

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX : CIVIL TERM : Part 23

2 -----x
3 EDWARD E. CASTRO, : Index:
4 300592/2014

Plaintiff(s) . . .

5 -against- : Trial

6 PENTECOSTAL CHRISTIAN CHURCH
7 CRUZADA, DE LA FE, INC.,
8 Maria Gonzales, :

Defendant(s) . . .

9 -----x
10 851 Grand Concourse
11 Bronx, New York 10451
12 June 3, 2021

13 B E F O R E:

14 THE HONORABLE JOSEPH E. CAPELLA,
15 Justice of the Supreme Court and Jury.

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

17 FOR THE PLAINTIFF(S):

18 Burns & Harris
19 233 Broadway
20 NY, NY
21 By: Sheri Holland, Esq.

22 FOR THE DEFENDANT(S):

23 Scahill Law Group
24 1065 Stewart Ave
25 Bethpage, NY 11714
By: Timothy Jones, Esq.

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Lorraine L. Ramsey
Senior Court Reporter

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4 THE COURT CLERK: Jury entering. Come to order.

5 Case on trial.

6 (Whereupon, the sworn jurors enter the courtroom
7 and take their respective seat.)

8 THE COURT: Today we're going to try to wrap up
9 plaintiff's cross examination, and redirect.

10 We are together tomorrow and we have two doctors
11 and then Monday we're together. That's a definite. Tuesday
12 we are not sure.

13 Okay, so this is so that you guys can schedule
14 childcare, work, whatever you need to do.

15 Are you ready?

16 MR. JONES: Yes.

17 THE COURT: Mr. Castro, step up.

18 Mr. Castro, I just want to remind you, you are
19 still under oath. You understand?

20 THE WITNESS: Yes, sir.

21 THE COURT: Please feel free to move the mic
22 around, if you need to bring it closer.

23 THE WITNESS: Thank you.

24 THE COURT: Counsel.

25 | MR. JONES: Ready, Judge.

1 CROSS EXAMINATION

2 BY MR. JONES:

3 Q Good morning, Mr. Castro. How are you?

4 A Hello.

5 Q I'm Timothy Jones and I represent defendant Maria
6 Gonzalez in this accident and Pentecostal Church, and you and I
7 have met only out in the hallway, correct?

8 A Yes, sir.

9 Q Okay. I'm going to ask you questions today about the
10 accident, and the injuries you're claiming from the accident.
11 I'm going to begin with the accident itself, okay?

12 A Yes, sir.

13 Q July 4th of 2013, you had plans to go to Sunken Meadow
14 Park that day?

15 A Yes, sir.

16 Q And you drove from the Bronx to Suffolk County and were
17 in the vicinity of Sunken Meadow Park, when the accident
18 occurred, correct?

19 A That's correct.

20 Q And, eventually, you had a six vehicle collision and
21 you say you passed the toll booth, correct?

22 A Yes.

23 Q I'm going to show you a photograph. We're looking here
24 at Defendant's Exhibit A-1, in evidence. Mr. Castro do you
25 recognize what's shown in this photograph?

1 A Looks familiar.

2 Q Is it the post accident position of the vehicles on the
3 road where the accident occurred?

4 A It looks like it, yes.

5 Q Okay, do you see the church van?

6 A I see a van and I see some SUVs.

7 Q And do you see your vehicle in the six vehicle chain?

8 A I can't. Yes, I guess that's my car.

9 Q This is the church van right, Mr. Castro?

10 A That's the van.

11 Q Okay. And this is the first SUV in front of the church
12 van, correct?

13 A That is correct.

14 Q There? And then there's another SUV in front of the
15 church van, correct?

16 A That is correct.

17 Q And this vehicle here is your vehicle, correct?

18 A I believe so.

19 Q You would be the fourth vehicle from the rear and third
20 vehicle from the front, correct?

21 A Yes, sir.

22 Q So, there were two SUVs in front of the van and
23 directly behind you at the time of impact, correct?

24 A Yes.

25 Q And were traffic conditions heavy on this day, July 4,

1 2013?

2 A Please repeat the question.

3 Q Was the traffic conditions heavy on the way to the
4 beach on the accident day?

5 A Yes, it was.

6 Q And were the traffic conditions also heavy past the
7 toll plaza?

8 A Yes it was.

9 Q You see a lot of traffic to the left of the stopped
10 vehicles in Defendant's A1?

11 A I see, yes.

12 Q Describe the traffic conditions around the toll booth
13 at this time of the accident?

14 A It was -- repeat the question.

15 Q Certainly, Mr. Castro. So, the traffic conditions, as
16 they are depicted here in Defendant's A1, are a little lighter
17 than the traffic conditions as they existed at the time of the
18 accident, correct?

19 A Yes, sir. Lighter. I don't know when that picture was
20 taken.

21 Q Well, look to the side shown in the accident, shown to
22 the right of the vehicles. You see that?

23 A Yes.

24 Q Is that where you congregated following the accident?

25 A To the right, yes.

1 Q And do you see a whole bunch of people congregating in
2 the area next to the accident?

3 A I see the people there.

4 Q Were you directed there by the police at the seen of
5 the accident?

6 A The police were there, yes.

7 Q And do you see a police car in the shoulder of
8 Defendant's A1?

9 A That is correct.

10 Q Okay. And you are among that crowd there on the grass
11 shoulder?

12 A Yes.

13 Q Now, before this accident happened, well, did this
14 accident occur about 5 to 10 seconds after the church van came
15 through the toll?

16 A It happened something like that.

17 Q Okay. And you testified on direct examination from Miss
18 Holland, that you observed the church van prior to the impact in
19 your rear-view mirror. Do you remember saying that?

20 A That's correct, yes.

21 Q Isn't it true, Mr. Castro, that you last looked at your
22 mirror about 4 to 5 seconds before the accident even occurred?

23 A Yes, sir.

24 Q So, if you last looked 4 to 5 seconds before the
25 accident occurred, for that 4 to 5 seconds you were looking

1 straight ahead, correct?

2 A I was.

3 Q So, you weren't looking at the church van for 4 to 5
4 seconds before the accident, correct?

5 A I was, yes.

6 Q Did you observe the church van in your rear-view mirror
7 for the first time about ten seconds before the accident?

8 A Yes, I did.

9 Q And then you took your eyes off the rear-view mirror
10 for 4 to 5 seconds before the accident, correct?

11 A That is correct.

12 Q So, in that that 4 to 5 seconds before the accident
13 when you weren't looking at your mirror, you were not looking at
14 the church van, correct?

15 A That sounds right.

16 Q I'd like to show you some photographs of your vehicle
17 now Mr. Castro. Mr. Castro, do you recognize the vehicle that is
18 shown in Defendant's A-8?

19 A Yes, I do.

20 Q Is that the rear of your vehicle that was involved in
21 this accident?

22 A That is correct.

23 Q And those photographs depict the way your vehicle
24 looked following the accident, correct?

25 A I'm sorry, could you, please, repeat that.

1 Q Yes. This photograph in evidence depicts any damage
2 that would be caused to your vehicle in the accident, correct?

3 A I'm not sure.

4 Q Was your vehicle every repaired?

5 A No, sir.

6 MR. JONES: One second, Judge.

7 (Whereupon, there is a pause in the proceedings.)

8 Q And Mr. Castro, I'm going to show you a series of
9 photographs that were taken of the rear of your vehicle
10 following this accident. Okay?

11 A Yes, sir.

12 Q Before I do that, you testified in your deposition
13 that your vehicle had some rear-end damage before this accident,
14 correct? Had some scratches on them?

15 A I'm sorry, what?

16 Q You did not hear the question?

17 A You're saying before the accident?

18 Q Yes, the scratches and bumps on your vehicle prior to
19 the accident?

20 A Yes, yes. Scratches.

21 Q And you had some scratches and bumps to your vehicle on
22 the rear and driver's side door, correct?

23 A Yes.

24 Q Okay.

25 A Yes.

1 Q Yes. Yes, sir?

2 Q Mr. Castro, I'm showing you what's been marked as
3 Defendant's Exhibit Z, in evidence. Do you recognize this
4 photograph as two photographs on an 8 and a half by 11 sheet of
5 paper depicting the rear of your vehicle?

6 A I cannot see the bottom one, but believe that's my car.

7 Q And the bottom photograph has a bumper sticker on it,
8 correct? The bottom photograph on the screen?

9 A I can't see it.

10 Q Mr. Castro, I'm showing you what's been marked as
11 Defendant's A-2, in evidence. You recognized this vehicle --
12 this photograph as the rear of your vehicle?

13 A It's really hard to tell. I can't identify it.

14 Q Did you have bumper sticker on the back of your
15 vehicle?

16 A I believe I had an Sunoco sticker on the bumper. I
17 don't remember those.

18 Q Mr. Castro, do you recall giving answers -- I'll tell
19 you when -- to a series of questions at a deposition?

20 A Please repeat the question.

21 Q Do you recall giving a deposition?

22 A I recall a deposition, yes. Yes, sir.

23 Q Is April 14, 2015?

24 A That sounds about right.

25 Q And at that a deposition, you were shown a series of

1 photographs. These photographs that you are being shown right
2 now, correct?

3 A Yes.

4 Q And do you recall giving answers with regard, to me,
5 about these photographs?

6 A I didn't take that photograph.

7 Q Do you recall being asked certain questions about the
8 photographs?

9 MS. HOLLAND: I'm just going to object because
10 what photographs -- counsel's asking him whether or not he
11 was asked questions about photographs saying these
12 photographs. I don't know what photographs he's referring
13 to. Is he referring to this one photograph that he's just
14 shown the plaintiff or the photographs that he showed the
15 plaintiff prior to the photograph he's showing the
16 plaintiff today.

17 MR. JONES: I've already asked him but I'll ask
18 him again.

19 THE COURT: We're talking about A thru Z, right?

20 MR. JONES: A through Z were shown at his
21 deposition, Your Honor. I already asked that question but
22 I'll ask it again

23 MS. HOLLAND: Judge, when he says A through Z, he
24 hadn't been shown photographs A through Z during trial.

25 THE COURT: For the record on the screen we have

1 A-2.

2 MR. JONES: Correct.

3 THE COURT: If you're going to refer the a
4 deposition transcript, in as much as he discussed this A-2,
5 then that's very --

6 MS. HOLLAND: Right.

7 CROSS EXAMINATION

8 BY MR. JONES:

9 Q Mr. Castro, do you remember seeing this photograph at
10 your deposition?

11 A I do not recall, no.

12 MR. JONES: May I approach the witness, Your
13 Honor?

14 THE COURT: Yes.

15 Q Mr. Castro, I placed in front of you a series of
16 photographs. I'm going to ask you to take a look at the yellow
17 sticker on those photographs, and tell us the date on the yellow
18 sticker.

19 A 45 -- 4-14-15.

20 Q Do you recall in your deposition on April 14th of 2015?

21 A It was sometime ago. I can see that the bumper, the
22 bumper first lifted up. I can see.

23 Q Mr. Castro answer may question?

24 A I thought I was. I'm sorry.

25 Q Do you recall giving a deposition on April 14th of

1 2015?

2 A Do I recall deposition?

3 Q Yes?

4 A I recall the deposition, yes.

5 Q And at that deposition, you were shown certain
6 photographs, correct?

7 A I don't recall seeing all these photographs, sir.

8 Q I'm not asking you if -- do you recall answering the
9 following questions to the following questions?

10 A Yes.

11 MR. JONES: Reading from Plaintiff's deposition,
12 page 40, lines 2 through 14. I'll exclude colloquy.

13 MS. HOLLAND: I'm just going to -- I'm not quite
14 sure what's going on here right now. I'm going to object.

15 MR. JONES: Can we approach?

16 (Whereupon, the following discussion takes place
17 in the robing room among the Court and Counsel, outside the
18 hearing of the sworn jury, off the record.)

19 THE COURT: Back on the record. The objection's
20 overruled.

21 CROSS EXAMINATION

22 BY MR. JONES:

23 Q Mr. Castro --

24 A Yes.

25 Q In front of you I've placed in alphabetical order two

1 sets of photographs. There's one set of photographs. Yours has
2 a yellow stickers on it. You see that?

3 A Yes, sir.

4 Q Okay, what is the date on that sticker?

5 A 4-14-15. Oh, it's -- is that a five. 4-14-5.

6 Q 2014?

7 A 4-14-5.

8 MR. JONES: Will counsel stipulate that Plaintiff
9 was depose on April 24, 2015?

10 MS. HOLLAND: Yes.

11 Q Okay, I'll move on. You recall seeing those photographs
12 at your deposition?

13 A Please repeat that.

14 Q Do you recall seeing the photographs with the yellow
15 sticker that are in front of you right now at your deposition?

16 A That was sometime ago. I recall certain photos. It was
17 sometime ago I don't recall seeing certain photos.

18 Q I'm going to read to you portion of your transcript
19 from page 48, line two threw 14. And I'll skip the attorney
20 colloquy.

21 Question: Line two. So, as far as the
22 photographs, you look at now was the Defendant's Exhibit A
23 through Z, are they fair and accurate representations of
24 the damage sustained to your vehicle in the accident?

25 Answer: Yes, sir.

1 Q Do you recall giving that testimony?

2 A I recall saying yes, yeah.

3 Q Very good.

4 Q Mr. Castro, you're looking at Defendant's Exhibit Y, in
5 evidence, which you have just identified in your responses, last
6 response. And this is a picture on an eight and a half by 11
7 sheet of paper which has two photographs of the rear of your
8 vehicle, correct?

9 A Yes, that's looks correct.

10 Q And you state that this is a fair and accurate
11 representation of the damage sustained to your vehicle in the
12 accident of 4-7-13, correct?

13 A I really can't see too well, but I don't see it too
14 well. I can't say yes, I can't see it too well. The bumper was
15 lifted up on top.

16 Q Mr. Castro, at your deposition under oath when you
17 swore to tell the truth, you identified this photograph as
18 demonstrating a fair and accurate representation of the damage
19 sustained to the rear of your vehicle, correct?

20 A I have to say yes because it looks like my car.

21 Q This is Defendant's Exhibit Z, in evidence. Also marked
22 as Defendant's Exhibit Z at your deposition.

23 Now, Mr. Castro, this is a fair and accurate
24 representation of the rear of your bumper, as it existed
25 following the accident of 7-4-13, correct?

1 A Yes.

2 Q And there were some scratches on the rear of your
3 vehicle that existed before the accident, correct?

4 A There were scratches; yes, sir.

5 Q Are those scratches shown on the bumper on the bottom
6 part of photograph?

7 A I see scratches but I can't tell you if those were
8 there at the time.

9 Q Just to move things along, I'm going to show you
10 additional pictures. This is Defendant's A-2, in evidence. A
11 blowup of a previous photograph you've seen. And this is the
12 rear of your vehicle, correct, Mr. Castro?

13 A I have to say, so.

14 Q Yes?

15 A Could be. Looks like it.

16 Q And Defendant's A-3, in evidence. This also is a fair
17 and accurate representation of the way your vehicle looked, the
18 rear of your looked following the accident, correct?

19 A Yes.

20 Q This is Defendant's A-7., in evidence. This is the rear
21 of your vehicle, Mr. Castro?

22 A Yes.

23 Q And it demonstrates the way the rear of your vehicle
24 looked following the accident of 7-4-13?

25 A Yes.

1 Q Defendant's A-6, in evidence. A-6, in evidence. This is
2 your vehicle, correct, Mr. Castro?

3 A Yes.

4 Q Is it a fair and accurate representation of the way it
5 looked following the accident?

6 A Yes.

7 Q And the Sunoco sticker you referred to before, is right
8 here on the right side of the bumper?

9 A Yes.

10 Q Defendant's A-5, in evidence. Mr. Castro, fair and
11 accurate representation of the way your vehicle looked following
12 this accident?

13 A Yes.

14 Q Looking at Plaintiff's V, as in Victor, in evidence.
15 Defendant's V. You recognize that license plate as yours, Mr.
16 Castro?

17 A Yes, I do.

18 Q And this license plate that was on the front of your
19 vehicle on the day of the accident?

20 A Not sure if it's in front, but that's my license plate.

21 Q And Defendant's V, was shown to you at your a
22 deposition, correct?

23 A Please repeat that?

24 Q Defendant's V, the yellow sticker was shown to you at
25 your a deposition on April 14th of 2015, correct?

1 A Yes.

2 Q And you state that this is a fair and accurate
3 representation of the damage caused to your vehicle on the day
4 of the accident, correct?

5 A Yes.

6 Q And this is Defendant's W, in evidence, for purposes
7 of trial. But at your deposition it was also Defendant's W on
8 April 14th, of 2015. And at your deposition Mr. Castro you
9 stated that this picture fairly and accurately represents the
10 damage sustained to your vehicle, as a result of this accident,
11 correct?

12 A Yes.

13 Q Your airbags did not deploy in this accident, correct?

14 A I'm -- sir, please repeat that?

15 Q Your airbags, they did not deploy?

16 A They did not deploy.

17 Q And you testified earlier that meaning on direct
18 examination that there was approximately \$2,000 in damages to
19 your vehicle, correct?

20 A That's what the insurance company said yes.

21 Q By you received the money, but did not get the repairs.
22 Correct?

23 A That is correct.

24 Q How much of that \$2,000 estimate was for labor?

25 A I don't recall. I'm sorry I don't -- I'm not sure.

1 Q So a portion of the \$2,000 estimate was for labor.
2 What was the actual check you received for actual body damage to
3 your car?

4 A I received \$2,000.

5 Q Mr. Castro, police arrived at the scene, correct?

6 A Yes.

7 Q All right. And the police asked you if you required
8 medical assistance, didn't they?

9 A They did.

10 Q And you refused medical assistance at the scene, didn't
11 you?

12 A I did.

13 Q And following the accident, you remained at the scene
14 for approximately one hour, correct?

15 A Yes.

16 Q And now while you were at the scene in the accident,
17 you spoke to the other drivers at the scene of the accident,
18 correct?

19 A No, I didn't. I'm sorry, are you talking about as I got
20 out of the vehicle and I went to the back? Because you're not
21 being very clear, I'm sorry.

22 Q I'll try harder. While you were at the scene, did you
23 exit your vehicle to go talk to the other drivers.

24 A Yes, I did.

25 Q Okay. Then you walked all the way back to the church

1 van and spoke to Miss Gonzalez, correct?

2 A That's correct. That's where I went was the church
3 van, yes.

4 Q And you walked without assistance at the scene,
5 correct?

6 A Yes.

7 Q And you remained at the scene for about an hour on your
8 feet for that entire hour, correct?

9 A That is correct.

10 Q And at some point while you were at the scene, you went
11 to retrieve your camera, correct?

12 A Yes.

13 Q And you took the photographs that I'd just shown on the
14 screen, correct?

15 A That is correct.

16 Q With the exception of the -- some of the body damage to
17 your car, you took almost all those photographs. Right?

18 A Yes, sir.

19 Q Now, eventually you left the scene of the accident,
20 correct?

21 A Yes.

22 Q And when you left the scene of the accident, did you
23 get back in your car?

24 A Yes, I did.

25 Q Is this with all your passengers?

1 A That is correct.

2 Q Your wife, your son and your son's friend, correct?

3 A My wife, my daughter my son and his friend.

4 Q Okay. And then you all proceeded to go into the park,
5 am I correct?

6 A Yes, sir.

7 Q Sunken Meadow Park?

8 A Yes, sir.

9 Q And were you intending to go the beach at the Sunken
10 Meadow or picnic area?

11 A Picnic area.

12 Q Would it be fair to say that you arrived at the park
13 around 12 p.m.?

14 A Or that --

15 Q You remained at the park?

16 A Yes, we did.

17 Q How long did the police remain at the scene of the
18 accident?

19 A Please repeat the question?

20 Q How long did the police remain at the scene of the
21 accident?

22 A I'm not sure of that. They told us to leave. It was
23 about an hour after.

24 Q But when you left the scene of the accident police were
25 still there?

1 A Oh, yeah. They were directing us.

2 Q Okay. So, if you needed medical assistance, the police
3 were there for every moment that you were at the accident scene,
4 correct?

5 A That's correct.

6 Q And you remained at the park in the picnic area until
7 closing time, correct?

8 A Yes.

9 Q The closing time was for Sunken Meadow Park July 4,
10 2013, it was sometime around dusk?

11 A Yes.

12 Q And you remained in the park 7 or 8 hours for the
13 barbecue following this motor vehicle accident, correct?

14 A I don't recall whether it was 7 or 8 hours.

15 Q It was closing time, correct?

16 A Till about closing time, yes.

17 Q While you were at the park, you had a few beers as you
18 stated in your deposition?

19 A I had a couple of drinks with my friends, yes.

20 Q And you had a barbecue?

21 A They had a barbecue, yes.

22 Q Did you play any sports?

23 A No, sir.

24 Q And following the picnic on July 4th weekend, you got
25 back in your vehicle, correct?

1 A Yes, sir.

2 Q And you drove home, correct?

3 A I did.

4 Q Using your right foot for the break and gas, correct?

5 A Yes.

6 Q All right. And eventually you drove back to the Bronx,
7 correct?

8 A Yes.

9 Q Okay, and on the way back from Sunken Meadow to the
10 Bronx, you never considered stopping at an emergency room
11 because of any pain you might had been feeling from the
12 accident, correct?

13 A That is correct. That is correct.

14 Q Now, this accident occurred on a Thursday, correct?

15 A I don't recall the day. It was July 4th, right.

16 Q But the following Monday after July 4th weekend, you
17 went to work, correct?

18 A That's correct.

19 Q And you were working at a home in Queens rewiring a
20 house?

21 A Yes.

22 Q And as of the day of the accident you had been an
23 electrical apprentice for approximately 20 plus years, correct?

24 A Yes.

25 Q And in that 20 plus years as an electrical apprentice,

1 your job site was basically construction sites and homes,
2 correct?

3 A I'm sorry, please, repeat.

4 Q You work in people's homes and construction sites,
5 right?

6 A Yes.

7 Q And this is a labor intensive job you do a lot of work?

8 A Yes.

9 Q You do a lot of twisting of wires?

10 A Yes.

11 Q Up and down ladders?

12 A Yes.

13 Q Okay. Lifting sheet rock?

14 A No.

15 Q Do you do any demolition to assess electrical wiring
16 behind the wall as an electrician?

17 A Yes.

18 Q And this would require a lot of lifting?

19 A Well, if you're pulling wires, you're pulling. You're
20 not lifting, but I had to lift wires, yes.

21 Q So, for at least 25 years prior to the date of the
22 accident you had a very labor intensive job as an electrician,
23 correct?

24 A Yes.

25 Q And are you right-handed?

1 A Yes, sir.

2 Q Now, at the time of this accident, you were employed
3 full-time?

4 A It was around 10:30 to 11, in that area.

5 Q Let me try again. Were you employed full-time as of the
6 day of the accident?

7 A I'm sorry. Yes, I was employed.

8 Q Would it be fair to say, as shown in evidence, that you
9 did not go to a doctor until approximately three weeks after
10 this accident, correct?

11 A That sounds about right.

12 Q About July 23rd or 24th of 2013?

13 A Something like that, yes.

14 Q And that was GFG, in the Bronx, correct?

15 A Yes.

16 Q You had a primary care physician Doctor Cabrera at the
17 time of this accident, correct?

18 A Yes, I did.

19 Q And you saw him frequently didn't you?

20 A Yes, I did.

21 Q And you saw Doctor Cabrera for complaints of chronic
22 low back pain, correct?

23 A I may have mentioned it to him, but it was mostly for
24 asthma.

25 Q You did see him for asthma, correct?

1 A Yes.

2 Q And occasionally you mentioned your shoulder injuries
3 to him, as well?

4 A I may have mentioned it.

5 Q And you went to Doctor Cabrera for your preoperative
6 workup for your first arthroscopic surgery, didn't you?

7 A Please repeat that.

8 Q Did you go to Doctor Cabrera's office for your
9 preoperative workup, for your first surgery?

10 A I don't recall that. I don't --

11 MR. JONES: I'd like marked for identification,
12 please.

13 (Whereupon, the item referred to, previously
14 Defendant's Exhibit BB was marked for identification.)

15 THE COURT: Ready?

16 Q Just to get back to my last question to refresh your
17 recollection. I'm going to show you a document and ask you if
18 it refreshes your recollection as to whether or not you went to
19 Doctor Cabrera for purposes of pre-operative clearance with
20 regards to right knee arthroscopy in October of 2014?

21 A Okay.

22 Q Don't say anything, okay. Let us know when you've
23 finished looking at it.

24 A (Pause.)

25 Q Okay. Mr. Castro, did you have an opportunity to look

1 at the sheet of paper that was in front of you?

2 A Yes.

3 Q Does it refresh your recollection that you went to
4 Doctor Cabrera on October 6th of 2014, for operative clearance
5 for the arthroscopy?

6 A For clearance yes, yes.

7 Q Now, prior to that, prior to 10-6-14, when you saw
8 Doctor Cabrera, you saw him for other matters, correct?

9 A Yes.

10 Q Did you make any complaints of knee pain to Doctor
11 Cabrera, in the other occasions when you sought him?

12 A No, I don't recall doing that. Doing that, no.

13 Q Did you make a complaint to Doctor Cabrera with regard
14 to chronic lower back pain?

15 A Yes, I believe I did.

16 Q Did Doctor Cabrera first prescribe Prednisone for you?

17 A Yes, he did.

18 Q And as of the day of the accident, how long had you
19 been taking Prednisone?

20 A I started see Doctor Cabrera since 1998. I started
21 working in the hospital in 1988, and I met Doctor Cabrera. He
22 became my pulmonary specialist and he's been giving me
23 Prednisone for asthma from time to time.

24 Q Had you been taking asthma -- withdrawn. Had you been
25 taking Prednisone as of the date of the accident for several

1 years on and off?

2 A I have. I've been taking Prednisone for several years,
3 yes.

4 Q Did you tell Doctor Dassa, that you had been taking
5 Prednisone for several years prior to the accident?

6 A Which doctor is this?

7 Q The doctor who testified yesterday?

8 A I believe so.

9 Q Did he ask you what medications you were on when you
10 went to see him on those three occasions?

11 A Yes, he had.

12 Q And did you specifically tell him that you were taking
13 Prednisone?

14 A I've mentioned along with the other medications, yes.

15 Q Okay, did you make complaints to Doctor Cabrera with
16 regard to sciatica in 2016?

17 A I don't recall that.

18 Q I'm going to show you a sheet of paper from Defendant's
19 Exhibit for identification only, BB. I'm going to show you a
20 piece of paper. Look at it but don't say anything until I ask
21 you a question. Okay?

22 A Yes. (Whereupon, there is a pause in the proceedings.)

23 Q Mr. Castro, did you look at the sheet of paper I showed
24 to you?

25 A Yes.

1 Q Did it refresh your recollection as to whether or not
2 you complained of sciatic pain to Doctor Cabrera, in January of
3 2016?

4 A I'm reading it on the paper. I don't remember but I
5 can see it.

6 Q It refreshed your recollection, correct?

7 A Okay.

8 Q All right. Would it be fair to say when you went to
9 Doctor Cabrera, you made complaints of chronic lower back pain
10 at almost every visit?

11 A Yes.

12 Q And that chronic lower back pain, Mr. Castro, came from
13 a work related accident that occurred in approximately 1993,
14 correct?

15 A Well, it says there because cold weather.

16 Q Okay. You originally injured your back in the early
17 '90s, correct?

18 A Yes.

19 Q And that was a work related accident, correct?

20 A That's correct.

21 Q Sometimes your back, after the injury, would be
22 aggregated by cold weather, correct?

23 A Yes.

24 Q Would it be fair to say that you were living in
25 constant back pain from the '90s up until the present time?

1 A Yes.

2 Q And that you did start a workers compensation claim for
3 your back injury?

4 A Yes.

5 Q And did you receive weekly or monthly benefits for that
6 workers compensation claim?

7 A Yes.

8 Q Has that case been resolved?

9 A Yes, it was.

10 Q Did you receive some type of disability percentage from
11 the workers compensation doctors with respect to your back?

12 A Yes.

13 Q Were you categorized as disabled with regard to your
14 back, based upon the 1990 back issue?

15 A Yes.

16 MS. HOLLAND: Objection. Objection.

17 MS. HOLLAND: May we approach on that, Judge.

18 (Whereupon, there is a discussion held at side
19 bar.)

20 (Whereupon, the following discussion takes place
21 in the robing room among the Court and Counsel, outside the
22 hearing of the sworn jury.)

23 THE COURT: I want you guys to disregard the
24 question regarding whether Workers Comp deemed him
25 disabled. And although I don't think he answered it, if he

1 did disregard that, too. So, you disregard the question
2 regarding Workers Comp disability and whatever answer Mr.
3 Castro gave, okay. Just forget about that. You will have a
4 ten minute break.

5 (Whereupon, the sworn jurors exit the courtroom.)

6 (Whereupon, the following discussion takes place
7 in the robing room among the Court and Counsel, outside the
8 hearing of the sworn jury.)

9 THE COURT: We will just let the record reflect,
10 and counsel will correct me if I'm wrong, the last line of
11 inquiry was whether or not Workers Comp had found him
12 disabled and actually I'm not sure if Mr. Castro answered
13 yes or no, but -- I don't know but there was an objection
14 and we had a little side bar off the record, so we might as
15 well put what we discussed on the record. It was her
16 objection.

17 MS. HOLLAND: So, my objection is that counsel
18 should not be able to elicit from the witness any
19 classifications of disability by the Workers Compensation
20 Board because the Workers Compensation Board has strike
21 criteria to determine whether or not a person is disabled,
22 and they are -- they assigned certain percentages to it.
23 And it's based upon, again, very specific criteria and the
24 Facebook that the Workers Compensation Board determines
25 that a person is quote-unquote disabled is not the

1 equivalent of the meaning of disability in a personal
2 injury case. So, to suggest to the jury through that line
3 of questioning that Mr. Castro was disabled at the time of
4 the accident, based upon a finding of the Workers
5 Compensation Board would be prejudicial.

6 My second issue is that I am requesting a good
7 faith basis for even asking a question regarding a finding
8 by the workers compensation board of disability. I know of
9 no record from the workers compensation board related to a
10 back claim wherein the client was declared to be disabled
11 in some form by the workers compensation board.

12 I know he filed a workers compensation claim
13 relating to his back because he stated that you, but I
14 don't have any record to support a finding by the workers
15 compensation board regarding disability.

16 MR. JONES: May I respond. Are you finished?

17 MS. HOLLAND: Yes.

18 MR. JONES: Counsel. Okay. All right. Two items.
19 Number one, prior to openings, this matter was discussed
20 and I certainly thought that and still believe that going
21 into the concept of lower back pain and chronic lower back
22 pain caused by a work related injury back in the 1990s, was
23 fair game and the plaintiff himself knows whether or not he
24 was declared disabled by a particular board.

25 Moreover, I'm going to ask the Court to consider

1 the following and reconsider its ruling. Plaintiff on
2 direct examination brought out on direct, not cross, that
3 her own client was disabled by virtue of the Social
4 Security Administration. Now, there are no records in
5 evidence with regard to that declaration. There are no
6 records in evidence with regard to the standard that was
7 used. We have the plaintiff's own testimony that he was
8 declared disabled as by virtue of the fact that he has
9 asthma.

10 So, for counsel to now argue that the standard for
11 workers compensation has not been established. Well, on
12 direct examination she opened the door. So, I thought this
13 was certainly fair game, and I asked the Court to
14 reconsider its ruling because the plaintiff is certainly
15 competent enough to know he's receiving disability for
16 social security. He's also admitted that he received weekly
17 checks for disability -- excuse me, from workers
18 compensation as a result of the 1990 accident, and so,
19 there's really no difference here. And I'm actually
20 surprised at the objection because this was done on direct
21 examination. So, I thought I was certainly within the
22 parameters of the court's rulings and I suggest that I
23 should be able to ask that question.

24 And also, in that regard, I do want to just
25 honestly with regard to my intention with it, I intend to

1 ask him whether or not he had a lump sum settlement from
2 workers compensation with regard to the 1990s accident.

3 So, I think because of prior ruling throughout the
4 trial, and the plaintiff's own deposition testimony, which
5 forms the basis of my good faith, where he answered under
6 oath several questions about having a bad back and having
7 hurt his back as a rule of a work relate injury, there's
8 more than ample basis for me to pursue it and it was
9 mentioned by plaintiff's counsel in her own motion in
10 limine trying to preclude any testimony with regard to it
11 because she was aware the evidence was there. So, even she
12 knows there was a good faith basis to ask it. So, I don't
13 understand that argument now.

14 So, to make long story short, I would like to be
15 able to pursue and ask the Court to consider its ruling,
16 because you permitted the plaintiff on direct to introduce
17 evidence of social security disability, so she opened the
18 door to it without standards, and to preclude the defendant
19 now would be an inconsistent ruling.

20 THE COURT: Okay, all right. So, that we're
21 clear. There was an in limine motion at the commencement of
22 the trial and the Court allowed any workers comp claim
23 regarding the back injury to come in. That was first.

24 The second thing is, we have no record that
25 workers comp has deemed him disabled. We should also keep

1 in mind that workers comp, which I never practice in that
2 area, but I'm somewhat familiar, they have various
3 determinations which could be partial, temporary, partial
4 permanent disability. They also have I believe total
5 permanent, total temporary disability. So, there's a
6 variety of disabilities. And so the Court's concern is to
7 ask this layperson whether he received disability, whether
8 he was deemed disabled by workers comp without any actual
9 evidence of that would just open up a Pandora's box in an
10 attempt by plaintiff's counsel to now try to explain.

11 The problem is first and foremost, it's not
12 answered explanation, and, secondly, we have no record that
13 he actually has been found disabled. So, that's why the
14 Court granted the objection, issued a curative instruction
15 very simple that the jury's just to disregard any
16 discussion regarding whether workers comp deemed him
17 disabled. That he got workers comp for his back, that he got
18 money for that, I said is fair game. But, unless I know
19 he's been found disabled and the parameters of their
20 determination, temporary, permanent, partial, total, I
21 think it would just be highly prejudicial and I don't think
22 it would be appropriate for the jury to hear that right
23 now.

24 So, that was my rule and I already rendered it. I
25 issued the curative instruction and the attorneys'

1 objections are duly noted on the record.

2 All right, let's get back in there.

3

4 (Whereupon, the following takes place in open
5 court, in the presence of the defendant and the sworn
6 jury.)

7 THE COURT: Counsel, whenever you're ready.

8 Mr. Castro you're okay.

9 THE WITNESS: Yes, sir. Thank you.

10 CROSS EXAMINATION

11 BY MR. JONES:

12 Q Mr. Castro, before we broke, we were talking about the
13 record of your treating physician Doctor Manuel Cabrera, do you
14 remember?

15 A Yes.

16 Q I want to stay with that a little bit, and then I'll
17 move on to something else in a few minutes, okay?

18 A Okay.

19 Q Few minutes, okay?

20 A Okay.

21 Q In September of 2014, do you recall telling Doctor
22 Cabrera that you were still on workers compensation for a work
23 related accident?

24 A I don't recall the conversation, no.

25 Q Mr. Cabrera, I am going to show you a piece of paper

1 just look at it. Don't say anything about it until I ask you a
2 question, okay. Referring to Defendant's BB, for
3 identification.

4 Just look up when you finished reading the paper.

5 Q Mr. Castro, having looked at a component of Defendant's
6 BB, for identification, does that refresh your recollection as
7 to whether or not you told Doctor Cabrera in September of '14 is
8 that you were still under workers compensation for work?

9 A Yes.

10 Q And that you hadn't gone back to work yet?

11 A Yes.

12 Q Did you go back to work after September, of 2014?

13 A No.

14 Q Now, Mr. Castro, in October of 2013, did you complain
15 to Doctor Cabrera about pain in your hands? Both hands?

16 A I don't recall that.

17 Q Did Doctor Cabrera ever diagnosis you, to the best of
18 your knowledge with degenerative joint disease of both of your
19 hands?

20 A I don't recall that.

21 Q Did you make a complaint of leg numbness to Doctor
22 Cabrera in June of 2013?

23 A Please repeat that.

24 Q Did you make a complaint of leg numbness to Doctor
25 Cabrera, in June of 2013?

1 A I don't recall that.

2 Q Take a look at that sheet of paper, Mr. Castro, and let
3 us know when you finish looking at it.

4 A (Witness complies.)

5 Q Have you looked at it?

6 A (Witness nods head.)

7 Q Does looking at that sheet of paper refresh your
8 recollection as to whether or not Doctor Cabrera diagnosed you
9 with the degenerative joint disease of your hands?

10 A No.

11 Q Okay. Look at that sheet of paper, Mr. Castro. When
12 you finished looking at it, please, look up.

13 A (Witness complies.)

14 Q Have you looked at it?

15 A I see it, yes.

16 Q Okay. Does looking at that sheet of paper refresh your
17 recollection as to whether or not in June of 2013, you made a
18 complaint to Doctor Cabrera about numbness in your legs?

19 A No.

20 Q Mr. Cabrera, your first visit to GFG, physical therapy
21 was in July of 2013, correct?

22 A Was you waiting for an answer?

23 Q I'm waiting for an answer?

24 A Sounds about right.

25 Q And yesterday on examination of Doctor Dassa, he stated

1 that he looked at the reports with regard to your first visit at
2 GFG which was on 7-24 of '13, correct, you remember that
3 testimony?

4 A I'm sorry, I don't recollect. 7-24, you mean?

5 Q Your first 7-24 to the date, do you recall going to GFG
6 for the first time July 24, 2013?

7 A Yes.

8 Q And were you referred to GFG by anyone from your
9 attorney's office?

10 A No.

11 Q Was a physical examination conducted of you at GFG on
12 the first visit?

13 A No.

14 Q Did they ask you what was wrong with you?

15 A Yes they did.

16 Q And at the time of your visit to GFG physical therapy,
17 you also had an application pending for social security
18 disability benefits, correct?

19 A I don't recall all of that. It's possible.

20 Q Well, as of the date of the accident, were you
21 receiving social security disability benefits?

22 A Yes I was.

23 Q And before you started receiving those benefits, did
24 you have to file an application?

25 A Oh, yes.

1 Q And did you have to go see any doctors in connection
2 with that?

3 A Yes.

4 Q Did you have to go to physical examination in
5 connection with your disability application?

6 A Yes.

7 Q And did you go to that examination?

8 A Yes.

9 Q And did you go for an examination in the Bronx, for the
10 social security application?

11 A I'm sorry, I didn't understand the question.

12 Q Did you go for a physical examination, as part of your
13 social security application, at a location in the Bronx?

14 A Yes.

15 Q And was the date of that examination on July 25, 2013?

16 A I don't recollect the date.

17 Q Was it in July of 2013?

18 A I don't remember the date.

19 MR. JONES: Mark this for identification, please.

20 Defendant's CC, marked for identification.

21 Q Mr. Castro, taking a look at that top page, all right.
22 And when you finish looking at it, I'll have some questions for
23 you, okay?

24 A Okay. (Witness complies.)

25 Q Have you looked at it Mr. Castro?

1 A I did.

2 Q Have you looked at that first page of CC, of
3 Defendant's CC, for identification, does it refresh your
4 recollection the date of the -- that you attended a physical
5 examination for your social security benefits July 25, 2013?

6 A Well, can I be honest, I don't remember all the doctors
7 I've seen. I probably had to do this.

8 Q All right. Take a look?

9 A I'm look at it.

10 Q Top of the document and tell us if it refreshes your
11 recollection that you had you attended a physical examination
12 for your benefits of July 25th of 2014?

13 A I did, yes.

14 Q And do you recall telling the examiner that you had to
15 quit your job as an electrician because of all the dust?

16 A Could have, yes.

17 Q Take a look at the document and tell us if it
18 refreshes your recollection as to whether or not you told the
19 doctor that you had to quit your job as an electrician because
20 of all the dust?

21 A Yes.

22 Q Okay. Please take a look at the second page in that
23 document. Did you undergo a physical examination with respect to
24 your knees, arms, hands shoulders and wrist?

25 A According to this, yes.

1 Q And Mr. Castro, you were able to do full squats, as of
2 July 25, 2013, for the physical exam for your social security
3 benefit, correct?

4 A It says here, yes.

5 Q And you had full range of motion in both your knees on
6 July 25th of 2013, correct?

7 A Please repeat that.

8 Q You had full range of motion in both your knees on
9 July 25, 2013?

10 A Yes.

11 Q And you had full range of motion and full strength in
12 both your hands on July 25th, of 2013, correct?

13 A Yes.

14 Q Mr. Castro, is it true that you continue to work
15 full-time as electrician from July of 2013, until at least
16 January of 2014?

17 A Yes.

18 Q But you told the examiner at the social security that
19 you quit your job as an electrician, correct?

20 A Yes.

21 Q And you're receiving how much money currently from the
22 social security disability?

23 A I don't recall. Are you asking me currently?

24 Q Yes?

25 A It's about \$1,300.

1 Q And in addition to your disability income, you also
2 receive money from past workers compensation claims?

3 A No compensation.

4 Q Did you get a lump sum settlement for your lower back
5 injury?

6 A I did.

7 Q And what was the lump sum settlement?

8 A I think it was \$15,000.

9 Q Mr. Castro, are you on Facebook?

10 A I have Facebook, yes.

11 Q I'm going to show you Mr. Castro, a series of
12 photographs that have been marked for identification. And after
13 you've looked at them I'll ask you a question okay.

14 A (Witness complies.)

15 Q Marked for Defendant's DD, for identification.

16 Mr. Castro, in front of you is a folder with some
17 copies of photographs. I'm going to ask you to take a look at
18 what's been marked for identification as Defendant's DD, for
19 identification, and just take a look at those photos.

20 A (Witness complies.)

21 Q When you finish looking at them just look up.

22 A (Whereupon, the witness complies.)

23 Q Have you looked at those photographs, sir?

24 A Yes.

25 Q Okay. Are the photographs you just looked at from

1 postings you made on your phone on Facebook account?

2 A Please repeat that?

3 Q Yes. Are the photographs you just looked at the
4 Defendant's DD, photos and postings that you made on your own
5 Facebook account?

6 A Yes.

7 MR. JONES: I'm going to offer DD into evidence,
8 Your Honor.

9 THE COURT: Any objection?

10 MS. HOLLAND: Really? That's not to be -- can we
11 lay a foundation as to the time period. That's all. What
12 are they supposed to represent, a peroid in time from when?
13 I would object, unless we can establish a period of time
14 when those photographs were taken.

15 THE COURT: How many photos are we talking about?

16 THE COURT: Mr. Castro how many photos are there?

17 THE WITNESS: How many? Roughly?

18 THE COURT: Roughly?

19 THE WITNESS: 12 to 15, maybe.

20 THE COURT: Mark them DD, 1 through 12, so it will
21 be approximate date. Do that this way we narrow it down.

22 MR. JONES: There are dates on them. I'll ask him
23 questions, Judge.

24 THE COURT: Okay.

25 Q Additional question for you, Mr. Castro, if you, on the

1 photographs on the Facebook account there are dates that the
2 photos were posted. Correct?

3 A That's correct.

4 Q If you look at those photos, would I be accurate, if I
5 stated that they are all posted after the date of your accident,
6 July 4th, of 2013?

7 A That's correct.

8 MR. JONES: I offer them into evidence, Your
9 Honor.

10 THE COURT: DD's admitted over objection.

11 MS. HOLLAND: Objection.

12 (Whereupon, the item referred to, previously
13 Defendant's Exhibit DD was received in evidence.)

14 Q Mr. Castro, I'm looking at a Facebook photo posted by
15 you February of 2016, is that you with the photograph?

16 A Yes that is me.

17 Q Mr. Castro, what day was your marriage?

18 A Pardon me?

19 Q What was the dating of yours daughter's wedding?

20 A February. Is that 28th?

21 Q 2016?

22 A 2016, yeah.

23 Q About two and a half years on beyond your accident,
24 correct?

25 A Approximately.

1 Q And you're walking in Manhattan with your daughter?

2 A Yes. She was sustaining me.

3 Q Say again?

4 A She was sustaining me.

5 Q You said she's sustaining you?

6 A Yes, she had me by the arm.

7 Q Is that unusual for a bride not to hold her father's
8 arm on a wedding?

9 A She wanted me there.

10 Q Okay. You say -- withdraw the last question.

11 Are you using a cane in this photograph? That's a yes
12 or no?

13 A Please repeat that.

14 Q Are you using a cane in this photograph?

15 A Not in that photo no.

16 Q If you look at the photographs on, are you bearing
17 weight on your right leg?

18 A I'm sorry. I didn't get.

19 Q Look at the photograph and tell us if you can tell by
20 looking at the photograph as to whether or not you are bearing
21 weight on your right leg?

22 A At that moment looks like it. Yes, sir.

23 Q Mr. Castro, this is a photograph posted by you on your
24 Facebook account in November of 2015. You see that?

25 A Yes.

1 Q Okay, do you see yourself in this photograph?

2 A Yes.

3 Q You are about -- you are the third person from the
4 left?

5 A Yes.

6 Q Anyone holding you up in that photograph?

7 A No.

8 Q Do you have a cane in that photograph?

9 A No.

10 Q Mr. Castro this is a Facebook post by you on
11 November 7th of 2015. You see yourself in this photograph?

12 A Yes.

13 Q Are you walking in the streets of lower Manhattan in
14 those photographs?

15 A Please repeat that.

16 Q Are you walking in the streets of lower Manhattan?

17 A -- I had this on silence. Pardon me.

18 Q Um hum. Are you walking in the streets in lower
19 Manhattan in this photograph?

20 A Yes.

21 Q Are you using a cane in this photograph?

22 A No.

23 Q Is this a picture posted by you on your Facebook
24 account?

25 A Yes.

1 Q Are you using a cane in this photograph?

2 A No. No.

3 Q This photograph we are looking at Mr. Castro is you in
4 a post on July 10th of 2015, correct?

5 A Yes.

6 Q And that's you leaning on the railing there?

7 A That is correct.

8 Q Are you using a cane in this photograph?

9 A I beg your pardon.

10 Q Viewing a cane in this photograph?

11 A No.

12 Q Are you leaning on your right side in this photograph?

13 A I'm leaning on the right side. Yes, sir. Yes.

14 Q I'm looking at a photograph of you taking a selfie
15 which was posted in December of 2014, correct?

16 A Yes.

17 Q And this is approximately two months after your
18 arthroscopic surgery, correct?

19 A Yes.

20 Q And this is the Christmas photo from December of 2014,
21 correct?

22 A Yes.

23 Q Is that you on the far right?

24 A That is far left.

25 Q Far left of the photograph?

1 A Yes.

2 Q Is thank you? I'm looking at a posting from
3 November 15th of 2014, is this a picture of you at your
4 daughter's reception?

5 A That was my nephew's reception. He's standing right
6 next to me.

7 Q So you've gone to two weddings since this accident,
8 correct?

9 A Yes.

10 Q Are you using a cane in this photograph?

11 A No.

12 Q Now look at the date of this photograph Mr. Castro,
13 what is that?

14 A October 11, 2014.

15 Q There and you took this photograph, correct? Selfie?

16 A Yes.

17 Q And your surgery was on October 10th of 2014, wasn't
18 it?

19 A Yes.

20 Q Now, this is a nighttime photograph of you and your
21 wife posted in September of 2014, correct?

22 A I don't think that's my wife.

23 Q Okay.

24 A I took a picture with somebody else.

25 Q That's you in the photograph, correct?

1 A Yes.

2 Q Okay.

3 A I was holding the railing.

4 Q Were you going to a gym in Florida, Mr. Castro?

5 A No.

6 Q Are you exercising with any frequency?

7 A I was losing my belly by drinking lemon juice and the
8 lemons help to break down fat.

9 Q Okay. I'm going to show you a post from December of
10 2020. Is that a picture of you?

11 A Yes.

12 Q This past December, correct?

13 A Yes.

14 Q Okay. And this is a picture of you in October of 2020
15 in Florida, correct?

16 A Yes.

17 Q Did you tell us on direct examination on Tuesday that
18 currently you never leave your home? That you stay in bed all
19 the time? Sometimes you just go out to water your plants? Did
20 you tell us that?

21 A What was the question again?

22 Q Did you tell us on this past Tuesday, on direct
23 examination from Miss Holland that you never leave your home
24 when you are in Florida, that you just stay home, occasionally
25 go out to your sun room and water your plants?

1 A Correct, yeah.

2 Q All right.

3 A I was working vice squad at that time. (Sic)

4 Q This is October 2020, correct?

5 A Yes.

6 Q Okay. And this is in Florida, correct?

7 A That's Florida yes.

8 Q It's in Florida in October of 2020, correct?

9 A That's what it says, yeah.

10 MR. JONES: I have one more chart to view, Judge.

11 May I please continue?

12 THE COURT: It's -- I got 8 to 1. What do you
13 think?

14 MR. JONES: It's a chart, so I'll not finish at
15 1 o'clock. Probably about 15, 20 minutes.

16 THE COURT: Maybe this is a good point to break.
17 So, we're going to do that. Take a lunch break now and we
18 will reconvene at 2:15, all right.

19 THE COURT OFFICER: All rise, jury exiting.

20 (Whereupon, the sworn jurors exit the courtroom,
21 the court takes its luncheon recess.)

22 A F T E R N O O N S E S S I O N

23 THE COURT OFFICER: Case on trial. Jury entering.

24 (Whereupon, the sworn jurors enter the courtroom
25 and take their respective seat.)

1 THE COURT: Take seats, relax. Hope your lunch was
2 good.

3 MR. JONES: Ready.

4 THE COURT: Ready?

5 CROSS EXAMINATION

6 BY MR. JONES:

7 Q Welcome back, Mr. Castro. Just to let you know, I have
8 enough to ask you questions about. It will be your treatment at
9 GFG, and then Southern Westchester Orthopedics and then we're
10 finished, okay?

11 A Yes, sir.

12 Q Did your physical therapy treatment at GFG, end in
13 about May of 2014, your physical therapy?

14 A That's possible.

15 Q Your therapy at GFG ended in May of '14, correct?

16 A That's possible.

17 Q And your surgery was in October of 2014, correct?

18 A Yes.

19 Q And there was no post-operative therapy following your
20 arthroscopy with Doctor Wert, correct?

21 A Yes.

22 Q And would it be fair to say that the next time you made
23 a knee complaint to any doctor following your post-operative
24 care with Doctor Wert would have been in October of 2016?

25 A You want me to answer that?

1 Q Yes, I do?

2 A I actually made complaints, but doctors have made no
3 record of it.

4 Q This is a note from Plaintiff's 13, in evidence.

5 Southern Westchester Orthopedics dated October 6th of 2016.

6 Mr. Castro, you treated with Doctor Spencer and Doctor
7 Lent at this facility, correct?

8 A Sorry, what?

9 Q Doctor Lent and Doctor Spencer?

10 A Yes.

11 Q And this note states that the patient is complaining of
12 bilateral knee pain now.

13 Do you see that note?

14 A I do, but I can't read it but I see it.

15 Q Okay. And Mr. Castro that's the first complaint you
16 have of knee pain to any of your treating physicians, since you
17 left treatment of Doctor Wert; isn't that correct?

18 A Okay.

19 Q Mr. Castro, you had a work related injury in January of
20 '14, correct?

21 A Yes.

22 Q Okay? And you told us on direct examination on Tuesday
23 that that injury occurred when you were doing under the counter
24 lighting at a residence in Queens, correct?

25 A I'm not sure that's what I said, but it sounds right.

1 Q Didn't the accident occur while you were lifting a
2 heavy ladder?

3 A That is correct. It was on the second level.

4 Q Okay, and how heavy was this ladder?

5 A It's an aluminum ladder.

6 Q It's an extension ladder?

7 A No.

8 Q And you were lifting that when you injured your
9 shoulder, correct?

10 A Yes.

11 Q And following that injury, you underwent a course of
12 treatment at this facility Southern Westchester Orthopedics,
13 correct?

14 A Yes.

15 Q And then you underwent a right shoulder arthroscopy,
16 correct?

17 A Yes.

18 Q That was in May of 2014?

19 A Yes.

20 Q All right, and then you underwent an MRI for your left
21 shoulder, based upon left shoulder pain, correct?

22 A Yes.

23 Q And you were diagnosed with a torn rotator cuff in your
24 right shoulder, correct?

25 A Yes.

1 Q And you were diagnosed with arthritis in your left
2 shoulder, correct?

3 A Yes.

4 Q Okay, and after your complaint of knee pain, in October
5 of 2016, you then underwent to surgeries for your knees,
6 correct?

7 A Yes.

8 Q And also documented by Doctor Dassa and your attorney
9 on Tuesday, correct?

10 A Yes.

11 Q All right. Now, did the doctor who performed those
12 surgeries provide you with a diagnosis before he performed the
13 surgeries?

14 A Okay, please, repeat that.

15 Q Certainly. Did Doctor Lent provide you with a diagnosis
16 of either one of your knees before he did the surgeries in the
17 end of 2016 and 2017?

18 A Yes.

19 Q And wasn't that diagnosis degenerative joint disease of
20 both knees?

21 A I'm not sure.

22 Q Okay. Mr. Castro, I'm showing you an operative report.
23 I know you may have not have seen that, but it's Plaintiff's 13,
24 in evidence. And if you could look at the highlighted portion.

25 Does that refresh your recollection --

1 A Yes.

2 Q That you were diagnosed with degenerative joint disease
3 of your left knee?

4 A Yes.

5 Q And that's the reason you had the surgery January of
6 2017?

7 MS. HOLLAND: Objection.

8 THE COURT: Is that what it says on there?

9 Q Well, diagnosis: Operative diagnosis is degenerative
10 joint disease, correct.

11 A That's what it says there. That's not when I had
12 surgery.

13 Q Mr. Castro, I'm again showing you portions of
14 Plaintiff's 13, in evidence, is a note dated 11-15 of '16, with
15 regards to the surgery done on your right knee.

16 Does it refresh your recollection you were diagnosed
17 with degenerative joint disease of your right knee?

18 A That's what it indicates there.

19 Q Yes. Thank you. Mr. Castro, I'm showing you a note
20 from Plaintiff's 13, in evidence. It is dated May 4 of 2017,
21 was that your last date of treatment at Southern Westchester
22 Orthopedics, approximately May 17th?

23 A I'm not sure that was my last treatment because I kept
24 going to see doctors.

25 Q Okay. And on May 4th of 2017, do you recall that you

1 were doing phenomenally well with regard to your knee pain and
2 range of motion?

3 A It's a lot different from what I had before that.

4 Q I'm talking about May of -- 20 of '17?

5 A You're talking about the operation, right?

6 Q I'm talking about post-operative visits that's in front
7 of you now?

8 A Yes.

9 Q Okay. Is that the proximate date of your last visit?

10 A Approximate, yes.

11 Q Since May of 2017, have you seen either Doctor Lent or
12 Doctor Spencer?

13 A I don't think so. I don't recall if I did.

14 Q Since May of 2017, would it be fair to say that the
15 only physician you've seen in connection with an examination for
16 your knees would be Doctor Dassa?

17 A Yes.

18 Q Okay. Doctor Dassa is a physician referred to you by
19 your attorneys, correct?

20 A Yes.

21 MS. HOLLAND: Objection. Doctor Dassa is the
22 expert. He's not a treating physician.

23 THE COURT: It's overruled.

24 Q And since May of 2017, have you undergone any x-rays of
25 either one of your knees?

1 A No.

2 Q Any MRIs of either one of your knees?

3 A No.

4 Q Any CAT scans of either one of your knees?

5 A No.

6 Q Okay.

7 MR. JONES: Thank you. I have nothing further.

8 THE COURT: You need a minute?

9 (Whereupon, that concludes the transcribed
10 testimony requested by defendants' counsel.)

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12 * * * * *

13 Certified to be a true and accurate transcription
14 of the proceedings held herein.

15 Lorrai ne L Ramsey

16 Lorraine L. Ramsey
17 Senior Court Reporter
Bronx County

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