1 back that was involved.

2 Q. Because you were told that by the attorney?

3 A. Because I was told that potentially by the attorney.

4 Q. Potentially by the attorney or from the attorney.

5 Let's shorten this. Is that where you learned it from?

6 A. It wasn't from medical records and it really wasn't
7 from you, so I think it was from the attorney.

8 Q. And it wasn't from the plaintiff either, right?

9 A. No.

10 Q. So you learned of a prior accident in 2002 involving
11 this plaintiff from Ms. Kim, fair enough?

12 A. Yes.

13 Q. And it was in the last 48 hours maybe?

14 A. About that.

15 Q. And was it on the phone call; was it in the hallway or
16 somewhere else?

17 A. In preparation for this we discussed the case in
18 person.

19 Q. Now you consider yourself a detailed physician, don't
20 you.

21 A. Yes.

22 Q. Now you knew coming into court here then that you had
23 less than complete information regarding the history of this
24 plaintiff, correct?

25 A. Yes.

1 Q. And you knew that was important because you asked the
2 question and never interviewed with her, correct?

3 A. Yes.

4 Q. And you, doctor, being a detailed physician, would want
5 to see those records so you can give an accurate opinion to our
6 jury, right?

7 A. It does help, yes.

8 Q. In fact, you qualified your opinions this morning on
9 causation and permanency, on that there were no other records
10 that you saw with regard to previous injuries, correct?

11 A. Yes.

12 Q. Now the plaintiff testified on direct examination that
13 her accident occurred in 2002 and that it resolved in 2007, and
14 that it went on for five years?

15 MS. KIM: Objection. That's not the direct
16 testimony.

17 THE COURT: I can't hear.

18 MS. KIM: That was not the direct testimony of
19 Maria.

20 MR. JONES: It is, Judge.

21 MS. KIM: No, it's not. Because the injuries were
22 resolved three weeks after.

23 THE COURT: Okay, I'll sustained the objection.

24 MR. JONES: Judge, is counsel going to be
25 permitted to testify?

1 THE COURT: You have to refrain from doing so.

2 You can't speak your objections to me.

3 Q. Doctor, I'm going to show you what's been previously
4 marked for identification as Defendant's Exhibit C for
5 identification and I'm going to ask you to take a look at
6 paragraph 35. Just read it to yourself and then take a look up.

7 A. Okay.

8 Q. Were you aware before today, doctor, that the plaintiff
9 had a lawsuit as a result of the 2002 accident?

10 A. No.

11 Q. Were you aware before today, doctor, that the plaintiff
12 claimed serious personal injuries as a result of the accident
13 which resulted in a prior lawsuit? That's a yes or no question.

14 A. Probably no, right.

15 Q. Probably not.

16 A. I forgot the question.

17 Q. Are you aware, doctor, that the plaintiff had a
18 previous lawsuit for which she claims serious, personal and
19 permanent injuries?

20 A. No.

21 Q. Learning that now and being a very detailed physician
22 who qualified his opinion on making sure he had all the records
23 in front of him, knowing this now, would that cause you to
24 potentially change your opinion about causation on some of the
25 plaintiff's injuries that she say occurred in July 24th of 2014?

1 A. Depending on the extent of the injuries and the extent
2 of the studies and care that she had, it may.

3 Q. Now obviously, doctor, the plaintiff did not tell you
4 the truth about her history, can we agree on that?

5 MS. KIM: Objection.

6 THE COURT: Overruled.

7 Q. That's a yes or no question.

8 A. Yes.

9 Q. In fact, she wasn't truthful about her history to
10 yourself, Doctor Goldenberg, Doctor Glassman, Doctor Buckner or
11 Doctor Carciente?

12 MS. KIM: Objection.

13 THE COURT: Okay, I'm sustaining with respect to
14 those other doctors.

15 Q. Well, you read the reports of Doctor Goldenberg,
16 correct?

17 A. Yes.

18 Q. And the plaintiff denied prior similar injuries,
19 correct?

20 A. Yes.

21 Q. So the plaintiff was not truthful with Doctor
22 Goldenberg as well, correct? That's a yes or no question.

23 A. Yes.

24 Q. And you read Doctor Buckner's report, and in particular
25 the portion regarding prior medical history, correct?

1 A. Yes.

2 Q. And she denied prior similar injury to Doctor Buckner,
3 correct?

4 A. Yes.

5 Q. She would have been untruthful with Doctor Buckner as
6 well, correct?

7 A. Yes.

8 Q. And you read Doctor Carciente's report, correct?

9 A. Yes.

10 Q. And he asked the plaintiff if she had any prior similar
11 injuries, correct?

12 A. Yes.

13 Q. And she denied that as well, correct?

14 A. She did.

15 Q. So the plaintiff was also untruthful with Doctor
16 Carciente, correct?

17 A. Yes.

18 Q. All right. And did you have an opportunity to look or
19 review the plaintiff's testimony from this case at trial with
20 regard to the prior similar injuries at all?

21 I'm referring to page 74, line three of the plaintiff's
22 trial testimony. I will start on page 73, line 23. This is
23 testimony taken of the plaintiff on June 20, 2018 on cross
24 examination. Page 73, line 23. And I'm reading from defendant's
25 copy. Page 73, beginning at line 23.

1 "QUESTION: And you had physical therapy for those
2 portions of your body from the prior lawsuit, didn't you?

3 "ANSWER: Prior lawsuit was about '12, '14, prior.

4 "QUESTION: Was that where you had the same
5 treatment too, didn't you, ma'am?

6 "ANSWER: I don't recall what I had treatment to.
7 I believe it was to my back."

8 Q. You weren't aware of that testimony until today, until
9 I just read it to you, right?

10 A. Not in as many words.

11 Q. Okay. And on questions from the plaintiff's own
12 attorney and I'm looking at page 92 of defendant's copy, line
13 two.

14 "QUESTION: You mentioned that physical therapy
15 that you received. Did you have physical therapy on your
16 left shoulder back in 2002?

17 "ANSWER: Not that I recall, no."

18 Q. So, doctor, you could agree that the plaintiff's
19 testimony with regard to her prior lawsuit and the body parts
20 treated is somewhat equivocal at best about whether she had
21 treatment to her shoulder or other body parts she's claiming were
22 injured in this case; could you agree with that?

23 A. Could you help me understand equivocal.

24 Q. She's not sure.

25 A. No, she doesn't recall.

1 Q. Doesn't remember, but maybe?

2 A. Okay.

3 Q. It's different than what she told you, correct?

4 A. Well, we already discussed that she didn't disclose
5 that she was in a prior injury. I usually rely on medical
6 records to help me understand prior injuries. And I would be
7 happy to look at any medical records you have regarding low back
8 or left shoulder from the date when it was, because it would help
9 me understand clearer what she had going on back then.

10 Q. I agree, doctor. Except, you would have to agree that
11 if the plaintiff is going to be less than truthful about her
12 history, it's going to compromise your ability to get those
13 records, because you don't even know where to look for them,
14 correct, or ask for them, correct?

15 A. Yes. But if she doesn't remember then we rely on the
16 records. So I don't know what to do about that.

17 Q. Well, there's nothing you can do, doctor. So I'm going
18 to proceed.

19 So if the plaintiff has medical records from a lawsuit,
20 a prior lawsuit that resolved in 2007 after an accident that
21 occurred in 2002, spanning five years, would you want to see
22 those records?

23 A. It would help, yes, if I could see them.

24 Q. And it would help because you would be able to have a
25 clear opinion for our jury as to whether or not what she's

1 claiming in this case was already there, fair enough?

2 A. For the most part, yes.

3 Q. And if she's not truthful about it it could cause you
4 to give a flawed opinion on the issue of causation, right?

5 A. It could.

6 Q. Doctor, would it be fair to say you would want to know
7 in the prior case if the plaintiff underwent an MRI, would you
8 want to know that, compare them maybe?

9 A. Like you've already discussed, any records I had would
10 help me more clearly state to the jury what I thought was going
11 on.

12 Q. So that's a yes. Would you want to see prior MRI's?

13 A. If she had them it would be helpful to see but I would
14 be more inclined to wonder if she had any treatment prior to this
15 accident of 2014, when was the last time she treated, which means
16 maybe that everything resolved; or if there was ongoing pain and
17 dysfunction, that could be ongoing treatment which could
18 certainly help me understand and be able to clarify my opinion
19 regarding the medical causation.

20 MR. JONES: Look at paragraph 35 of plaintiff's C
21 for identification.

22 THE WITNESS: I looked at it.

23 Q. And if the plaintiff claims permanent injuries in that
24 case, that means I'm not getting better, right?

25 A. It does not say what body part we're talking about. So

1 it's hard for me to understand which permanent injuries they're
2 claiming. And this is also potentially a claiming in the bill of
3 particulars.

4 MR. JONES: I'm going to remind you that --
5 doctor, I'm going to remind you as we go forward to answer
6 yes or no if I frame my question in such a way.

7 THE WITNESS: If I'm able to I shall.

8 MR. JONES: Fair enough. I know you've been in
9 court before and you've been questioned by attorneys, so if
10 you can't answer it yes or no, let me know.

11 THE WITNESS: Certainly.

12 Q. But you can agree that the plaintiff claimed a
13 permanent injury in the past, correct? Claimed.

14 A. Claimed in the bill of particulars, if that's what that
15 is.

16 Q. But you're suggesting maybe it resolved, right?

17 A. I'm suggesting that I don't know what body parts we're
18 talking about, nor do I know what type of treatment somebody had,
19 nor do I know the outcome of that. Maybe they said no.

20 Q. Or maybe she was still under treatment for that prior
21 injury at the time she had this accident but we don't know,
22 correct?

23 A. That's right.

24 Q. You heard the concept of "secondary gain?"

25 A. I have.

1 Q. And secondary gain means someone may say or do
2 something to get some type of reward, fair enough?

3 A. Yes.

4 Q. And in lawsuits, people seeking money, can we agree
5 with that?

6 A. Among other things.

7 Q. Well, so doctor, do you think it's possible, now
8 looking at the history and the lack of veracity presented by this
9 plaintiff, that secondary gain maybe in play for Ms. Davis in
10 this lawsuit? Possible?

11 A. I mean, anything is possible.

12 Q. Thank you, doctor. As part of your Harlem Hospital
13 review, did you take a look at the pre-hospital care report?

14 A. I'm not certain.

15 Q. Previously marked for identifications as Defendant's
16 Exhibit I. Can you take a look at that. Just look at the
17 highlighted portion and take a look at the highlighted portion
18 and look up when you finish reading.

19 With regard to loss of consciousness, doctor, that's
20 inconsistent with what the plaintiff told you, correct?

21 MS. KIM: Objection. This is not in evidence and
22 we had to have a ruling on this previously.

23 THE COURT: Don't answer.

24 MR. JONES: I'll withdraw the question.

25 Q. Have you seen this document before, doctor, as part of

1 the hospital record; your hospital report?

2 A. I'm not sure.

3 Q. Did the plaintiff specifically deny to you when you
4 interviewed her that she had in fact not loss consciousness at
5 the scene?

6 A. I don't understand your question.

7 Q. Did the plaintiff tell you that she did not lose
8 consciousness?

9 A. Did she tell me that she did not lose consciousness.

10 Q. Yes.

11 A. No.

12 Q. In fact, when she arrived at the hospital, doctor, she
13 was alert and oriented times three, correct?

14 A. I believe so.

15 Q. And that means mental status is as good as it can get,
16 correct?

17 A. No.

18 Q. A and O times three is good as it gets when you do the
19 triage?

20 A. No, A and O times three is when they ask you a series
21 of questions and they answer correctly. There's no functionable
22 capacity of somebody's thought processes saying you're A and O
23 times three, no.

24 Q. Now doctor, you would agree that there were no
25 contusions or bruises to either of the plaintiff's knees on

1 July 24, 2014? You read the record, correct?

2 A. Yeah, but I don't remember the whole record.

3 MR. JONES: I'll show it to you.

4 THE WITNESS: Thanks.

5 Q. Page 206, the Harlem Hospital record.

6 Doctor, take a look behind you, it's on the screen.

7 Scratch noted to the left foot, okay. Pain and head, left arm,
8 both legs and back, do you see that?

9 A. Yes.

10 Q. She had pain on her knees but there's no notation of
11 any bruises to her knees, correct?

12 A. Nor is there something there that says there wasn't.
13 But there's no notation whether they were or weren't.

14 Q. Well, we'll move on, doctor.

15 In fact, the only scratch was a scratch noted to her
16 left foot, do you see that?

17 A. Yes.

18 Q. And when she was triaged her heart rate was 74 beats
19 per minute and respiration was 17. Do you see that?

20 A. Yes.

21 Q. That's completely normal, isn't it?

22 A. It's within normal limit.

23 Q. Now that's inconsistent with somebody claiming she has
24 pain on a scale of ten out of ten, isn't it? You would expect a
25 heart rate to be accelerated and the respiration to be somewhat

1 stressed, wouldn't you, doctor?

2 A. Everybody perceives pain differently.

3 Q. We can agree this is normal respiration and normal
4 heart rate, correct?

5 A. It's within normal limits, yes.

6 Q. She underwent a physical examination under assessments,
7 you see, and moved all her extremities well and was in no acute
8 distress, do you see that?

9 A. I don't know where the word well is, but she does move
10 all her extremities and she was not neurologically compromised.

11 Q. She had complaints to lower back, to her feet. You see
12 any reference of shoulder pain, doctor, in the pages I have shown
13 you?

14 A. Well, deformity to left arm, the shoulder is part of
15 the arm.

16 Q. Do you see shoulders, doctor?

17 A. I see deformity to left arm.

18 Q. Which was the ganglion, right, doctor?

19 A. I'm not certain.

20 Q. If you read the records you would know that the left
21 arm deformity refers to the ganglion. Have you read the entire
22 record?

23 A. I read it, yes.

24 Q. But in this entry here we don't see pain to the left
25 shoulder, correct? You can agree with that?

1 A. Yes.

2 Q. Okay. And you did see the discharge note from the
3 hospital, correct?

4 A. Yes.

5 Q. Advised to stay home for one day. May return to work
6 on 7/28/14? You saw that, right?

7 A. It said bed rest for one day.

8 Q. Okay. But can return to work four days post-accident,
9 correct?

10 A. Yes.

11 Q. Do you see that?

12 A. Yes.

13 Q. How did the plaintiff get home from the hospital?

14 A. I'm uncertain.

15 Q. She walked. Were you aware of that?

16 A. Unaware of that.

17 Q. Are you aware, doctor, that at the time the plaintiff
18 saw you she was already on Social Security Disability?

19 MS. KIM: Objection. It's beyond the scope of
20 direct examination of Doctor Neuman.

21 MR. JONES: He's her treating physician, Judge.

22 THE COURT: I will sustain.

23 Q. How many prescriptions did you write the plaintiff for
24 anti-inflammatories?

25 A. Me, personally.

1 Q. Yes, you personally.

2 A. I don't believe any.

3 Q. In fact, the chart doesn't show any prescriptions for
4 medication, correct?

5 A. From me.

6 Q. From you.

7 A. I don't generally prescribe medication.

8 Q. And we went over this before, doctor. The radiology
9 reports you did on direct examination, correct, the radiology
10 reports were taken at Harlem Hospital?

11 A. Yes.

12 Q. Okay.

13 MR. JONES: I would like to go through those.

14 This is from Defendant's E in evidence.

15 Q. The plaintiff underwent an x-ray of her thoracic spine.
16 You're aware of that, right?

17 A. Yes.

18 Q. And the results were soft tissues were unremarkable, no
19 fracture or listhesis; no sign of trauma on this diagnostic study
20 to the plaintiff's thoracic spine. We can agree with that?

21 A. I suppose we can, yes.

22 Q. And she also underwent a lumbosacral x-ray, part of the
23 same series. And the soft tissues will determine to be
24 unremarkable and there was no sign of fracture. Do you see that?

25 A. Yes. Unremarkable means they don't remark on them.

1 Q. And there's nothing abnormal about them too?

2 A. That's right.

3 Q. This lumbosacral x-ray taken on July 24th shortly after
4 the accident is completely normal, correct?

5 A. Well, the x-ray showed the bones, so the bones --

6 Q. I'm just asking if it's normal, doctor. You can say
7 whatever you want on redirect. Is it normal?

8 A. The bones are normal, yes.

9 Q. And the soft tissues are unremarkable. Do you see
10 that?

11 A. The x-ray doesn't really matter.

12 Q. Doctor, I will ask you to answer yes or no.

13 A. I can read that, yes. But it doesn't really hold much
14 merit.

15 Q. With regards to the left wrist, doctor, some soft
16 tissue swelling was noted, correct? Do you see that? That's an
17 x-ray, right?

18 A. Yes.

19 Q. And that's reliable, isn't it? It's accurate, isn't
20 it?

21 A. I don't know, I didn't see the x-ray.

22 Q. Well, she was observed to have, based upon what's in
23 evidence, doctor, it appears that this x-ray diagnosed soft
24 tissue swelling and you did not disagree with that on direct
25 examination, did you?

1 A. I took note of it. It's a written report.

2 Q. You mentioned it to the jury and did not disagree with
3 it, correct?

4 A. I have no reason to disagree with it, I don't have the
5 x-ray.

6 Q. And the plaintiff also underwent x-rays of both knees,
7 meaning bilateral knees, do you see that. Bilateral means both?

8 A. Yes.

9 Q. And again, doctor, soft tissues were determined to be
10 unremarkable, no fracture, joint spaces preserved. This is a
11 normal x-ray of both knees taken on the date of the accident,
12 correct?

13 A. That's right, no arthritis.

14 Q. Now the CT diagnostic test was not an x-ray, right?

15 A. Correct.

16 Q. And the CT scans takes on the plaintiff's cervical
17 spine, correct?

18 A. Yes.

19 Q. And the scan can help visualize the soft tissues a
20 little more than an x-ray; isn't that correct?

21 A. A little bit.

22 Q. Based upon the CT scan of the plaintiff's cervical
23 spine taken on the day of the accident there was no fracture or
24 listhesis noted, correct? No disc location or subluxation,
25 meaning the vertebrae didn't move relative to one another,

1 correct?

2 A. Right. No arthritis.

3 Q. No arthritis. The set joints were normal?

4 A. Yes.

5 Q. Normal foramina. The foramina are those holes where
6 the nerve roots exit. You showed it to the jury yesterday,
7 right?

8 A. Yes.

9 Q. Okay. Transverse foramina patent. Patent, meaning it
10 looks exactly how it's suppose to look, right?

11 A. It means the holes are open.

12 Q. And that's how they're suppose to look?

13 A. Yes.

14 Q. No soft tissue swelling, no fracture listhesis?

15 A. No, no appreciable. Pre vertebral soft tissue. On the
16 x-rays you can't really see --

17 Q. This is a CT scan, doctor, right?

18 A. Well, on the CT as well.

19 Q. But CT scans can visualize soft tissues better than an
20 x-ray. We can agree with that, right?

21 A. Yes.

22 Q. And CT scans can diagnose herniations if present,
23 correct?

24 A. Not as well as an MRI, but at times, yes.

25 Q. I know you feel it's not radiology, it's orthopedic

1 surgery, but doctor, this is a completely normal CT scan of the
2 cervical spine taken of the plaintiff on the date of the
3 accident; correct?

4 A. That's right. The bones were intact.

5 Q. And a CT scan was taken of the plaintiff's head,
6 correct? Did you read this as well?

7 A. Yes.

8 Q. And that was completely normal as well, right?

9 A. Swelling. But other than that, yeah.

10 Q. No focal intracranial pathology, do you see that?

11 A. Yes.

12 Q. Let's take a look at the Precision Imaging, doctor.

13 You mentioned in your reports that you viewed the films
14 in certain of your visits and agreed to the interpretation from
15 Precision Imaging, correct?

16 A. Yes.

17 Q. Now, you heard of the term marrow signal, as it's
18 referred to in an MRI?

19 A. Yes.

20 Q. And marrow signal is specifically identified in MRI's,
21 because if there's an abnormal marrow signal shown in an MRI
22 report, it means that's a real clear sign of trauma, isn't that
23 correct?

24 A. No.

25 Q. You disagree with that?

1 A. I do.

2 Q. Well, doctor, in reviewing these reports, did you note
3 that with respect to the MRI of the plaintiff's cervical spine,
4 the marrow signal and cord signals were perfectly normal, did you
5 note that?

6 A. In what way.

7 Q. Did you read the report?

8 A. Yeah. When you said did I note it --

9 Q. Did you note it. Did you make a note of it?

10 A. I noted it. (Indicating)

11 Q. But you didn't mention it on direct examination,
12 correct?

13 A. No, I dealt with the abnormal findings.

14 Q. Well doctor, you would agree that the absence of marrow
15 edema or abnormal marrow signal indicates lack of trauma to that
16 particular area?

17 A. Absolutely not. Absolutely not. That is a completely
18 erroneous statement.

19 Q. And doctor, I looked at your CV and I noticed that
20 there's nothing there with respect to internships with regard to
21 radiology. Did you do your internship with regards to radiology,
22 doctor?

23 A. No.

24 Q. As a matter of fact, if you had done an internship with
25 regard to radiology you would have put it in your CV, correct?

1 A. Yes.

2 Q. But it's not in your CV, correct?

3 A. Right.

4 Q. So would it be fair to say if a board certified
5 radiologist comes to testify, you would defer to his expert
6 opinion over yours?

7 A. Not necessarily. I've been practicing orthopedics for
8 15 years and we routinely review images for those entire times,
9 as well as through my residency.

10 In addition, an MRI scan is open to interpretation. So
11 when ten people look at the MRI scan they are not necessarily
12 going to all have the same answers.

13 Q. Now doctor, take a look at your own notes when you said
14 you reviewed these reports from Precision Imaging and you agreed
15 with them. You remember those statements in your own report?

16 A. Yes.

17 Q. And you didn't disagree with anything that was said
18 here, correct?

19 A. Well, I state that -- I think I stated my
20 interpretation is similar to that of the radiologist. So, it
21 doesn't mean I agree to a hundred percent to everything they say,
22 I said it's similar. Similar doesn't mean it's exactly the same.

23 Q. If you found something significantly different that you
24 would have interpreted, you would have noted it being a detailed
25 physician, right?

1 A. Yeah.

2 Q. And doctor, do you recall, and I'm reading the MRI of
3 plaintiff's left knee taken at Precision Imaging on August 14,
4 2014. Do you see that. Take a look.

5 A. August 12th is the date of the service, yes.

6 (Transcript continued on the next page)

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