

In the Supreme Court of the State of Nevada

CAPRIATI CONSTRUCTION
CORP., INC., a Nevada Corporation,

Appellant,

v.

BAHRAM YAHYAVI, an individual,

Respondent.

Electronically Filed
Nov 25 2020 04:00 p.m.
Case No. 80107 / Case No. 80821
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

From the Eighth Judicial District Court
Clark County, Nevada
The Honorable Ronald J. Israel, District Judge
District Court Case No. A-15-718689-C

RESPONDENT BAHRAM YAHYAVI'S APPENDIX VOLUME 1 PAGES 1-187

DENNIS M. PRINCE
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| 03 | Plaintiff's Trial Brief to Exclude Argument, Reference, or Medical Expert Opinion that Plaintiff Bahram Yahyavi's Prior Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision | 09/05/2019 | 1 | 48-154 |
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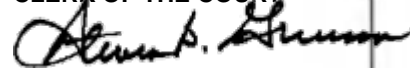
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this document was filed electronically with the Supreme Court of Nevada on the 25th day of November, 2020. Electronic service of the foregoing document entitled **RESPONDENT BAHRAM YAHYAVI'S APPENDIX** shall be made in accordance with the Master Service List as follows:

Michael K. Wall
HUTCHISON & STEFFEN, PLLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Attorney for Appellant
Capriati Construction Corp., Inc.

/s/ Kevin T. Strong
An Employee of PRINCE LAW GROUP

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15 **DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 **BAHRAM YAHYAVI, an individual,**
18 **Plaintiff,**

Case No.: A-15-718689-C

Dept. No.: XXVIII

19 vs.


**NOTICE OF ENTRY OF STIPULATION
AND ORDER TO EXTEND DISCOVERY
DEADLINES (THIRD REQUEST)**

20 **CAPRIATI CONSTRUCTION CORP., INC.,**
21 **a Nevada corporation,**
22 **Defendants.**

23 PLEASE TAKE NOTICE that a Stipulation and Order to Extend Discovery Deadlines
24 (Third Request) was entered on August 28, 2018, a copy of which is attached hereto as Exhibit
25 "1."

26 DATED this 10th day of September, 2018.

27 **EGLET PRINCE**

28 
DENNIS M. PRINCE, ESQ.
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TRACY A. EGLET, ESQ.
Nevada Bar No. 6419
JAMES A. TRUMMELL, ESQ.
Nevada Bar No. 14127
Attorneys for Plaintiff

RA0001

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the EGLET PRINCE and that on September 10, 2018, I did cause a true and correct copy of **NOTICE OF ENTRY OF STIPULATION AND ORDER TO EXTEND DISCOVERY (THIRD REQUEST)** to be e-filed and e-served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules entered on the Court's docket in the above-referenced matter.

Mark J. Brown, Esq.
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*Attorneys for Defendant Capriati
Construction Corp., Inc.*

David S. Kahn, Esq.
WILSON, ELSER, MOSKOWITZ, EDELMAN
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An Employee of EGLET PRINCE

EXHIBIT 1

Steven D. Grierson

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15 DISTRICT COURT
16 CLARK COUNTY, NEVADA

17 BAHRAM YAHYAVI, an individual

Case No. A-15-718689-C
Dept. No. XXVIII

18 Plaintiff,

19 STIPULATION AND ORDER TO
20 EXTEND DISCOVERY DEADLINES

21 vs.

THIRD REQUEST

22 CAPRIATI CONSTRUCTION
23 CORP., INC. a Nevada Corporation

24 Defendants.

25 IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff BAHRAM
26 YAHYAVI, through his undersigned counsel of record, James A. Trummell, Esq., of EGLET
27 PRINCE, and Defendant CAPRIATI CONSTRUCTION CORP., INC., through its undersigned
28 counsels of record, Mark J. Brown, Esq., of LAW OFFICES OF ERIC R. LARSEN and David
Kahn, Esq. of WILSON ELSER, that discovery in this matter shall be extended for the limited
purpose of completing the discovery described herein. Pursuant to EDCR 2.35, the parties offer
the following in support of their stipulation to extend discovery:

I.

DISCOVERY COMPLETED TO DATE

Plaintiff served Defendant with the following discovery to date:

1. Plaintiff's Initial NRCP 16.1 Disclosures and Nine (9) Supplements thereto;
2. Plaintiff's Responses to Defendant's Requests for Production, Requests for Admissions and Interrogatories;
3. Plaintiff's Requests for Production, Requests for Admissions and Interrogatories to Defendant; and
4. Plaintiff's Expert Disclosure and Supplemental NRCP 16.1(a)(3) Pre-Trial Disclosures and Two (2) Supplements thereto.

Defendant served Plaintiff with the following discovery to date:

1. Defendant's Initial NRCP 16.1 Disclosures, and Nine (9) Supplement thereto;
2. Defendant's Requests for Production of Documents, Interrogatories and Requests for Admissions to Plaintiff;
3. Defendant's Answers to Plaintiff's Requests for Production and Interrogatories to Plaintiff; and
4. Defendant's Expert Disclosure and Supplemental NRCP 16.1(a)(3) Pre-Trial Disclosures.

II.

DEPOSITIONS TAKEN TO DATE

1. Deposition of Plaintiff Bahram Yahyavi taken on May 3, 2016;
2. Deposition of Kevin Mackey taken on May 24, 2016;
3. Deposition of David Oliveri, M.D., taken on September 21, 2016;
4. Deposition of Michael Milano, M.D., taken on September 30, 2016;
5. Deposition of Sergeant Robert Stauffer taken on May 18, 2018; and
6. Deposition of Detective Eric Grimmesey taken on June 20, 2018.

III.

DISCOVERY THAT REMAINS TO BE COMPLETED

1. The parties need to retain additional rebuttal experts.
2. The parties need to depose each other's respective experts.
3. Defendant needs to depose Plaintiff's treating physicians.

This is not intended to be a full and complete list of discovery to be performed, as discovery will evolve as it progresses.

IV.

REASONS DISCOVERY WAS NOT COMPLETED WITHIN THE TIME LIMITS AND NEEDS TO BE EXTENDED

Although the Parties have diligently been working on this matter, Plaintiff's experts need more time to complete their respective reports due to personal scheduling conflicts and, one expert in particular, return from a medical leave of absence. Accordingly, there are still depositions in this matter that need to be completed and discovery to be conducted.

V.

CURRENT DISCOVERY DEADLINES AND TRIAL DATE

| | |
|---|-------------------------------|
| Last day to amend pleadings or add parties: | <i>Closed</i> – July 6, 2018; |
| Initial Expert Disclosure: | <i>Closed</i> – July 6, 2018; |
| Rebuttal Expert Disclosures: | August 6, 2018; |
| Discovery Cutoff: | October 5, 2018; |
| Dispositive Motions: | November 5, 2018; and |
| Trial: | December 31, 2018. |

VI.

PROPOSED DISCOVERY DEADLINES AND TRIAL DATE

| | |
|---|-------------------------------|
| Last day to amend pleadings or add parties: | <i>Closed</i> – July 6, 2018; |
| Initial Expert Disclosure: | <i>Closed</i> – July 6, 2018; |
| Rebuttal Expert Disclosures: | August 31, 2018; |
| Discovery Cutoff: | October 5, 2018; |

Dispositive Motions:

November 5, 2018; and

Trial:

December 31, 2018.

VII.

CURRENT TRIAL DATE


The case is set for a trial setting on December 31, 2018. The parties proposed stipulation will not affect the current trial setting.

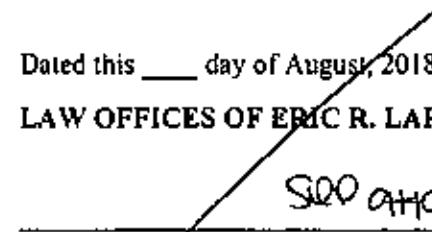
Dated this 21st day of August, 2018.

Dated this ____ day of August, 2018.

EGLET PRINCE

LAW OFFICES OF ERIC R. LARSEN



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Capriati Construction Corp., Inc.

See attached

Dated this 20th day of August, 2018.

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP.


DAVID S. KAHN, ESQ.
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CARA T. LAURSEN, ESQ.
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Attorneys for Defendant
Capriati Construction Corp., Inc.

EGLET PRINCE

Dispositive Motions:

November 5, 2018; and

Trial:

December 31, 2018.

VII.

CURRENT TRIAL DATE

The case is set for a trial setting on December 31, 2018. The parties proposed stipulation will not affect the current trial setting.

Dated this ____ day of August, 2018.

Dated this 20th day of August, 2018.

EGLET PRINCE

LAW OFFICES OF ERIC R. LARSEN

See attached
DENNIS M. PRINCE, ESQ.

See attached
MARK J. BROWN, ESQ.

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Las Vegas, Nevada 89101

Capriati Construction Corp., Inc.

Attorneys for Plaintiff

Bahram Yahyavi

Dated this ____ day of August, 2018.

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

See attached
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Nevada Bar No. 7038

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Las Vegas, Nevada 89101

Attorneys for Defendant

Capriati Construction Corp., Inc.

ORDER

Upon consideration of the above Stipulation, and good cause shown, the discovery deadlines shall be extended as follows:

| | |
|---|------------------------|
| Last day to amend pleadings or add parties: | Closed – July 6, 2018; |
| Initial Expert Disclosure: | Closed – July 6, 2018; |
| Rebuttal Expert Disclosures: | August 31, 2018; |
| Discovery Cutoff: | October 5, 2018; |
| Dispositive Motions: | November 5, 2018; and |
| Trial: | December 31, 2018. |

IT IS SO ORDERED.

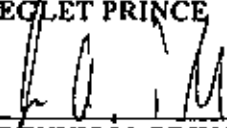
DATED this 23 day of August, 2018.

*A separate amended schedule
Order will not be issued, the
trial date of 12-31-18 stands.*


DISCOVERY COMMISSIONER

Respectfully Submitted By:

EGLET PRINCE


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TRACY A. EGLET, ESQ.

Nevada Bar No. 6419

JAMES A. TRUMMELL, ESQ.

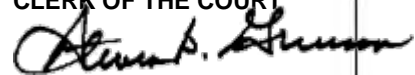
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22 *Attorneys for Defendant,*

23 *Capriati Construction Corp., Inc.*

24 **DISTRICT COURT**

25 **CLARK COUNTY, NEVADA**

26 **BAHRAM YAHYAVI,**

27 Plaintiff,

28 v.

CAPRIATI CONSTRUCTION CORP., INC.,
a Nevada corporation,

Defendant.

CASE NO.: A-15-718689-C

DEPT.: XXVIII

**DEFENDANT CAPRIATI
CONSTRUCTION CORP., INC.'S FIRST
SUPPLEMENTAL INDIVIDUAL PRE-
TRIAL MEMORANDUM**

Defendant, CAPRIATI CONSTRUCTION CORP., INC., by and through its attorneys of record, DAVID S. KAHN, ESQ. and MARK SEVERINO, ESQ. of the law firm of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, and Mark J. Brown, Esq. of the Law Offices of ERIC R. LARSEN, submit Defendant's individual pre-trial memorandum for the Court's consideration pursuant to EDCR 2.67:

Pursuant to EDCR 2.67(a), the plaintiff is to designate the time and place of an EDCR 2.67 meeting, and plaintiff has recently done so. Defendant remains willing to meet to coordinate trial

1 evidence, witnesses, and any other pretrial matters required, but understands this pleading may be
2 due today by the applicable court rules, and therefore files its individual pre-trial memorandum.
3 Following any meeting of counsel for trial, defendant is amenable to participating in the preparation
4 of a Joint Pretrial Memorandum and/or supplementing this pleading (**with newly disclosed**
5 **documents and witnesses in bold**).

6
7 **I.**
STATEMENT OF FACTS

8 This matter involves claims for personal injuries from a motor vehicle accident on June 19,
9 2013, in Las Vegas, Nevada. Defendant Capriati Construction Corp., Inc. (hereinafter "Capriati"
10 or Defendant) had an employee who was operating a forklift in a construction zone at Sahara Ave.
11 and East Glen Avenue ("Glen"). Plaintiff Bahram Yahyavi (hereinafter "Yahyavi" or Plaintiff) was
12 working for a car dealership, and was driving a Dodge Charger between two different car dealership
13 lots. As Plaintiff approached that intersection traveling eastbound, adjacent to a construction zone,
14 the forks of the forklift made contact with his vehicle at the passenger side A-pillar and windshield.

15 **II.**
PLAINTIFF'S CLAIMS FOR RELIEF

16 Plaintiff alleges that Defendant's negligence was the direct and proximate cause of
17 Plaintiff's injuries and that Plaintiff was damaged as a result of Defendant's negligence.

18 **III.**
DEFENDANT'S AFFIRMATIVE DEFENSES

19
20 **FIRST AFFIRMATIVE DEFENSE**

21 This answering Defendant states that the allegations contained in the Complaint fail to state
22 a cause of action against this Defendant upon which relief can be granted.

23 **SECOND AFFIRMATIVE DEFENSE**

24 The liability, if any, of this answering Defendant must be reduced by the percentage of fault
25 of others, including Plaintiff herein.

26 **THIRD AFFIRMATIVE DEFENSE**

27 It has been necessary for this answering Defendant to retain counsel to defend this action, and
28 it is, therefore, entitled to an award of reasonable attorneys' fees.

1 ///

2 FOURTH AFFIRMATIVE DEFENSE

3 The Plaintiff has failed to mitigate its damages, if any, in fact exists or were incurred, the
4 existence of which is expressly denied.

5 FIFTH AFFIRMATIVE DEFENSE

6 Some of the foregoing Affirmative Defenses have been plead for purposes of non-waiver.
7 This answering Defendant has not concluded discovery in this matter and specifically reserves the
8 right to amend this Answer to include additional Affirmative Defenses if discovery warrants.

9 SIXTH AFFIRMATIVE DEFENSE

10 This answering Defendant alleges that the occurrence referred to in the Complaint, and all
11 injuries and damages, if any, resulting therefrom, were caused by the acts or omissions of a third
12 party over whom this answering Defendant had no control, nor the right, duty or obligation to
13 control.

14 SEVENTH AFFIRMATIVE DEFENSE

15 This answering Defendant is not legally liable for Plaintiff's alleged injuries and/or damages,
16 if any, because no act and/or omission on the part of this Defendant proximately and/or legally
17 caused Plaintiff's claimed injuries and damages, as causation for the incident sued upon was that of
18 an intervening and/or superseding nature.

19 EIGHTH AFFIRMATIVE DEFENSE

20 Pursuant to N.R.C.P.11, all possible Affirmative Defenses may not have been raised herein
21 as sufficient facts were not available after reasonable inquiry upon the filing of this Answer.
22 Therefore, this answering Defendant reserves the right to amend its Answer or allege additional
23 Affirmative Defenses if subsequent investigation so warrants.

24 NINTH AFFIRMATIVE DEFENSE*

25 This matter is subject to Nevada's mandatory Arbitration Program.

26 TENTH AFFIRMATIVE DEFENSE

27 Plaintiff has failed to name a necessary party for full and adequate relief essential to this
28

1 action.

2 ELEVENTH AFFIRMATIVE DEFENSE*

3 Plaintiff has failed to properly and timely effectuate service and this Complaint therefore
4 must be dismissed.

5 TWELFTH AFFIRMATIVE DEFENSE*

6 Plaintiff' actions against this answering Defendant are moot because Plaintiff's actions are
7 barred by the applicable Statute of Limitations.

8 IV.

9 LIST OF CLAIMS OR DEFENSES TO BE ABANDONED

10 Defendant abandons affirmative defenses numbers 9, 11, and 12 (*), based on the current
11 state of the information known to defendant, however defendant reserves the right to reinstate
12 such affirmative defenses should the information, evidence, and documents adduced at trial
13 provide support for these affirmative defenses. The other affirmative defenses will be evaluated at
14 the close of evidence.

15 V.

16 EXHIBITS

17 The parties have not met yet to agree to joint trial exhibits. The defendant objects as to
18 foundation for all exhibits listed in Plaintiff's pre-trial memorandum. Defendant objects as to any
19 experts identified by plaintiff which have not been properly disclosed or whose opinions have not
20 been properly disclosed, including any non-retained experts not complying with the requirements
21 for disclosure. The defendant objects as to authenticity for all exhibits lacking in affidavits or
22 declarations of custodians of records (in accordance with statutory requirements) for all exhibits
23 listed in Plaintiff's pre-trial memorandum or which plaintiff may attempt to use at trial if not
24 previously disclosed.

25 A. Exhibits which defendant expects to offer at trial:

Defendant expects that it will offer any of the following documents¹ into evidence at the time of trial:

| DOCUMENT | BATES NO. |
|--|------------------------------------|
| Selected records re cervical spine injury and treatment, examination, and/or imaging studies prior to accident, including blow-ups, highlighted portions, and re-typed language from records | |
| Selected records re right knee injury from prior to accident Withdrawn due to Plaintiff's withdrawal of knee claims. Defendant reserves the right to utilize these properly disclosed records should plaintiff's withdrawal for any reason change. | |
| Demonstrative exhibits related to crash tests | |
| Demonstrative exhibits related to timelines | |
| Exemplar car pieces or parts | |
| Other demonstrative exhibits – utilized by counsel or the defense experts | |
| Defendant's Answer to Plaintiff's Complaint | |
| Plaintiff's Complaint | |
| Selected workers' compensation documents | |
| Selected records showing vehicle speed | |
| Claims file of Associated Risk Management | |
| Workman compensation details of documents dealing with Associated Risk Management <i>previously disclosed by Plaintiff</i> | |
| Associated Risk Management, Inc. workmen compensation claims file for Claim No. 5003-0202-2013-0371 – <i>previously disclosed by Plaintiff</i> | |
| Claims file of Associated Risk Management – <i>previously disclosed by Plaintiff</i> | |
| Forty-three (43) color and black & white photographs of the accident scene | |
| Forty-three (43) color and black and white photographs of the accident scene – <i>previously disclosed by Plaintiff</i> | |
| Additional 38 photographs of accident scene and vehicles | |
| Employment records of Chapman Dodge | |
| Employment/personnel file from Chapman Chrysler Jeep, LLC received pursuant to deposition subpoena duces tecum | Chapman 000001 – Chapman 000681 |
| Medical records of University Medical Center | |

¹ Bates numbers are provided where available. Defendant notes that the vast majority of documents disclosed in this case do not bear bates numbers, as they were not assigned bates numbers at the time of disclosure.

| DOCUMENT | BATES NO. |
|--|--|
| Medical records of University Medical Center <i>previously disclosed by Plaintiff</i> | |
| Medical records of University Medical Center dated 6/19/13 through 4/02/14 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and files of Southwest Medical Associates | |
| Medical records and billing of Southwest Medical Associates dated 4/16/14 through 12/04/17 – <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records of Southwest Medical Associates | |
| Deposition Transcript and exhibits of Michael Miao, M.D. (September 30, 2016) | |
| Deposition Transcript and exhibits of David Oliveri, M.D. (September 21, 2016) | |
| Deposition Transcript and exhibits of Joshua Arbuckle, (September 5, 2018) | |
| Complete file received from Terrence Clauretie, Ph.D. received pursuant to deposition subpoena duces tecum | Clauretie 000001 Clauretie 000147 |
| Additional file received from Terrence Clauretie, Ph.D. | Clauretie 000148 – Clauretie 000152 |
| Radiology (on CD) and Declaration of Certificate of Medical Records Custodian from Southwest Medical Associates | |
| Deposition Transcript and exhibits of Ira Spector, M.S., C.R.C (December 18, 2018) | |
| Appeals officer workman compensation, correspondence from workmans' compensation, correspondence from Workmans' comp issues, letters, reviews, appeals, medical bills, reports, procedures from various medical treatments, doctors, physicians, x-rays, correspondence between attorneys – <i>previously disclosed by Plaintiff</i> | |
| Decision, Order from Appeal Officer, Department of Administration, State of Nevada – <i>previously disclosed by Plaintiff</i> | |
| Medical records of Downtown Neck & Back Clinic | |
| Medical and billing records of Joseph Schifini, M.D. <i>previously disclosed by Plaintiff</i> | |
| Functional Capacity Evaluation of March 27, 2015 by Doug Ellis, PT at Matt Smith Physical Therapy | |

| DOCUMENT | BATES NO. |
|--|--|
| Medical and billing records and affidavit of no films of Shadow Emergency Physicians – <i>previously disclosed by Plaintiff</i> | |
| Partial Permanent Disability report from David Oliveri, M.D. dated 4/23/15 – <i>previously disclosed by Plaintiff</i> | |
| Itemized Statement of Earnings for Years 2009 through 2012 from Social Security Administration dated 5/11/18 – <i>previously disclosed by Plaintiff</i> | |
| All tax and income records produced by plaintiff | |
| Ira J. Spector, M.S., C.R.C. Job File | Spector 0001 (on disk) |
| Deposition Transcripts and Exhibits of John E. Baker, Ph.D | |
| Deposition Transcript and Exhibits of Timothy Leggett, P.E. (December 5, 2018) | |
| Deposition Transcript and Exhibits to Deposition of Cliff O. Goodrich testifying both individually and as NRCP 30(b)(6) witness of Capriati Construction | |
| Timothy Leggett, P.E.'s Job File | Leggett 0001(on disk) |
| Bahram Yahyavi social media and corporate information | Social Media 000001 – Social Media 000008 |
| Plaintiff's answers to Capriati Construction Corp., Inc.'s First Set of Interrogatories | None – N/A |
| Plaintiff's answers to Capriati Construction Corp., Inc.'s Second Set of Interrogatories | None – N/A |
| Plaintiff's answers to Capriati Construction Corp., Inc.'s Third Set of Interrogatories | None – N/A |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s First Set of Requests for Admission | None – N/A |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s Second Set of Requests for Admission | None – N/A |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s First Set of Requests for Production of Documents | None – N/A |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s Second Set of Requests for Production of Documents | None N/A |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s Third Set of Requests for Production of Documents | None – N/A |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s Fourth Set of Requests for Production of Documents | None – N/A |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s Fifth Set of Requests for Production of Documents | None – N/A |

| DOCUMENT | BATES NO. |
|---|------------|
| Plaintiff's responses to Capriati Construction Corp., Inc.'s Sixth Set of Requests for Production of Documents | None – N/A |
| Deposition Transcript and Exhibits of Mary Ann Shannon, M.D. (December 14, 2018) | |
| Deposition Transcript and Exhibits of Terrence M. Clauretie, Ph.D., (December 17, 2018) | |
| Functional Capacity Evaluation of February 8, 2019, by Douglas Ellis, PT at Matt Smith Physical Therapy | |
| Bahram Yahyavi's responses to Defendant S.E. Combined Services of California, Inc. dba El Camino Hospital's First Set of Special Interrogatories (Set One) from Superior Court of the State of California in case entitled <i>Bahram Yayavi and Soodabeh Yahyavi v. Service Corporation International</i>, Case Number 37-2017-00050011-CU-BC-CTL. | |
| Bahram Yahyavi's responses to Defendant S.E. Combined Services of California, Inc. dba El Camino Hospital's First Set of Form Interrogatories (Set One) from Superior Court of the State of California in case entitled <i>Bahram Yayavi and Soodabeh Yahyavi v. Service Corporation International</i>, Case Number 37-2017-00050011-CU-BC-CTL. | |
| Bahram Yahyavi's responses to Defendant S.E. Combined Services of California, Inc. dba El Camino Memorial's Supplemental Interrogatory from Superior Court of the State of California in case entitled <i>Bahram Yayavi and Soodabeh Yahyavi v. Service Corporation International</i>, Case Number 37-2017-00050011-CU-BC-CTL. | |
| Bahram Yahyavi's deposition transcript dated April 20, 2018 from the Superior Court of the State of California in case entitled <i>Bahram Yayavi and Soodabeh Yahyavi v. Service Corporation International</i>, Case Number 37-2017-00050011-CU-BC-CTL. | |
| Plaintiff's Motion in Limine No. 2 to exclude evidence of Plaintiff's prior litigation in case | |

| DOCUMENT | BATES NO. |
|---|-------------------------|
| entitled <i>Bahram Yahyavi and Snodabeh Yahyavi v. Service Corporation International</i> , Case Number 37-2017-00050011-CU-BC-CTL. | |
| Defendant Capriati Construction's independent crash test data produced via drop box link due to size and volume of documents. Link sent by email to: dprince@thedplg.com | |
| Defendant Capriati Construction's Order Granting Motion and Modifying Automatic Stay in Bankruptcy Case Number 15-15722-abl entered 12/22/2016. | |
| Crash Test Report dated 6/21/2019 previously disclosed to Plaintiff's Counsel via email | CALSPAN0001-CALSPAN0004 |
| ATI Physical Therapy Medical and Billing records dated 01/09/19 through 02/20/19 – <i>previously disclosed by Plaintiff</i> | |
| Medical Records of Las Vegas Neurosurgical Institute (formerly Western Regional Center for Brain & Spine) dated 06/01/18 through 02/13/19 – <i>previously disclosed by Plaintiff</i> | |
| Medical and Billing Records of Neurology Center of Las Vegas dated 10/05/17 through 01/29/19 – <i>previously disclosed by Plaintiff</i> | |
| Medical and Billing Records of Steinberg Diagnostic Imaging dated 08/31/18 through 11/26/18 – <i>previously disclosed by Plaintiff</i> | |
| Functional capacity evaluation authored by Douglas Ellis, P.T. at ATI Physical Therapy for Bahram Yahyavi's Workers' Compensation claim, and dated 02/08/19 – <i>previously disclosed by Plaintiff</i> | |
| Staci Ross, Ph.D. Medical Records, <i>previously disclosed by plaintiff on 08/09/19 at 4:24p.m.</i> | |

Defendant reserves the right to supplement this identification of documents as necessary and further reserves the right to use documents or tangible things identified by another party to this action, referenced by any witness at trial, or any document or tangible thing not identified for purpose of impeachment or rebuttal.

1 Defendant reserves the right to utilize any document identified by any party to this action
2 and specifically reserves the right to object to any documents identified by other parties at the time
3 of trial and to documents or other materials or evidence referenced by any witness at trial.

4 **B. Exhibits which may be used at trial for impeachment or rebuttal:**

5 The Defendant may offer the following documents for impeachment or rebuttal purposes at
6 trial:

7 Defendant may utilize all documents listed above as expected to call exhibits under section
8 A. Defendant also reserves the right to use any documents identified by any party, any documents
9 which may be needed for impeachment or rebuttal based upon new or different testimony of
10 witnesses including experts, and/or any materials considered by experts but not yet disclosed by
11 them.

12 Defendant reserves the right to supplement this identification of documents as necessary and
13 further reserves the right to use documents or tangible things identified by another party to this
14 action or any document or tangible thing not identified for purpose of impeachment or rebuttal.

15 Defendant reserves the right to utilize any document identified by any party to this action
16 and specifically reserves the right to object to any documents identified by other parties at the time
17 of trial. Defendant reserves the right to utilize any demonstrative exhibit used by other parties to
18 this action.

19 Defendant reserves the right to use as evidence all transcripts of depositions from other
20 cases, or courtroom testimony from other cases, for any expert designated by plaintiff or utilized by
21 plaintiff at trial.

22 **C. Exhibits which defendant may offer at the time of trial, should the need arise:**

| DOCUMENT | BATES NO. |
|---|-----------|
| Defendant's Answer to Plaintiff's Complaint | |
| Complaint | |
| Copy of insurance policy pursuant to NRCP 16.1 (a)(1)(D) | |
| Claim file of Chynoweth, Hill & Leavitt, LLC | |
| Medical and billing records and affidavit of no films of Clinical Neurology Specialists | |

| DOCUMENT | BATES NO. |
|--|------------------|
| Medical and billing records of Desert Orthopedic Center | |
| Medical and billing records of Dipti Shah, MD | |
| Medical and billing records of Downtown Neck & Back Clinic | |
| Medical and billing records of Joseph Schifini, MD | |
| Medical and billing records and affidavit of no films of Kelly Hawkins Physical Therapy | N/A |
| Medical and billing records and affidavit of no Films of Kinex Medical Company | |
| Medical and billing records and affidavit of no films of Matt Smith Physical Therapy | |
| Medical records and affidavit of no films of Nevada Spine Clinic | |
| Medical and billing records of PBS Anesthesia | |
| Medical records of Smoke Ranch Surgery Center | |
| Billing records of University Medical Center | |
| Claims file of Associated Risk Management | |
| Medical and billing records and affidavit of no films of Center for Occupational Health & Wellness | |
| Billing records of CVS Pharmacy | |
| Medical and billing records and affidavit of no films of David Oliveri, MD | |
| Medical and billing records of Desert Radiologists | |
| Medical records and affidavit of no films of Heart Center of Nevada | |
| Billing records of Nevada Spine Clinic | |
| Films of University Medical Center | |
| Billing records of Zotec Partners | |
| Police report | |
| Forty-three (43) color and black & white photographs of the accident scene | |
| Films of Desert Radiologists | |
| Affidavit of no records of Healthcare Partners | |
| Medical and billing records and affidavit of no films of Matt Smith Physical Therapy | |
| Medical and billing records of National Pharmaceutical Services | |
| Affidavit of no records of Medschool-South Department of Surgery | |
| Medical and billing records and affidavit of no films of Shadow Emergency Physicians | |
| Medical records of University Medical Center | |
| Affidavit of no records of Medschool Associates | |
| Medical and billing records and films of Steinberg Diagnostic Medical Imaging | |

| DOCUMENT | BATES NO. |
|---|------------------|
| Excess insurance policy | |
| Plaintiff related social media | |
| Plaintiff related Court Docket Matters | |
| Medical records and billing and affidavit of no films of Shanker Dixit, MD | |
| Medical records and billing and affidavit of no films of Single day Surgery | |
| Employment records of Chapman Dodge | |
| Medical record and billing and films of Mountain West Chiropractic | |
| Medical records and billing of Steinberg Diagnostic Medical Imaging | |
| Additional 38 photographs of accident scene and vehicles | |
| Medical and billing records and affidavit of no films of Stuart S. Kaplan, MD | |
| Medical records and films of Southwest Medical | |
| Certificate of no records of Southwest Medical, Eastern location | |
| Records of Chapman Dodge regarding 2012 Dodge Charger | |
| Medical and billing records and affidavit of no films of Southern Nevada Pain Center | |
| Medical and billing records and films of Single Day Surgery Center | |
| Medical and billing records and affidavit of no films of Desert Valley Therapy | |
| Deposition transcript of Kevin Mackey (May 24, 2016) | |
| Exhibit 1 to deposition transcript of Kevin Mackey (May 24, 2016) – color photograph | |
| Exhibit 2 to deposition transcript of Kevin Mackey (May 24, 2016) – color photograph | |
| Exhibit 3 to deposition transcript of Kevin Mackey (May 24, 2016) – color photograph | |
| Exhibit 4 to deposition transcript of Kevin Mackey (May 24, 2016) – color photograph | |
| Deposition transcript of Eric Grimmesey (June 20, 2018) | |
| Exhibit 1 to deposition transcript of Eric Grimmesey (June 20, 2018) color photograph | |
| Exhibit 2 to deposition transcript of Eric Grimmesey (June 20, 2018) – color photograph | |
| Exhibit 3 to deposition transcript of Eric Grimmesey (June 20, 2018) – color photograph | |

| DOCUMENT | BATES NO. |
|--|-----------|
| Exhibit 4 to deposition transcript of Eric Grimmesey (June 20, 2018) – color photograph | |
| Exhibit 5 to deposition transcript of Eric Grimmesey (June 20, 2018) – Traffic Accident Report | |
| Deposition Transcript of Michael Miao, M.D. (September 30, 2016) | |
| Exhibit A to deposition transcript of Michael Miao, M.D. (September 30, 2016) – Medical Records | |
| Exhibit B to deposition transcript of Michael Miao, M.D. (September 30, 2016) – Dr. Herr's Records | |
| Exhibit C to deposition transcript of Michael Miao, M.D. (September 30, 2016) – CV and Case Log | |
| Deposition transcript of Sergeant Robert Stauffer (May 18, 2018) | |
| Exhibit 1 to deposition transcript of Sergeant Robert Stauffer (May 18, 2018) – Traffic Accident Report | |
| Exhibit 2 to deposition transcript of Sergeant Robert Stauffer (May 18, 2018) – One-page color-copied photograph | |
| Exhibit 3 to deposition transcript of Sergeant Robert Stauffer (May 18, 2018) – State of Nevada Form 5 Code List | |
| Deposition Transcript of David Oliveri, M.D. (September 21, 2016) | |
| Exhibit 1 to deposition transcript of David Oliveri, M.D. (September 21, 2016) | |
| Deposition Transcript of Joshua Arbuckle, (September 5, 2018) | |
| Exhibit 1 to deposition transcript of Joshua Arbuckle, (September 5, 2018) – Photograph | |
| Exhibit 2 to deposition transcript of Joshua Arbuckle, (September 5, 2018) – Photograph | |
| Exhibit 3 to deposition transcript of Joshua Arbuckle, (September 5, 2018) Photograph | |
| Exhibit 4 to deposition transcript of Joshua Arbuckle, (September 5, 2018) – Photograph | |
| Exhibit 5 to deposition transcript of Joshua Arbuckle, (September 5, 2018) – Photograph | |
| Exhibit 6 to deposition transcript of Joshua Arbuckle, (September 5, 2018) – Photograph | |
| Exhibit 7 to deposition transcript of Joshua Arbuckle, (September 5, 2018) – Photograph | |
| Exhibit 8 to deposition transcript of Joshua Arbuckle, (September 5, 2018) – Photograph | |

| DOCUMENT | BATES NO. |
|---|--|
| Complete medical file received from Terrence Clauretie, Ph.D. received pursuant to deposition subpoena duces tecum | Clauretie 000001 – Clauretie 000147 |
| Medical records of Summerlin Hospital Medical Center | |
| Employment/personnel file from Chapman Chrysler Jeep, LLC received pursuant to deposition subpoena duces tecum | Chapman 000001 – Chapman 000681 |
| Radiology (on CD) and Declaration of Certificate of Medical Records Custodian from Valley Hospital Medical Center | |
| Radiology (on CD) and Declaration of Certificate of Medical Records Custodian from Southwest Medical Associates | |
| Clark Court District Court Register of Actions for Bahram Yahyavi v. Behnoosh Shahidi, Case No. D-18-564329-D | |
| Clark Court District Court Register of Actions and Court-Certified Copies of Civil Records from Robbins and Keehan APC v. Bahram Yahyavi, Case No. 07A547565 | |
| Clark Court District Court Register of Actions and Court-Certified Copies of Civil Records from Robert E. Duggan, et al. v. Karim A. Yahyavi, et al., Case No. A-17-751392-F | |
| Clark Court District Court Register of Actions and Court-Certified Copies of Civil Records from Richland Holdings, Inc. v. Bahram A. Yahyavi, Case No. A-17-750322-C | |
| Grant, Bargain, Sale Deed for property at commonly known address: 112 Quail Run Road, Henderson, NV 89014 | |
| Deposition Exhibits to Deposition Transcripts of Ira Spector, M.S., C.R.C., Mary Ann Shannon, M.D., Terrence M. Clauretie, Ph.D., Timothy Leggett, P.E. (exhibits 1 through 13) | |
| Deposition Exhibits and/or documentation produced in response to the Deposition of the Custodian of Records for the Clark County Department of Public Works, Custodian of Records for CH2M Hill, Custodian of Records for Chapman Las Vegas Dodge | |
| Workman compensation details of documents dealing with Associated Risk Management – <i>previously disclosed by Plaintiff</i> | |

| DOCUMENT | BATES NO. |
|---|-----------|
| Bills, Cost, payments, medical receipt, correspondence, tax returns – <i>previously disclosed by Plaintiff</i> | |
| Appeals officer workman compensation, correspondence from Workmans' compensation, correspondence from Workmans' comp issues, letters, reviews, appeals, medical bills, reports, procedures from various medical treatments, doctors, physicians, x-rays, correspondence between attorneys (Bates BY 0310 – 0351) – <i>previously disclosed by Plaintiff</i> | |
| Associated Risk Management, Inc. workmen compensation claims file for Claim No. 5003-0202-2013-0371 – <i>previously disclosed by Plaintiff</i> | |
| Medical paperwork, records of various dates from Shadow Emergency Physicians <i>previously disclosed by Plaintiff</i> | |
| Decision, Order from Appeal Officer, Department of Administration, State of Nevada <i>previously disclosed by Plaintiff</i> | |
| Medical records of Joseph J. Schifini, M.D. – <i>previously disclosed by Plaintiff</i> | |
| Medical records of Las Vegas Surgery Center – <i>previously disclosed by Plaintiff</i> | |
| Medical records of Desert Medical Group – <i>previously disclosed by Plaintiff</i> | |
| Medical records of Matt Smith Physical Therapy – <i>previously disclosed by Plaintiff</i> | |
| Medical records of Desert Orthopedic Center <i>previously disclosed by Plaintiff</i> | |
| Las Vegas Surgery Center (collectively Exhibit No. 1) – <i>previously disclosed by Plaintiff</i> | |
| Copy of insurance policy pursuant to NRCP 16.1 (a)(1)(D) – <i>previously disclosed by Plaintiff</i> | |
| Claim file of Chynoweth, Hill & Leavitt, LLC – <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records and affidavit of no films of Clinical Neurology Specialists <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records of Desert Orthopedic Center <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records of Dipti Shah, M.D. <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records of Downtown Neck & Back Clinic – <i>previously disclosed by Plaintiff</i> | |

| DOCUMENT | BATES NO. |
|---|-----------|
| Medical and billing records of Joseph Schifini, M.D. - <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records and affidavit of no films of Kelly Hawkins Physical Therapy - <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records and affidavit of no films of Kinex Medical Company - <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records and affidavit of no films of Matt Smith Physical Therapy - <i>previously disclosed by Plaintiff</i> | |
| Medical records and affidavit of no films of Nevada Spine Clinic - <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records of PBS Anesthesia <i>previously disclosed by Plaintiff</i> | |
| Medical records of Smoke Ranch Surgery Center <i>previously disclosed by Plaintiff</i> | |
| Billing records of University Medical Center <i>previously disclosed by Plaintiff</i> | |
| Claims file of Associated Risk Management <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records and affidavit of no films of Center for Occupational Health & Wellness - <i>previously disclosed by Plaintiff</i> | |
| Billing records of CVS Pharmacy - <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records and affidavit of no films of David Oliveri, M.D. - <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records of Desert Radiologists - <i>previously disclosed by Plaintiff</i> | |
| Medical records and affidavit of no films of Heart Center of Nevada - <i>previously disclosed by Plaintiff</i> | |
| Billing records of Nevada Spine Clinic <i>previously disclosed by Plaintiff</i> | |
| Films of University Medical Center - <i>previously disclosed by Plaintiff</i> | |
| Billing records of Zotec Partners - <i>previously disclosed by Plaintiff</i> | |
| Police report - <i>previously disclosed by Plaintiff</i> | |
| Forty-three (43) color and black and white photographs of the accident scene - <i>previously disclosed by Plaintiff</i> | |
| Films of Desert Radiologists - <i>previously disclosed by Plaintiff</i> | |

| DOCUMENT | BATES NO. |
|---|-----------|
| Affidavit of no records of Healthcare Partners – <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records and affidavit of no films of Matt Smith Physical Therapy <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records of National Pharmaceutical services – <i>previously disclosed by Plaintiff</i> | |
| Affidavit of no records of Medschool-South Department of Surgery – <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records and affidavit of no films of Shadow Emergency Physicians – <i>previously disclosed by Plaintiff</i> | |
| Medical records of University Medical Center – <i>previously disclosed by Plaintiff</i> | |
| Affidavit of no records of Medschool Associates – <i>previously disclosed by Plaintiff</i> | |
| Records and bills from Southern Nevada Pain Center – <i>previously disclosed by Plaintiff</i> | |
| Billing from Nevada Spine Clinic – <i>previously disclosed by Plaintiff</i> | |
| Billing records from Desert Orthopedic Center – <i>previously disclosed by Plaintiff</i> | |
| Additional records from Radar Medical Group – <i>previously disclosed by Plaintiff</i> | |
| Billing records from Radar Medical Group – <i>previously disclosed by Plaintiff</i> | |
| Additional records from Southern Nevada Pain Center – <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records and films of Steinberg Diagnostic Medical Imaging – <i>previously disclosed by Plaintiff</i> | |
| Medical and billing records from Single Day Surgery Center – <i>previously disclosed by Plaintiff</i> | |
| Medical Summary of Plaintiff – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Institute of Orthopaedic Surgery – <i>previously disclosed by Plaintiff</i> | |
| Medical records of Las Vegas Surgery Center (complete) dated 12/09/13 through 10/23/14 <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Lok Acupuncture dated 7/16/14 through 7/17/14 – <i>previously disclosed by Plaintiff</i> | |

| DOCUMENT | BATES NO. |
|--|-----------|
| Medical records and billing of Mountain West Chiropractic dated 6/20/17 through 8/18/17 – <i>previously disclosed by Plaintiff</i> | |
| Medical records of Single Day Surgery Center dated 6/02/17 – <i>previously disclosed by Plaintiff</i> | |
| Medical records of Southern Nevada Pain Center dated 12/28/16 through 6/16/17 -- <i>previously disclosed by Plaintiff</i> | |
| Billing statement of Summerlin Hospital dated 10/06/13 – <i>previously disclosed by Plaintiff</i> | |
| Billing statement of Surgical Anesthesia Services dated 1/30/18 – <i>previously disclosed by Plaintiff</i> | |
| Billing of University Medical Center dated 6/19/13 through 4/02/14 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Western Regional Center for Brain and Spine dated 10/12/17 through 2/15/18 <i>previously disclosed by Plaintiff</i> | |
| Life Expectancy Table – <i>previously disclosed by Plaintiff</i> | |
| Billing statement of CVS Pharmacy dated 7/12/13 through 3/13/17 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Kelly Hawkins Physical Therapy dated 7/30/13 through 9/02/14 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Las Vegas Neurosurgery, Orthopedics & Rehabilitation dated 3/19/18 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Neurology Center of Las Vegas dated 10/05/17 through 4/03/18 – <i>previously disclosed by Plaintiff</i> | |
| Partial Permanent Disability report from David Olivieri, M.D. dated 4/23/15 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Single Day Surgery Center dated 12/12/16 through 7/13/17 – <i>previously disclosed by Plaintiff</i> | |
| Medical records of Smoke Ranch Surgery Center dated 1/26/15 through 3/02/15 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Southwest Medical Associates dated 4/16/14 through 12/04/17 -- <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Steinberg Diagnostic Medical Imaging dated 6/28/16 through 2/14/18 – <i>previously disclosed by Plaintiff</i> | |

| DOCUMENT | BATES NO. |
|---|-----------|
| Medical records and billing of Summerlin Hospital dated 10/06/13 through 7/15/14 – <i>previously disclosed by Plaintiff</i> | |
| Medical records of University Medical Center dated 6/19/13 through 4/02/14 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Valley Hospital dated 1/30/18 through 2/02/18 <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Western Regional Center for Brain & Spine date 3/30/18 <i>previously disclosed by Plaintiff</i> | |
| Medical record review authored by Stuart Kaplan, M.D. dated 4/12/18 – <i>previously disclosed by Plaintiff</i> | |
| Billing statement of Kelly Hawkins Physical Therapy dated 7/30/13 through 8/20/13 – <i>previously disclosed by</i> | |
| Medical records and billing of Las Vegas Neurosurgery, Orthopedics and Rehabilitation dated 3/19/18 through 6/13/18 – <i>previously disclosed by Plaintiff</i> | |
| Itemized Statement of Earnings for Years 2009 through 2012 from Social Security Administration dated 5/11/18 – <i>previously disclosed by Plaintiff</i> | |
| Communication Center Event Search Log received from Las Vegas Metropolitan Police Department in response to a Subpoena Duces Tecum and dated 6/19/13 <i>previously disclosed by Plaintiff</i> | |
| Las Vegas Metropolitan Police Department Traffic Accident Report received in response to a Subpoena Duces Tecum and dated 6/19/13 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of ATI Physical Therapy dated 1/10/14 through 7/02/18 – <i>previously disclosed by Plaintiff</i> | |
| Billing statement of Las Vegas Neurosurgery, Orthopedics and Rehabilitations dated 3/19/18 through 6/14/18 – <i>previously disclosed by Plaintiff</i> | |
| Billing statement of Neurology Center of Las Vegas dated 10/05/17 through 4/03/18 <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Nevada Comprehensive Pain Center dated 5/21/18 through 6/21/18– <i>previously disclosed by Plaintiff</i> | |

| DOCUMENT | BATES NO. |
|---|--|
| Medical records and billing of Western Regional Center for Brain and Spine dated 5/02/18 through 6/01/18 – <i>previously disclosed by Plaintiff</i> | |
| Medical records of Valley Hospital Medical Center | |
| Medical and billing records of Southwest Medical Associates | |
| Billing of Heart Center of Nevada dated 10/15/13 through 1/8/14 – <i>previously disclosed by Plaintiff</i> | |
| Billing statement of Western Regional Center for Brain & Spine dated 6/1/18 – <i>previously disclosed by</i> | |
| Billing statement of Shield Radiology Consultants dated 6/20/16 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Nevada Comprehensive Pain Center dated 7/12/18 through 8/10/18 – <i>previously disclosed by Plaintiff</i> | |
| Medical records and billing of Steinberg Diagnostic Imaging dated 3/29/18 through 8/31/18 – <i>previously disclosed by Plaintiff</i> | |
| Ira I. Spector, M.S., C.R.C. Job File (Bates Spector 0001) | Spector 0001 (on disk) |
| Work file of Clark County Department of Public Works | |
| Work file of CH2M Hill | |
| Exhibits to Deposition Transcripts of John E. Baker, Ph.D | |
| Exhibits to Deposition Transcripts of Cliff Goodrich | |
| Exhibits to Deposition Transcripts of Cliff Goodrich as 30(b)(6) witness of Capriati Construction | |
| Timothy Leggett, P.E.'s Job File (Bates Leggett 0001) | Leggett 0001 (on disk) |
| Additional medical file received from Terrence Claurette, Ph.D. | |
| Bahram Yahyavi social media and corporate information | Social Media 000001 – Social Media 000008 |
| Medical records and billing of Nevada Comprehensive Pain Center dated 8/28/18 | |
| Medical records of Shield Radiology dated 6/20/16 | |
| Medical records and billing of ATI Physical Therapy dated 3/21/18 through 10/22/18 | |
| Billing statement of EMP of Clark LMC dated 6/19/13 through 4/2/14 | |

| DOCUMENT | BATES NO. |
|--|--------------------------|
| Billing statement of Western Regional Center for Brain & Spine (n/k/a Las Vegas Neurosurgical Institute) dated 6/1/18 through 12/7/18 | |
| Plaintiff's answers to Capriati Construction Corp., Inc.'s First Set of Interrogatories | |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s First ;Set of Requests for Production of Documents | |
| Plaintiff's answers to Capriati Construction Corp., Inc.'s Second Set of Interrogatories | |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s Second Set of Requests for Production of Documents | |
| Plaintiff's answers to Capriati Construction Corp., Inc.'s Third Set of Interrogatories | |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s Third Set of Requests for Production of Documents | |
| Plaintiff's answers to Capriati Construction Corp., Inc.'s Fourth Set of Interrogatories | |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s Fourth Set of Requests for Production of Documents | |
| Plaintiff's answers to Capriati Construction Corp., Inc.'s Fifth Set of Interrogatories | |
| Plaintiff's responses to Capriati Construction Corp., Inc.'s Fifth Set of Requests for Production of Documents | |
| Twenty-two (22) color photographs of incident scene taken by Plaintiff | |
| Records received in response to Subpoena Duces Tecum to CH2M Hill pertaining to the roadworks/roadway construction site located at or near the intersection of Sahara Avenue and North Glen Avenue occurring on June 19, 2013 at or around 10:25 a.m | |
| <i>Championnier v. United States</i> , 2013 WL 4502069 | |
| <i>Felix v. United States</i> , 2013 WL 253568 | |
| Video re Windshield Strength | |
| Associated Risk Management Records received in response to subpoena | ARM0001-ARM01362 |
| Affidavit of No Records of Health Plan of Nevada | |
| Updated medical and billing records from ATI Physical Therapy for dates of service May 17, | ATI00001-ATI00023 |

| DOCUMENT | BATES NO. |
|---|--------------------------|
| 2019 to May 22, 2019 – <i>previously disclosed by plaintiff</i> | |
| Updated medical and billing records from Center for Disease and Surgery of the Spine for dates of service March 26, 2019 through July 30, 2019 – <i>previously disclosed by plaintiff</i> | CDSS00001-CDSS00027 |
| Updated medical records and bills from Las Vegas Surgery Center for dates of service June 11, 2019 through July 3, 2019 - <i>previously disclosed by plaintiff</i> | LVSURG00001-LVSURG000043 |
| Prescription billing from Wal-Mart Pharmacy - <i>previously disclosed by plaintiff</i> | WAL00001-WAL00008 |
| Las Vegas Neurosurgical Institute for dates of service February 13, 2019-March 6, 2019 - <i>previously disclosed by plaintiff</i> | LVNI00001-LVNI000011 |
| Updated medical records and bills from Joseph Schifini, MD., Ltd., for dates of service June 3, 2019 through July 29, 2019 - <i>previously disclosed by plaintiff</i> | SCH00001-SCH000010 |
| Updated medical records and bills from Joseph Schifini, MD., Ltd., - <i>previously disclosed by plaintiff</i> | SCH000011-SCH0000127 |

Defendant reserves the right to use any document identified in this action by any party, including documents disclosed in response to written discovery and depositions, and those referenced in or attached as exhibits to depositions.

Defendant reserves the right to present as exhibits all pleadings filed in the instant matter at the time of trial, including, but not limited to the plaintiff's complaint and defendant's answer to plaintiff's complaint. Defendant also reserves the right to use as exhibits any affidavit, declaration, or factual representation made by any party, witness, or attorney, and found within the filed pleadings in this case.

Defendant further reserves the right to present as exhibits all discovery responses provided by all parties in the instant matter at the time of trial, including, but not limited to answers to interrogatories, responses to requests for production of documents, responses to requests for admissions, and disclosures pursuant to Nevada Rules of Civil Procedure 16.1 or which documents, materials, or information were otherwise disclosed, made available, or inspected during the course of discovery in this matter.

1 Defendant reserves the right to use as evidence all transcripts of deposition in this case, and
2 all exhibits to those depositions. Defendant reserves the right to use as evidence all transcripts of
3 depositions from other cases, or courtroom testimony from other cases, for any expert designated
4 by plaintiff or utilized by plaintiff at trial.

5 Defendant reserves the right to use as evidence any pleading, document, public or
6 governmental document, or information, subject to judicial notice as may be allowed by law.

7 Defendant reserves the right to use any document referenced or relied upon by any expert.

8 Defendant reserves the right to amend and/or supplement this identification of documents
9 as necessary and further reserves the right to use documents or tangible things identified by another
10 party to this action, or their experts, or any document or tangible thing not identified for purpose of
11 impeachment or rebuttal. Defendant further reserves the right to amend and/or supplement to
12 counter any new and different information, testimony, expert opinions, or documents presented by
13 any other party or by any witness at trial.

14 **D. Defendant reserves the right to object**

15 Pursuant to N.R.C.P. 16.1(c)(3), Defendant may object to the authenticity of any document
16 produced by the parties without proper authentication from the custodian of records or the
17 opportunity to inspect the originals from which they were produced. Defendant specifically objects
18 to any records which do not contain the custodian of records affidavit or declaration as required by
19 statute or law.

20 Defendant reserves its right to object to the foundation of any document.

21 Defendant reserves its right to object to any experts or non-retained experts not properly
22 designated. This includes objections where the designation of any non-retained experts have not
23 been properly disclosed with all required attachments.

24 Defendant hereby reserves its right to object to the pretrial disclosures submitted by other
25 parties in this matter. This includes any and all demonstrative exhibits as well as a party's witnesses
26 and documents.

27 **VI.**

28 **ANY AGREEMENTS AS TO THE LIMITATION OR EXCLUSION OF EVIDENCE**

1 The defendant objects as to foundation and authenticity for all exhibits listed in Plaintiff's
2 pre-trial memorandum, other than as to authentication where the statutory requirements have been
3 followed. Additionally, Defendant incorporates herein all objections to Plaintiff's exhibits and
4 expert disclosures that were previously served, filed, sent, or made.

5 The parties have agreed to limit or exclude evidence at trial as follows:

6 a. None.

7 **VII.**
8 **WITNESSES**

9 Defendant objects to any of Plaintiff's treatment providers testifying in any expert witness
10 capacity. Defendant objects to any of Plaintiff's treatment providers testifying beyond the
11 documents, information, and materials necessary for their treatment of Plaintiff. Defendant objects
12 to any documents and information provided to treatment providers by counsel. Defendant objects
13 to causation opinions being rendered by any treating physicians where the disclosures have not
14 conformed to the statutory and legal requirements for medical professionals or other witnesses to
15 be allowed to render opinions as non-retained experts. Additionally, Defendant further objects to
16 testimony by Plaintiff's expert Timothy Leggett, P.E., in its entirety, or requiring that he testify only
17 in rebuttal to Defendant's expert John Baker, Ph.D., during Plaintiff's rebuttal case, as raised in a
18 separate motion in limine pleading, and subject to an Order in this case.

19 **A. Defendant intends to call the following witnesses at the time of trial:**

- 20 1. Howard Tung, MD (Defense Expert)
21 4510 Executive Dr., Ste. 125
22 San Diego, CA 92121
- 23 2. ~~John E. Herr, M.D. (Defense Expert)~~
24 ~~4425 S. Pecos Rd., Ste. 1~~
25 ~~Las Vegas, NV 89121~~
26 Withdrawn based on withdrawal of plaintiff knee claims. Defendant reserves
27 the right to utilize this properly disclosed expert should plaintiff's withdrawal
28 for any reason change.
3. John E. Baker, Ph.D., P.E. (Defense Expert)
7380 S. Eastern Ave., Ste. 124-142
Las Vegas, NV 89123
4. Kevin B. Kirkendall, MBA, CPA, CFE (Defense Expert)
Kirkendall Consulting Group, LLC
1522 West Warm Springs
Henderson, NV 89014

5. Joshua A. Arbuckle
7324 Wandering Street
Las Vegas, NV 89131
6. Cliff Goodrich
1020 Wigwam Parkway
Henderson, NV 89074
7. Sharon King, M.D.
Southwest Medical Associates
2825 Siena Heights Dr.
Las Vegas, NV 89052
8. William E. Celentano, M.D.
Southwest Medical Associates
2704 N. Tenaya Way
Las Vegas, NV 89128
9. Michael Brown, M.A.
Southwest Medical Associates
2704 N. Tenaya Way
Las Vegas, NV 89128
10. William Joshua Parker, M.D.
University Medical Center
1800 W. Charleston Blvd.
Las Vegas, Nevada 89102
11. Mary Ann Shannon, M.D.
Las Vegas Neurosurgery, Orthopedics & Rehabilitation
501 S. Rancho Drive, Suite 1-67
Las Vegas, NV 89106
12. Behnoosh Shahidi,
7733 Almeria Ave.
Las Vegas NV 89128
13. Edward L. Bennett, M.A., C.R.C., C.D.M.S.,
Coast Rehabilitation Services, Inc.
5290 Overpass Rd., Suite 118
Santa Barbara, CA 93111
14. Custodian of Records and/or Person Most Knowledgeable
(Michelle Goins) for Southwest Medical Associates
8655 S. Eastern Ave.
Las Vegas, NV 89114
15. Archie Perry, M.D.
2800 E. Desert Inn Road, Suite 100
Las Vegas, NV 89121
16. Christopher Fisher, M.D.

8930 W. Sunset Road, Suite 350
Las Vegas, NV 89148

17. Bahram Yahyavi
c/o Dennis M. Prince, Esq.
DENNIS PRINCE LAW GROUP
8816 Spanish Ridge Ave.
Las Vegas, Nevada 89148
18. Doug Ellis, PT
Matt Smith Physical Therapy
3233 W. Charleston Blvd., Suite 107
Las Vegas, NV 89102
19. Michael Miao, M.D.
Desert Orthopaedic Center
2930 W. Horizon Ridge Parkway, Suite 100
Henderson, NV 89052
20. **Wade Langsev**
6932 Singing Dune Lane
Las Vegas, NV 89145

B. Witnesses who defendant will subpoena for trial:

1. Sharon King, M.D.
Southwest Medical Associates
2825 Siena Heights Dr.
Las Vegas, NV 89052
2. William E. Celentano, M.D.
Southwest Medical Associates
2704 N. Tenaya Way
Las Vegas, NV 89128
3. Michael Brown, M.A.
Southwest Medical Associates
2704 N. Tenaya Way
Las Vegas, NV 89128
4. William Joshua Parker, M.D.
University Medical Center
1800 W. Charleston Blvd.
Las Vegas, Nevada 89102
5. Mary Ann Shannon, M.D.
Las Vegas Neurosurgery, Orthopedics & Rehabilitation
501 S. Rancho Drive, Suite 1-67
Las Vegas, NV 89106

6. Behnoosh Shahidi,
7733 Almeria Ave.
Las Vegas NV 89128
7. Archie Perry, M.D.
2800 E. Desert Inn Road, Suite 100
Las Vegas, NV 89121
8. Christopher Fisher, M.D.
8930 W. Sunset Road, Suite 350
Las Vegas, NV 89148
9. Doug Ellis, PT
Matt Smith Physical Therapy
3233 W. Charleston Blvd., Suite 107
Las Vegas, NV 89102
10. Michael Miao, M.D.
Desert Orthopaedic Center
2930 W. Horizon Ridge Parkway, Suite 100
Henderson, NV 89052
11. **Bahram Yahyavi**
(If plaintiff's counsel will not agree to make him available
voluntarily for trial when requested, defendant may
subpoena him)
c/o Dennis Prince Law Group
8816 Spanish Ridge Ave.
Las Vegas, Nevada 89148

C. Witnesses which defendant may call if the need arises:

1. Kevin Mackey
c/o Malik W. Ahmad, Esq.
Law Office of Malik W. Ahmad
8072 W. Sahara Ave., Ste. A
Las Vegas, NV 89117
2. Ramy Khoury
c/o Malik W. Ahmad, Esq.
LAW OFFICE OF MALIK W. AHMAD
8072 W. Sahara Ave., Ste A
Las Vegas, NV 89117
3. Agha Raza
Law Office of Malik W. Ahmad
8072 W. Sahara Ave., Ste. A
Las Vegas, NV 89117
4. Saleem Zaidi
Law Office of Malik W. Ahmad
8072 W. Sahara Ave., Ste. A
Las Vegas, NV 89117

5. Don Hamrick
3175 E. Sahara Ave.
Las Vegas, NV 89104
6. Ana Hernandez
c/o Jeffrey Gronich, Attorney at Law, P.C.
1810 E Sahara Ave., Suite 109
Las Vegas, NV 89104
7. Joseph P. Schifini, M.D. and/or Custodian
of Records/Person Most Knowledgeable for
Joseph P. Schifini, M.D.
600 South Tonopah Drive, Suite 240
Las Vegas, NV 89106
8. Grant Karno, M.D. and/or Custodian
of Records/Person Most Knowledgeable for
Nevada Comprehensive Pain Center
2809 W. Charleston Blvd., Suite 150
Las Vegas, NV 89102
9. Ammon Strehlow, D.C., D.A.C.B.R. and/or Custodian
of Records/Person Most Knowledgeable for Ammon
Strehlow, D.C., D.A.C.B.R.
5135 Camino Al Norte Rd., Suite 100
North Las Vegas, NV 89031
10. Las Vegas Metropolitan Police Department
Det. Eric Grimmesey
400 Martin Luther King Blvd.
Las Vegas, NV 89106
11. Officer Robert Stauffer
Las Vegas Metropolitan Police Department
400 S. Martin Luther King Blvd
Las Vegas, NV 89106
12. Wade Langsev
6932 Singing Dunc Lane
Las Vegas, NV 89145
13. Darian Yahyavi
112 Quail Run Road
Henderson, NV 89014
14. Darian Yahyavi
(address unknown)
15. Aisen Yazdani
6443 Dollis Hill St.
Las Vegas, NV 89148
16. Leslie F. Keehn
Keehn & Associates

402 West Broadway Suite 1210
San Diego CA 92101

17. Robert E. Duggan
c/o Koch and Scow LLC
11500 S. Eastern Ave., Ste. 210
Henderson, NV 89052
18. Laura T. Duggan
c/o Koch and Scow LLC
11500 S. Eastern Ave., Ste. 210
Henderson, NV 89052
19. **Staci R. Ross, Ph.D.**
716 S. 6th Street
Las Vegas, NV 89101
20. Custodian of Records and/or Person Most Knowledgeable
(David J. Oliveri, M.D.) for David Oliveri, M.D.
854 South Rampart Blvd., Suite 115
Las Vegas, NV 89145
21. Custodian of Records and/or Person Most Knowledgeable
(Keri Miller) for Joseph Schifini, M.D.
600 South Tonopah Drive, Suite 240
Las Vegas, NV 89106
22. Custodian of Records and/or Person Most Knowledgeable
(Leigh Sinkinger) for Kinex Medical Company
1801 Airport Road, Suite D
Waukesha, WI 53188
23. Custodian of Records and/or Person Most Knowledgeable
(Aislynn Huet) for Matt Smith Physical Therapy n/k/a
ATI Physical Therapy
9499 West Charleston Blvd., Suite 220
Las Vegas, NV 89117
24. Custodian of Records and/or Person Most Knowledgeable
(Jenna Martinez) for Clinical Neurology Specialists
1691 Horizon Ridge Parkway, Suite 100
Henderson, NV 89012
25. Custodian of Records and/or Person Most Knowledgeable
(Nancy Robinson) for Kelly Hawkins Physical Therapy
375 North Stephanie, Suite 1111
Henderson, NV 89014

26. Custodian of Records and/or Person Most Knowledgeable
(Marlen Meza) for Single Day Surgery Center
6950 W. Desert Inn Road, Suite 100
Las Vegas, NV 89117
27. Custodian of Records and/or Person Most Knowledgeable
(Jacob Curtiss) for National Pharmaceutical Services
1475 Folsom Street
San Francisco, CA 94103
28. Custodian of Records and/or Person Most Knowledgeable
(Christina Karr) for PBS Anesthesia
7326 West Cheyenne Ave.
Las Vegas, NV 89129
29. Custodian of Records and/or Person Most Knowledgeable
for Gregory Goetz, D.O.
536 Summer Mesa Drive
Las Vegas, NV 89144
30. Custodian of Records and/or Person Most Knowledgeable
(Pearl Salazar) for Nevada Spine Clinic
7140 Smoke Ranch Road, Suite 150,
Las Vegas, NV 89128
31. Custodian of Records and/or Person Most Knowledgeable
(Jacob Salazar) for Smoke Ranch Surgery Center
7180 Smoke Ranch Road
Las Vegas, NV 89128
32. Custodian of Records and/or Person Most Knowledgeable
(Nancy Robinson) for Chynoweth, Hill & Leavitt, LLC,
3831 W. Charleston Blvd.
Las Vegas, NV 89102
33. Custodian of Records and/or Person Most Knowledgeable
for New Century Rehabilitation
8945 West Post Road
Las Vegas, NV 89148
34. Custodian of Records and/or Person Most Knowledgeable
for Quest Diagnostics,
4230 S. Burnham Ave., Suite 250
Las Vegas, NV
35. Custodian of Records and/or Person Most Knowledgeable
(Tanya Afineje) for Center for Occupational Health & Wellness
801 S. Rancho Dr., Suite F-1

Las Vegas, NV 89106

36. Custodian of Records and/or Person Most Knowledgeable
(C.L. Harris) for University Medical Center
1800 W. Charleston Blvd.
Las Vegas, NV 89102
37. Custodian of Records and/or Person Most Knowledgeable
(Vicki Glover) for University Medical Center, Radiology Dept.
1800 W. Charleston Blvd.
Las Vegas, NV 89102.
38. Custodian of Records and/or Person Most Knowledgeable
(Luis Marquez) for Desert Orthopaedic Center
2930 W. Horizon Ridge Pkwy., Suite 100
Henderson, NV 89052
39. Custodian of Records and/or Person Most Knowledgeable
(Samantha Niles) for Southern Nevada Pain Center
6950 W. Desert Inn Road, Suite 110
Las Vegas, NV 89117
40. Custodian of Records and/or Person Most Knowledgeable
(Nancy Rice) for Steinberg Diagnostic Medical Imaging Center
2767 N. Tenaya Way
Las Vegas, NV 89128
41. Custodian of Records and/or Person Most Knowledgeable
(Jennifer L. White) for Summerlin Hospital,
657 Town Center Drive
Las Vegas, NV 89144
42. Custodian of Records and/or Person Most Knowledgeable
(Stacey L. Hinchliffe) for CVS Pharmacy, Privacy Office
One CVS Drive
Woonsocket, RI 02895
43. Custodian of Records and/or Person Most Knowledgeable
(Gabriele Uribe from Doc-Request) for Desert Radiologists
P.O. Box 3057
Indianapolis, IN 46206
44. Custodian of Records and/or Person Most Knowledgeable
(Nicole Harrigen) for Downtown Neck and Back
825 S. 7th Street
Las Vegas, NV 89101
45. Custodian of Records and/or Person Most Knowledgeable

for EMP of Clark UMC
4535 Dressler Rd. NW
Canton, OH 44718

46. Custodian of Records and/or Person Most Knowledgeable
(Jennifer Read) for Heart Center of Nevada
700 Shadow Lane, #240
Las Vegas, NV 89106
47. Custodian of Records and/or Person Most Knowledgeable
(Luis Marquea) for Institute of Orthopedic Surgery
2800 E. Desert Inn Rd., Suite 150
Las Vegas, NV 89121
48. Custodian of Records and/or Person Most Knowledgeable
(Laurie M. Gove) for Las Vegas Surgery Center
870 South Rancho Drive
Las Vegas, NV 89106
49. Custodian of Records and/or Person Most Knowledgeable
for Lok Acupuncture Clinic, Peter Lok, L.Ac.,
1818 E. Desert Inn Rd.
Las Vegas, NV 89109
50. Custodian of Records and/or Person Most Knowledgeable
(Sasha Stough) for Mountain West Chiropractic — Green Valley
321 N. Pecos, Suite 200
Henderson, NV 89074
51. Custodian of Records and/or Person Most Knowledgeable
(Jennifer Yepes) for Radar Medical Group
2628 W. Charleston Blvd.
Las Vegas, NV 89102
52. Custodian of Records and/or Person Most Knowledgeable
(Saranny Granger) for Shadow Emergency Physicians
P.O. Box 13917
Philadelphia, PA 19101
53. Custodian of Records and/or Person Most Knowledgeable
(Shawn A. Foret) for Surgical Anesthesia Services
P.O. Box 848788
Los Angeles, CA 90084
54. Custodian of Records and/or Person Most Knowledgeable
(Michelle Fedet) for University Urgent Care
2628 W. Charleston Blvd.
Las Vegas, NV 89102

- 1 55. Custodian of Records and/or Person Most Knowledgeable
2 (Daniel Ross, RHIT) for Valley Hospital Medical Center
3 620 Shadow Lane
4 Las Vegas, NV 89106
- 5 56. Custodian of Records and/or Person Most Knowledgeable
6 for Western Regional Center for Brain & Spine
7 2471 Professional Court
8 Las Vegas, NV 89128
- 9 57. Custodian of Records and/or Person Most Knowledgeable
10 for Las Vegas Neurosurgery, Orthopedics & Rehabilitation
11 501 S. Rancho Drive, Suite 1-67
12 Las Vegas, NV 89106
- 13 58. Custodian of Records and/or Person Most Knowledgeable
14 for Neurology Center of Las Vegas
15 2440 Professional Court #150
16 Las Vegas, NV 89128
- 17 59. Custodian of Records and/or Person Most Knowledgeable
18 (Cecelia Roman of Doc-Request) for Nevada Comprehensive
19 Pain Center
20 2809 W. Charleston Blvd., Suite 150
21 Las Vegas, NV 89102
- 22 60. Custodian of Records and/or Person Most Knowledgeable
23 (Brittany Sullivan) for Shield Radiology Consultants
24 5135 Camino Al Norte Rd., Suite 100
25 North Las Vegas, NV 89031
- 26 61. Custodian of Records and/or Person Most Knowledgeable
27 (Nancy Gregory) for Medschool Associates
28 1701 W. Charleston Blvd., Suite 670
Las Vegas, NV 89102
62. Custodian of Records and/or Person Most Knowledgeable
(Gail McConville) for Medschool-South Department of Surgery
1707 W. Charleston Blvd., Suite 160
Las Vegas, NV 89102
63. Custodian of Records and/or Person Most Knowledgeable
(Sandy Belcher) for Associated Risk Management, Inc.
P.O. Box 4930
Carson City, NV 89702
64. Custodian of Records and/or Person Most Knowledgeable

1 for Center for Disease & Surgery of the Spine
2 600 S. Rancho Dr., Suite 107
3 Las Vegas, NV 89106

4 65. Custodian of Records and/or Person Most Knowledgeable
5 (Crystal Angon) HealthCare Partners
6 7650 S. Dean Martin, Ste. 101
7 Las Vegas, NV 89139

8 66. Custodian of Records and/or Person Most Knowledgeable
9 (Shelly Allen) Chapman Las Vegas Dodge
10 & Chapman Chrysler Jeep
11 3175 E. Sahara Avenue
12 Las Vegas, NV 89104

13 67. Custodian of Records and/or Person Most Knowledgeable
14 (Clerk of the Court, Steven D. Grierson) Eight Judicial District
15 Court, Clark County, Nevada
16 200 Lewis Avenue
17 Las Vegas, NV 89155

18 68. Custodian of Records and/or Person Most Knowledgeable
19 Diseases & Surgery of the Spine (John Thalgott, M.D.)
20 600 South Ranch Dr., Suite 107
21 Las Vegas, NV 89106

22 69. Custodian of Records and/or Person Most Knowledgeable
23 CH2M Hill
24 4000 S. Eastern Ave.
25 Las Vegas, NV 89119

26 70. Custodian of Records and/or Person Most Knowledgeable
27 Staci R. Ross, PhD
28 716 S. 6th Street
Las Vegas, NV 89101

Defendant reserves the right to call any witness identified by any party to this action and specifically reserves the right to object to any witness identified by Plaintiff at time of trial.

Defendant reserves the right to call such rebuttal witnesses as may become necessary following testimony during the case-in-chief set forth by other parties to this action, or following any portion of the opposing party's case, or following any new or different and previously undisclosed testimony or evidence offered during trial.

D. Witnesses defendant may present by deposition:

1 Defendant reserves the right to present witness testimony by deposition as to any witnesses
2 who are unavailable or not subject to subpoena at the time of trial. Defendant expressly reserves
3 the right to offer deposition testimony of any witness called live at the time of trial for purposes of
4 impeachment, refreshed recollection, and any other appropriate purpose. Defendant further reserves
5 the right to call such rebuttal witnesses as may become necessary following testimony during the
6 case-in-chief set forth by other parties to this litigation. Defendant reserves the right to present any
7 witnesses by the use of technology, such as video streaming, Skype, or other technological method
8 that provides the Court with assurances that the witness and the evidence are properly utilized.

9 **VIII.**

10 **PRINCIPAL ISSUES OF LAW THAT ARE CONTESTED AT TRIAL**

- 11 1. Whether Defendant was negligent.
- 12 2. Whether Plaintiff was comparatively negligent.
- 13 3. Whether the circumstances causing the accident were unforeseen.
- 14 4. Whether Plaintiff's respective comparative negligence bars or reduces any recovery.
- 15 5. Whether Defendant's conduct was the proximate cause of Plaintiff's injuries.
- 16 6. Whether plaintiff had related pre-existing or prior medical issues, problems, pain
17 complaints, imaging studies, examinations, or treatment.
- 18 7. Whether plaintiff was forthright with his medical treatment providers and experts,
19 including as to his prior history.
- 20 8. Plaintiff's damages.
- 21 9. Whether the accident caused all of the damages, injuries, treatments, wage loss, and
22 other issues claimed by plaintiff, or whether the accident caused a lesser amount or
23 any portion whatsoever.
- 24 10. Certain evidentiary issues related to the amount of medical charges, including as to
25 workers compensation matters.
- 26 11. Effect of workers compensation statutes and case authority as to amount billed for
27 medical treatment versus amount actually paid or due, and how those issues are
28 presented to the jury.

1 The plaintiff denies liability and claims damages. The defendant contests liability and
2 plaintiff's damages. The defendant also contests causation for plaintiff's damages, including as
3 related to plaintiff's pre-existing or prior problems.

4 **IX.**

ESTIMATE OF TIME REQUIRED FOR TRIAL

5 Defendant anticipates trial will require approximately 20 full judicial days (4 weeks), based
6 upon the representation of plaintiff's counsel in open court, including the recent withdrawal of all
7 claims for knee issues made by plaintiff's counsel in open court. Defendant believes that its case
8 in chief will take approximately four (4) days to present to the jury. Jury selection and deliberation
9 are likely to account for another week. If issues in the jury questionnaire are not then explored in
10 jury voir dire, defendant's time estimate may be reduced.

11 **X.**

**ANY OTHER MATTER WHICH COUNSEL DESIRES TO BRING TO COURT'S
12 ATTENTION PRIOR TO TRIAL**

13 Workers compensation payment issues must be worked out, in order that the statutory
14 requirements can be followed when this information is presented to the jury.

15 Both parties conducted vehicle crash tests, and there will likely be a need to display the
16 video evidence during trial.

17 Plaintiff has recently withdrawn all claims related to the right knee, including all treatment
18 and medical bills related to this claimed injury, and as a result the trial estimates, documents
19 intended to be used, and witnesses intended to be called have been revised by defendant in
20 reliance upon that representation by plaintiff.

21
22 DATED this 23rd day of August, 2019.

23 **WILSON, ELSER, MOSKOWITZ, EDELMAN &
24 DICKER LLP**

25 

26 **DAVID S. KAHN, ESQ.**

Nevada Bar No. 7038

27 **MARK SEVERINO, ESQ.**

Nevada Bar No. 14117

300 South Fourth Street, 11th Floor

1 Las Vegas, NV 89101
2 Telephone: (702) 727-1400
3 Facsimile: (702) 727-1401
4 David.Kahn@wilsonelser.com

5 **Law Offices of ERIC R. LARSEN**
6 **Mark J. Brown, Esq.**
7 Nevada Bar No. 003687
8 750 E. Warm Springs Road
9 Suite 320, Box 19
10 Las Vegas, NV 89119
11 Telephone: (702) 387-8070
12 Facsimile: (877) 369-5819
13 Mark.Brown@thehartford.com

14 *Attorneys for Defendant,*
15 *Capriati Construction Corp., Inc.*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of Wilson Elser Moskowitz Edelman
3 & Dicker LLP, and that on this 23rd day of August, 2019, I served a true and correct copy of the
4 foregoing DEFENDANT CAPRIATI CONSTRUCTION CORP., INC.'S FIRST
5 SUPPLEMENTAL INDIVIDUAL PRE-TRIAL MEMORANDUM as follows:

- 6 ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed
7 envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
8 ☒ via electronic means by operation of the Court's electronic filing system, upon each
9 party in this case who is registered as an electronic case filing user with the Clerk;
10 and/or
11 ☐ via hand-delivery to the addressees listed below.

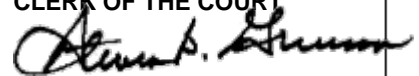
12 Dennis M. Prince, Esq.
13 **DENNIS PRINCE LAW GROUP**
14 8816 Spanish Ridge Ave.
15 Las Vegas, Nevada 89148
16 Tel: (702) 534-7600
Fax: (702) 534-7601
Attorney for Plaintiff,
Bahram Yahyavi

Mark J. Brown, Esq.
Law Offices of Eric R. Larsen
750 E. Warm Springs Road, Suite 320, Box 19
Las Vegas, Nevada 89119
Tel: (877) 369-5819
Fax: (702) 387-8082
Attorney for Defendant,
Capriati Construction, Inc.

17 Malik W Ahmad, Esq.
18 LAW OFFICE OF MALIK W. AHMAD
19 8072 W. Sahara Ave., Ste A
20 Las Vegas, NV 89117
Telephone: (702) 270-9100
Facsimile: (702) 233-9103
Attorney for Plaintiff
BAHRAM YAHYAVI

21 By: /s/ Agnes Wong
22 An Employee of WILSON, ELSER, MOSKOWITZ,
23 EDELMAN & DICKER LLP
24
25
26
27
28

3



1 **TB**
2 DENNIS M. PRINCE
3 Nevada Bar No. 5092
4 KEVIN T. STRONG
5 Nevada Bar No. 12107
6 BRANDON C. VERDE
7 Nevada Bar No. 14638
8 **PRINCE LAW GROUP**
9 8816 Spanish Ridge Ave.
10 Las Vegas, NV 89148
11 P: (702) 534-7600
12 F: (702) 534-7601
13 Email: eservice@thedplg.com
14 Attorneys for Plaintiff
15 *Bahram Yahyavi*

9 **DISTRICT COURT**
10
11 **CLARK COUNTY, NEVADA**

12 **BAHRAM YAHYAVI**, an Individual,
13 Plaintiff,

14 vs.

15 **CAPRIATI CONSTRUCTION CORP., INC.**, a
16 Nevada Corporation,
17 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

**PLAINTIFF'S TRIAL BRIEF TO
EXCLUDE ARGUMENT,
REFERENCE, OR MEDICAL
EXPERT OPINION THAT
PLAINTIFF BAHRAM YAHYAVI'S
PRIOR NECK PAIN WAS
SYMPTOMATIC DURING THE
IMMEDIATE YEARS PRIOR TO
AND IMMEDIATELY BEFORE THE
SUBJECT COLLISION**

20 Plaintiff Bahram Yahyavi, by and through his attorneys of record, DENNIS M. PRINCE,
21 ESQ., KEVIN T. STRONG, ESQ. and BRANDON C. VERDE, ESQ. of PRINCE LAW GROUP,
22 hereby submits his *Trial Brief to Exclude Argument, Reference, or Medical Expert Opinion that*
23 *Plaintiff Bahram Yahyavi's Prior Neck Pain Was Symptomatic During the Immediate Years Prior to*
24 *And Immediately Before the Subject Collision.*

25 ...

26 ...

27 ...

28 ...



Prince Law Group
8816 Spanish Ridge
Las Vegas, NV 89148

RA0048

1 This Brief is based upon the pleadings and papers on file in this action, the Points and
2 Authorities set forth herein, and any argument the court may entertain at the time of the hearing.

3 DATED this 5th day of September, 2019.

4 Respectfully Submitted,

5 **PRINCE LAW GROUP**

6 

7
8 DENNIS M. PRINCE
Nevada Bar No. 5092
9 KEVIN T. STRONG
Nevada Bar No. 12107
10 BRANDON C. VERDE
Nevada Bar No. 14638
11 8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
12 Attorneys for Plaintiff
Bahram Yahyavi
13

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I.**

16 **INTRODUCTION/ STATEMENT OF FACTS**

17 This matter arises from a motor vehicle collision that occurred on June 19, 2013. Plaintiff
18 Bahram Yahyavi ("Plaintiff") was driving a company-owned vehicle for Dodge, his employer, near
19 east Sahara Avenue and Boulder Highway when suddenly and without warning, a forklift with its
20 forks raised and sticking outward struck his vehicle bringing it to an abrupt stop. Defendant Capriati
21 Construction Corp. Inc.'s ("Defendant") employee operated the forklift at the time of the collision in
22 a negligent manner by failing to pay attention to Plaintiff's oncoming vehicle in the roadway. Plaintiff
23 suffered severe injuries as a result of the subject collision that required him to undergo substantial
24 medical treatment, including a four-level cervical fusion. Notably, Plaintiff had no cervical symptoms
or limitations and did not require any ongoing treatment to his neck before the subject collision.

25 Despite the lack of significant medical history documenting neck pain, Plaintiff anticipates
26 that Defendant will try to introduce evidence of his lone October 25, 2011 visit to Southwest Medical
27 Associates (SWMA) prior to the subject collision when he allegedly complained of neck pain. As
28

1 demonstrated below, a singular complaint of neck pain prior to the subject collision is clinically
2 insignificant as it relates to Plaintiff's neck injury sustained as a result of the subject collision.

3 **A. Plaintiff's Prior Medical Treatment at SWMA**

4 Plaintiff treated at SWMA from October 7, 2011 to May 23, 2013 for a variety of medical
5 issues, most of which are unrelated to his alleged injuries from the subject collision.

- 6 1. SWMA Visit 10/7/2011: During Plaintiff's initial October 7, 2011 visit, he went for a
7 *checkup and physical*. He also complained of itchy dermatitis. He did not complain of
8 neck pain during this visit.

9 **Reason For Visit**

Pt for check up.

10 **Subjective**

Pt new to SMA. Has patches of itchy dermatitis, using otc med.

Has htn, needs med rf.

11 See 10/7/11 Southwest Medical Associates record, attached as Exhibit "1."

- 12 2. SWMA Visit 10/25/2011: Plaintiff returned to SWMA to follow up on lab results.
13 Reportedly, Plaintiff complained of neck pain on this *one and single* visit.

14 **Reason For Visit**

49 year male presents to the clinic today, for F/U on labs.

15 **Subjective**

16 Patient presents for lab results. Also complains of neck pain for several years. He denies any history of neck
17 surgery. No neck trauma. He has a well-healed surgical scar on the back of his head which is from a hair
18 transplant.

19 On that same visit, he underwent a physical exam of the neck that revealed *mild* paraspinal
20 discomfort with palpation of the neck. Despite this finding, Plaintiff still had *full range of*
21 *motion* in his neck at that time, which is markedly different from the condition of Plaintiff's
22 neck today.

23 **Objective**

24 **GENERAL:** WN, WD, WIG and cooperative

25 **NECK:** Supple with full range of motion. There is mild paraspinal discomfort with palpation of the neck. No skin
26 changes. No subcutaneous nodules noted. No palpable muscle spasms.

27 See 10/25/11 Southwest Medical Associates record, attached as Exhibit "2."

28 Plaintiff was ordered to undergo an x-ray of his cervical spine at SWMA at the same October
29 25, 2011 visit. The x-ray revealed moderate degeneration at C6-7, mild to moderate degeneration at
30 C5-6 and C7-T1, and even lesser degeneration at C3-4. See 10/25/11 x-ray report, attached as Exhibit

1 "3." Notably, Plaintiff was never ordered to follow up with any physician to review the results of his
2 x-ray.

- 3 3. SWMA Visit 3/12/2012: Plaintiff returned to SWMA for right knee complaints *only*.
4 Notably, there is no documented neck pain complaint on this visit and, as a result, no
5 physical examination or testing was performed on Plaintiff's neck.

6 **Reason For Visit**

50 year male presents to the clinic today, with complaints of right knee pains.

7 **Subjective**

PT STATES HE INJURED HIS RIGHT KNEE WHILE SKIING ON MT CHARLESTON ABOUT THREE
8 MONTHS AGO. IT OCCASIONALLY GIVES OUT ON HIM. THE SWELLING HAS DECREASED BUT HE HAD
TORN HIS LEFT ACL IN THE PAST AND STATES IT FEELS THE SAME WAY.

9 See 3/12/12 Southwest Medical Associates record, attached as **Exhibit "4."**

- 10 4. SWMA Visit 11/1/2012: Plaintiff returned to SWMA to follow up on his lipid test panel
11 results. This medical record clearly states that Plaintiff "*was feeling well without any*
12 *physical complaints.*" Once again, no physical examination or testing was performed on
13 Plaintiff's neck due to a clear lack of ongoing pain complaints.

14 **Reason For Visit**

50 year male presents to the clinic today, for a f/u on results.

15 **Subjective**

50 y/o male presents to discuss lab results. States that he is feeling well without any physical complaints. Blood
16 pressure has been running 130/90 after medications.

17 See 11/1/12 Southwest Medical Associates record, attached as **Exhibit "5."**

- 18 5. SWMA Visit 5/23/2013: Plaintiff returned to SWMA on May 23, 2013, approximately one
19 month before the subject collision. Once again, there is no documentation of any neck
20 pain complaint from this last visit as evidenced by the "Review of System."

21 REVIEW OF SYSTEM: He denies any chest pain or shortness of breath. No palpitations. Still feels a little tired,
22 but no lightheadedness or dizziness. He is taking his medications regularly including his blood pressure medication.

23 **Reason For Visit**

24 51 year male presents to the clinic today, for Summerlin HFU.

25 See 5/23/13 Southwest Medical Associates record, attached as **Exhibit "6."**

26 **B. Plaintiff Suffered No Ongoing Neck Pain Prior to the Subject Collision**

27 During all of Plaintiff's visits to SWMA *after* October 25, 2011, he did not report any neck
28 pain, nor were there any examinations or findings concerning the neck. Plaintiff's SWMA providers

1 did not administer further treatment for his neck in any way. To further underscore the transient nature
2 of Plaintiff's neck pain complaint, Plaintiff's SWMA providers did not refer him for an MRI, physical
3 therapy, pain management, surgical consultation, or any other type of treatment for his neck. While
4 defense expert, Dr. Tung, reviewed the prior SWMA records, he offered no opinion that Plaintiff's
5 neck pain was symptomatic at the time of the subject collision; whether he was in need of care; or any
6 other explanation for what caused Plaintiff's neck pain. Moreover, Dr. Tung did not incorporate the
7 single reported neck complaint into his opinion or any bases for his opinion on the cause of Plaintiff's
8 neck pain after June 19, 2013. Defendant never produced medical records from any other providers
9 that document ongoing neck pain complaints by Plaintiff prior to or near the time of the collision. In
10 fact, on November 1, 2012, and immediately before the subject collision at his May 23, 2013 visit,
11 Plaintiff reported no physical pain complaints whatsoever at SWMA. *See Exhibits "5," "6."*
12 Therefore, Plaintiff's neck pain was asymptomatic for nearly two years before the subject collision
13 occurred.

14 II.

15 LEGAL ARGUMENT

16 In performing its gatekeeper function, the trial court is guided by NRS 48.025(1), which
17 provides that only "relevant evidence" is admissible. In Nevada, only relevant evidence is admissible
18 at trial. Nev. Rev. Stat. 48.025(1). Evidence that is not relevant is not admissible. Nev. Rev. Stat.
19 48(025(2). "Relevant evidence" is evidence that "has some tendency in reason to establish a
20 proposition material to the case." Nev. Rev. Stat. 48.015; *see also Land Resources Dev. Kaiser Aetna*,
21 100 Nev. 29, 34 (1984). Even if relevant, evidence may be excluded if its probative value is
22 substantially outweighed by the danger of unfair prejudice, confusion of issues, or misleading the
23 jury, or if there are considerations of undue delay, waste of time, or needless presentation of
24 cumulative evidence. Nev. Rev. Stat. 48.035; *Uniroyal Goodrich Tire Co.*, 111 Nev. at 320. The
25 determination of whether evidence is relevant and, by implication, whether it is admissible, lies within
26 the sound discretion of the trial judge. *Woods v. State*, 101 Nev. 128 (1985); Nev. Rev. Stat. 48.025.
27 A district court's decision to allow expert testimony is reviewed for abuse of discretion. *Leavitt v.*
28 *Siems*, 130 Nev. 503, 509, 330 P.3d 1, 5 (2014).

...

...



1 NRCP 16.1(a)(2)(B) establishes the reporting requirements and states that with respect to a
2 witness who is retained or specially employed to provide expert testimony in the case, the designation
3 of the expert must be accompanied by a written report prepared and signed by the witness. See Nev.
4 R. Civ. P. 16.1(a)(2)(B). This report must contain a complete statement of all opinions to be
5 expressed, the basis and reasons therefore, the data or other information considered by the witness in
6 forming their opinions, any exhibits, and research they considered in forming their opinions. *Id.* The
7 fact that Dr. Tung did not express any specific opinion concerning Plaintiff's prior neck complaint or
8 expressly utilize the prior neck complaint into his analysis to show that Plaintiff's neck pain was
9 symptomatic prior to June 19, 2013 precludes him from offering such opinion at trial.

10 **A. Plaintiff's Singular Prior Neck Pain Complaint Prior to the Subject Collision is Remote**
11 **in Time and Medically and Clinically Insignificant in Relation to His Neck Injury**
12 **Suffered as a Result of the Subject Collision**

13 The Nevada Supreme Court has issued clear, binding case law that "...in order for evidence
14 of a prior injury or preexisting conditions to be admissible, a defendant must present by competent
15 evidence a causal connection between the prior injury [or preexisting condition] and the injury at
16 issue." *FGA, Inc. v. Giglio*, 128 Nev. 271, 283 (2012) (emphasis added). "Moreover, unless it is
17 readily apparent to a layperson, a defendant seeking to introduce evidence of a prior injury generally
18 must produce expert testimony demonstrating the relationship between the prior injury and the injury
19 complained of and why it is relevant to a fact of consequence." *Id.* Without expert support, any
20 argument or reference to these prior injuries or medical conditions is speculative and inadmissible.
21 *Morsicato v. Sav-On Drug Stores, Inc.*, 121 Nev. 153, 157 (Nev. 2005). There are three distinct
22 courses of action a defendant can take once a plaintiff has met his burden of medical causation: (1)
23 cross-examine the plaintiff's expert; (2) contradict plaintiff's medical expert's testimony with his own
24 expert and/or (3) propose an independent alternative causation theory. *Williams v. Eighth Judicial*
25 *Dist. Court*, 127 Nev. 518, 530 (2010).

26 When an expert proposes an alternative theory of causation, such as establishing a causal
27 connection between a prior or subsequent incident to the injuries claimed, the theory/opinion must be
28 made to a reasonable degree of medical probability. *Williams*, 127 Nev. at 531. "The speculative
nature of an opinion that an injury *possibly* could have been a precipitating factor is insufficient to
support a finding of causation.... 'A possibility is not the same as a probability.'" *Morsicato*, 121

1 Nev. At 157-58 (citing *United Exposition Serv. Co. v. State Indus. Ins. Sys.*, 109 Nev. 421, 425 (1993))
2 (emphasis added). A theory of causation that does not meet this high standard is speculative, and a
3 verdict may not be based on speculation, whether the testimony comes from a lay witness or an expert.
4 *Id.* at 159; see also, *Gramanz v. T-Shirts & Souvenirs*, 111 Nev. 478, 485 (1995). The defendant
5 and/or its expert, Dr. Tung, must be precluded "...from engaging in speculation or conjecture with
6 respect to possible causes." *Morsicato* 121 Nev. at 157-58; *Williams*, 127 Nev. at 532 (emphasis
7 added).

8 Even when a defendant instead chooses to cross-examine the plaintiff's experts or contradict
9 the plaintiff's experts' testimony with his own expert to challenge the plaintiff's causation theory "by
10 comparing that theory to other plausible causes," such testimony *must* be "competent and supported
11 by relevant evidence or research." *Williams*, 127 Nev. at 530. "This lowered standard is necessarily
12 predicated on whether the defense expert includes the plaintiff's causation theory in his or her
13 analysis." *Id.* at 531. "If the defense expert does not consider the plaintiff's theory of causation at all,
14 then the defense expert *must* state any independent alternative causes to a reasonable degree of
15 medical probability because [defendant] bears the burden of establishing the causative fact for the
16 trier of fact." *Giglio*, 128 Nev. at 284. "Otherwise, the testimony would be incompetent not only
17 because it lacks the degree probability necessary for admissibility but also because it does nothing to
18 controvert the evidence of [plaintiff]." *Id.*

19 Prior to the subject collision, Plaintiff complained of neck pain to a medical provider *once* on
20 October 25, 2011. He underwent a cervical spine x-ray on the same date. After that date, no further
21 complaints were made, and no further treatment was rendered. Plaintiff never discussed the results
22 of his x-ray and the SWMA medical providers never explored any advanced treatment options with
23 Plaintiff based on the x-ray results. Plaintiff certainly had access to medical care for his neck pain
24 given that he reported his pain once to SWMA. However, Plaintiff was never recommended, nor did
25 he undergo any type of treatment for his neck. Plaintiff never even reported ongoing complaints of
26 the neck to SWMA, the provider to whom he originally asserted his neck pain complaint. Defendant
27 has not produced any medical records that prove otherwise.

28 Thus, there is no *competent* evidence to establish the continuation of Plaintiff's neck pain
complaint in the years leading up to the subject collision. To allow Defendant to suggest otherwise
to the jury contradicts the evidence of this case and will directly mislead the jury that Plaintiff's neck

1 pain was symptomatic at the time of the subject collision. This will certainly prejudice Plaintiff
2 because the jury will inevitably speculate that his severe neck injury from the subject collision is
3 somehow related to his previous complaint of neck pain even though he was clearly asymptomatic
4 beforehand. See Nev. Rev. Stat. 48.035. Any argument presented to the jury must have a foundation
5 in the evidence produced at trial. *State of Nevada v. Kasabian*, 69 Nev. 146, 149 (1952). Since
6 Defendant cannot prove that Plaintiff's possible prior neck pain is the explanation for his current neck
7 injury; Defendant should be precluded from making any argument or inference at trial regarding the
8 same. This is further supported by Defendant's retained medical expert, Dr. Tung's failure to offer
9 any opinions necessary to establish the medical relevance of the prior neck pain pursuant to *Williams*,
10 127 Nev. at 530 and *Giglio*, 128 Nev. at 283.

11 **B. Dr. Tung Did Not Offer any Opinions about Plaintiff's Prior Cervical Spine Complaint**

12 Defendant retained Howard Tung, M.D., a neurosurgeon to offer opinions about Plaintiff's
13 injuries and their causal relationship to the subject collision. Dr. Tung authored a total of five expert
14 reports.

15 ***1. Dr. Tung's first report dated 8/26/2016***

16 In Dr. Tung's first report, he offered no opinions that Plaintiff's one prior neck complaint was
17 symptomatic up until the date of the subject collision. See 8/26/16 Tung report, at p. 13, attached as
18 Exhibit "7." Rather, he only stated the following, "degenerative findings more likely than not, were
19 present and preexisted the subject motor vehicle accident of June 19, 2013." *Id.* Degeneration is a
20 fact of life. See *Kelly v. Colvin*, No. 14 C 1086, 2015 U.S. Dist. LEXIS 104301, at *10, 2015 WL
21 4730119 (N.D. Ill. Aug. 10, 2015) (Degenerative disc disease is an orthopedic disorder in which "the
22 intervertebral discs of the spine begin to deteriorate (or degenerate) as part of the normal aging
23 process") (quoting <https://www.rush.edu/services/conditions/degenerative-disc-disease>).
24 Degeneration, by itself, does not mean a patient is symptomatic or in need of care. Furthermore,
25 degeneration, without more, does not mean a patient will ever require ongoing care or surgery for that
26 matter.

27 ***2. Dr. Tung's second report dated 8/2/2018***

28 In his second report, Dr. Tung stated that "[Plaintiff] has had progression of preexisting
cervical spondylosis/degenerative spine disease over several years" and that Plaintiff has experienced
"ongoing and progressive degenerative cervical spine disease/spondylosis for years." See 8/2/18 Tung

1 report at p. 10-11, attached as **Exhibit "8"**. Dr. Tung again does not opine as to whether Plaintiff's
2 pre-existing degenerative cervical conditions were symptomatic leading up to the subject collision.
3 *Id.* He also fails to articulate how Plaintiff's ongoing cervical degenerative spondylosis affected
4 Plaintiff prior to the subject collision. *Id.*

5 **3. Dr. Tung's third report dated 12/13/2018**

6 In Dr. Tung's third report, he only opined that the cervical spinal surgery performed on
7 Plaintiff was unrelated to the subject collision without any justification for his opinion. *See* 12/13/18
8 Tung report, at pp. 11-12, attached as **Exhibit "9."**

9 **4. Dr. Tung's fourth report dated 8/9/2019**

10 In Dr. Tung's fourth report, he again offered no opinions or evidence that Plaintiff's prior neck
11 pain was symptomatic leading up to June 19, 2013. *See* 8/9/19 Tung report, at p. 17, attached as
12 **Exhibit "10."**

13 **5. Dr. Tung's fifth report dated 8/15/2019**

14 In his fifth report, Dr. Tung expressed no opinions that Plaintiff was symptomatic at any
15 medically relevant time period before the subject collision. *See* 8/15/19 Tung report, at p. 19, attached
16 as **Exhibit "11."** In fact, after reviewing a significant amount of medical records, Dr. Tung only
17 stated: "After review of these additional records, my opinions remain unchanged" *Id.*

18 **C. Plaintiff's Prior Cervical Spine Pain is Medically Irrelevant Under Nevada Law**

19 As stated in *Williams* and *Giglio*, prior medical conditions only become relevant when there
20 is competent medical evidence to establish the prior injury is *the cause* of the claimed injury.
21 *Williams*, 127 Nev. at 531-32; *Giglio*, 128 Nev. at 283. Alternatively, prior medical conditions
22 become relevant when the expert uses them to contradict the plaintiff's medical causation theory.
23 *Giglio*, 128 Nev. at 284. Plaintiff's prior neck pain only becomes relevant if Dr. Tung: (1) opined
24 that Plaintiff's one prior neck pain complaint is *the cause* of his current neck injury or symptoms; or
25 (2) considered Plaintiff's prior neck pain to directly contradict Plaintiff's medical experts' causation
26 opinions. *Id.* The admissibility of a contradiction opinion requires the opinion to be competent and
27 supported by relevant medical evidence and research. *Id.* Contradiction also requires the expert to
28 embrace Plaintiff's medical causation theory as part of his overall analysis. *Id.* Dr. Tung did not offer
either opinion in this case.

1 Specifically, Dr. Tung did not offer opinions in any of his five reports that Plaintiff's prior
2 neck pain is *the cause* of Plaintiff's claimed neck injury from the subject collision. Dr. Tung did not
3 even document any medical evidence in his reports to show that Plaintiff's neck pain was ongoing or
4 symptomatic in the nearly two years leading up to the subject collision. Notably, Dr. Tung never
5 offered an opinion in any of his reports that even if the June 19, 2013 collision never occurred,
6 Plaintiff's neck would have still become symptomatic or required care. His reports are simply devoid
7 of any meaningful analysis or medical evidence necessary to establish a causal relationship between
8 Plaintiff's prior neck pain and his current claimed neck injury.

9 While Dr. Tung generally referred to Plaintiff's cervical spondylosis in one of his reports, he
10 failed to explain *how* Plaintiff's cervical spondylosis is medically relevant given the lack of ongoing
11 neck pain complaints *prior to* the subject collision. This directly undermines any implication from Dr.
12 Tung that Plaintiff's asymptomatic degenerative changes bear any meaningful relationship to his
13 current and ongoing cervical spine pain complaints. The presence of degenerative changes, standing
14 alone, does not mean that a patient is symptomatic or will be symptomatic in the future and require
15 medical care. Degeneration progresses over time and may or may not result in the development of
16 symptoms. Plaintiff's lone neck pain complaint does not evidence a chronic or ongoing cervical spine
17 pain problem associated with degeneration because he never made more pain complaints and never
18 underwent any additional treatment. Plaintiff's prior neck pain clearly was not present at the time of
19 the subject collision and had not been present in the nearly two years before the collision occurred.
20 Dr. Tung failed to acknowledge this fact, which renders Plaintiff's prior neck pain complaint
21 medically irrelevant as a matter of law.

22 Alternatively, Dr. Tung failed to use Plaintiff's lone prior cervical spine pain complaint to
23 contradict Plaintiff's medical experts' causation opinions that the subject collision caused Plaintiff's
24 neck injury. Dr. Tung simply opined that Plaintiff sustained a cervical strain as a result of the subject
25 collision. All of Dr. Tung's reports lack any analysis that considers Plaintiff's prior neck pain
26 complaint to contradict the subject collision as the cause of Plaintiff's neck injury. In turn, Dr. Tung
27 never specifically embraced Plaintiff's medical causation theory as part of his analysis in any of his
28 reports, which directly contravenes what is required for Defendant to use prior conditions to contradict
as enumerated in *Williams*, 127 Nev. at 530-31. For example, Dr. Tung could have used the prior
neck pain as a potential cause of Plaintiff's claimed neck injury while also acknowledging the

1 possibility that the subject collision could have also caused Plaintiff's claimed neck injury. By
2 acknowledging the potentiality of various causes for Plaintiff's neck injury, including Plaintiff's own
3 medical experts' causation opinions, Dr. Tung has effectively controverted "a key elements of
4 [Plaintiff's] prima facie case." *Williams*, 127 Nev. at 530. Dr. Tung came woefully short of meeting
5 this standard because he also never articulated any competent medical evidence or research that he
6 relied upon to use Plaintiff's prior neck pain to contradict Plaintiff's medical causation theory.

7 Conclusively, there is no *medical or clinical evidence* necessary to establish that Plaintiff
8 suffered any pain complaints or symptoms to his cervical spine at or around the time of the subject
9 collision. Dr. Tung did not offer any substantive medical causation opinions or analysis necessary to
10 render Plaintiff's prior neck pain relevant under Nevada law precisely for this reason. Therefore, any
11 argument, reference, or medical expert opinion suggesting Plaintiff's neck pain was symptomatic
12 prior to and immediately at the time of the subject collision should be excluded.

13 III.

14 CONCLUSION

15 Based on the foregoing facts, law, and analysis, Plaintiff respectfully requests that this Court
16 **GRANT** his requested relief to exclude argument, reference, or expert opinion that his prior neck pain
17 was symptomatic during the immediately years prior to and immediately before the subject collision.

18 DATED this 5th day of September, 2019.

19 Respectfully Submitted,

20 **PRINCE LAW GROUP**

21 

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28 8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Attorneys for Plaintiff
Bahram Yahyavi



CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of **PRINCE LAW GROUP**, and that on the 5th day of September, 2019, I caused the foregoing document entitled **PLAINTIFF'S TRIAL BRIEF TO EXCLUDE ARGUMENT, REFERENCE, OR MEDICAL EXPERT OPINION THAT PLAINTIFF BAHRAM YAHYAVI'S PRIOR NECK PAIN WAS SYMPTOMATIC DURING THE IMMEDIATE YEARS PRIOR TO AND IMMEDIATELY BEFORE THE SUBJECT COLLISION** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court E-Filing System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

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Capriati Construction Corp., Inc.


An Employee of PRINCE LAW GROUP



EXHIBIT “1”

Adult Medicine Progress Note

Southwest Medical Associates, Inc.
Southwest Medical Associates, Inc. P.O. Box 15645
Las Vegas, NV 89114-5645
(702) 877-8600

| | | | |
|-----------------|---------------------|-------|----------------|
| Patient: | BAHRAM YAHYAVI | MRN: | 3995185 |
| Address1: | 112 QUAIL RUN RD | DOB: | Dec 21, 1961 |
| Address2: | | Age: | 56 |
| City/ST Zip: | HENDERSON, NV 89014 | Home: | (619) 279-2554 |
| Encounter Date: | Oct 7 2011 4:10PM | Work: | |

Previsit Screen

No urinary loss of control - per patient. Current smoker. Not chewing nicotine-containing substances.
Alcohol use - a social drinker. No domestic violence.
Compared to last year, how would you rate your physical health now? Same as last year.
Compared to last year, how would you rate your mental health now? Same as last year.

Do you regularly exercise or take part in physical exercise? N.

Health Screen

A lipid profile was normal. No glaucoma screening performed by an Eye Care Provider every 2 years.
Colorectal cancer screening results not documented and reviewed; No influenza immunization and not pneumococcal

Reason For Visit

PI for check up;

Subjective

PI new to SMA. Has patches of itchy dermatitis, using otc med.
Has htn, needs med rf.
Smokes, needs to quit. Amended : Caprice Hutchison APN; 10/09/2011 7:20 PM PST.

Immunizations

No Flu or Pneumovax recorded Amended : Caprice Hutchison APN; 10/09/2011 7:17 PM PST.

Active Problems

Contact Dermatitis (692.9)

Hypertension (401.9)

Nicotine Dependence (305.1) Amended : Caprice Hutchison APN; 10/09/2011 7:17 PM PST.

Current Meds

Hydrochlorothiazide 25 MG Oral Tablet; TAKE 1 TABLET DAILY.; Rx
Triamcinolone Acetonide 0.1 % External Cream; APPLY SPARINGLY AND MASSAGE IN TWICE DAILY.; Rx
Amended : Caprice Hutchison APN; 10/09/2011 7:17 PM PST.

ROS

REVIEW OF SYSTEMS: Constitutional: Patient denies recent weight loss or gain. Denies fever. Respiratory: Denies shortness of breath or dyspnea on exertion. Cardiovascular: Denies orthopnea or palpitations. Eyes: Denies double vision or blurring of vision. Ears: Denies ringing in his ears or difficulty hearing. Genitourinary: Denies dysuria or sexual dysfunction. Abdomen: Denies abdominal pain or problems with bowel movements, specifically denies hematochezia or melena. Amended : Caprice Hutchison APN; 10/09/2011 7:19 PM PST.

Vital Signs

Vital Signs Recorded by Buliang, Maria on October 07, 2011 04:37 PM
O2 SATURATION O2SAT: O2 Saturation 98 ;
Height: 71 in, Weight: 206 lb, BMI: 28.84 , BSA: 2.13
BP: 142/93 mm Hg
Temp: 97.6 F

Printed By: Blanca Derosas

1 of 2

8/23/18 10:35:03 AM

Adult Medicine Progress Note

Patient: BAHRAM YAHYAVI
Encounter: Oct 7 2011 4:10PM

MRN: 3995185

HR: 76 b/min ;
Resp: 16 r/min ;

Objective

HEENT: Pupils equal, round, reactive to light. Tympanic membranes are wnl a.u. Mouth, nose and throat are wnl. Neck is supple, has full range of motion without palpable masses.

LUNGS: Clear to auscultation.

HEART: Regular rate, without murmurs, rubs, gallops or clicks. Peripheral pulses are palpable and equal.

ABDOMEN: Soft, nontender, without organomegaly. Active bowel sounds, times 4. Amended : Caprice Hutchison APN; 10/09/2011 7:19 PM PST.

Assessment

- Normal routine history and physical adult (V70.0)
- Hypertension (401.9)
- Contact dermatitis (692.9)
- Nicotine dependence (305.1)

Plan

Continue on the medications. Labs as discussed.

Refill medications as written, tobacco cessation discussed.

recommended dietary changes, Discussed with pt. Lower cholesterol diet including avoiding trans fatty acid containing foods, leaner meats, increasing vegetables and fibers. Recommended increase in intake of fatty fishes such as salmon, tuna, shrimp or fish oil caps (of possibly Flax if not tolerated) for HDL as well as exercise. D/W pt better carbohydrate choices, "more brown stuff less white stuff"

RTC in 6 months. Amended : Caprice Hutchison APN; 10/09/2011 7:19 PM PST.

Orders

CBC WITH DIFF AND PLATELETS 4500; Requested for: 07 Oct 2011.

COMPREHENSIVE METABOLIC PANEL W/eGFR 944; Patient Fasting; Patient Fasting; Requested for: 07 Oct 2011.

LIPID PANEL (AMA) 1383; Patient Fasting; Patient Fasting; Requested for: 07 Oct 2011.

PSA TOTAL SCREENING 7455; Requested for: 07 Oct 2011.

URINALYSIS w/reflex to culture UA 4770; Requested for: 07 Oct 2011.

TSH ULTRA SENSITIVE 7580; Requested for: 07 Oct 2011.

Hydrochlorothiazide 25 MG Oral Tablet; TAKE 1 TABLET DAILY; Qty30; R6; Rx

99204 New Pt Moderate Complex; Requested for: 07 Oct 2011.

Signature

Electronically signed by : Maria Buriang, MA I; 10/07/2011 4:39 PM PST; Co-author.

Electronically signed by : Caprice Hutchison APN; 10/09/2011 3:45 PM PST.

Electronically signed by : Caprice Hutchison APN; 10/09/2011 7:20 PM PST.

EXHIBIT “2”

Adult Medicine Progress Note

Southwest Medical Associates, Inc.
Southwest Medical Associates, Inc. P.O. Box 15645
Las Vegas, NV 89114-5645
(702) 877-8600

Patient: **BAHRAM YAHYAVI**
Address1: **112 QUAIL RUN RD**
Address2:
City/ST/Zip: **HENDERSON, NV 89014**

MRN: **3995185**
DOB: **Dec 21, 1961**
Age: **56**
Home: **(619) 279-2554**
Work:

Encounter Date: Oct 25 2011 3:00PM

Previsit Screen

No urinary loss of control - per patient. Current smoker and alcohol use social. No domestic violence. Compared to last year, how would you rate your physical health now? Same as last year.

Compared to last year, how would you rate your mental health now? Same as last year.

Do you regularly exercise or take part in physical exercise? N.

Health Screen

A lipid profile was performed 10.11. No glaucoma screening performed by an Eye Care Provider every 2 years.
No influenza immunization

Reason For Visit

49 year male presents to the clinic today, for F/U on labs.

Subjective

Patient presents for lab results. Also complains of neck pain for several years. He denies any history of neck surgery. No neck trauma. He has a well-healed surgical scar on the back of his head which is from a hair transplant.

Current Meds

Hydrochlorothiazide 25 MG Oral Tablet; TAKE 1 TABLET DAILY.; Rx
Triamcinolone Acetonide 0.1 % External Cream; APPLY SPARINGLY AND MASSAGE IN TWICE DAILY.; Rx.

Allergies

No Known Drug Allergies.

Vital Signs

Vital Signs Recorded by Stulo, Susan on October 25, 2011 03:28 PM

O2 SATURATION O2SAT: O2 Saturation 96;

Height: 71 in, Weight: 207.125 lb, BMI: 29.00, BSA: 2.14

BP: 137/85 mm Hg

Temp: 97.5 F

HR: 92 b/min ;

Resp: 16 r/min ;

Objective

GENERAL: WN, WD, WG and cooperative

NECK: Supple with full range of motion. There is mild paraspinal discomfort with palpation of the neck. No skin changes. No subcutaneous nodules noted. No palpable muscle spasms.

SKIN: Warm, dry, no lesions or rashes

NEURO: CN III - XII intact.

Printed By: Blanca Derosas

1 of 2

8/23/18 10:34:53 AM

Adult Medicine Progress Note

Patient: BAHAM YAHYAVI
Encounter: Oct 25 2011 3:00PM

MRN: 3995185

Assessment

- Essential hypertriglyceridemia (272.1)
- Backache (724.5)

Plan

Backache -- will try naproxen. Patient states he has not taken anything for pain relief in the past. Will check a plain to the neck to look for arthritic changes.

Hypercholesterolemia -- will prescribe fenofibrate. He is to recheck his LFTs in one month, will check a direct LDL at that time as well. Follow-up with PCP in 3 months for a recheck of his cholesterol.

Orders

Naproxen 500 MG Oral Tablet; TAKE 1 TABLET EVERY 12 HOURS WITH FOOD AS NEEDED FOR PAIN; Qty60; R2; Rx.

99212 Est Pt Brief; Requested for: 25 Oct 2011.

HEPATIC FUNCTION PANEL 939; Requested for: 25 Oct 2011.

DIRECT LDL 6307; Patient Not Fasting; Patient Not Fasting; Requested for: 25 Oct 2011.

SPINE,CERVICAL,ROUTINE MIN 4 OR 5V *; Requested for: 25 Oct 2011.

Fenofibrate 160 MG Oral Tablet; TAKE 1 TABLET DAILY; Qty30; R2; Rx.

Signature

Electronically signed by : Susan Stulo ; 10/25/2011 3:29 PM PST.

Electronically signed by : Sharon King MD; 10/25/2011 3:42 PM PST.

EXHIBIT “3”

Patient: YAHYAVI, BAHRAM
112 QUAIL RUN RD
HENDERSON, NV 89014

Age/Sex/DOB: 56 yrs M 21-Dec-1961
EMRN: 3995185
OMRN: 3995185
Home: (619) 279-2554
Work:

Results

Lab Accession # 5334399
Ordering Provider: King, Sharon
Performing Location:

Collected: 10/25/2011 4:25:00PM
Resulted: 10/25/2011 4:25:00PM
Verified By: King, Sharon
Auto Verify: N

SPINE, CERVICAL, ROUTINE MIN 4 OR 5V *

Stage: Final

TW: No Annotation Diagnoses: PURE HYPERGLYCERIDEMIA

| <u>Test</u> | <u>Result</u> | <u>Units</u> | <u>Flag Reference Range</u> |
|---|---------------|--------------|-----------------------------|
| SPINE, CERVICAL, ROUTINE - MINIMUM 4 OR 5 VIEWS | | | |

ACCESSION #: 5334399 - CERVICAL SPINE SERIES

COMPARISON: None.

FINDINGS: No acute osseous abnormality. Moderate/marked degenerative disk disease at C6-C7. To lesser degree, mild to moderate degenerative disk disease at C5-C6, C7-T1 and to lesser extent at C3-C4. Multilevel mild to moderate posterior element DJD, increasing caudally. Slight reversal of usual C-spine lordotic curvature may be due in part to muscle spasm/pain. Correlate clinically. Prevertebral and retropharyngeal soft tissues are within normal limits. No other significant osseous lesions. Anterior osteophytes are seen at the mid and lower C-spine.

Oblique images demonstrate bilateral mild-to-moderate osseous foraminal narrowing, most significant at the mid and lower C-spine. Odontoid process is intact. C1 lateral masses are normally aligned in open-mouth view. Visualized lung apices are clear.

Transcribed: 10/26/2011 by rer
RESPROVADD Interface, Powerscribe 10/26/2011 7:44:56 PM
CONPROVADD Interface, Powerscribe 10/26/2011 7:44:56 PM
TRANSCRIBE Interface, Powerscribe 10/26/2011 7:44:57 PM
Interpreted By FRANCOIS, HOWARD 10/27/2011 7:02:28 AM
FINALIZED FRANCOIS, HOWARD 10/27/2011 7:02:28 AM

EXHIBIT “4”

Adult Medicine Progress Note

Southwest Medical Associates, Inc.
Southwest Medical Associates, Inc. P.O. Box 15645
Las Vegas, NV 89114-5645
(702) 877-8600

| | | | |
|-----------------|---------------------|-------|----------------|
| Patient: | BAHRAM YAHYAVI | MRN: | 3995185 |
| Address1: | 112 QUAIL RUN RD | DOB: | Dec 21, 1961 |
| Address2: | | Age: | 56 |
| City/ST Zip: | HENDERSON, NV 89014 | Home: | (619) 279-2554 |
| Encounter Date: | Mar 12 2012 8:20AM | Work: | |

Previsit Screen

Urinary loss of control - per patient. Current smoker and alcohol use. No domestic violence.
Compared to last year, how would you rate your physical health now? Same as last year.

Compared to last year, how would you rate your mental health now? Same as last year.

Do you regularly exercise or take part in physical exercise? N.

Health Screen

A lipid profile was performed 2011
No glaucoma screening performed by an Eye Care Provider every 2 years.
No influenza immunization and not pneumococcal

Reason For Visit

50 year male presents to the clinic today, with complaints of right knee pains.

Subjective

PT STATES HE INJURED HIS RIGHT KNEE WHILE SKIING ON MT CHARLESTON ABOUT THREE MONTHS AGO. IT OCCLLY GIVES OUT ON HIM. THE SWEELLING HAS DECREASED BUT HE HAD TORN HIS LEFT ACL IN THE PAST AND STATES IT FEELS THE SAME WAY.

Current Meds

Hydrochlorothiazide 25 MG Oral Tablet; TAKE 1 TABLET DAILY.; Rx
Triamcinolone Acetonide 0.1 % External Cream; APPLY SPARINGLY AND MASSAGE IN TWICE DAILY.; Rx
Fenofibrate 160 MG Oral Tablet; TAKE 1 TABLET DAILY.; Rx
Naproxen 500 MG Oral Tablet; TAKE 1 TABLET EVERY 12 HOURS WITH FOOD AS NEEDED FOR PAIN.; Rx

Allergies

No Known Drug Allergies.

Vital Signs

Vital Signs Recorded by Brown, Michael on March 12, 2012 07:37 AM
O2 SATURATION O2SAT: O2 Saturation: 96;
Height: 71 in, Weight: 207 lb, BMI: 28.98, BSA: 2.14
BP: 151/101 mm Hg RUE Sitting
Temp: 97.2 F Temporal
HR: 96 b/min RPT;

Objective

ALERT NON ILL APPEARING MALE, NO ANTALGIC GAIT OR AFFET
HRRR

LUNGS CTA

RIGHT KNEE NO SWELLING, NO EFFUSION, NON TENDER TO PALPATION, NO LAXITY
APPRECIATED.

Assessment

Printed By: Blanca Derosas

1 of 2

8/23/18 10:34:47 AM

Adult Medicine Progress Note

Patient: BAHRAM YAHYAVI
Encounter: Mar 12 2012 8:20AM

MRN: 3995185

• Knee joint pain (719.46)

RIGHT KNEE PAIN S/P SKI INJURY.

Plan

RIGHT KNEE XR ORDERED

MRI TO BE SCHEDULED

FURTHER CARE FOR OTHOPEDEICS OR P.T TO BE DECIDED AFTER MRI RESULTS REVIEWED WITH PT.

Orders

Discontinue Fenofibrate 160 MG Oral Tablet.

Discontinue Hydrochlorothiazide 25 MG Oral Tablet.

Discontinue Naproxen 500 MG Oral Tablet.

Discontinue Triamcinolone Acetonide 0.1 % External Cream.

KNEE, 2V; Right; Requested for: 12 Mar 2012.

99211 Est Pt Minimal; Requested for: 12 Mar 2012.

Signature

Electronically signed by : Michael Brown MA I; 03/12/2012 8:40 AM PST; Co-author.

Electronically signed by : William Celentano MD; 03/12/2012 8:58 AM PST; Author.

EXHIBIT “5”

Adult Medicine Progress Note

Southwest Medical Associates, Inc.
Southwest Medical Associates, Inc. P.O. Box 15645
Las Vegas, NV 89114-5645
(702) 877-8600

Patient: **BAHRAM YAITIYAVI**
Address 1: **112 QUAIL RUN RD**
Address 2:
City/ST Zip: **HENDERSON, NV 89014**

MRN: **3995185**
DOB: **Dec 21, 1961**
Age: **56**

Home: **(619) 279-2554**

Encounter Date: **Nov 1 2012 8:10AM**

Work:

Previsit Screen

Current smoker. Not chewing nicotine-containing substances. Alcohol use social. No domestic violence concerns reported.

Health Outcomes

No urinary loss of control - per patient. No fall concern reported. Exercising regularly.
Health status was improved or the same as last year. (physical).
Mental status assessed as improved or the same as last year

Health Screen

A lipid test panel was performed 10/2012.

Reason For Visit

50 year male presents to the clinic today, for a f/u on results.

Subjective

50 y/o male presents to discuss lab results. States that he is feeling well without any physical complaints. Blood pressure has been running 130/90 after medications.

Current Meds

Protopic 0.1 % External Ointment; APPLY AND GENTLY MASSAGE INTO AFFECTED AREA(S) TWICE DAILY.; Rx

Lisinopril 5 MG Oral Tablet; TAKE 1 TABLET DAILY AS DIRECTED.; Rx

Allergies

No Known Drug Allergies.

ROS

Constitutional: No fevers, night sweats or weight loss.

CV: No chest pain, orthopnea, PND, pedal edema. No palpitations.

Respiratory: No shortness of breath, dyspnea on exertion, cough, wheeze or hemoptysis.

GI: No nausea, vomiting, diarrhea, abdominal pain or rectal bleeding.

Musculoskeletal: No joint redness, swelling or pain. No persistent muscular pain.

Neurologic: No headaches, extremity numbness, paresthesias, weakness or clumsiness. No slurred speech, diplopia or transient loss of vision.

Psychiatry: No depression, anxiety or mania.

Endocrinology: No polyuria, polydipsia, polyphagia, temperature intolerance or weight change. No change in skin or hair. No goiter.

Hematology: No weakness, fatigue, or unusual growths or swellings. No history of anemia, cancer or lymphoma.

Vital Signs

Vital Signs Recorded by Cheatham, Claudia on November 01, 2012 07:41 AM

O2 SATURATION O2SAT: O2 Saturation 97;

Height: 71 in, Weight: 203 lb, BMI: 28.42, BSA: 2.12

BP: 134/92 mm Hg

Temp: 96.8 F

HR: 75 b/min ;

Resp: 12 r/min ;

Printed By: Blanca Derosas

1 of 2

8/23/18 10:34:38 AM

Adult Medicine Progress Note

Patient: BAHRAM YAITIYAVI
Encounter: Nov 1 2012 8:10AM

MRN: 3995185

Assessment

- Hypertension (401.9)
- Essential hypertriglyceridemia (272.1)
- Impaired fasting glucose (790.21)

Discussed

Discussed dietary changes that need to be made, and patient agreed to see HEW for nutrition counseling.

Plan

Refer patient to HEW for diabetic teaching

Omega 3 tablets at night

Increase exercise to 4 times per week

Repeat blood work in 3 months.

Increase lisinopril to 5 mg daily

Return in 3 months or sooner if needed.

Orders

Lisinopril 5 MG Oral Tablet; TAKE 1 TABLET DAILY; Qty30; R0; Rx.

Discontinue Lisinopril 5 MG Oral Tablet.

COMPREHENSIVE METABOLIC PANEL W/eGFR 944; Patient Fasting; Patient Fasting; Requested for: 01 Nov 2012.

GLYCOHEMOGLOBIN (HEMOGLOBIN A1C BY HPLC) 6605; Requested for: 01 Nov 2012.

LIPID PANEL (AMA) 1383; Patient Fasting; Patient Fasting; Requested for: 01 Nov 2012.

99213 Est P Limited; Requested for: 01 Nov 2012.

Signature

Electronically signed by : Claudia Cheatham MA I; 11/01/2012 8:43 AM PST.

Electronically signed by : Norma Soffa APN; 11/01/2012 9:28 AM PST; Author.

Electronically signed by : Ryan Tran MD; 11/01/2012 1:03 PM PST; Review.

EXHIBIT “6”

Adult Medicine Progress Note

Southwest Medical Associates, Inc.
Southwest Medical Associates, Inc. P.O. Box 15645
Las Vegas, NV 89114-5645
(702) 877-8600

Patient: BAHAM YAHYAVI
Address1: 112 QUAIL RUN RD
Address2:
City/ST Zip: HENDERSON, NV 89014

MRN: 3995185
DOB: Dec 21, 1961
Age: 56

Home: (619) 279-2554
Work:

Encounter Date: May 23 2013 10:20 AM

Previsit Screen

Current smoker.

Health Screen

A lipid test panel was performed 10/2012.

Reason For Visit

51 year male presents to the clinic today, for Summerlin HFU.

Current Meds

Protopic 0.1 % External Ointment; APPLY AND GENTLY MASSAGE INTO AFFECTED AREA(S) TWICE DAILY; Rx

Lisinopril 5 MG Oral Tablet; TAKE 1 TABLET BY MOUTH EVERY DAY; Rx

Omeprazole CPDR; TAKE 1 CAPSULE twice DAILY; Qty0; R0; RPT.

Allergies

No Known Drug Allergies.

Vital Signs

Vital Signs Recorded by Uini, Kimberly on May 23, 2013 10:44 AM

O2 SATURATION O2SAT: O2 Saturation 97;

Height: 71 in, Weight: 197 lb, BMI: 27.58, BSA: 2.09

BP: 121/85 mm Hg LUE Sitting

Temp: 97.7 F

HR: 94 b/min ;

Objective

SUBJECTIVE: This is a 51-year-old male patient who is here with a known history of hypertension, hypertriglyceridemia, and nicotine dependence, for hospital followup. Patient went to hospital followup because of dark stool or melena, dizziness, lightheadedness, and symptomatic anemia. Patient did have her EGD and colonoscopy. EGD showed peptic ulcer, both gastric and duodenal ulcer and duodenitis. Patient was stabilized in the hospital. His hemoglobin was initially 7.7. He was given blood transfusion and he was discharged home with omeprazole.

PAST SURGICAL HISTORY: ACL repair and left arm fracture.

FAMILY HISTORY: Mother with history of breast cancer. Dad with history of aortic valve replacement.

SOCIAL HISTORY: He is currently smoking, but he has cut down a lot. Also he does drink alcohol. No illicit drugs.

REVIEW OF SYSTEM: He denies any chest pain or shortness of breath. No palpitations. Still feels a little tired, but no lightheadedness or dizziness. He is taking his medications regularly including his blood pressure medication.

OBJECTIVE: Physical examination: Generally he is a middle-aged male, not in apparent distress. Vitals: As noted.

Printed By: Blanca Derosas

1 of 2

8/23/18 10:34:34 AM

Adult Medicine Progress Note

Patient: BAHRAM YAHYAVI
Encounter: May 23 2013 10:20AM

MRN: 3995185

HEENT: Normocephalic. Conjunctivae are pink. Cardiovascular: Regular rate and rhythm. Lungs: Clear to auscultation bilaterally. Abdomen: Soft. Bowel sounds present. Nontender and nondistended. Extremities: No edema, cyanosis, or clubbing.

ASSESSMENT: As noted.

PLAN: The patient was recommended to continue his current medication. He was recommended to repeat his labs. I included other labs also for him for his routine health care maintenance. Encouraged to quit smoking. Offered to go to HBW program, but patient declined. I have recommended to see Dr. _____ he was given the phone number for that. He also has the skin rash or eczematous dermatitis in anterior chest wall. He wanted to see dermatologist as his current medication not working and I did initiate the referral for him.

Neeta Soni, MD m2/shy/gjc Date:

DD: 05/23/2013

DT: 05/24/2013.

Assessment

- Hypertension (401.9)
- Peptic ulcer (533.90)
- Essential hypertriglyceridemia (272.1)
- Nicotine dependence (305.1)

Orders

CBC WITH DIFF AND PLATELETS 4500; Requested for: 23 May 2013.

99213 Hst Pl Limited; Requested for: 23 May 2013.

99213 Est Pl Limited; Requested for: 23 May 2013.

LIPID PANEL (AMA) 1383; Patient Fasting; Patient Fasting; Requested for: 23 May 2013.

COMPREHENSIVE METABOLIC PANEL W/eGFR 944; Patient Fasting; Patient Fasting; Requested for: 23 May 2013.

PSA TOTAL, SCREENING 7455; Requested for: 23 May 2013.

Signature

Electronically signed by : Kimberly Umi MA I; 05/23/2013 10:46 AM PST.

Electronically signed by : Neeta Soni MD; 05/24/2013 1:26 PM PST.

EXHIBIT “7”

HOWARD TUNG, M.D.
NEUROSURGERY
DIPLOMATE AMERICAN BOARD OF NEUROLOGICAL SURGERY
CLINICAL PROFESSOR OF NEUROLOGICAL SURGERY
UNIVERSITY OF CALIFORNIA, SAN DIEGO

August 26, 2016

Law Office of Eric R. Larsen
750 E Warm Springs Rd, Suite 320
Box 19
Las Vegas, NV 89119

RE: **YAHYAVI, Bahram**
DOI: June 19, 2013

INDEPENDENT MEDICAL EVALUATION

I had the opportunity to evaluate Mr. Bahram Yahyavi in my office for the purpose of an Independent Medical Evaluation.

HISTORY OF INJURY:

Mr. Bahram Yahyavi indicates he was involved in a motor vehicle accident on June 19, 2013. At that time, he was a restrained driver of a company Dodge Charger vehicle that was struck by a forklift approximately perpendicular to his vehicle. He states the blades of the forklift intruded into the vehicle. The airbags did not deploy. There was no loss of consciousness. It was reported as a work injury.

He was treated in the emergency room at University Medical Center. He recalls having complaints of knee, back and neck pain. He underwent CT scans of the brain, cervical spine, abdomen and pelvis. There were no acute traumatic findings. Degenerative changes were noted in the cervical spine. He underwent chiropractic evaluation and treatment the following day by Donna Callaway, D.C. and received a couple of weeks of chiropractic treatment. He underwent occupational evaluation at Occupational Health and Wellness, as well as medical evaluation by Dipti Shah, M.D. He underwent an orthopaedic spine evaluation by Archia Perry, M.D. in September of 2013 and was referred for a cervical MRI study in October of 2013.

He underwent a number of injections by Joseph Schifini, M.D. over the next several months. He indicates he did not receive any significant benefit from these injections. He also underwent further physical therapy in the summer of 2014 at Kelly Hawkins Physical Therapy. More recently, he states that he has been referred for pain management with Christopher Fisher, M.D. and last year was evaluated at Mattsmith Physical Therapy, as well as underwent permanent impairment evaluation by David Oliveri, M.D.

CURRENT SYMPTOMATOLOGY:

Mr. Yahyavi endorses current symptoms of headache, primarily in the suboccipital area. This can radiate to the top of his head. He states that these occur on an intermittent, but daily basis. He rates his headache 4-5 on a scale of 10.

Mr. Yahyavi complains of cervical neck pain on a constant and daily basis. This involves primarily the top and posterior shoulder areas. It does not go below the scapula level.

He states he has occasional symptoms involving his left arm. This can involve his forearm and third, fourth and fifth fingers of his left hand. He denies any right arm symptoms.

He denies any midback pain. He denies any low back pain.

PAST TRAUMA:

He denies a history of prior trauma or previous cervical neck pain prior to the subject motor vehicle accident.

PAST MEDICAL HISTORY:

He has a history of hypertension. He denies a history of diabetes.

PAST SURGICAL HISTORY:

He has undergone a right knee arthroscopy.

MEDICATIONS:

He utilizes lisinopril and tramadol.

ALLERGIES:

No known allergies.

SOCIAL HISTORY:

Occupation: Sales Manager for a car business.

MEDICAL RECORD REVIEW:

06/19/13 State of Nevada Traffic Accident Report.

06/19/13 Transport to Hospital, Las Vegas Fire and Rescue.

- 06/19/13 Emergency Room Record, Joshua Parker, M.D., University Medical Center.**
Patient was the restrained driver of a vehicle going about 10 mph when it struck a fork lift's blades. This was not a head on, but more of a T-bone where he drove into the blades at a perpendicular type of angle. The patient thinks he hit his head, but EMS reported that passenger compartment intrusion was very minimal. Airbags were not deployed. The patient was not ambulatory on the scene. He denies loss of consciousness. He complains of a headache and some back pain. He does not have any radiation of the back pain. EMS reported patient's blood sugar is 144. Diagnosis: 1) Musculoskeletal strain. 2) MVA. Patient treated and released in stable condition.
- 06/19/13 CT Brain without Contrast, Jimmy Shih, M.D., University Medical Center.**
Impression: No acute intracranial pathology.
- 06/19/13 CT Cervical Spine without Contrast, Jimmy Shih, M.D., University Medical Center.**
Impression: No traumatic injury to the cervical spine seen. Degenerative changes as above.
- 06/19/13 CT Abdomen and Pelvis, Pejman Molarjem, M.D., University Medical Center.**
Impression: 1) No acute intra-abdominal or intrapelvic process. 2) Probably a small hemangioma involving segment 8 in the liver. Nonemergent contrast enhanced MRI recommended.
- 06/19/13 Chest X-ray, Jimmy Shih, M.D., University Medical Center.**
Impression: Unremarkable trauma portable chest.
- 06/19/13 X-ray Left Humerus, Jimmy Shih, M.D., University Medical Center.**
Impression: No acute fracture seen.
- 06/24/13 Initial Chiropractic Evaluation, Donna Callaway, D.C., Downtown Neck and Back Clinic.**
Patient states that he was involved in a MVA on 06/19/13. He was the restrained driver of a Dodge Charger and was involved in a side impact collision in which his vehicle was struck by a fork lift on the front passenger side. He cannot remember if he had any loss of consciousness, but reports of blurry vision for about two minutes. He reports his vehicle was moving. He did not anticipate the collision. His head position was forward. He reports having both hands on the steering wheel. He reports a slight forward body lean. His head rest in the down position. His seat was not altered or broken after the impact. The patient reports he hit both of his knees on the dash. The airbags did not deploy. Diagnosis: 1) Cervical spine s/s with cervical segmental dysfunction. 2) Cervical radiculitis/neuritis. 3) Posttraumatic headaches. 4) Thoracic spine s/s with thoracic segmental dysfunction. 5) Lumbar spine s/s with lumbar segmental dysfunction. 6) Right knee s/s. 7) Left knee s/s. 8) Muscle spasm. 9) Insomnia secondary to pain. 10) Left knee abrasion. Plan: Chiropractic therapy.

- 06/24/13-
07/03/13 **Chiropractic Progress Notes**, Donna Callaway, D.C., Downtown Neck and Back Clinic. Patient has completed 7 therapy sessions. Plan: Continue chiropractic care.
- 06/25/13 **Urgent Care**, Radar Medical Group/University Urgent Care. Patient seen for right knee pain, back pain, and neck pain from MVA on 06/19/13. Plan: Lortab, Ibuprofen, Flexeril.
- 06/27/13 **Employers Report of Industrial Injury or Occupational Disease**. Chapman Dodge.
- 07/08/13 **Initial Consultation**, Maangelica Goodstein, PAC., Center for Occupational Health and Wellness. Diagnosis: 1) Cervical muscle strain. 2) Scapular muscle strain. 3) Head injury, resolved. Plan: Duexis, stretching, heat, cervical collar, modified work status.
- 07/15/13 **Internal Medicine Evaluation**, Dipti Shah, M.D. Diagnosis: 1) S/P MVA. 2) Acute, traumatic cervical, thoracic, lumbar strain. 3) Acute, traumatic cervical, thoracic, lumbar muscle spasm. 4) Acute, traumatic cervicogenic headaches. 5) Insomnia. Plan: Flexeril, Lortab, stop Motrin due to history of ulcers, obtain records, MRI cervical spine.
- 07/18/13 **Progress Notes**, Victor Klausner, D.O., Center for Occupational Health and Wellness. Patient has pain over the base of his neck radiating to the left trapezius with intermittent headaches. He has intermittent episodes of dizziness without nausea or vomiting. CT cervical spine shows DDD, osteoarthritis and foraminal stenosis at C5/7. Plan: HEP, Lodine, PT, stop soft collar.
- 09/16/13 **Orthopedic Consultation**, Archie Perry, M.D., Desert Orthopedic Center. Diagnosis: 1) Neck and cervical strain. 2) C6/7 auto fusion, preexisting. 3) Cervical spondylosis, preexisting, but previously asymptomatic. 4) Left greater than right upper extremity radicular symptoms. Plan: MRI cervical spine, modified work status.
- 09/24/13 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Diagnosis: Right knee ACL tear and mild arthritis. Plan: MRI right knee.
- 10/01/13 **MRI Cervical Spine without Contrast**, P. Valiveti, M.D., Desert Radiologists. Impression: 1) Straightening and minimal reversal of the normal cervical lordosis with multilevel discogenic disease and multilevel uncovertebral degenerative changes throughout the cervical spine. 2) See above for detail regarding each level. 3) Multilevel facet arthrosis, with severe right sided facet arthrosis C7/T1.

- 10/06/13** **Emergency Room Record**, Matthew Stofferahn, M.D., Summerlin Hospital Medical Center. Patient seen for headache. All testing was negative. He is treated and released in stable condition.
- 10/08/13** **CT Brain without Contrast**, Hubert Chin, M.D., Summerlin Hospital Medical Center. Impression: Normal CT of the brain.
- 10/14/13** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. In the ER, he was found to have significantly high BP and he was started on 2 medications. He has noted progressive increase in his neck pain, left arm pain and numbness, as well as occipital and frontal headaches associated with these painful episodes. Plan: Injections, EMG study.
- 10/15/13** **Cardiac Notes**, Anil Fotedar, M.D., Heart Center of Nevada. Patient seen for hypertension and possible hypertensive heart disease.
- 11/11/13** **Office Visit**, Archie Perry, M.D., Desert Orthopedic Center. His hypertension may be related to his pain symptoms. Plan: EMG study.
- 11/25/13** **Consultation**, Joseph Schifini, M.D., Las Vegas Surgery Center. Diagnosis: 1) Multilevel cervical disc osteophyte complexes. 2) Multilevel cervical DDD. 3) Subjective bilateral upper extremity radiculitis, left greater than right. Plan: Staged left C7/T1, followed possibly by C6/7 and possibly C5/6 transforaminal selective ESI, continue current medication regimen.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Staged first left C7/T1 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Staged second left C6/7 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Staged third left C5/6 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 12/10/13** **MRI Right Knee without Contrast**, Jimmy Wang, M.D., Desert Radiologists. Impression: Findings consistent with a chronic ACL tear with subsequent scarring the intercondylar notch. 2) Peripheral vertical tear of the posterior horn of the medial meniscus extending to the posterior body segment, known to be associated with a chronic ACL tear.
- 12/17/13** **Progress Notes**, Joseph Schifini, M.D., Las Vegas Surgery Center. After injections patient noted 20% long term relief of his neck pain, but no relief of his bilateral shoulder pain. Plan: Injections, continue medications.

- 12/17/13** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Diagnosis: Right knee ACL tear and mild arthritis, medial meniscus tear. Plan: Right knee arthroscopy, preop clearance.
- 01/02/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C6/7 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 01/02/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C6/7 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 01/07/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient seen for preop. Diagnosis: Right knee ACL tear and mild arthritis, medial meniscus tear. Plan: Right knee arthroscopy, Norco.
- 01/07/14** **Chest X-ray**, Frank Hsu, M.D., Desert Radiologists. Impression: Right upper lobe pulmonary nodule. Appearance is nonspecific. Recommend correlation with prior chest radiographs if available. If none are available, chest CT is recommended.
- 01/08/14** **Progress Notes**, Anil Fotedar, M.D., Heart Center of Nevada. Patient seen for preop. EKG is normal. Patient is cleared from a cardiac standpoint.
- 01/09/14** **Operative Report**, Michael Miao, M.D., Institute of Orthopedic Surgery. Procedure: Right knee arthroscopic assisted ACL reconstruction, AT allograft, arthroscopic partial medial meniscectomy. No complications.
- 01/10/14** **Physical Therapy Evaluation**, Jared Morasco, PT., Mattsmith Physical Therapy. Diagnosis: 1) Sprain cruciate ligament, knee. 2) Joint pain, left leg. Plan: PT for right knee.
- 01/10/14-
07/07/14** **Physical Therapy Discharge Summary**, Jared Morasco, PT., Mattsmith Physical Therapy. Patient has completed 18 therapy sessions. Patient has no new complaints. Overall condition is improving. Patient is discharged from PT.
- 01/17/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes improvement in his symptoms with PT. He has diffuse palpable tenderness. Plan: Ibuprofen, PT.

- 01/30/14** **EMG/NCV Study**, Leo Germin, M.D., Clinical Neurology Specialists. Impression: 1) Moderate in severity CTS on the left. 2) No evidence for CTS on the right. 3) Moderate in severity ulnar neuropathy at the elbow on the right. 4) No evidence for ulnar neuropathy at the elbow on the left. 5) Needle examination deferred due to inability of this individual to wait for the test and will be performed on the follow up visit.
- 02/04/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes improvement with PT. Knee is good. He is having a lot of back problems, cannot sit. He now complains of calf pain at end of appointment. Plan: Continue PT, Doppler, consider aspiration of the knee done today.
- 02/04/14** **EMG/NCV Study**, Leo Germin, M.D., Clinical Neurology Specialists. Impression: 1) No evidence for overt axonal loss C5 through T1 radiculopathy bilaterally. 2) Moderate in severity CTS on the left. 3) Moderate in severity ulnar neuropathy at the elbow on the right. 4) No evidence for ulnar neuropathy at the elbow on the left.
- 03/04/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that his symptoms have improved. He missed PT for two weeks due to kidney stone. Plan: PT, will reassess effusion and consider aspiration, modified work status.
- 03/17/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that last injections gave him moderate relief of his symptoms. He continues to complain of neck pain that radiates to the left shoulder. Plan: C3/4 transforaminal injection.
- 04/01/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that his symptoms are unchanged. Plan: Aspiration followed by injection done today, PT.
- 04/07/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C3/4 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 04/07/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C3/4 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 06/09/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Last injections gave him about 2 weeks of significant pain relief, however, now his pain is starting to come back. Plan: PT.
- 06/10/14** **Progress Notes**, Joseph Schifini, M.D. I will address the C5/6 level.

- 06/25/14** **Office Visit, Michael Miao, M.D., Desert Orthopedic Center.** Patient continues to have clicking and pain with sports/activities. He has pain while walking upstairs, getting up. PT has not been approved. Plan: Continue HEP, no work restrictions.
- 06/30/14-
09/02/14** **Physical Therapy Progress Notes, Andy Hutchison, PT., Kelly Hawkins Physical Therapy.** Patient has completed 24 therapy sessions. He has achieved some short term improvement in his symptoms, but no long term improvements. He has completed all his therapy sessions. Plan: Will wait for further plan of care.
- 07/07/14** **Progress Notes, Archie Perry, M.D., Desert Orthopedic Center.** Patient has had significant relief of symptoms with manual traction with PT. Plan: Home mechanical traction, surgery at C3/4 and C6/7.
- 07/10/14** **Procedure Report, Joseph Schifini, M.D., Las Vegas Surgery Center.** Procedure: Right C5/6 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 07/10/14** **Procedure Report, Joseph Schifini, M.D., Las Vegas Surgery Center.** Procedure: 1) Left C5/6 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 08/11/14** **Progress Notes, Archie Perry, M.D., Desert Orthopedic Center.** Patient states that overall his neck pain is the same. Plan: Home traction unit, surgical intervention.
- 08/19/14** **Office Visit, Michael Miao, M.D., Desert Orthopedic Center.** Patient continues to have clicking and pain with sports and activities. He has a hard time walking. He can't squat or kneel down. Plan: Continue HEP, no work restrictions.
- 09/22/14** **Progress Notes, Archie Perry, M.D., Desert Orthopedic Center.** Patient notes continued neck pain as well as intermittent arm pain and paresthesias. Plan: Facet injections at the C5/6, C6/7 and C7/T1 levels, no work restrictions.
- 10/14/14** **Progress Notes, Joseph Schifini, M.D.** Patient continues to have evidence of mechanical neck pain. Plan: Left C5-T1 medial branch facet joint nerve blocks.
- 10/23/14** **Procedure Report, Joseph Schifini, M.D., Las Vegas Surgery Center.** Procedure: 1) Left C5, C6, C7, T1 medial branch facet joint nerve injection under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.

- 11/10/14 **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient had 50% improved pain relief after last injection. Plan: Surgical intervention, modified work status.
- 12/03/14 **Consultation**, Christopher Fisher, M.D., Nevada Spine Clinic. Diagnosis: 1) Cervical pain with mechanical axial symptoms, rule out facet mediated pain. 2) Cervical s/s with myofascial pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, light work duty, tens therapy.
- 01/26/15 **Operative Report**, Christopher Fisher, M.D., Smoke Ranch Surgery Center. Procedure: Left C4, C5, C6 and C7 medial branch blocks. No complications.
- 02/04/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient had significant relief from last injection before it wore off. Plan: Flexeril, Tramadol, HEP, ice/heat, light work duty, tens unit.
- 02/11/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. He has pain that occasionally radiates down the left arm, worse with sitting for prolonged periods of time, associated with decreases side range of motion. Plan: MBB at C4-7, Floxeril, Tramadol, HEP, ice/heat, light work duty, tens unit.
- 03/02/15 **Operative Report**, Christopher Fisher, M.D., Smoke Ranch Surgery Center. Procedure: Left C4, C5, C6 and C7 medial branch blocks. No complications.
- 03/11/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. He had injection with no improvement in symptoms. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 03/27/15 **Functional Capacity Evaluation**, Doug Ellis, PT., Matt Smith Physical Therapy. There were inconsistencies in his presentation, as well as noted self-limiting pain behaviors. There does exist the probability of a less than maximum effort. The results of this functional capacity evaluation have been determined to be unreliable and invalid.
- 04/01/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient seen for left cervical pain and upper back pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 04/08/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient seen for left cervical pain and upper back pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.

04/23/15 **Permanent Impairment Evaluation, David Oliveri, M.D.** Diagnosis: 1) Cervical spine pain of likely motion segment origin with intermittent left upper extremity radicular symptomatology. 2) Upper thoracic spine pain, likely a referral from the cervical spine. 3) Right knee internal derangement S/P ACL reconstruction and partial medial meniscectomy. P/S: Yes. Apportionment is not indicated. AMA impairment rating: 12% WPI, 8% cervical spine, 0% thoracic spine, 4% right knee.

06/30/15 **Photographs of accident scene and damaged vehicle.**

Miscellaneous Medical:

Duplicate medical records.

Labs.

Miscellaneous Nonmedical:

Correspondence from Associated Risk Management.

Income tax returns.

Wage calculation form for claims agents use.

Depositions:

05/03/16, deposition of Bahram Yahyavi, 89 pages.

Legal:

Defendants second supplement to early case conference production of documents and witness list.

Plaintiff's disclosure of documents, witnesses.

Defendant's first supplement to early case conference production of documents and witness list.

Plaintiff's reply to defendant's first set of admissions to plaintiff Bahram Yahyavi.

Before the appeals officer.

Billing:

Account financial History.

HCPNV, \$18.00

Photocopies, \$9.72

Heart Center of Nevada, \$400.00

Victor Klausner, D.O., 0 balance

Nick Zarkes, M.D., 0 balance

David Oliveri, M.D., 0 balance

Nevada CVS Pharmacy, \$544.29

Clinical Neurology Specialists, \$3850.00

Desert Radiologists, 0 balance

Nevada Spina Clinic, 0 balance

Downtown Neck and Back Clinic, \$1775.00

Redar Medical Group, \$722.25

Shadow ER Physicians, \$1531.00

Summerlin Hospital Medical Center, \$2989.00

EMP of Clark, \$665.55
Pacific Anesthesia Consultants, \$150.00
Kelly Hawkins PT, 0 balance
Kinex Medical Company, 0 balance
Mattsmith PT., 0 balance
Joseph Schifini, M.D., 0 balance
Chynoweth Hill Leavitt, summary of billing
University Medical Center, \$5904.20
Nevada Auto Network Self Insured Group, \$109,126.06, amount paid to date for claims.

GENERAL PHYSICAL EXAM:

GENERAL: The patient is a well-nourished, well-developed male.

NEUROLOGIC:

Mental status: Awake, alert, and oriented x4.
Cranial nerves II-XII: Within normal limits.
Cerebellar exam: Normal.
Gait: Intact.
Heel/toe walk: Normal. There is no ataxia noted.

CERVICAL EXAM:

INSPECTION: There is normal cervical lordosis without scars, deformities, lists, or cutaneous abnormalities.
TENDERNESS: Mildly tender to palpation diffusely in the posterior cervical spine.
SPASM: There is no palpable spasm.

RANGE OF MOTION:

Flexion: 60° (with chin failing chest by 1 fingerbreadth)
Extension: 30°
Right rotation: 70°
Left rotation: 60°
Right bending: 30°
Left bending: 30°

*He complains of increased pain with range of motion in all planes.

LUMBAR EXAM:

INSPECTION: There is normal lumbar lordosis without scars, deformities, lists, or cutaneous abnormalities.
TENDERNESS: There is no tenderness noted.
SPASM: There is no spasm palpated.

RANGE OF MOTION:

| | |
|-----------------|--|
| Flexion: | 60°* (with fingertips touching his toes) |
| Extension: | 40°* |
| Right rotation: | 70° |
| Left rotation: | 70° |
| Right bending: | 30° |
| Left bending: | 30° |

*He complains of neck pain with flexion and extension of the lumbar spine.

LOWER EXTREMITY EXAM:

There is good range of motion in the knee bilaterally. He complains of some mildly increased pain with range of motion on the right knee.

MOTOR EXAM:

| UPPER EXTREMITIES: | RIGHT | LEFT |
|--------------------|-------|------|
| Deltoids | 5/5 | 5/5 |
| Biceps | 5/5 | 5/5 |
| Triceps | 5/5 | 5/5 |
| Wrist Extension | 5/5 | 5/5 |
| Wrist Flexion | 5/5 | 5/5 |
| Hand grip | 5/5 | 5/5 |
| Intrinsics | 5/5 | 5/5 |

| LOWER EXTREMITIES: | | |
|--------------------|-----|-----|
| Iliopsoas | 5/5 | 5/5 |
| Quadriceps | 5/5 | 5/5 |
| Adductor | 5/5 | 5/5 |
| Hamstring | 5/5 | 5/5 |
| Dorsi flexion | 5/5 | 5/5 |
| Plantar flexion | 5/5 | 5/5 |
| EHL | 5/5 | 5/5 |

REFLEXES:

| UPPER EXTREMITIES: | RIGHT | LEFT |
|--------------------|-------|------|
| Biceps | 2+ | 2+ |
| Triceps | 2+ | 2+ |
| Wristls | 1-2+ | 1-2+ |

| LOWER EXTREMITIES: | | |
|--------------------|----|----|
| Knees | 1+ | 2+ |
| Ankles | 2+ | 2+ |

SENSATION:

Intact to pinprick and light touch.

SPECIAL TESTING:

| | |
|---------------------|--|
| STRAIGHT LEG RAISE: | Negative in the sitting and lying positions. |
| HOFFMANN SIGN: | Negative bilaterally. |
| CLONUS: | Negative bilaterally. |
| BABINSKI SIGN: | Negative bilaterally. |
| FOOT DROP: | No foot drop is noted. |
| SPURLING MANEUVER: | Negative bilaterally. |

IMPRESSION:

1. History of motor vehicle accident on 06/19/2013.
2. Cervical neck pain.
3. Cervical spondylosis.
4. Status post right knee arthroscopy, 01/09/2014.

DISCUSSION:

After review of the medical records provided, case materials, and examination of the patient, I would provide the following opinions within a reasonable degree of medical probability:

Mr. Yahyavi was involved in a motor vehicle accident on June 19, 2013. He received reasonable medical evaluation and treatment in the emergency room at University Medical Center and subsequent chiropractic treatment and medical evaluation. Within a reasonable degree of medical probability, Mr. Yahyavi sustained a straining injury to his spinal axis. Within a reasonable degree of medical probability, Mr. Yahyavi reached the level of maximal medical improvement with regards to his cervical spine by the end of summer 2014. Mr. Yahyavi has undergone radiologic imaging with CT scan and MRI studies of the cervical spine. Cervical spondylosis/degenerative changes are noted throughout the cervical spine and Mr. Yahyavi is noted to have degenerative interbody fusion at the C6-C7 level. These degenerative findings more likely than not, were present and preexisted the subject motor vehicle accident of June 19, 2013.

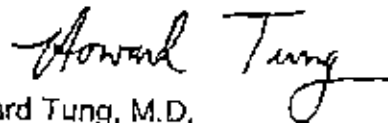
Mr. Yahyavi currently endorses cervical symptomatology with primarily axial cervical neck pain. Mr. Yahyavi did demonstrate signs of symptom magnification, as noted in his Functional Capacity Examination, where he provided less than maximal effort and unreliable/invalid results for his Functional Capacity Evaluation participating only on a limited basis.

Mr. Yahyavi underwent a number of cervical injections by Dr. Schifini and the medical records, as well as Mr. Yahyavi, indicates he did not receive any significant benefit from these injections. Within a reasonable degree of medical probability, the cervical injections were reasonable through the end of summer 2014. Mr. Yahyavi is not a good surgical candidate for any surgery to the cervical spine. His symptoms are one of primarily axial cervical neck pain. There is evidence for unreliability in Mr. Yahyavi's functional capacity testing, which raises the concern of symptom magnification. Nerve conduction/EMG studies were absent for any cervical radiculopathy, although it was positive for carpal tunnel syndrome on the left.

Mr. Yahyavi's current subjective cervical symptomatology is best treated with medical supportive care, including that of a regular home exercise and stretching program, judicious use of nonsteroidal anti-inflammatory agents, and judicious activity. I would attempt to avoid the use of chronic narcotics. Cervical surgery is not recommended. Should surgery be contemplated or completed in the future, this would be unrelated to the subject motor vehicle accident and most substantially related to Mr. Yahyavi's preexisting degenerative cervical spine disease/spondylosis. Mr. Yahyavi is not disabled from work.

I hope this helps to answer some of the questions at hand. Please do not hesitate to contact me if I can be of any further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Howard Tung". The signature is written in dark ink and is positioned above the printed name and title.

Howard Tung, M.D.
HT/cj

EXHIBIT “8”

HOWARD TUNG, M.D.
NEUROSURGERY
DIPLOMATE AMERICAN BOARD OF NEUROLOGICAL SURGERY
CLINICAL PROFESSOR OF NEUROLOGICAL SURGERY
UNIVERSITY OF CALIFORNIA, SAN DIEGO

August 2, 2018

Law Office of Eric R. Larsen
750 E Warm Springs Rd, Suite 320
Las Vegas, NV 89119

RE: **YAHYAVI, Bahram**
DOI: June 19, 2013

REVIEW OF MEDICAL RECORDS/SUPPLEMENTAL REPORT

I received further medical records with regards to Mr. Bahram Yahyavi, including a Comprehensive Medical Evaluation of David J. Oliveri, M.D. dated April 24, 2018 (exam data March 13, 2018) and a Review of Record Report of Stuart Kaplan, M.D. dated April 12, 2018.

MEDICAL RECORD REVIEW:

- 06/19/13** **State of Nevada Traffic Accident Report.**
- 06/19/13** **Transport to Hospital, Las Vegas Fire and Rescue.**
- 06/19/13** **Emergency Room Record, Joshua Parker, M.D., University Medical Center.**
Patient was the restrained driver of a vehicle going about 10 mph when it struck a fork lift's blades. This was not a head on, but more of a T-bone where he drove into the blades at a perpendicular type of angle. The patient thinks he hit his head, but EMS reported that passenger compartment intrusion was very minimal. Airbags were not deployed. The patient was not ambulatory on the scene. He denies loss of consciousness. He complains of a headache and some back pain. He does not have any radiation of the back pain. EMS reported patient's blood sugar is 144. Diagnosis: 1) Musculoskeletal strain. 2) MVA. Patient treated and released in stable condition.
- 06/19/13** **CT Brain without Contrast, Jimmy Shih, M.D., University Medical Center.**
Impression: No acute intracranial pathology.
- 06/19/13** **CT Cervical Spine without Contrast, Jimmy Shih, M.D., University Medical Center.**
Impression: No traumatic injury to the cervical spine seen. Degenerative changes as above.

- 06/19/13** **CT Abdomen and Pelvis**, Pejman Motarjem, M.D., University Medical Center. Impression: 1) No acute intra-abdominal or intrapelvic process. 2) Probably a small hemangioma involving segment 8 in the liver. Nonemergent contrast enhanced MRI recommended.
- 06/19/13** **Chest X-ray**, Jimmy Shih, M.D., University Medical Center. Impression: Unremarkable trauma portable chest.
- 06/19/13** **X-ray Left Humerus**, Jimmy Shih, M.D., University Medical Center. Impression: No acute fracture seen.
- 06/24/13** **Initial Chiropractic Evaluation**, Donna Callaway, D.C., Downtown Neck and Back Clinic. Patient states that he was involved in a MVA on 06/19/13. He was the restrained driver of a Dodge Charger and was involved in a side impact collision in which his vehicle was struck by a fork lift on the front passenger side. He cannot remember if he had any loss of consciousness, but reports of blurry vision for about two minutes. He reports his vehicle was moving. He did not anticipate the collision. His head position was forward. He reports having both hands on the steering wheel. He reports a slight forward body lean. His head rest in the down position. His seat was not altered or broken after the impact. The patient reports he hit both of his knees on the dash. The airbags did not deploy. Diagnosis: 1) Cervical spine s/s with cervical segmental dysfunction. 2) Cervical radiculitis/neuritis. 3) Posttraumatic headaches. 4) Thoracic spine s/s with thoracic segmental dysfunction. 5) Lumbar spine s/s with lumbar segmental dysfunction. 6) Right knee s/s. 7) Left knee s/s. 8) Muscle spasm. 9) Insomnia secondary to pain. 10) Left knee abrasion. Plan: Chiropractic therapy.
- 06/24/13-07/03/13** **Chiropractic Progress Notes**, Donna Callaway, D.C., Downtown Neck and Back Clinic. Patient has completed 7 therapy sessions. Plan: Continue chiropractic care.
- 06/25/13** **Urgent Care**, Radar Medical Group/University Urgent Care. Patient seen for right knee pain, back pain, and neck pain from MVA on 06/19/13. Plan: Lortab, Ibuprofen, Flexeril.
- 06/27/13** **Employers Report of Industrial Injury or Occupational Disease**, Chapman Dodge.
- 07/08/13** **Initial Consultation**, Maangelica Goodstein, PAC., Center for Occupational Health and Wellness. Diagnosis: 1) Cervical muscle strain. 2) Scapular muscle strain. 3) Head injury, resolved. Plan: Duexis, stretching, heat, cervical collar, modified work status.

- 07/15/13 Internal Medicine Evaluation**, Dipti Shah, M.D. Diagnosis: 1) S/P MVA. 2) Acute, traumatic cervical, thoracic, lumbar strain. 3) Acute, traumatic cervical, thoracic, lumbar muscle spasm. 4) Acute, traumatic cervicogenic headaches. 5) Insomnia. Plan: Flexeril, Lortab, stop Motrin due to history of ulcers, obtain records, MRI cervical spine.
- 07/18/13 Progress Notes**, Victor Klausner, D.O., Center for Occupational Health and Wellness. Patient has pain over the base of his neck radiating to the left trapezius with intermittent headaches. He has intermittent episodes of dizziness without nausea or vomiting. CT cervical spine shows DDD, osteoarthritis and foraminal stenosis at C5/7. Plan: HEP, Lodine, PT, stop soft collar.
- 09/16/13 Orthopedic Consultation**, Archie Perry, M.D., Desert Orthopedic Center. Diagnosis: 1) Neck and cervical strain. 2) C6/7 auto fusion, preexisting. 3) Cervical spondylosis, preexisting, but previously asymptomatic. 4) Left greater than right upper extremity radicular symptoms. Plan: MRI cervical spine, modified work status.
- 09/24/13 Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Diagnosis: Right knee ACL tear and mild arthritis. Plan: MRI right knee.
- 10/01/13 MRI Cervical Spine without Contrast**, P. Valliveti, M.D., Desert Radiologists. Impression: 1) Straightening and minimal reversal of the normal cervical lordosis with multilevel discogenic disease and multilevel uncovertebral degenerative changes throughout the cervical spine. 2) See above for detail regarding each level. 3) Multilevel facet arthrosis, with severe right sided facet arthrosis C7/T1.
- 10/06/13 Emergency Room Record**, Matthew Stofferahn, M.D., Summerlin Hospital Medical Center. Patient seen for headache. All testing was negative. He is treated and released in stable condition.
- 10/06/13 CT Brain without Contrast**, Hubert Chin, M.D., Summerlin Hospital Medical Center. Impression: Normal CT of the brain.
- 10/14/13 Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. In the ER, he was found to have significantly high BP and he was started on 2 medications. He has noted progressive increase in his neck pain, left arm pain and numbness, as well as occipital and frontal headaches associated with these painful episodes. Plan: Injections, EMG study.
- 10/15/13 Cardiac Notes**, Anil Fotedar, M.D., Heart Center of Nevada. Patient seen for hypertension and possible hypertensive heart disease.
- 11/11/13 Office Visit**, Archie Perry, M.D., Desert Orthopedic Center. His hypertension may be related to his pain symptoms. Plan: EMG study.

- 11/25/13** **Consultation**, Joseph Schifini, M.D., Las Vegas Surgery Center. Diagnosis: 1) Multilevel cervical disc osteophyte complexes. 2) Multilevel cervical DDD. 3) Subjective bilateral upper extremity radiculitis, left greater than right. Plan: Staged left C7/T1, followed possibly by C6/7 and possibly C5/6 transforaminal selective ESI, continue current medication regimen.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Staged first left C7/T1 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Staged second left C6/7 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Staged third left C5/6 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 12/10/13** **MRI Right Knee without Contrast**, Jimmy Wang, M.D., Desert Radiologists. Impression: Findings consistent with a chronic ACL tear with subsequent scarring the intercondylar notch. 2) Peripheral vertical tear of the posterior horn of the medial meniscus extending to the posterior body segment, known to be associated with a chronic ACL tear.
- 12/17/13** **Progress Notes**, Joseph Schifini, M.D., Las Vegas Surgery Center. After injections patient noted 20% long term relief of his neck pain, but no relief of his bilateral shoulder pain. Plan: Injections, continue medications.
- 12/17/13** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Diagnosis: Right knee ACL tear and mild arthritis, medial meniscus tear. Plan: Right knee arthroscopy, preop clearance.
- 01/02/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C6/7 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 01/02/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C6/7 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 01/07/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient seen for preop. Diagnosis: Right knee ACL tear and mild arthritis, medial meniscus tear. Plan: Right knee arthroscopy, Norco.

- 01/07/14** **Chest X-ray**, Frank Hsu, M.D., Desert Radiologists. Impression: Right upper lobe pulmonary nodule. Appearance is nonspecific. Recommend correlation with prior chest radiographs if available. If none are available, chest CT is recommended.
- 01/08/14** **Progress Notes**, Anil Fotedar, M.D., Heart Center of Nevada. Patient seen for preop. EKG is normal. Patient is cleared from a cardiac standpoint.
- 01/09/14** **Operative Report**, Michael Miao, M.D., Institute of Orthopedic Surgery. Procedure: Right knee arthroscopic assisted ACL reconstruction, AT allograft, arthroscopic partial medial meniscectomy. No complications.
- 01/10/14** **Physical Therapy Evaluation**, Jared Morasco, PT., Mattsmith Physical Therapy. Diagnosis: 1) Sprain cruciate ligament, knee. 2) Joint pain, left leg. Plan: PT for right knee.
- 01/10/14-
07/07/14** **Physical Therapy Discharge Summary**, Jared Morasco, PT., Mattsmith Physical Therapy. Patient has completed 18 therapy sessions. Patient has no new complaints. Overall condition is improving. Patient is discharged from PT.
- 01/17/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes improvement in his symptoms with PT. He has diffuse palpable tenderness. Plan: Ibuprofen, PT.
- 01/30/14** **EMG/NCV Study**, Leo Germin, M.D., Clinical Neurology Specialists. Impression: 1) Moderate in severity CTS on the left. 2) No evidence for CTS on the right. 3) Moderate in severity ulnar neuropathy at the elbow on the right. 4) No evidence for ulnar neuropathy at the elbow on the left. 5) Needle examination deferred due to inability of this individual to wait for the test and will be performed on the follow up visit.
- 02/04/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes improvement with PT. Knee is good. He is having a lot of back problems, cannot sit. He now complains of calf pain at end of appointment. Plan: Continue PT, Doppler, consider aspiration of the knee done today.
- 02/04/14** **EMG/NCV Study**, Leo Germin, M.D., Clinical Neurology Specialists. Impression: 1) No evidence for overt axonal loss C5 through T1 radiculopathy bilaterally. 2) Moderate in severity CTS on the left. 3) Moderate in severity ulnar neuropathy at the elbow on the right. 4) No evidence for ulnar neuropathy at the elbow on the left.

- 03/04/14** **Office Visit, Michael Miao, M.D., Desert Orthopedic Center.** Patient notes that his symptoms have improved. He missed PT for two weeks due to kidney stone. Plan: PT, will reassess effusion and consider aspiration, modified work status.
- 03/17/14** **Office Visit, Michael Miao, M.D., Desert Orthopedic Center.** Patient notes that last injections gave him moderate relief of his symptoms. He continues to complain of neck pain that radiates to the left shoulder. Plan: C3/4 transforaminal injection.
- 04/01/14** **Office Visit, Michael Miao, M.D., Desert Orthopedic Center.** Patient notes that his symptoms are unchanged. Plan: Aspiration followed by injection done today, PT.
- 04/07/14** **Procedure Report, Joseph Schifini, M.D., Las Vegas Surgery Center.** Procedure: 1) Left C3/4 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 04/07/14** **Procedure Report, Joseph Schifini, M.D., Las Vegas Surgery Center.** Procedure: Right C3/4 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 06/09/14** **Progress Notes, Archie Perry, M.D., Desert Orthopedic Center.** Last injections gave him about 2 weeks of significant pain relief, however, now his pain is starting to come back. Plan: PT.
- 06/10/14** **Progress Notes, Joseph Schifini, M.D.** I will address the C5/6 level.
- 06/25/14** **Office Visit, Michael Miao, M.D., Desert Orthopedic Center.** Patient continues to have clicking and pain with sports/activities. He has pain while walking up stairs, getting up. PT has not been approved. Plan: Continue HEP, no work restrictions.
- 06/30/14-
09/02/14** **Physical Therapy Progress Notes, Andy Hutchison, PT., Kelly Hawkins Physical Therapy.** Patient has completed 24 therapy sessions. He has achieved some short term improvement in his symptoms, but no long term improvements. He has completed all his therapy sessions. Plan: Will wait for further plan of care.
- 07/07/14** **Progress Notes, Archie Perry, M.D., Desert Orthopedic Center.** Patient has had significant relief of symptoms with manual traction with PT. Plan: Home mechanical traction, surgery at C3/4 and C6/7.

- 07/10/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C5/6 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 07/10/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C5/6 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 08/11/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient states that overall his neck pain is the same. Plan: Home traction unit, surgical intervention.
- 08/19/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient continues to have clicking and pain with sports and activities. He has a hard time walking. He can't squat or kneel down. Plan: Continue HEP, no work restrictions.
- 09/22/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient notes continued neck pain as well as intermittent arm pain and paresthesias. Plan: Facet injections at the C5/6, C6/7 and C7/T1 levels, no work restrictions.
- 10/14/14** **Progress Notes**, Joseph Schifini, M.D. Patient continues to have evidence of mechanical neck pain. Plan: Left C5-T1 medial branch facet joint nerve blocks.
- 10/23/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C5, C6, C7, T1 medial branch facet joint nerve injection under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 11/10/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient had 50% improved pain relief after last injection. Plan: Surgical Intervention, modified work status.
- 12/03/14** **Consultation**, Christopher Fisher, M.D., Nevada Spine Clinic. Diagnosis: 1) Cervical pain with mechanical axial symptoms, rule out facet mediated pain. 2) Cervical s/s with myofascial pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, light work duty, tens therapy.
- 01/26/15** **Operative Report**, Christopher Fisher, M.D., Smoke Ranch Surgery Center. Procedure: Left C4, C5, C6 and C7 medial branch blocks. No complications.

- 02/04/15** **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient had significant relief from last injection before it wore off. Plan: Flexeril, Tramadol, HEP, ice/heat, light work duty, tens unit.
- 02/11/15** **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. He has pain that occasionally radiates down the left arm, worse with sitting for prolonged periods of time, associated with decreases side range of motion. Plan: MBB at C4-7, Flexeril, Tramadol, HEP, ice/heat, light work duty, tens unit.
- 03/02/15** **Operative Report**, Christopher Fisher, M.D., Smoke Ranch Surgery Center. Procedure: Left C4, C5, C6 and C7 medial branch blocks. No complications.
- 03/11/15** **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. He had injection with no improvement in symptoms. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 03/27/15** **Functional Capacity Evaluation**, Doug Ellis, PT., Matt Smith Physical Therapy. There were inconsistencies in his presentation, as well as noted self-limiting pain behaviors. There does exist the probability of a less than maximum effort. The results of this functional capacity evaluation have been determined to be unreliable and invalid.
- 04/01/15** **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient seen for left cervical pain and upper back pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 04/08/15** **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient seen for left cervical pain and upper back pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 04/23/15** **Permanent Impairment Evaluation**, David Oliveri, M.D. Diagnosis: 1) Cervical spine pain of likely motion segment origin with intermittent left upper extremity radicular symptomatology. 2) Upper thoracic spine pain, likely a referral from the cervical spine. 3) Right knee internal derangement S/P ACL reconstruction and partial medial meniscectomy. P/S: Yes. Apportionment is not indicated. AMA impairment rating: 12% WPI. 8% cervical spine, 0% thoracic spine, 4% right knee.
- 06/30/15** **Photographs of accident scene and damaged vehicle.**

04/12/18 **Review of Records**, Stuart S. Kaplan, M.D., Western Regional Center for Brain and Spine Surgery. The patient was referred to the examiner. The examiner performed a C3 to T1 laminectomy/fusion. The patient is also suffering from a C5 neuropraxic injury related to spinal cord retraction/relaxation with tension on the C5 nerve root. According to the records that were provided to the examiner, it is the examiners medical opinion that the surgery was related to the 2013 accident.

04/24/18 **Comprehensive Medical Evaluation**, David J. Oliveri, M.D. Prior Injuries: At age 5 the patient had a laceration to his left elbow. About 25 years ago he was in an MVA in San Diego and underwent chiropractic treatment and all symptoms were resolved. In 2000 he had a left knee injury with an ACL surgery. History: On 06/19/13 the patient was the driver of a vehicle that hit elevated forks of a fork lift causing the vehicle to come to a complete stop. He was taken by paramedics to UMC Trauma. He was seen for pain in the neck, head, right knee as well as radiating symptoms into the left greater than right upper extremity. In regard to the cervical spine pain he has received conservative care, multiple injection and was seen by Dr. Perry. He was seen by his PCP who referred him to pain management. He began seeing Dr. Kaplan who recommended surgery. Since his surgery his pain is significantly better. He is reporting constant posterior neck pain and left scapular pain at todays evaluation. Impression: 1. Multilevel cervical motion segment injury with left cervical radicular symptomatology status post posterior C3-T1 decompression, fusion and instrumentation on 01/30/18. 2. Upper thoracic/scapular pain secondary o diagnosis #1. 3. Cephalgia secondary to diagnosis #1. 4. Lumbar spine pain; resolved. 5. Knee pain. The examiner concludes with reasonable degree of medical probability that the patient's diagnoses are associated with the 06/19/13 accident. Future Medical Care: Periodic physician visits, intermittent use of prescription medication and intermittent access to physical therapy for palliative treatment.

Pain Management – One visit every 6 to 12 months - \$313 to \$626

Physical Therapy - \$2,280

Medication - \$416

Total - \$75,225 to \$83,050

Miscellaneous Medical:

Duplicate medical records.

Labs.

Miscellaneous Nonmedical:

Correspondence from Associated Risk Management.

Income tax returns.

Wage calculation form for cleims agents use.

Depositions:

05/03/16, deposition of Bahram Yahyavi, 89 pages.

Legal:

Defendants second supplement to early case conference production of documents and witness list.

Plaintiff's disclosure of documents, witnesses.

Defendant's first supplement to early case conference production of documents and witness list.

Plaintiff's reply to defendant's first set of admissions to plaintiff Bahram Yahyavi.

Before the appeals officer.

Billing:

Account financial History.

HCPNV, \$18.00

Photocopies, \$9.72

Heart Center of Nevada, \$400.00

Victor Klausner, D.O., 0 balance

Nick Zarkes, M.D., 0 balance

David Oliveri, M.D., 0 balance

Nevada CVS Pharmacy, \$544.29

Clinical Neurology Specialists, \$3850.00

Desert Radiologists, 0 balance

Nevada Spine Clinic, 0 balance

Downtown Neck and Back Clinic, \$1775.00

Radar Medical Group, \$722.25

Shadow ER Physicians, \$1531.00

Summerlin Hospital Medical Center, \$2989.00

EMP of Clark, \$665.55

Pacific Anesthesia Consultants, \$150.00

Kelly Hawkins PT, 0 balance

Kinex Medical Company, 0 balance

Mattsmith PT., 0 balance

Joseph Schifini, M.D., 0 balance

Chynoweth Hill Leavitt, summary of billing

University Medical Center, \$5904.20

Nevada Auto Network Self Insured Group, \$109,126.06, amount paid to date for claims.

SUMMARY OF MEDICAL OPINION:

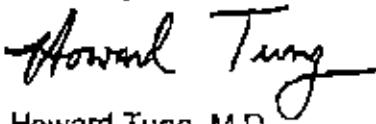
The above reports do not alter my opinion, as expressed in the Independent Medical Evaluation of August 28, 2016. Mr. Yahyavi has apparently undergone surgery at Valley Hospital with posterior cervical decompression and fusion with instrumentation. Mr. Yahyavi has had progression of preexisting cervical spondylosis/degenerative spine disease over several years. His surgical treatment completed is causally unrelated to the subject motor vehicle accident of June 19, 2013, over 4-1/2 years prior. It does appear that Mr. Yahyavi developed some radicular symptoms, which only began years following the subject motor vehicle accident and are causally unrelated to the subject motor vehicle accident and most substantially related to ongoing and progressive degenerative cervical spine disease/spondylosis, which Mr. Yahyavi has experienced for years. Surgical treatment for Mr. Yahyavi is causally unrelated to the subject motor vehicle accident. Mr.

Yahyavi does not require any future medical care with regards to the cervical spine as a result of the subject motor vehicle accident of June 19, 2013.

Should further information and/or medical records become available, I would appreciate the opportunity to review them, as they could further support or alter my opinion.

I hope this helps to answer some of the questions at hand. Please do not hesitate to contact me if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink that reads "Howard Tung". The signature is written in a cursive, flowing style.

Howard Tung, M.D.

HT/cj

EXHIBIT “9”

HOWARD TUNG, M.D.
NEUROSURGERY
DIPLOMATE AMERICAN BOARD OF NEUROLOGICAL SURGERY
CLINICAL PROFESSOR OF NEUROLOGICAL SURGERY
UNIVERSITY OF CALIFORNIA, SAN DIEGO

December 13, 2018

Employees of a Subsidiary of The
Hartford Financial Services Group, Inc.
750 E. Warm Springs Rd. #320, Box 19
Las Vegas, NV 89119

RE: YAHYAVI, Bahram
DOI: June 19, 2013

REVIEW OF MEDICAL RECORDS/SUPPLEMENTAL REPORT

I received further medical records with regards to Mr. Bahram Yahyavi, including medical records and films of Southwest Medical Associates and radiologic films from Valley Hospital Medical Center. The radiologic studies include right knee x-rays from March 2012, a chest x-ray of January 29, 2018, and fluoroscopy images of the cervical and thoracic spine from January 30, 2018.

MEDICAL RECORD REVIEW:

- 10/07/11 Adult Medicine Progress Note, Maria Butiong, MA and Caprice Hutchison, APN, Southwest Medical Associates. Impression: 1) Normal routine history and physical exam. 2) Hypertension. 3) Contact dermatitis. 4) Nicotine dependence.**
- 10/25/11 Adult Medicine Progress Note, Susan Stulo, MA and Sharon King, M.D., Southwest Medical Associates. The patient presents complaining of neck pain for the last several years. Impression: 1) Essential hypertriglyceridemia. 2) Backache.**
- 10/25/11 X-ray Cervical Spine, Howard Francois, M.D., Southwest Medical Associates. Impression: No acute osseous abnormality. Moderate/marked degenerative disc disease at C6-7. Mild to moderate degenerative disk disease at C5-6, C7-T1 and to lesser extent at C3-4. Multilevel mild to moderate posterior element DJ, increasing caudally. Slight reversal of usual C-spine lordotic curvature which may be due in part to muscle spasm/pain. Anterior osteophytes are seen at the mid and lower C-spine.**
- 03/12/12 Adult Medicine Progress Note, Michael Brown, MA and William Celentano, M.D., Southwest Medical Associates. Impression: Right knee pain status post ski injury 3 months ago.**

- 03/12/12 **X-ray Right Knee**, Rajashree Vyas, M.D., Southwest Medical Associated. Impression: Mild tricompartmental osteoarthritis without acute osseous abnormality.
- 03/26/12 **Letter to Patient**, Michael Brown, MA., Southwest Medical Associated. The results of the x-ray of your knee showed a mild degenerative arthritic changes and does not show any fractures or dislocations.
- 11/01/12 **Adult Medicine Progress Note**, Claudia Cheatham, MA and Ryan Tran, M.D., Southwest Medical Associates. Impression: 1) Hypertension. 2) Essential hypertriglyceridemia. 3) Impaired fasting glucose.
- 05/20/13 **History and Physical**, Emmanuel K. Onnutuebe, M.D., Southwest Medical Associates. Chief Complaint: Dizziness. Impression: 1) Upper gastrointestinal bleed. 2) Symptomatic anemia. 3) Mild thrombocytopenia. 4) Hypertension.
- 05/20/13 **Consultation**, Sanjay Nayyar, M.D., Southwest Medical Associates. Patient was seen for a consult due to a GI bleed.
- 05/20/13 **Operative Report**, Sanjay Nayyar, M.D., Southwest Medical Associates. Procedure: Upper gastrointestinal endoscopy.
- 05/21/13 **Operative Report**, Sanjay Nayyar, M.D., Southwest Medical Associates. Procedure: Colonoscopy.
- 05/22/13 **Discharge Summary**, Emmanuel K. Onnutuebe, M.D., Southwest Medical Associates. Impression: 1) Symptomatic anemia. 2) Upper gastrointestinal bleed secondary to superficial gastric ulcer and duodenal ulcer. 3) Hypertension.
- 05/23/13 **Adult Medicine Progress Note**, Kimberly Uini, MA and Neeta Soni, M.D., Southwest Medical Associates. Impression: 1) Hypertension. 2) Peptic ulcer. 3) Essential hypertriglyceridemia. 4) Nicotine dependence.
- 06/19/13 **State of Nevada Traffic Accident Report**.
- 06/19/13 **Transport to Hospital**, Las Vegas Fire and Rescue.
- 06/19/13 **Emergency Room Record**, Joshua Parker, M.D., University Medical Center. Patient was the restrained driver of a vehicle going about 10 mph when it struck a fork lift's blades. This was not a head on, but more of a T-bone where he drove into the blades at a perpendicular type of angle. The patient thinks he hit his head, but EMS reported that passenger compartment intrusion was very minimal. Airbags were not deployed. The patient was not ambulatory on the scene. He denies loss of consciousness. He complains of a headache and some back pain. He does not have any radiation of the

back pain. EMS reported patient's blood sugar is 144. Diagnosis: 1) Musculoskeletal strain. 2) MVA. Patient treated and released in stable condition.

- 06/19/13 **CT Brain without Contrast**, Jimmy Shih, M.D., University Medical Center. Impression: No acute intracranial pathology.
- 06/19/13 **CT Cervical Spine without Contrast**, Jimmy Shih, M.D., University Medical Center. Impression: No traumatic injury to the cervical spine seen. Degenerative changes as above.
- 06/19/13 **CT Abdomen and Pelvis**, Pejman Motarjem, M.D., University Medical Center. Impression: 1) No acute intra-abdominal or intrapelvic process. 2) Probably a small hemangioma involving segment 8 in the liver. Nonemergent contrast enhanced MRI recommended.
- 06/19/13 **Chest X-ray**, Jimmy Shih, M.D., University Medical Center. Impression: Unremarkable trauma portable chest.
- 06/19/13 **X-ray Left Humerus**, Jimmy Shih, M.D., University Medical Center. Impression: No acute fracture seen.
- 06/24/13 **Initial Chiropractic Evaluation**, Donna Callaway, D.C., Downtown Neck and Back Clinic. Patient states that he was involved in a MVA on 06/19/13. He was the restrained driver of a Dodge Charger and was involved in a side impact collision in which his vehicle was struck by a fork lift on the front passenger side. He cannot remember if he had any loss of consciousness, but reports of blurry vision for about two minutes. He reports his vehicle was moving. He did not anticipate the collision. His head position was forward. He reports having both hands on the steering wheel. He reports a slight forward body lean. His head rest in the down position. His seat was not altered or broken after the impact. The patient reports he hit both of his knees on the dash. The airbags did not deploy. Diagnosis: 1) Cervical spine s/s with cervical segmental dysfunction. 2) Cervical radiculitis/neuritis. 3) Posttraumatic headaches. 4) Thoracic spine s/s with thoracic segmental dysfunction. 5) Lumbar spine s/s with lumbar segmental dysfunction. 6) Right knee s/s. 7) Left knee s/s. 8) Muscle spasm. 9) Insomnia secondary to pain. 10) Left knee abrasion. Plan: Chiropractic therapy.
- 06/24/13-
07/03/13 **Chiropractic Progress Notes**, Donna Callaway, D.C., Downtown Neck and Back Clinic. Patient has completed 7 therapy sessions. Plan: Continue chiropractic care.
- 06/25/13 **Urgent Care**, Radar Medical Group/University Urgent Care. Patient seen for right knee pain, back pain, and neck pain from MVA on 06/19/13. Plan: Lortab, Ibuprofen, Flexeril.

- 06/27/13 **Employers Report of Industrial Injury or Occupational Disease.**
Chapman Dodge.
- 07/08/13 **Initial Consultation**, Maangelica Goodstein, PAC., Center for Occupational Health and Wellness. Diagnosis: 1) Cervical muscle strain. 2) Scapular muscle strain. 3) Head injury, resolved. Plan: Duexis, stretching, heat, cervical collar, modified work status.
- 07/15/13 **Internal Medicine Evaluation**, Dipti Shah, M.D. Diagnosis: 1) S/P MVA. 2) Acute, traumatic cervical, thoracic, lumbar strain. 3) Acute, traumatic cervical, thoracic, lumbar muscle spasm. 4) Acute, traumatic cervicogenic headaches. 5) Insomnia. Plan: Flexeril, Lortab, stop Motrin due to history of ulcers, obtain records, MRI cervical spine.
- 07/18/13 **Progress Notes**, Victor Klausner, D.O., Center for Occupational Health and Wellness. Patient has pain over the base of his neck radiating to the left trapezius with intermittent headaches. He has Intermittent episodes of dizziness without nausea or vomiting. CT cervical spine shows DDD, osteoarthritis and foraminal stenosis at C5/7. Plan: HEP, Lodine, PT, stop soft collar.
- 09/16/13 **Orthopedic Consultation**, Archie Perry, M.D., Desert Orthopedic Center. Diagnosis: 1) Neck and cervical strain. 2) C6/7 auto fusion, preexisting. 3) Cervical spondylosis, preexisting, but previously asymptomatic. 4) Left greater than right upper extremity radicular symptoms. Plan: MRI cervical spine, modified work status.
- 09/24/13 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Diagnosis: Right knee ACL tear and mild arthritis. Plan: MRI right knee.
- 10/01/13 **MRI Cervical Spine without Contrast**, P. Valiveti, M.D., Desert Radiologists. Impression: 1) Straightening and minimal reversal of the normal cervical lordosis with multilevel discogenic disease and multilevel uncovertebral degenerative changes throughout the cervical spine. 2) See above for detail regarding each level. 3) Multilevel facet arthrosis, with severe right sided facet arthrosis C7/T1.
- 10/06/13 **Emergency Room Record**, Matthew Stofferahn, M.D., Summerlin Hospital Medical Center. Patient seen for headache. All testing was negative. He is treated and released in stable condition.
- 10/06/13 **CT Brain without Contrast**, Hubert Chin, M.D., Summerlin Hospital Medical Center. Impression: Normal CT of the brain.
- 10/14/13 **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. In the ER, he was found to have significantly high BP and he was started on 2 medications. He has noted progressive increase in his neck pain, left arm

pain and numbness, as well as occipital and frontal headaches associated with these painful episodes. Plan: Injections, EMG study.

- 10/15/13 **Cardiac Notes**, Anil Fotedar, M.D., Heart Center of Nevada. Patient seen for hypertension and possible hypertensive heart disease.
- 11/11/13 **Office Visit**, Archie Perry, M.D., Desert Orthopedic Center. His hypertension may be related to his pain symptoms. Plan: EMG study.
- 11/25/13 **Consultation**, Joseph Schifini, M.D., Las Vegas Surgery Center. Diagnosis: 1) Multilevel cervical disc osteophyte complexes. 2) Multilevel cervical DDD. 3) Subjective bilateral upper extremity radiculitis, left greater than right. Plan: Staged left C7/T1, followed possibly by C6/7 and possibly C5/6 transforaminal selective ESI, continue current medication regimen.
- 12/09/13 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Staged first left C7/T1 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 12/09/13 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Staged second left C6/7 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 12/09/13 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Staged third left C5/6 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 12/10/13 **MRI Right Knee without Contrast**, Jimmy Wang, M.D., Desert Radiologists. Impression: Findings consistent with a chronic ACL tear with subsequent scarring the intercondylar notch. 2) Peripheral vertical tear of the posterior horn of the medial meniscus extending to the posterior body segment, known to be associated with a chronic ACL tear.
- 12/10/13 **Progress Note**, Sanjay Nayyar, M.D., Digestive Associates. Chief Complaint: Peptic ulcer.
- 12/17/13 **Progress Notes**, Joseph Schifini, M.D., Las Vegas Surgery Center. After injections patient noted 20% long term relief of his neck pain, but no relief of his bilateral shoulder pain. Plan: Injections, continue medications.
- 12/17/13 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Diagnosis: Right knee ACL tear and mild arthritis, medial meniscus tear. Plan: Right knee arthroscopy, preop clearance.
- 01/02/14 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C6/7 transforaminal selective ESI under fluoroscopic

guidance. 2) Intravenous conscious sedation with Versed. No complications.

- 01/02/14 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C6/7 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 01/07/14 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient seen for preop. Diagnosis: Right knee ACL tear and mild arthritis, medial meniscus tear. Plan: Right knee arthroscopy, Norco.
- 01/07/14 **Chest X-ray**, Frank Hsu, M.D., Desert Radiologists. Impression: Right upper lobe pulmonary nodule. Appearance is nonspecific. Recommend correlation with prior chest radiographs if available. If none are available, chest CT is recommended.
- 01/08/14 **Progress Notes**, Anil Fotedar, M.D., Heart Center of Nevada. Patient seen for preop. EKG is normal. Patient is cleared from a cardiac standpoint.
- 01/09/14 **Operative Report**, Michael Miao, M.D., Institute of Orthopedic Surgery. Procedure: Right knee arthroscopic assisted ACL reconstruction, AT allograft, arthroscopic partial medial meniscectomy. No complications.
- 01/10/14 **Physical Therapy Evaluation**, Jared Morasco, PT., Mattsmith Physical Therapy. Diagnosis: 1) Sprain cruciate ligement, knee. 2) Joint pain, left leg. Plan: PT for right knee.
- 01/10/14-
07/07/14 **Physical Therapy Discharge Summary**, Jared Morasco, PT., Mattsmith Physical Therapy. Patient has completed 18 therapy sessions. Patient has no new complaints. Overall condition is improving. Patient is discharged from PT.
- 01/17/14 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes improvement in his symptoms with PT. He has diffuse palpable tenderness. Plan: Ibuprofen, PT.
- 01/30/14 **EMG/NCV Study**, Leo Germin, M.D., Clinical Neurology Specialists. Impression: 1) Moderate in severity CTS on the left. 2) No evidence for CTS on the right. 3) Moderate in severity ulnar neuropathy at the elbow on the right. 4) No evidence for ulnar neuropathy at the elbow on the left. 5) Needle examination deferred due to inability of this individual to wait for the test and will be performed on the follow up visit.
- 02/04/14 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes improvement with PT. Knee is good. He is having a lot of back problems,

cannot sit. He now complains of calf pain at end of appointment. Plan: Continue PT, Doppler, consider aspiration of the knee done today.

- 02/04/14** **EMG/NCV Study**, Leo Germin, M.D., Clinical Neurology Specialists. Impression: 1) No evidence for overt axonal loss C5 through T1 radiculopathy bilaterally. 2) Moderate in severity CTS on the left. 3) Moderate in severity ulnar neuropathy at the elbow on the right. 4) No evidence for ulnar neuropathy at the elbow on the left.
- 03/04/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that his symptoms have improved. He missed PT for two weeks due to kidney stone. Plan: PT, will reassess effusion and consider aspiration, modified work status.
- 03/17/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that last injections gave him moderate relief of his symptoms. He continues to complain of neck pain that radiates to the left shoulder. Plan: C3/4 transforaminal injection.
- 04/01/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that his symptoms are unchanged. Plan: Aspiration followed by injection done today, PT.
- 04/07/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C3/4 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 04/07/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C3/4 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 06/09/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Last injections gave him about 2 weeks of significant pain relief, however, now his pain is starting to come back. Plan: PT.
- 06/10/14** **Progress Notes**, Joseph Schifini, M.D. I will address the C5/6 level.
- 06/25/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient continues to have clicking and pain with sports/activities. He has pain while walking up stairs, getting up. PT has not been approved. Plan: Continue HEP, no work restrictions.
- 06/30/14-
09/02/14** **Physical Therapy Progress Notes**, Andy Hutchison, PT., Kelly Hawkins Physical Therapy. Patient has completed 24 therapy sessions. He has achieved some short term improvement in his symptoms, but no long term

improvements. He has completed all his therapy sessions. Plan: Will wait for further plan of care.

- 07/07/14 **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient has had significant relief of symptoms with manual traction with PT. Plan: Home mechanical traction, surgery at C3/4 and C6/7.
- 07/10/14 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C5/6 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 07/10/14 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C5/6 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 08/11/14 **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient states that overall his neck pain is the same. Plan: Home traction unit, surgical intervention.
- 08/19/14 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient continues to have clicking and pain with sports and activities. He has a hard time walking. He can't squat or kneel down. Plan: Continue HEP, no work restrictions.
- 09/22/14 **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient notes continued neck pain as well as intermittent arm pain and paresthesias. Plan: Facet injections at the C5/6, C6/7 and C7/T1 levels, no work restrictions.
- 10/14/14 **Progress Notes**, Joseph Schifini, M.D. Patient continues to have evidence of mechanical neck pain. Plan: Left C5-T1 medial branch facet joint nerve blocks.
- 10/23/14 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C5, C6, C7, T1 medial branch facet joint nerve injection under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 11/10/14 **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient had 50% improved pain relief after last injection. Plan: Surgical intervention, modified work status.
- 12/03/14 **Consultation**, Christopher Fisher, M.D., Nevada Spine Clinic. Diagnosis: 1) Cervical pain with mechanical axial symptoms, rule out facet mediated pain. 2) Cervical s/s with myofascial pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, light work duty, tens therapy.

- 01/26/15 **Operative Report**, Christopher Fisher, M.D., Smoke Ranch Surgery Center. Procedure: Left C4, C5, C6 and C7 medial branch blocks. No complications.
- 02/04/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient had significant relief from last injection before it wore off. Plan: Flexeril, Tramadol, HEP, ice/heat, light work duty, tens unit.
- 02/11/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. He has pain that occasionally radiates down the left arm, worse with sitting for prolonged periods of time, associated with decreases side range of motion. Plan: MBB at C4-7, Flexeril, Tramadol, HEP, ice/heat, light work duty, tens unit.
- 03/02/15 **Operative Report**, Christopher Fisher, M.D., Smoke Ranch Surgery Center. Procedure: Left C4, C5, C6 and C7 medial branch blocks. No complications.
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- 03/27/15 **Functional Capacity Evaluation**, Doug Ellis, PT., Maft Smith Physical Therapy. There were inconsistencies in his presentation, as well as noted self-limiting pain behaviors. There does exist the probability of a less than maximum effort. The results of this functional capacity evaluation have been determined to be unreliable and invalid.
- 04/01/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient seen for left cervical pain and upper back pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 04/08/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient seen for left cervical pain and upper back pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 04/23/15 **Permanent Impairment Evaluation**, David Oliveri, M.D. Diagnosis: 1) Cervical spine pain of likely motion segment origin with intermittent left upper extremity radicular symptomatology. 2) Upper thoracic spine pain, likely a referral from the cervical spine. 3) Right knee internal derangement S/P ACL reconstruction and partial medial meniscectomy. P/S: Yes. Apportionment is not indicated. AMA impairment rating: 12% WPI. 8% cervical spine, 0% thoracic spine, 4% right knee.
- 06/30/15 **Photographs of accident scene and damaged vehicle.**

04/12/18 **Review of Records, Stuart S. Kaplan, M.D., Western Regional Center for Brain and Spine Surgery.** The patient was referred to the examiner. The examiner performed a C3 to T1 laminectomy/fusion. The patient is also suffering from a C5 neuropraxic injury related to spinal cord retraction/relaxation with tension on the C5 nerve root. According to the records that were provided to the examiner, it is the examiners medical opinion that the surgery was related to the 2013 accident.

04/24/18 **Comprehensive Medical Evaluation, David J. Oliveri, M.D.** Prior Injuries: At age 5 the patient had a laceration to his left elbow. About 25 years ago he was in an MVA in San Diego and underwent chiropractic treatment and all symptoms were resolved. In 2000 he had a left knee injury with an ACL surgery. History: On 06/19/13 the patient was the driver of a vehicle that hit elevated forks of a fork lift causing the vehicle to come to a complete stop. He was taken by paramedics to UMC Trauma. He was seen for pain in the neck, head, right knee as well as radiating symptoms into the left greater than right upper extremity. In regard to the cervical spine pain he has received conservative care, multiple injection and was seen by Dr. Perry. He was seen by his PCP who referred him to pain management. He began seeing Dr. Kaplan who recommended surgery. Since his surgery his pain is significantly better. He is reporting constant posterior neck pain and left scapular pain at todays evaluation. Impression: 1. Multilevel cervical motion segment injury with left cervical radicular symptomatology status post posterior C3-T1 decompression, fusion and instrumentation on 01/30/18. 2. Upper thoracic/scapular pain secondary o diagnosis #1. 3. Cephalgia secondary to diagnosis #1. 4. Lumbar spine pain; resolved. 5. Knee pain. The examiner concludes with reasonable degree of medical probability that the patient's diagnoses are associated with the 06/19/13 accident. Future Medical Care: Periodic physician visits, intermittent use of prescription medication and intermittent access to physical therapy for palliative treatment.

Pain Management – One visit every 6 to 12 months - \$313 to \$626

Physical Therapy - \$2,280

Medication - \$416

Total - \$75,225 to \$83,050

Miscellaneous Medical:

Duplicate medical records.

Labs.

Southwest Medical Associates – Consent, Personal Health and Social History, Patient Registration, Pathology Reports, Lab Work, HEW Note
Referral Summary

Miscellaneous Nonmedical:

Correspondence from Associated Risk Management.

Income tax returns.

Wage calculation form for claims agents use.

Depositions:

05/03/16, deposition of Bahram Yahyavi, 89 pages.

Legal:

Defendants second supplement to early case conference production of documents and witness list.

Plaintiff's disclosure of documents, witnesses.

Defendant's first supplement to early case conference production of documents and witness list.

Plaintiff's reply to defendant's first set of admissions to plaintiff Bahram Yahyavi.

Before the appeals officer.

Billing:

Account financial History.

HCPNV, \$18.00

Photocopies, \$9.72

Heart Center of Nevada, \$400.00

Victor Klausner, D.O., 0 balance

Nick Zarkes, M.D., 0 balance

David Oliveri, M.D., 0 balance

Nevada CVS Pharmacy, \$544.29

Clinical Neurology Specialists, \$3850.00

Desert Radiologists, 0 balance

Nevada Spine Clinic, 0 balance

Downtown Neck and Back Clinic, \$1775.00

Radar Medical Group, \$722.25

Shadow ER Physicians, \$1531.00

Summerlin Hospital Medical Center, \$2989.00

EMP of Clark, \$665.55

Pacific Anesthesia Consultants, \$150.00

Kelly Hawkins PT, 0 balance

Kinex Medical Company, 0 balance

Mattsmith PT., 0 balance

Joseph Schifini, M.D., 0 balance

Chynoweth Hill Leavitt, summary of billing

University Medical Center, \$5904.20

Nevada Auto Network Self Insured Group, \$109,126.06, amount paid to date for claims.

SUMMARY OF MEDICAL OPINION:

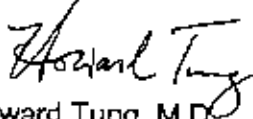
The above records do not change my opinions, as originally expressed in prior reports. Mr. Yahyavi has undergone posterior cervical decompression and fusion with instrumentation on January 30, 2018. The cervical surgery is causally unrelated to the subject motor vehicle accident of June 19, 2013, over 4-1/2 years prior.

Should further medical records become available, I would appreciate the opportunity to review them, as they could further support or alter my opinion.

YAHYAVI, Bahram
December 13, 2018
Page 12 of 12

I hope this helps to answer some of the questions at hand. Please do not hesitate to contact me if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard Tung". The signature is written in a cursive, flowing style.

Howard Tung, M.D.
HT/cj

EXHIBIT “10”

HOWARD TUNG, M.D.
NEUROSURGERY
DIPLOMATE AMERICAN BOARD OF NEUROLOGICAL SURGERY
CLINICAL PROFESSOR OF NEUROLOGICAL SURGERY
UNIVERSITY OF CALIFORNIA, SAN DIEGO

August 9, 2019

Law Office of Eric R. Larsen
750 E Warm Springs Rd, Suite 320
Las Vegas, NV 89119

RE: **YAHYAVI, Bahram**
DOI: June 19, 2013

REVIEW OF MEDICAL RECORDS/SUPPLEMENTAL REPORT

I received additional medical records with regards to Mr. Bahram Yahyavi. These include medical records from Center for Disease and Surgery of the Spine, Steinberg Diagnostic Medical Imaging Centers, Las Vegas Neurological Institute, ATI Physical Therapy records, Las Vegas Surgery Center Procedure Note records with recent injections to the cervical spine, Nursing Assessment records from Las Vegas Surgery Center, updated records of Stuart Kaplan, M.D. and correspondence of Joseph Schifini, M.D.

MEDICAL RECORD REVIEW:

- 10/07/11** **Adult Medicine Progress Note**, Maria Butiong, MA and Caprice Hutchison, APN, Southwest Medical Associates. Impression: 1) Normal routine history and physical exam. 2) Hypertension. 3) Contact dermatitis. 4) Nicotine dependence.
- 10/25/11** **Adult Medicine Progress Note**, Susan Stulo, MA and Sharon King, M.D., Southwest Medical Associates. The patient presents complaining of neck pain for the last several years. Impression: 1) Essential hypertriglyceridemia. 2) Backache.
- 10/25/11** **X-ray Cervical Spine**, Howard Francois, M.D., Southwest Medical Associates. Impression: No acute osseous abnormality. Moderate/marked degenerative disc disease at C6-7. Mild to moderate degenerative disk disease at C5-6, C7-T1 and to lesser extent at C3-4. Multilevel mild to moderate posterior element DJ, increasing caudally. Slight reversal of usual C-spine lordotic curvature which may be due in part to muscle spasm/pain. Anterior osteophytes are seen at the mid and lower C-spine.
- 03/12/12** **Adult Medicine Progress Note**, Michael Brown, MA and William Celentano, M.D., Southwest Medical Associates. Impression: Right knee pain status post ski injury 3 months ago.

- 03/12/12 **X-ray Right Knee**, Rajashree Vyas, M.D., Southwest Medical Associated. Impression: Mild tricompartmental osteoarthritis without acute osseous abnormality.
- 03/26/12 **Letter to Patient**, Michael Brown, MA., Southwest Medical Associated. The results of the x-ray of your knee showed a mild degenerative arthritic changes and does not show any fractures or dislocations.
- 11/01/12 **Adult Medicine Progress Note**, Claudia Cheatham, MA and Ryan Tran, M.D., Southwest Medical Associates. Impression: 1) Hypertension. 2) Essential hypertriglyceridemia. 3) Impaired fasting glucose.
- 05/20/13 **History and Physical**, Emmanuel K. Onnutuebe, M.D., Southwest Medical Associates. Chief Complaint: Dizziness. Impression: 1) Upper gastrointestinal bleed. 2) Symptomatic anemia. 3) Mild thrombocytopenia. 4) Hypertension.
- 05/20/13 **Consultation**, Sanjay Nayyar, M.D., Southwest Medical Associates. Patient was seen for a consult due to a GI bleed.
- 05/20/13 **Operative Report**, Sanjay Nayyar, M.D., Southwest Medical Associates. Procedure: Upper gastrointestinal endoscopy.
- 05/21/13 **Operative Report**, Sanjay Nayyar, M.D., Southwest Medical Associates. Procedure: Colonoscopy.
- 05/22/13 **Discharge Summary**, Emmanuel K. Onnutuebe, M.D., Southwest Medical Associates. Impression: 1) Symptomatic anemia. 2) Upper gastrointestinal bleed secondary to superficial gastric ulcer and duodenal ulcer. 3) Hypertension.
- 05/23/13 **Adult Medicine Progress Note**, Kimberly Uini, MA and Neeta Soni, M.D., Southwest Medical Associates. Impression: 1) Hypertension. 2) Peptic ulcer. 3) Essential hypertriglyceridemia. 4) Nicotine dependence.
- 06/19/13 **State of Nevada Traffic Accident Report**.
- 06/19/13 **Transport to Hospital**, Las Vegas Fire and Rescue.
- 06/19/13 **Emergency Room Record**, Joshua Parker, M.D., University Medical Center. Patient was the restrained driver of a vehicle going about 10 mph when it struck a fork lift's blades. This was not a head on, but more of a T-bone where he drove into the blades at a perpendicular type of angle. The patient thinks he hit his head, but EMS reported that passenger compartment intrusion was very minimal. Airbags were not deployed. The patient was not ambulatory on the scene. He denies loss of consciousness. He complains of a headache and some back pain. He does not have any radiation of the

back pain. EMS reported patient's blood sugar is 144. Diagnosis: 1) Musculoskeletal strain. 2) MVA. Patient treated and released in stable condition.

- 06/19/13** **CT Brain without Contrast**, Jimmy Shih, M.D., University Medical Center. Impression: No acute intracranial pathology.
- 06/19/13** **CT Cervical Spine without Contrast**, Jimmy Shih, M.D., University Medical Center. Impression: No traumatic injury to the cervical spine seen. Degenerative changes as above.
- 06/19/13** **CT Abdomen and Pelvis**, Pejman Motarjem, M.D., University Medical Center. Impression: 1) No acute intra-abdominal or intrapelvic process. 2) Probably a small hemangioma involving segment 8 in the liver. Nonemergent contrast enhanced MRI recommended.
- 06/19/13** **Chest X-ray**, Jimmy Shih, M.D., University Medical Center. Impression: Unremarkable trauma portable chest.
- 06/19/13** **X-ray Left Humerus**, Jimmy Shih, M.D., University Medical Center. Impression: No acute fracture seen.
- 06/24/13** **Initial Chiropractic Evaluation**, Donna Callaway, D.C., Downtown Neck and Back Clinic. Patient states that he was involved in a MVA on 06/19/13. He was the restrained driver of a Dodge Charger and was involved in a side impact collision in which his vehicle was struck by a fork lift on the front passenger side. He cannot remember if he had any loss of consciousness but reports of blurry vision for about two minutes. He reports his vehicle was moving. He did not anticipate the collision. His head position was forward. He reports having both hands on the steering wheel. He reports a slight forward body lean. His head rest in the down position. His seat was not altered or broken after the impact. The patient reports he hit both of his knees on the dash. The airbags did not deploy. Diagnosis: 1) Cervical spine s/s with cervical segmental dysfunction. 2) Cervical radiculitis/neuritis. 3) Posttraumatic headaches. 4) Thoracic spine s/s with thoracic segmental dysfunction. 5) Lumbar spine s/s with lumbar segmental dysfunction. 6) Right knee s/s. 7) Left knee s/s. 8) Muscle spasm. 9) Insomnia secondary to pain. 10) Left knee abrasion. Plan: Chiropractic therapy.
- 06/24/13-07/03/13** **Chiropractic Progress Notes**, Donna Callaway, D.C., Downtown Neck and Back Clinic. Patient has completed 7 therapy sessions. Plan: Continue chiropractic care.
- 06/25/13** **Urgent Care**, Radar Medical Group/University Urgent Care. Patient seen for right knee pain, back pain, and neck pain from MVA on 06/19/13. Plan: Lortab, Ibuprofen, Flexeril.

- 06/27/13** **Employers Report of Industrial Injury or Occupational Disease.**
Chapman Dodge.
- 07/08/13** **Initial Consultation,** Maangelica Goodstein, PAC., Center for Occupational Health and Wellness. Diagnosis: 1) Cervical muscle strain. 2) Scapular muscle strain. 3) Head injury, resolved. Plan: Duexis, stretching, heat, cervical collar, modified work status.
- 07/15/13** **Internal Medicine Evaluation,** Dipti Shah, M.D. Diagnosis: 1) S/P MVA. 2) Acute, traumatic cervical, thoracic, lumbar strain. 3) Acute, traumatic cervical, thoracic, lumbar muscle spasm. 4) Acute, traumatic cervicogenic headaches. 5) Insomnia. Plan: Flexeril, Lortab, stop Motrin due to history of ulcers, obtain records, MRI cervical spine.
- 07/18/13** **Progress Notes,** Victor Klausner, D.O., Center for Occupational Health and Wellness. Patient has pain over the base of his neck radiating to the left trapezius with intermittent headaches. He has intermittent episodes of dizziness without nausea or vomiting. CT cervical spine shows DDD, osteoarthritis and foraminal stenosis at C5/7. Plan: HEP, Lodine, PT, stop soft collar.
- 09/16/13** **Orthopedic Consultation,** Archie Perry, M.D., Desert Orthopedic Center. Diagnosis: 1) Neck and cervical strain. 2) C6/7 auto fusion, preexisting. 3) Cervical spondylosis, preexisting, but previously asymptomatic. 4) Left greater than right upper extremity radicular symptoms. Plan: MRI cervical spine, modified work status.
- 09/24/13** **Office Visit,** Michael Miao, M.D., Desert Orthopedic Center. Diagnosis: Right knee ACL tear and mild arthritis. Plan: MRI right knee.
- 10/01/13** **MRI Cervical Spine without Contrast,** P. Valiveti, M.D., Desert Radiologists. Impression: 1) Straightening and minimal reversal of the normal cervical lordosis with multilevel discogenic disease and multilevel uncovertebral degenerative changes throughout the cervical spine. 2) See above for detail regarding each level. 3) Multilevel facet arthrosis, with severe right sided facet arthrosis C7/T1.
- 10/06/13** **Emergency Room Record,** Matthew Stofferahn, M.D., Summerlin Hospital Medical Center. Patient seen for headache. All testing was negative. He is treated and released in stable condition.
- 10/06/13** **CT Brain without Contrast,** Hubert Chin, M.D., Summerlin Hospital Medical Center. Impression: Normal CT of the brain.
- 10/14/13** **Progress Notes,** Archie Perry, M.D., Desert Orthopedic Center. In the ER, he was found to have significantly high BP and he was started on 2 medications. He has noted progressive increase in his neck pain, left arm

pain and numbness, as well as occipital and frontal headaches associated with these painful episodes. Plan: Injections, EMG study.

- 10/15/13** **Cardiac Notes**, Anil Fotedar, M.D., Heart Center of Nevada. Patient seen for hypertension and possible hypertensive heart disease.
- 11/11/13** **Office Visit**, Archie Perry, M.D., Desert Orthopedic Center. His hypertension may be related to his pain symptoms. Plan: EMG study.
- 11/25/13** **Consultation**, Joseph Schifini, M.D., Las Vegas Surgery Center. Diagnosis: 1) Multilevel cervical disc osteophyte complexes. 2) Multilevel cervical DDD. 3) Subjective bilateral upper extremity radiculitis left greater than right. Plan: Staged left C7/T1, followed possibly by C6/7 and possibly C5/6 transforaminal selective ESI, continue current medication regimen.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Staged first left C7/T1 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Staged second left C6/7 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Staged third left C5/6 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 12/10/13** **MRI Right Knee without Contrast**, Jimmy Wang, M.D., Desert Radiologists. Impression: Findings consistent with a chronic ACL tear with subsequent scarring the intercondylar notch. 2) Peripheral vertical tear of the posterior horn of the medial meniscus extending to the posterior body segment, known to be associated with a chronic ACL tear.
- 12/10/13** **Progress Note**, Sanjay Nayyar, M.D., Digestive Associates. Chief Complaint: Peptic ulcer.
- 12/17/13** **Progress Notes**, Joseph Schifini, M.D., Las Vegas Surgery Center. After injections patient noted 20% long term relief of his neck pain, but no relief of his bilateral shoulder pain. Plan: Injections, continue medications.
- 12/17/13** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Diagnosis: Right knee ACL tear and mild arthritis, medial meniscus tear. Plan: Right knee arthroscopy, preop clearance.
- 01/02/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C6/7 transforaminal selective ESI under fluoroscopic

- guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 01/02/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C6/7 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 01/07/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient seen for preop. Diagnosis: Right knee ACL tear and mild arthritis, medial meniscus tear. Plan: Right knee arthroscopy, Norco.
- 01/07/14** **Chest X-ray**, Frank Hsu, M.D., Desert Radiologists. Impression: Right upper lobe pulmonary nodule. Appearance is nonspecific. Recommend correlation with prior chest radiographs if available. If none are available, chest CT is recommended.
- 01/08/14** **Progress Notes**, Anil Fotedar, M.D., Heart Center of Nevada. Patient seen for preop. EKG is normal. Patient is cleared from a cardiac standpoint.
- 01/09/14** **Operative Report**, Michael Miao, M.D., Institute of Orthopedic Surgery. Procedure: Right knee arthroscopic assisted ACL reconstruction, AT allograft, arthroscopic partial medial meniscectomy. No complications.
- 01/10/14** **Physical Therapy Evaluation**, Jared Morasco, PT., Mattsmith Physical Therapy. Diagnosis: 1) Sprain cruciate ligament, knee. 2) Joint pain, left leg. Plan: PT for right knee.
- 01/10/14-07/07/14** **Physical Therapy Discharge Summary**, Jared Morasco, PT., Mattsmith Physical Therapy. Patient has completed 18 therapy sessions. Patient has no new complaints. Overall condition is improving. Patient is discharged from PT.
- 01/17/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes improvement in his symptoms with PT. He has diffused palpable tenderness. Plan: Ibuprofen, PT.
- 01/30/14** **EMG/NCV Study**, Leo Germin, M.D., Clinical Neurology Specialists. Impression: 1) Moderate in severity CTS on the left. 2) No evidence for CTS on the right. 3) Moderate in severity ulnar neuropathy at the elbow on the right. 4) No evidence for ulnar neuropathy at the elbow on the left. 5) Needle examination deferred due to inability of this individual to wait for the test and will be performed on the follow up visit.
- 02/04/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes improvement with PT. Knee is good. He is having a lot of back problems,

cannot sit. He now complains of calf pain at end of appointment. Plan: Continue PT, Doppler, consider aspiration of the knee done today.

- 02/04/14** **EMG/NCV Study**, Leo Germin, M.D., Clinical Neurology Specialists. Impression: 1) No evidence for overt axonal loss C5 through T1 radiculopathy bilaterally. 2) Moderate in severity CTS on the left. 3) Moderate in severity ulnar neuropathy at the elbow on the right. 4) No evidence for ulnar neuropathy at the elbow on the left.
- 03/04/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that his symptoms have improved. He missed PT for two weeks due to kidney stone. Plan: PT, will reassess effusion and consider aspiration, modified work status.
- 03/17/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that last injections gave him moderate relief of his symptoms. He continues to complain of neck pain that radiates to the left shoulder. Plan: C3/4 transforaminal injection.
- 04/01/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that his symptoms are unchanged. Plan: Aspiration followed by injection done today, PT.
- 04/07/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C3/4 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 04/07/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C3/4 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 06/09/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Last injections gave him about 2 weeks of significant pain relief, however, now his pain is starting to come back. Plan: PT.
- 06/10/14** **Progress Notes**, Joseph Schifini, M.D. I will address the C5/6 level.
- 06/25/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient continues to have clicking and pain with sports/activities. He has pain while walking up stairs, getting up. PT has not been approved. Plan: Continue HEP, no work restrictions.
- 06/30/14-09/02/14** **Physical Therapy Progress Notes**, Andy Hutchison, PT., Kelly Hawkins Physical Therapy. Patient has completed 24 therapy sessions. He has achieved some short-term improvement in his symptoms, but no long-term

improvements. He has completed all his therapy sessions. Plan: Will wait for further plan of care.

- 07/07/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient has had significant relief of symptoms with manual traction with PT. Plan: Home mechanical traction, surgery at C3/4 and C6/7.
- 07/10/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C5/6 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 07/10/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C5/6 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 08/11/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient states that overall his neck pain is the same. Plan: Home traction unit, surgical intervention.
- 08/19/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient continues to have clicking and pain with sports and activities. He has a hard time walking. He can't squat or kneel down. Plan: Continue HEP, no work restrictions.
- 09/22/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient notes continued neck pain as well as intermittent arm pain and paresthesias. Plan: Facet injections at the C5/6, C6/7 and C7/T1 levels, no work restrictions.
- 10/14/14** **Progress Notes**, Joseph Schifini, M.D. Patient continues to have evidence of mechanical neck pain. Plan: Left C5-T1 medial branch facet joint nerve blocks.
- 10/23/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C5, C6, C7, T1 medial branch facet joint nerve injection under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 11/10/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient had 50% improved pain relief after last injection. Plan: Surgical intervention, modified work status.
- 12/03/14** **Consultation**, Christopher Fisher, M.D., Nevada Spine Clinic. Diagnosis: 1) Cervical pain with mechanical axial symptoms, rule out facet mediated pain. 2) Cervical a/s with myofascial pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, light work duty, tens therapy.

- 01/26/15 **Operative Report**, Christopher Fisher, M.D., Smoke Ranch Surgery Center. Procedure: Left C4, C5, C6 and C7 medial branch blocks. No complications.
- 02/04/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient had significant relief from last injection before it wore off. Plan: Flexeril, Tramadol, HEP, ice/heat, light work duty, tens unit.
- 02/11/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. He has pain that occasionally radiates down the left arm, worse with sitting for prolonged periods of time, associated with decreases side range of motion. Plan: MBB at C4-7, Flexeril, Tramadol, HEP, ice/heat, light work duty, tens unit.
- 03/02/15 **Operative Report**, Christopher Fisher, M.D., Smoke Ranch Surgery Center. Procedure: Left C4, C5, C6 and C7 medial branch blocks. No complications.
- 03/11/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. He had injection with no improvement in symptoms. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 03/27/15 **Functional Capacity Evaluation**, Doug Ellis, PT., Matt Smith Physical Therapy. There were inconsistencies in his presentation, as well as noted self-limiting pain behaviors. There does exist the probability of a less than maximum effort. The results of this functional capacity evaluation have been determined to be unreliable and invalid.
- 04/01/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient seen for left cervical pain and upper back pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 04/08/15 **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient seen for left cervical pain and upper back pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 04/23/15 **Permanent Impairment Evaluation**, David Oliveri, M.D. Diagnosis: 1) Cervical spine pain of likely motion segment origin with intermittent left upper extremity radicular symptomatology. 2) Upper thoracic spine pain, likely a referral from the cervical spine. 3) Right knee internal derangement S/P ACL reconstruction and partial medial meniscectomy. P/S: Yes. Apportionment is not indicated. AMA impairment rating: 12% WPI. 8% cervical spine, 0% thoracic spine, 4% right knee.
- 06/30/15 **Photographs of accident scene and damaged vehicle.**

- 06/14/16 **X-ray Report of the Cervical and Thoracic Spine**, Ammon Strehlow, D.C. Strehlow Radiology Consulting. Impression: 1. Mild to moderate discogenic spondylosis periodically throughout the cervical spine, with osseous bridging noted in the lower cervical spine, the bridging appears to fuse the C6 and C7 segments, clinical correlation with surgical history. 2. Mild to moderate spondylosis deformans periodically throughout the thoracic spine. 3) Mild to moderate facet arthrosis periodically throughout the cervical spine. 4. Possible hilar fullness, hilar nodule with accentuation of the regional bronchovascular markings.
- 04/03/18 **EMG/NCV Report**, Shanker Dixit, M.D. Neurology Center of Nevada. Impression: NCV: 1. Bilateral median nerve sensory neuropathy, mild, demyelinating. 2. Left ulnar nerve sensory neuropathy, mild, mixed axonal and demyelinating. 3. Left median nerve motor neuropathy, mild, axonal. 4. Bilateral radial nerve moto neuropathy, mild, axonal. 5. Left ulnar nerve motor neuropathy, mild, axonal. EMG: 1. Bilateral C6 radiculopathy.
- 04/12/18 **Review of Records**, Stuart S. Kaplan, M.D., Western Regional Center for Brain and Spine Surgery. The patient was referred to the examiner. The examiner performed a C3 to T1 laminectomy/fusion. The patient is also suffering from a C5 neuropraxic injury related to spinal cord retraction/relaxation with tension on the C5 nerve root. According to the records that were provided to the examiner, it is the examiners medical opinion that the surgery was related to the 2013 accident.
- 04/24/18 **Comprehensive Medical Evaluation**, David J. Oliveri, M.D. Prior Injuries: At age 5 the patient had a laceration to his left elbow. About 25 years ago he was in an MVA in San Diego and underwent chiropractic treatment and all symptoms were resolved. In 2000 he had a left knee injury with an ACL surgery. History: On 06/19/13 the patient was the driver of a vehicle that hit elevated forks of a fork lift causing the vehicle to come to a complete stop. He was taken by paramedics to UMC Trauma. He was seen for pain in the neck, head, right knee as well as radiating symptoms into the left greater than right upper extremity. In regard to the cervical spine pain he has received conservative care, multiple injection and was seen by Dr. Perry. He was seen by his PCP who referred him to pain management. He began seeing Dr. Kaplan who recommended surgery. Since his surgery his pain is significantly better. He is reporting constant posterior neck pain and left scapular pain at today's evaluation. Impression: 1. Multilevel cervical motion segment Injury with left cervical radicular symptomatology status post posterior C3-T1 decompression, fusion and instrumentation on 01/30/18. 2. Upper thoracic/scapular pain secondary o diagnosis #1. 3. Cephalgia secondary to diagnosis #1. 4. Lumbar spine pain; resolved. 5. Knee pain. The examiner concludes with reasonable degree of medical probability that the patient's diagnoses are associated with the 06/19/13 accident. Future Medical Care: Periodic physician visits, intermittent use of prescription medication and intermittent access to physical therapy for palliative treatment.

Pain Management – One visit every 6 to 12 months - \$313 to \$626

Physical Therapy - \$2,280

Medication - \$416

Total - \$75,225 to \$83,050

- 06/01/18** **Progress Note, Stuart Kaplan, M.D., Las Vegas Neurosurgical Institute.** The patient is status post PCDF C3 through T1 on 01/30/18. Impression: Spinal stenosis lumbar region. Plan: The patient's shoulder and deltoid function is improving. The deltoid function is good, but the patient is still having issues raising his arm over his head. The examiner feels that the patient had a C5 neuropraxic injury.
- 07/12/18** **Progress Note, Grant Karno, M.D. Nevada Comprehensive Pain Center.** The patient returns for follow up on chronic cervical and right knee pain. He has completed his physical therapy and is requesting more sessions. Impression: 1. Cervical post laminectomy syndrome. 2. Cervical spondylosis. 3. Other spondylosis with radiculopathy, cervical region. 4. Pain in right knee.
- 07/18/18** **Progress Note, Shanker Dixit, M.D., Neurology Center of Las Vegas.** Chief Complaint: Neck pain, left upper extremity pain and weakness. History: The patient was involved in a motor vehicle accident when a fork lift ran into his car. He had injuries to his neck and underwent surgery with Dr. Kaplan. After surgery, the patient was having neck pain but still having issues with his left upper extremity. He recently underwent an EMG which revealed evidence of bilateral C6 radiculopathy. Impression: 1. Cervical radiculopathy. 2. Cervicalgia. Plan: Continue with medication management. Continue physical therapy and exercises
- 08/31/18** **X-ray Report of the Cervical Spine, Lisa Nelson, M.D., Steinberg Diagnostic Medical Imaging Centers.** Impression: Multilevel degenerative disc disease status post posterior decompression and spinal stabilization C3-T1.
- 09/07/18** **Progress Note, Stuart Kaplan, M.D., Las Vegas Neurosurgical Institute.** The patient is status post PCDF C3 through T1 on 01/30/18. The patient's left arm function is getting better, but his muscles are tight. Impression: 1. Cervicalgia. 2. Radiculopathy cervical region. Plan: The examiner is recommending cervical x-rays. The examiner also feels that the patient should attend therapy for his neck.
- 10/29/18** **Progress Note, Shanker Dixit, M.D., Neurology Center of Las Vegas.** Chief Complaint: Neck pain. History: The patient was involved in a motor vehicle accident when a fork lift ran into his car. He had injuries to his neck and underwent surgery with Dr. Kaplan. After surgery, the patient was having neck pain but still having issues with his left upper extremity. He recently underwent an EMG which revealed evidence of bilateral C6 radiculopathy. Impression: 1. Cervical radiculopathy. 2. Cervicalgia. 3. Ulnar neuropathy of

left arm. Plan: Continue with medication management. Continue physical therapy and exercises. The examiner is recommending hand surgery referral.

- 11/26/18** **X-ray Report of the Cervical Spine**, Lisa Nelson, M.D., Steinberg Diagnostic Medical Imaging Centers. Impression: Moderate to severe multilevel degenerative disc and degenerative joint disease status post posterior decompression and spinal stabilization C3-T1.
- 11/27/18** **Progress Note**, John Thalgott, M.D. Center for Disease and Surgery of the Spine. The patient presents with a chief complaint of cervical pain. The patient notes that the pain has been persistent since an incident at work. He notes that the pain radiates to his neck, left arm, left shoulder and left hand. The patient underwent a post cervical fusion in 2018 by Dr. Kaplan. He now had chronic severe left sided pain that is neuropathic and had C3 to T1 post fusion and decompression that was complicated with C5 left weakness. He is still in pain management and has not received any injections. Impression: 1) Automobile collision. 2) Radiculopathy, cervical. 3) Neuroforaminal stenosis of cervical spine. 4) CTS. 5) Ulnar nerve entrapment at elbow. 6) Neuropraxia of upper extremity, left. Plan: Posterior cervical fusion with instrumentation.
- 12/07/18** **Progress Note**, Stuart Kaplan, M.D., Las Vegas Neurosurgical Institute. The patient is status post PCDF C3 through T1 on 01/30/18. Impression: 1. Cervicalgia. 2. Radiculopathy cervical region. Plan: The examiner is recommending cervical spine x-rays.
- 12/14/18** **Second Supplemental Report**, Ira I. Spector, M.S. Certified Vocational Services. Impression: Associated with 06/19/13 MVA: 1. Multilevel cervical motion segment injury with clinical left multilevel cervical radiculopathy status post posterior C3-T1 decompression, fusion and instrumentation on 01/30/18. 2. Upper thoracic /scapular pain secondary to diagnosis #1. 3. Cephalgia. 4. Lumbar spine pain; resolved. 5. Knee pain. Other: 1. Right knee anterior cruciate ligament tear status post ACL reconstruction with allograft and partial medial meniscectomy on 01/09/14.
- 01/09/19-
02/20/19** **Physical Therapy Note**, Dylan Coonrad, PT., ATI Physical Therapy. The patient presents for evaluation of injuries sustained in a motor vehicle collision on 06/19/13. Impression: 1. Cervicalgia. 2. Pain in knee. 3. Pain in shoulder.
- 01/10/19** **Progress Note**, John Thalgott, M.D. Center for Disease and Surgery of the Spine. The patient presents with a chief complaint of cervical pain. The pain started following a work incident. The pain radiates to his neck, left arm, left shoulder and left hand. Impression: 1) Neuropraxia of upper extremity, left. 2) Ulnar nerve entrapment at elbow. 3) Neuroforaminal stenosis of cervical spine. 4) Radiculopathy, cervical. Plan: Follow up as needed.

- 01/29/19** **Progress Note, Shanker Dixit, M.D., Neurology Center of Las Vegas.** Chief Complaint: Pain. History: The patient was involved in a motor vehicle accident when a fork lift ran into his car. He had injuries to his neck and underwent surgery with Dr. Kaplan. After surgery, the patient was having neck pain but still having issues with his left upper extremity. He recently underwent an EMG which revealed evidence of bilateral C6 radiculopathy. Patient was advised to undergo a blocker for his pain. Impression: 1. Cervical radiculopathy. 2. Cervicalgia. 3. Ulnar neuropathy of left arm. Plan: Continue with medication management. Continue with physical therapy. Referral to hand surgeon for ulnar neuropathy.
- 02/08/19** **Functional Capacity Evaluation, Doug Ellis, PT., ATI Physical Therapy.** Recommendations: It is recommended that the patient return to the work force with modified sedentary job classification. He can frequently lift and carry less than 10 lbs. Continuous sitting, standing or walking should not exceed 30 minutes. He should be restricted from climbing ladders or stools.
- 02/13/19** **Progress Note, Stuart Kaplan, M.D. Las Vegas Neurosurgical Institute.** The patient was last seen about a year ago. He underwent his surgery on 01/30/18. He does present with persistent pain in his neck and left arm all the way down. He had an FCE by ATI. He has also discussed a spinal cord stimulator with Dr. Oliveri. Impression: 1. Cervicalgia. 2. Radiculopathy cervical region. Plan: The examiner is recommending that the patient proceed with the implantation.
- 03/05/19** **X-ray Report of the Cervical Spine, Lisa D. Nelson, M.D. Steinberg Diagnostic Medical Imaging Centers.** Impression: 1) Posterior decompression and spinal stabilization C7-T1. 2) Moderate to severe multilevel degenerative disc disease cervical spine.
- 03/06/19** **Progress Note, Stuart Kaplan, M.D. Las Vegas Neurosurgical Institute.** The patient was last seen on 02/13/19. He presents with significant pain and numbness in his left arm. Impression: 1) Cervicalgia. 2) Radiculopathy, cervical region. Plan: Spinal cord placement is recommended.
- 03/21/19** **Comprehensive Medical Evaluation Fifth Supplemental Report, David J. Oliveri, M.D.** Impression: 1. Multilevel cervical motion segment injury with clinical left multilevel cervical radiculopathy status post posterior C3-T1 decompression, fusion and instrumentation on 01/30/18. 2. Upper thoracic/scapular pain secondary to diagnosis #1. 3. Cephalgia secondary to diagnosis #1. 4. Lumbar spine pain; resolved. 5. Knee pain. Discussion: A life care plan was prepared on 04/24/18. The life care plan was updated to include a provision for the surgical implantation of a cervical spinal neurostimulator. The examiner also included a provision for periodic replacement of the pulse generator which will need replacement every five years. David J. Oliveri, M.D.
Future Medical Costs:
Physician Care: \$7,512 to \$15,024

Physical Therapy: \$54,720
Medications: \$9,984
Surgical intervention and Procedures: \$396,327 to \$446,327

- 03/25/19 **Updated Report on Present Value of Future Medical Costs for Mr. Bahram Yahyavi**, Terrence M. Clauretie, Ph.D.
Estimate of Present Value of Future Medical Costs: \$529,260
- 03/25/19 **Note**, Stuart Kaplan, M.D. Las Vegas Neurosurgical Institute. The examiner noted that the patient underwent x-rays at Mountainview Hospital on 05/19/13. In these images, the cervical spine can be seen, but the cervical spine was not visible. Impression: 1) Cervicalgia. 2) Radiculopathy, cervical region.
- 03/26/19 **Progress Note**, John Thalgott, M.D. Center for Disease and Surgery of the Spine. The patient presents for a follow up. The patient notes that both Dr. Kaplan and Dr. Oliveri think he would benefit from a Spinal Cord Stimulator. Impression: 1) Radiculopathy, cervical. 2) Neuropraxia of upper extremity, left. Plan: Follow up in one month.
- 03/26/19 **Vocational Rehabilitation Loss of Earning Capacity Assessment Third Supplemental Report**, Ira I. Spector, M.S., Certified Vocational Services.
- 05/17/19-
05/22/19 **Physical Therapy Note**, Rhea Agbayani, PT. ATI Physical Therapy. Impression: 1) Cervical radiculopathy. 2) Cervical stenosis.
- 06/11/19 **Procedure Note**, Joseph J. Schifini, M.D. Las Vegas Surgery Center. Pre-Operative Impression: 1) Cervical post fusion syndrome. 2) Multilevel cervical degenerative disc disease. 3) Objective bilateral upper extremity radiculopathy left greater than right. 4) Failed conservative therapy. 5) Status post work related injury on June 19, 2013. Procedure: 1) Left C5-6 transforaminal selective epidural steroid injection under fluoroscopic guidance. 2) Intravenous conscious sedation with versed. Complications: None.
- 07/02/19 **Nursing Assessment**, Las Vegas Surgery Center. Pre-Op Impression: Pain. Planned Procedure: Bilateral Injection to be performed by Dr. Schifini. Surgical History: 1) >10 years - cervical spine. 2) <= 5years - cervical spine. 3) <= 5 years - ACL.
- 07/02/19 **Procedure Note**, Joseph J. Schifini, M.D. Las Vegas Surgery Center. Pre-Operative Impression: 1) Cervical post fusion syndrome. 2) Multilevel cervical degenerative disc disease. 3) Objective bilateral upper extremity radiculopathy left greater than right. 4) Failed conservative therapy. 5) Status post work related injury on June 19, 2013. Procedure: 1) Right C5-6

transforaminal selective epidural steroid injection under fluoroscopic guidance. Complications: None.

07/02/19 Procedure Note, Joseph J. Schifini, M.D. Las Vegas Surgery Center. Pre-Operative Impression: 1) Cervical post fusion syndrome. 2) Multilevel cervical degenerative disc disease. 3) Objective bilateral upper extremity radiculopathy left greater than right. 4) Failed conservative therapy. 5) Status post work related injury on June 19, 2013. **Procedure:** 1) Left C5-6 transforaminal selective epidural steroid injection under fluoroscopic guidance. 2) Intravenous conscious sedation with versed. **Complications:** None.

07/02/19 Letter to Dr. Thalgott, Joseph J. Schifini, M.D. The patient received another set of injections in the form of a bilateral C5-6 transforaminal selective epidural steroid injections under fluoroscopic guidance.

07/29/19 Letter to Dr. Thalgott, Joseph J. Schifini, M.D. The patient was seen in follow up and continues to complain of neck, upper back, and left arm symptoms. He has undergone two sets of cervical injections toward his C5-6 segment; unfortunately, they provided no relief. Due to the lack of relief the examiner is recommending a spinal cord stimulator placement.

07/30/19 Progress Note, John Thalgott, M.D. Center for Disease and Surgery of the Spine. The patient presents for follow up. He is status post injections: one on the left and two bilateral injections. The patient is a candidate for the SCS trial. **Impression:** 1) Radiculopathy, cervical. 2) Neuropraxia of upper extremity, left. 3) Ulnar nerve entrapment at elbow. 4) Neuroforaminal stenosis of the cervical spine. **Plan:** 1) Posterior cervical fusion with instrumentation. 2) CT of the cervical spine. 3) Referral to pain management.

Miscellaneous Medical:

Duplicate medical records.

Labs.

Southwest Medical Associates – Consent, Personal Health and Social History, Patient Registration, Pathology Reports, Lab Work, HEW Note

Referral Summary

Duplicate Medical Records

ATI Physical Therapy – Communication Preferences, Quick DASH Survey, Neck Disability Index Questionnaire, VR-12 Health Survey, Medical History, Medical Lien, Motor Vehicle Accident Information

Duplicate Medical Records

Duplicate Medical Records

Center for Disease and Surgery of the Spine – Patient Registration, Pain Drawing, Accident Injury Questionnaire

Las Vegas Surgery Center – Pain Management History and Physical, Pain Clinic Orders, Consents, Medication Administration Record, Procedure Record, Discharge Instructions, Patient Registration, Nursing Assessment

Duplicate Medical Records

Miscellaneous Nonmedical:

Correspondence from Associated Risk Management.

Income tax returns.

Wage calculation form for claims agents use.

Depositions:

05/03/16, deposition of Bahram Yahyavi, 89 pages.

Rough Draft Deposition of Mary Shannon, M.D., 12/14/18, 57 pages

Legal:

Defendants second supplement to early case conference production of documents and witness list.

Plaintiff's disclosure of documents, witnesses.

Defendant's first supplement to early case conference production of documents and witness list.

Plaintiff's reply to defendant's first set of admissions to plaintiff Bahram Yahyavi.

Before the appeals officer.

Plaintiff's Ninth Supplemental Expert Disclosure and supplemental NRCP 16.1 (a)(3) Pre-Trial Disclosures

Plaintiff's Fourteenth Supplement to the Early Case Conference List of Documents and Witnesses and NRCP 16.1 (a)(3) Pre-Trial Disclosures

Plaintiff's Eleventh Supplemental Expert Disclosure and Supplemental NRCP 16.1 (a)(3) Pre-Trial Disclosures

Plaintiff's Tenth Supplemental Expert Disclosure and Supplemental NRCP 16.1 (a)(3) Trial Disclosures

Plaintiff's Fifteenth Supplement to the Early Case Conference List of Documents and Witnesses and NRCP 16.1 (a)(3) Pre-Trial Disclosures

Duplicate Legal Items

Billing:

Account financial History.

HCPNV, \$18.00

Photocopies, \$9.72

Heart Center of Nevada, \$400.00

Victor Klausner, D.O., 0 balance

Nick Zarkes, M.D., 0 balance

David Oliveri, M.D., 0 balance

Nevada CVS Pharmacy, \$544.29

Clinical Neurology Specialists, \$3850.00

Desert Radiologists, 0 balance

Nevada Spine Clinic, 0 balance

Downtown Neck and Back Clinic, \$1775.00

Radar Medical Group, \$722.25

Shadow ER Physicians, \$1531.00

Summerlin Hospital Medical Center, \$2989.00

EMP of Clark, \$665.55

Pacific Anesthesia Consultants, \$150.00
Kelly Hawkins PT, 0 balance
Kinex Medical Company, 0 balance
Mattsmith PT., 0 balance
Joseph Schifini, M.D., 0 balance
Chynoweth Hill Leavitt, summary of billing
University Medical Center, \$5904.20
Nevada Auto Network Self Insured Group, \$109,126.06, amount paid to date for claims.
ATI Physical Therapy, 01/09/19 to 02/08/19 - \$1,043.52; 01/09/19 to 02/20/19 - \$5,041.98;
05/17/19 to 05/22/19 - \$630.01
Las Vegas Neurosurgical Institute, \$1,050
Neurology Center of Las Vegas, \$1,841
Duplicate Billing Records
Center for Disease, Surgery of the Spine, \$970
Las Vegas Neurosurgical Institute, 06/01/18 to 03/06/19 - \$1,958.60
Duplicate Billing

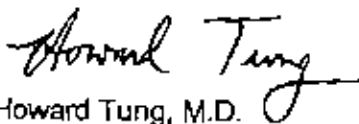
SUMMARY OF MEDICAL OPINION:

After review of the above medical records, my opinions have not change, which have been stated to a reasonable degree of medical probability. The recently provided medical records indicate in the Nursing Assessment that Mr. Yahyavi may have in his surgical history indicated he has received cervical spine surgery more than 10 years ago. This would correspond to what has been described as an "auto fusion" in prior reporting. The fusion noted at C6-C7 has been present on cervical spine x-rays dating back to 2011. Clearly, if Mr. Yahyavi had received prior surgery to the cervical spine, this would indicate a significant past history of cervical symptomatology.

Should further medical records become available, I would request the opportunity to review them, as they could further support or alter my opinion.

I hope this helps to answer some of the questions at hand. Please do not hesitate to contact me if I can be of any further assistance.

Sincerely,



Howard Tung, M.D.
HT/cj

EXHIBIT “11”

HOWARD TUNG, M.D.
NEUROSURGERY
DIPLOMATE AMERICAN BOARD OF NEUROLOGICAL SURGERY
CLINICAL PROFESSOR OF NEUROLOGICAL SURGERY
UNIVERSITY OF CALIFORNIA, SAN DIEGO

August 15, 2019

Law Office of Eric R. Larsen
750 E Warm Springs Rd, Suite 320
Las Vegas, NV 89119

RE: **YAHYAVI, Bahram**
DOI: June 19, 2013

REVIEW OF MEDICAL RECORDS/SUPPLEMENTAL REPORT

I received further medical records with regards to Mr. Bahram Yahyavi. These medical records are listed below. The additional medical records have been reviewed.

MEDICAL RECORD REVIEW:

- 10/07/11 Adult Medicine Progress Note**, Maria Butiong, MA and Caprice Hutchison, APN, Southwest Medical Associates. Impression: 1) Normal routine history and physical exam. 2) Hypertension. 3) Contact dermatitis. 4) Nicotine dependence.
- 10/25/11 Adult Medicine Progress Note**, Susan Stulo, MA and Sharon King, M.D., Southwest Medical Associates. The patient presents complaining of neck pain for the last several years. Impression: 1) Essential hypertriglyceridemia. 2) Backache.
- 10/25/11 X-ray Cervical Spine**, Howard Francois, M.D., Southwest Medical Associates. Impression: No acute osseous abnormality. Moderate/marked degenerative disc disease at C6-7. Mild to moderate degenerative disk disease at C5-6, C7-T1 and to lesser extent at C3-4. Multilevel mild to moderate posterior element DJ, increasing caudally. Slight reversal of usual C-spine lordotic curvature which may be due in part to muscle spasm/pain. Anterior osteophytes are seen at the mid and lower C-spine.
- 03/12/12 Adult Medicine Progress Note**, Michael Brown, MA and William Calentano, M.D., Southwest Medical Associates. Impression: Right knee pain status post ski injury 3 months ago.
- 03/12/12 X-ray Right Knee**, Rajashree Vyas, M.D., Southwest Medical Associated. Impression: Mild tricompartmental osteoarthritis without acute osseous abnormality.

- 03/26/12 **Letter to Patient**, Michael Brown, MA., Southwest Medical Associated. The results of the x-ray of your knee showed a mild degenerative arthritic change and does not show any fractures or dislocations.
- 11/01/12 **Adult Medicine Progress Note**, Claudia Cheatham, MA and Ryan Tran, M.D., Southwest Medical Associates. Impression: 1) Hypertension. 2) Essential hypertriglyceridemia. 3) Impaired fasting glucose.
- 05/20/13 **History and Physical**, Emmanuel K. Onnutuebe, M.D., Southwest Medical Associates. Chief Complaint: Dizziness. Impression: 1) Upper gastrointestinal bleed. 2) Symptomatic anemia. 3) Mild thrombocytopenia. 4) Hypertension.
- 05/20/13 **Consultation**, Sanjay Nayyar, M.D., Southwest Medical Associates. Patient was seen for a consult due to a GI bleed.
- 05/20/13 **Operative Report**, Sanjay Nayyar, M.D., Southwest Medical Associates. Procedure: Upper gastrointestinal endoscopy.
- 05/21/13 **Operative Report**, Sanjay Nayyar, M.D., Southwest Medical Associates. Procedure: Colonoscopy.
- 05/22/13 **Discharge Summary**, Emmanuel K. Onnutuebe, M.D., Southwest Medical Associates. Impression: 1) Symptomatic anemia. 2) Upper gastrointestinal bleed secondary to superficial gastric ulcer and duodenal ulcer. 3) Hypertension.
- 05/23/13 **Adult Medicine Progress Note**, Kimberly Uini, MA and Neeta Soni, M.D., Southwest Medical Associates. Impression: 1) Hypertension. 2) Peptic ulcer. 3) Essential hypertriglyceridemia. 4) Nicotine dependence.
- 06/19/13 **State of Nevada Traffic Accident Report**.
- 06/19/13 **Transport to Hospital**, Las Vegas Fire and Rescue.
- 06/19/13 **Emergency Room Record**, Joshua Parker, M.D., University Medical Center. Patient was the restrained driver of a vehicle going about 10 mph when it struck a fork lift's blades. This was not a head on, but more of a T-bone where he drove into the blades at a perpendicular type of angle. The patient thinks he hit his head, but EMS reported that passenger compartment intrusion was very minimal. Airbags were not deployed. The patient was not ambulatory on the scene. He denies loss of consciousness. He complains of a headache and some back pain. He does not have any radiation of the back pain. EMS reported patient's blood sugar is 144. Diagnosis: 1) Musculoskeletal strain. 2) MVA. Patient treated and released in stable condition.

- 06/19/13 CT Brain without Contrast, Jimmy Shih, M.D., University Medical Center.** Impression: No acute intracranial pathology.
- 06/19/13 CT Cervical Spine without Contrast, Jimmy Shih, M.D., University Medical Center.** Impression: No traumatic injury to the cervical spine seen. Degenerative changes as above.
- 06/19/13 CT Abdomen and Pelvis, Pejman Motarjem, M.D., University Medical Center.** Impression: 1) No acute intra-abdominal or intrapelvic process. 2) Probably a small hemangioma involving segment 8 in the liver. Nonemergent contrast enhanced MRI recommended.
- 06/19/13 Chest X-ray, Jimmy Shih, M.D., University Medical Center.** Impression: Unremarkable trauma portable chest.
- 06/19/13 X-ray Left Humerus, Jimmy Shih, M.D., University Medical Center.** Impression: No acute fracture seen.
- 06/24/13 Initial Chiropractic Evaluation, Donna Callaway, D.C., Downtown Neck and Back Clinic.** Patient states that he was involved in a MVA on 06/19/13. He was the restrained driver of a Dodge Charger and was involved in a side impact collision in which his vehicle was struck by a fork lift on the front passenger side. He cannot remember if he had any loss of consciousness but reports of blurry vision for about two minutes. He reports his vehicle was moving. He did not anticipate the collision. His head position was forward. He reports having both hands on the steering wheel. He reports a slight forward body lean. His head rest in the down position. His seat was not altered or broken after the impact. The patient reports he hit both of his knees on the dash. The airbags did not deploy. Diagnosis: 1) Cervical spine s/s with cervical segmental dysfunction. 2) Cervical radiculitis/neuritis. 3) Posttraumatic headaches. 4) Thoracic spine s/s with thoracic segmental dysfunction. 5) Lumbar spine s/s with lumbar segmental dysfunction. 6) Right knee s/s. 7) Left knee s/s. 8) Muscle spasm. 9) Insomnia secondary to pain. 10) Left knee abrasion. Plan: Chiropractic therapy.
- 06/24/13-07/03/13 Chiropractic Progress Notes, Donna Callaway, D.C., Downtown Neck and Back Clinic.** Patient has completed 7 therapy sessions. Plan: Continue chiropractic care.
- 06/25/13 Urgent Care, Radar Medical Group/University Urgent Care.** Patient seen for right knee pain, back pain, and neck pain from MVA on 06/19/13. Plan: Lortab, Ibuprofen, Flexeril.
- 06/27/13 Employers Report of Industrial Injury or Occupational Disease, Chapman Dodge.**

- 07/08/13** **Initial Consultation**, Maangelica Goodstein, PAC., Center for Occupational Health and Wellness. Diagnosis: 1) Cervical muscle strain. 2) Scapular muscle strain. 3) Head injury, resolved. Plan: Duexis, stretching, heat, cervical collar, modified work status.
- 07/15/13** **Internal Medicine Evaluation**, Dipti Shah, M.D. Diagnosis: 1) S/P MVA. 2) Acute, traumatic cervical, thoracic, lumbar strain. 3) Acute, traumatic cervical, thoracic, lumbar muscle spasm. 4) Acute, traumatic cervicogenic headaches. 5) Insomnia. Plan: Flexeril, Lortab, stop Motrin due to history of ulcers, obtain records, MRI cervical spine.
- 07/18/13** **Progress Notes**, Victor Klausner, D.O., Center for Occupational Health and Wellness. Patient has pain over the base of his neck radiating to the left trapezius with intermittent headaches. He has intermittent episodes of dizziness without nausea or vomiting. CT cervical spine shows DDD, osteoarthritis and foraminal stenosis at C5/7. Plan: HEP, Lodine, PT, stop soft collar.
- 09/16/13** **Orthopedic Consultation**, Archie Perry, M.D., Desert Orthopedic Center. Diagnosis: 1) Neck and cervical strain. 2) C6/7 auto fusion, preexisting. 3) Cervical spondylosis, preexisting, but previously asymptomatic. 4) Left greater than right upper extremity radicular symptoms. Plan: MRI cervical spine, modified work status.
- 09/24/13** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Diagnosis: Right knee ACL tear and mild arthritis. Plan: MRI right knee.
- 10/01/13** **MRI Cervical Spine without Contrast**, P. Valiveti, M.D., Desert Radiologists. Impression: 1) Straightening and minimal reversal of the normal cervical lordosis with multilevel discogenic disease and multilevel uncovertebral degenerative changes throughout the cervical spine. 2) See above for detail regarding each level. 3) Multilevel facet arthrosis, with severe right sided facet arthrosis C7/T1.
- 10/06/13** **Emergency Room Record**, Matthew Stofferahn, M.D., Summerlin Hospital Medical Center. Patient seen for headache. All testing was negative. He is treated and released in stable condition.
- 10/06/13** **CT Brain without Contrast**, Hubert Chin, M.D., Summerlin Hospital Medical Center. Impression: Normal CT of the brain.
- 10/14/13** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. In the ER, he was found to have significantly high BP and he was started on 2 medications. He has noted progressive increase in his neck pain, left arm pain and numbness, as well as occipital and frontal headaches associated with these painful episodes. Plan: Injections, EMG study.

- 10/15/13** **Cardiac Notes**, Anil Fotedar, M.D., Heart Center of Nevada. Patient seen for hypertension and possible hypertensive heart disease.
- 11/11/13** **Office Visit**, Archie Perry, M.D., Desert Orthopedic Center. His hypertension may be related to his pain symptoms. Plan: EMG study.
- 11/25/13** **Consultation**, Joseph Schifini, M.D., Las Vegas Surgery Center. Diagnosis: 1) Multilevel cervical disc osteophyte complexes. 2) Multilevel cervical DDD. 3) Subjective bilateral upper extremity radiculitis left greater than right. Plan: Staged left C7/T1, followed possibly by C6/7 and possibly C5/6 transforaminal selective ESI, continue current medication regimen.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Staged first left C7/T1 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Staged second left C6/7 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 12/09/13** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Staged third left C5/6 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 12/10/13** **MRI Right Knee without Contrast**, Jimmy Wang, M.D., Desert Radiologists. Impression: Findings consistent with a chronic ACL tear with subsequent scarring the intercondylar notch. 2) Peripheral vertical tear of the posterior horn of the medial meniscus extending to the posterior body segment, known to be associated with a chronic ACL tear.
- 12/10/13** **Progress Note**, Sanjay Nayyar, M.D., Digestive Associates. Chief Complaint: Peptic ulcer.
- 12/17/13** **Progress Notes**, Joseph Schifini, M.D., Las Vegas Surgery Center. After injections patient noted 20% long term relief of his neck pain, but no relief of his bilateral shoulder pain. Plan: Injections, continue medications.
- 12/17/13** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Diagnosis: Right knee ACL tear and mild arthritis, medial meniscus tear. Plan: Right knee arthroscopy, preop clearance.
- 01/02/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C6/7 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.

- 01/02/14 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C6/7 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 01/07/14 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient seen for preop. Diagnosis: Right knee ACL tear and mild arthritis, medial meniscus tear. Plan: Right knee arthroscopy, Norco.
- 01/07/14 **Chest X-ray**, Frank Hsu, M.D., Desert Radiologists. Impression: Right upper lobe pulmonary nodule. Appearance is nonspecific. Recommend correlation with prior chest radiographs if available. If none are available, chest CT is recommended.
- 01/08/14 **Progress Notes**, Anil Fotedar, M.D., Heart Center of Nevada. Patient seen for preop. EKG is normal. Patient is cleared from a cardiac standpoint.
- 01/09/14 **Operative Report**, Michael Miao, M.D., Institute of Orthopedic Surgery. Procedure: Right knee arthroscopic assisted ACL reconstruction, AT allograft, arthroscopic partial medial meniscectomy. No complications.
- 01/10/14 **Physical Therapy Evaluation**, Jared Morasco, PT., Mattsmith Physical Therapy. Diagnosis: 1) Sprain cruciate ligament, knee. 2) Joint pain, left leg. Plan: PT for right knee.
- 01/10/14-
07/07/14 **Physical Therapy Discharge Summary**, Jared Morasco, PT., Mattsmith Physical Therapy. Patient has completed 18 therapy sessions. Patient has no new complaints. Overall condition is improving. Patient is discharged from PT.
- 01/17/14 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes improvement in his symptoms with PT. He has diffused palpable tenderness. Plan: Ibuprofen, PT.
- 01/30/14 **EMG/NCV Study**, Leo Germin, M.D., Clinical Neurology Specialists. Impression: 1) Moderate in severity CTS on the left. 2) No evidence for CTS on the right. 3) Moderate in severity ulnar neuropathy at the elbow on the right. 4) No evidence for ulnar neuropathy at the elbow on the left. 5) Needle examination deferred due to inability of this individual to wait for the test and will be performed on the follow up visit.
- 02/04/14 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes improvement with PT. Knee is good. He is having a lot of back problems, cannot sit. He now complains of calf pain at end of appointment. Plan: Continue PT, Doppler, consider aspiration of the knee done today.

- 02/04/14** **EMG/NCV Study**, Leo Germin, M.D., Clinical Neurology Specialists. Impression: 1) No evidence for overt axonal loss C5 through T1 radiculopathy bilaterally. 2) Moderate in severity CTS on the left. 3) Moderate in severity ulnar neuropathy at the elbow on the right. 4) No evidence for ulnar neuropathy at the elbow on the left.
- 03/04/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that his symptoms have improved. He missed PT for two weeks due to kidney stone. Plan: PT, will reassess effusion and consider aspiration, modified work status.
- 03/17/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that last injections gave him moderate relief of his symptoms. He continues to complain of neck pain that radiates to the left shoulder. Plan: C3/4 transforaminal injection.
- 04/01/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient notes that his symptoms are unchanged. Plan: Aspiration followed by injection done today, PT.
- 04/07/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C3/4 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 04/07/14** **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C3/4 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 06/09/14** **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Last injections gave him about 2 weeks of significant pain relief, however, now his pain is starting to come back. Plan: PT.
- 06/10/14** **Progress Notes**, Joseph Schifini, M.D. I will address the C5/6 level.
- 06/25/14** **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient continues to have clicking and pain with sports/activities. He has pain while walking up stairs, getting up. PT has not been approved. Plan: Continue HEP, no work restrictions.
- 06/30/14-
09/02/14** **Physical Therapy Progress Notes**, Andy Hutchison, PT., Kelly Hawkins Physical Therapy. Patient has completed 24 therapy sessions. He has achieved some short-term improvement in his symptoms, but no long-term improvements. He has completed all his therapy sessions. Plan: Will wait for further plan of care.

- 07/07/14 **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient has had significant relief of symptoms with manual traction with PT. Plan: Home mechanical traction, surgery at C3/4 and C6/7.
- 07/10/14 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: Right C5/6 transforaminal selective ESI under fluoroscopic guidance. No complications.
- 07/10/14 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C5/6 transforaminal selective ESI under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 08/11/14 **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient states that overall his neck pain is the same. Plan: Home traction unit, surgical intervention.
- 08/19/14 **Office Visit**, Michael Miao, M.D., Desert Orthopedic Center. Patient continues to have clicking and pain with sports and activities. He has a hard time walking. He can't squat or kneel down. Plan: Continue HEP, no work restrictions.
- 09/22/14 **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient notes continued neck pain as well as intermittent arm pain and paresthesias. Plan: Facet injections at the C5/6, C6/7 and C7/T1 levels, no work restrictions.
- 10/14/14 **Progress Notes**, Joseph Schifini, M.D. Patient continues to have evidence of mechanical neck pain. Plan: Left C5-T1 medial branch facet joint nerve blocks.
- 10/23/14 **Procedure Report**, Joseph Schifini, M.D., Las Vegas Surgery Center. Procedure: 1) Left C5, C6, C7, T1 medial branch facet joint nerve injection under fluoroscopic guidance. 2) Intravenous conscious sedation with Versed. No complications.
- 11/10/14 **Progress Notes**, Archie Perry, M.D., Desert Orthopedic Center. Patient had 50% improved pain relief after last injection. Plan: Surgical intervention, modified work status.
- 12/03/14 **Consultation**, Christopher Fisher, M.D., Nevada Spine Clinic. Diagnosis: 1) Cervical pain with mechanical axial symptoms, rule out facet mediated pain. 2) Cervical s/s with myofascial pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, light work duty, tens therapy.

- 01/26/15** **Operative Report**, Christopher Fisher, M.D., Smoke Ranch Surgery Center. Procedure: Left C4, C5, C6 and C7 medial branch blocks. No complications.
- 02/04/15** **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient had significant relief from last injection before it wore off. Plan: Flexeril, Tramadol, HEP, ice/heat, light work duty, tens unit.
- 02/11/15** **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. He has pain that occasionally radiates down the left arm, worse with sitting for prolonged periods of time, associated with decreases side range of motion. Plan: MBB at C4-7, Flexeril, Tramadol, HEP, ice/heat, light work duty, tens unit.
- 03/02/15** **Operative Report**, Christopher Fisher, M.D., Smoke Ranch Surgery Center. Procedure: Left C4, C5, C6 and C7 medial branch blocks. No complications.
- 03/11/15** **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. He had injection with no improvement in symptoms. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 03/27/15** **Functional Capacity Evaluation**, Doug Ellis, PT., Matt Smith Physical Therapy. There were inconsistencies in his presentation, as well as noted self-limiting pain behaviors. There does exist the probability of a less than maximum effort. The results of this functional capacity evaluation have been determined to be unreliable and invalid.
- 04/01/15** **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient seen for left cervical pain and upper back pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 04/08/15** **Progress Notes**, Christopher Fisher, M.D., Nevada Spine Clinic. Patient seen for left cervical pain and upper back pain. Plan: Flexeril, Tramadol, ice/heat, weight loss, HEP, tens unit, light work duty.
- 04/23/15** **Permanent Impairment Evaluation**, David Oliveri, M.D. Diagnosis: 1) Cervical spine pain of likely motion segment origin with intermittent left upper extremity radicular symptomatology. 2) Upper thoracic spine pain, likely a referral from the cervical spine. 3) Right knee internal derangement S/P ACL reconstruction and partial medial meniscectomy. P/S: Yes. Apportionment is not indicated. AMA impairment rating: 12% WPI. 8% cervical spine, 0% thoracic spine, 4% right knee.
- 06/30/15** **Photographs of accident scene and damaged vehicle.**

- 11/04/15 **X-ray Report of the Cervical Spine**, Robert Poliner, M.D. SES-HIM. Impression: Moderate multilevel degenerative change.
- 06/14/16 **X-ray Report of the Cervical and Thoracic Spine**, Ammon Strehlow, D.C. Strehlow Radiology Consulting. Impression: 1. Mild to moderate discogenic spondylosis periodically throughout the cervical spine, with osseous bridging noted in the lower cervical spine, the bridging appears to fuse the C6 and C7 segments, clinical correlation with surgical history. 2. Mild to moderate spondylosis deformans periodically throughout the thoracic spine. 3) Mild to moderate facet arthrosis periodically throughout the cervical spine. 4. Possible hilar fullness, hilar nodule with accentuation of the regional bronchovascular markings.
- 06/28/16 **MRI Report of the Cervical Spine**, David Steinberg, M.D. Steinberg Diagnostic Medical Imaging Centers. Impression: Advanced multilevel degenerative disc disease as described. No abnormal cord signal and/or Chiari malformation. Degenerative spinal stenosis is present most advanced at C3-4 secondary posterior osteophyte and advanced degenerative changes. Advanced uncinat spurting and bilateral neural foraminal narrowing noted at C3-4. At C5-6, there is an eccentric osteophyte causing significant effacement of the anterior thecal sac and deformity of the left anterior cord contours. Advanced bilateral neural foraminal narrowing noted at this level.
- 05/11/17 **MRI Report of the Cervical Spine without Contrast**, David Mirich, M.D. Steinberg Diagnostic Medical Imaging Centers. Impression: 1) Multilevel moderate foraminal stenosis, looks most impressive, more severe on the left side at C3-4, C5-6, C6-7, C7-T1 and on the right side at C3-4, C6-7. 2) Multilevel advanced degenerative disc disease and slight reversal of the normal cervical lordosis centered at C6-7.
- 06/20/17 **Lateral Cervical Flexion/Extension Report**, Mountain West Chiropractic of Green Valley.
- 06/20/17 **Lateral Lumbar Report**, Mountain West Chiropractic of Green Valley.
- 10/05/17 **EMG/NCV Report**, Shanker Dixit, M.D. Neurology Center of Nevada. Impression: NCV: 1. Bilateral median nerve sensory neuropathy, mild, demyelinating. 2. Left ulnar nerve sensory neuropathy, mild, demyelinating. 3. Right radial nerve motor neuropathy, mild, axonal.
- 01/30/18 **Operative Report**, Stuart Kaplan, M.D. Valley Hospital Medical Center. Pre-Operative Impression: Cervical spondylosis, spinal neural foraminal stenosis C3-4 through C7-T. Procedure: 1) Use of intraoperative fluoroscopy greater than one hour. 2) Intraoperative neuromonitoring greater than one hour. 3) Use of Hayfield pins. 4) C3-4, C4-5, C5-6, C6-7 and C7-T1 laminectomy, facetectomy, and bilateral foraminotomies. 5) C3 to T1 fusion with placement of RTI streaming lateral mass screws C3, C4, C5 and C6

bilaterally and T1 pedicle screws. 6) Arthrodesis using autologous bone from the same incision morselized as well as caps. Complications: None.

- 02/14/18** **CT Report of the Cervical Spine without Contrast**, David Mirich, M.D. Steinberg Diagnostic Medical Imaging Centers. Impression: Since the previous MRI the patient underwent a posterior decompression and mechanical fusion. Depression extends from C3 through C6 or C7 and looks satisfactory. TH lower anatomy is difficult to evaluate secondary to beam hardening artifact from the metal and the patient's shoulders. The mechanical fusion extends from C3 through T1. No evidence of screw fracture or loosening. The left screw at T1 extends slightly lateral to the pedicle. Degenerative disc disease contributes to multilevel moderate foraminal stenosis, looks most impressive, more severe bilaterally at C3-4, C5-6 and at C7-T1 on the left side.
- 03/29/18** **MRI Report of the Left Shoulder without Contrast**, Yeonsoo Kim, M.D. Steinberg Diagnostic Medical Imaging Centers. Impression: 1) Tendinosis of the supraspinatus, infraspinatus and subscapularis tendons. No significant rotator cuff tendon tear. 2) Probable tearing of the posterosuperior and superior labrum. 3) Tendinosis of the intra-articular long head of the biceps tendon.
- 04/03/18** **EMG/NCV Report**, Shanker Dixit, M.D. Neurology Center of Nevada. Impression: NCV: 1. Bilateral median nerve sensory neuropathy, mild, demyelinating. 2. Left ulnar nerve sensory neuropathy, mild, mixed axonal and demyelinating. 3. Left median nerve motor neuropathy, mild, axonal. 4. Bilateral radial nerve motor neuropathy, mild, axonal. 5. Left ulnar nerve motor neuropathy, mild, axonal. EMG: 1. Bilateral C6 radiculopathy.
- 04/12/18** **Review of Records**, Stuart S. Kaplan, M.D., Western Regional Center for Brain and Spine Surgery. The patient was referred to the examiner. The examiner performed a C3 to T1 laminectomy/fusion. The patient is also suffering from a C5 neuropraxic injury related to spinal cord retraction/relaxation with tension on the C5 nerve root. According to the records that were provided to the examiner, it is the examiners medical opinion that the surgery was related to the 2013 accident.
- 04/24/18** **Comprehensive Medical Evaluation**, David J. Oliveri, M.D. Prior Injuries: At age 5 the patient had a laceration to his left elbow. About 25 years ago he was in an MVA in San Diego and underwent chiropractic treatment and all symptoms were resolved. In 2000 he had a left knee injury with an ACL surgery. History: On 06/19/13 the patient was the driver of a vehicle that hit elevated forks of a fork lift causing the vehicle to come to a complete stop. He was taken by paramedics to UMC Trauma. He was seen for pain in the neck, head, right knee as well as radiating symptoms into the left greater than right upper extremity. In regard to the cervical spine pain he has received conservative care, multiple injection and was seen by Dr. Perry. He was seen by his PCP who referred him to pain management. He began

seeing Dr. Kaplan who recommended surgery. Since his surgery his pain is significantly better. He is reporting constant posterior neck pain and left scapular pain at today's evaluation. Impression: 1. Multilevel cervical motion segment injury with left cervical radicular symptomatology status post posterior C3-T1 decompression, fusion and instrumentation on 01/30/18. 2. Upper thoracic/scapular pain secondary o diagnosis #1. 3. Cephalgia secondary to diagnosis #1. 4. Lumbar spine pain; resolved. 5. Knee pain. The examiner concludes with reasonable degree of medical probability that the patient's diagnoses are associated with the 06/19/13 accident. Future Medical Care: Periodic physician visits, intermittent use of prescription medication and intermittent access to physical therapy for palliative treatment.

Pain Management – One visit every 6 to 12 months - \$313 to \$626

Physical Therapy - \$2,280

Medication - \$416

Total - \$75,225 to \$83,050

- 05/29/18 X-ray Report of the Cervical Spine, Lisa Nelson, M.D., Steinberg Diagnostic Medical Imaging Centers.** Impression: Moderate to severe multilevel degenerative disc disease cervical spine status post posterior decompression and spinal stabilization C3-T1.
- 05/29/18 X-ray Report of the Left Shoulder, Lisa Nelson, M.D., Steinberg Diagnostic Medical Imaging Centers.** Impression: Mild AC joint arthropathy.
- 06/01/18 Progress Note, Stuart Kaplan, M.D., Las Vegas Neurosurgical Institute.** The patient is status post PCDF C3 through T1 on 01/30/18. Impression: Spinal stenosis lumbar region. Plan: The patient's shoulder and deltoid function is improving. The deltoid function is good, but the patient is still having issues raising his arm over his head. The examiner feels that the patient had a C5 neuropraxic injury.
- 07/12/18 Progress Note, Grant Karno, M.D. Nevada Comprehensive Pain Center.** The patient returns for follow up on chronic cervical and right knee pain. He has completed his physical therapy and is requesting more sessions. Impression: 1. Cervical post laminectomy syndrome. 2. Cervical spondylosis. 3. Other spondylosis with radiculopathy, cervical region. 4. Pain in right knee.
- 07/18/18 Progress Note, Shanker Dixit, M.D., Neurology Center of Las Vegas.** Chief Complaint: Neck pain, left upper extremity pain and weakness. History: The patient was involved in a motor vehicle accident when a fork lift ran into his car. He had injuries to his neck and underwent surgery with Dr. Kaplan. After surgery, the patient was having neck pain but still having issues with his left upper extremity. He recently underwent an EMG which revealed evidence of bilateral C6 radiculopathy. Impression: 1. Cervical radiculopathy. 2. Cervicalgia. Plan: Continue with medication management. Continue physical therapy and exercises

- 08/31/18** **X-ray Report of the Cervical Spine**, Lisa Nelson, M.D., Steinberg Diagnostic Medical Imaging Centers. Impression: Multilevel degenerative disc disease status post posterior decompression and spinal stabilization C3-T1.
- 09/07/18** **Progress Note**, Stuart Kaplan, M.D., Las Vegas Neurosurgical Institute. The patient is status post PCDF C3 through T1 on 01/30/18. The patient's left arm function is getting better, but his muscles are tight. Impression: 1. Cervicalgia. 2. Radiculopathy cervical region. Plan: The examiner is recommending cervical x-rays. The examiner also feels that the patient should attend therapy for his neck.
- 10/29/18** **Progress Note**, Shanker Dixit, M.D., Neurology Center of Las Vegas. Chief Complaint: Neck pain. History: The patient was involved in a motor vehicle accident when a fork lift ran into his car. He had injuries to his neck and underwent surgery with Dr. Kaplan. After surgery, the patient was having neck pain but still having issues with his left upper extremity. He recently underwent an EMG which revealed evidence of bilateral C6 radiculopathy. Impression: 1. Cervical radiculopathy. 2. Cervicalgia. 3. Ulnar neuropathy of left arm. Plan: Continue with medication management. Continue physical therapy and exercises. The examiner is recommending hand surgery referral.
- 11/26/18** **X-ray Report of the Cervical Spine**, Lisa Nelson, M.D., Steinberg Diagnostic Medical Imaging Centers. Impression: Moderate to severe multilevel degenerative disc and degenerative joint disease status post posterior decompression and spinal stabilization C3-T1.
- 11/27/18** **Progress Note**, John Thalgott, M.D. Center for Disease and Surgery of the Spine. The patient presents with a chief complaint of cervical pain. The patient notes that the pain has been persistent since an incident at work. He notes that the pain radiates to his neck, left arm, left shoulder and left hand. The patient underwent a post cervical fusion in 2018 by Dr. Kaplan. He now had chronic severe left sided pain that is neuropathic and had C3 to T1 post fusion and decompression that was complicated with C5 left weakness. He is still in pain management and has not received any injections. Impression: 1) Automobile collision. 2) Radiculopathy, cervical. 3) Neuroforaminal stenosis of cervical spine. 4) CTS. 5) Ulnar nerve entrapment at elbow. 6) Neuropraxia of upper extremity, left. Plan: Posterior cervical fusion with instrumentation.
- 12/07/18** **Progress Note**, Stuart Kaplan, M.D., Las Vegas Neurosurgical Institute. The patient is status post PCDF C3 through T1 on 01/30/18. Impression: 1. Cervicalgia. 2. Radiculopathy cervical region. Plan: The examiner is recommending cervical spine x-rays.
- 12/14/18** **Second Supplemental Report**, Ira I. Spector, M.S. Certified Vocational Services. Impression: Associated with 06/19/13 MVA: 1. Multilevel cervical

motion segment injury with clinical left multilevel cervical radiculopathy status post posterior C3-T1 decompression, fusion and instrumentation on 01/30/18. 2. Upper thoracic /scapular pain secondary to diagnosis #1. 3. Cephalgia. 4. Lumbar spine pain; resolved. 5. Knee pain. Other: 1. Right knee anterior cruciate ligament tear status post ACL reconstruction with allograft and partial medial meniscectomy on 01/09/14.

01/09/19-
02/20/19

Physical Therapy Note, Dylan Coonrad, PT., ATI Physical Therapy. The patient presents for evaluation of injuries sustained in a motor vehicle collision on 06/19/13. Impression: 1. Cervicalgia. 2. Pain in knee. 3. Pain in shoulder.

01/10/19

Progress Note, John Thalgott, M.D. Center for Disease and Surgery of the Spine. The patient presents with a chief complaint of cervical pain. The pain started following a work incident. The pain radiates to his neck, left arm, left shoulder and left hand. Impression: 1) Neuropraxia of upper extremity, left. 2) Ulnar nerve entrapment at elbow. 3) Neuroforaminal stenosis of cervical spine. 4) Radiculopathy, cervical. Plan: Follow up as needed.

01/29/19

Progress Note, Shanker Dixit, M.D., Neurology Center of Las Vegas. Chief Complaint: Pain. History: The patient was involved in a motor vehicle accident when a fork lift ran into his car. He had injuries to his neck and underwent surgery with Dr. Kaplan. After surgery, the patient was having neck pain but still having issues with his left upper extremity. He recently underwent an EMG which revealed evidence of bilateral C6 radiculopathy. Patient was advised to undergo a blocker for his pain. Impression: 1. Cervical radiculopathy. 2. Cervicalgia. 3. Ulnar neuropathy of left arm. Plan: Continue with medication management. Continue with physical therapy. Referral to hand surgeon for ulnar neuropathy.

02/08/19

Functional Capacity Evaluation, Doug Ellis, PT., ATI Physical Therapy. Recommendations: It is recommended that the patient return to the work force with modified sedentary job classification. He can frequently lift and carry less than 10 lbs. Continuous sitting, standing or walking should not exceed 30 minutes. He should be restricted from climbing ladders or stools.

02/13/19

Progress Note, Stuart Kaplan, M.D. Las Vegas Neurosurgical Institute. The patient was last seen about a year ago. He underwent his surgery on 01/30/18. He does present with persistent pain in his neck and left arm all the way down. He had an FCE by ATI. He has also discussed a spinal cord stimulator with Dr. Oliveri. Impression: 1. Cervicalgia. 2. Radiculopathy cervical region. Plan: The examiner is recommending that the patient proceed with the implantation.

03/05/19

X-ray Report of the Cervical Spine, Lisa D. Nelson, M.D. Steinberg Diagnostic Medical Imaging Centers. Impression: 1) Posterior

decompression and spinal stabilization C7-T1. 2) Moderate to severe multilevel degenerative disc disease cervical spine.

- 03/06/19 **Progress Note**, Stuart Kaplan, M.D. Las Vegas Neurosurgical Institute. The patient was last seen on 02/13/19. He presents with significant pain and numbness in his left arm. Impression: 1) Cervicalgia. 2) Radiculopathy, cervical region. Plan: Spinal cord placement is recommended.
- 03/21/19 **Comprehensive Medical Evaluation Fifth Supplemental Report**, David J. Oliveri, M.D. Impression: 1. Multilevel cervical motion segment injury with clinical left multilevel cervical radiculopathy status post posterior C3-T1 decompression, fusion and instrumentation on 01/30/18. 2. Upper thoracic/scapular pain secondary to diagnosis #1. 3. Cephalgia secondary to diagnosis #1. 4. Lumbar spine pain; resolved. 5. Knee pain. Discussion: A life care plan was prepared on 04/24/18. The life care plan was updated to include a provision for the surgical implantation of a cervical spinal neurostimulator. The examiner also included a provision for periodic replacement of the pulse generator which will need replacement every five years. David J. Oliveri, M.D.
Future Medical Costs:
Physician Care: \$7,512 to \$15,024
Physical Therapy: \$54,720
Medications: \$9,984
Surgical intervention and Procedures: \$396,327 to \$446,327
- 03/25/19 **Updated Report on Present Value of Future Medical Costs for Mr. Bahram Yahyavi**, Terrence M. Claurette, Ph.D.
Estimate of Present Value of Future Medical Costs: \$529,260
- 03/25/19 **Note**, Stuart Kaplan, M.D. Las Vegas Neurosurgical Institute. The examiner noted that the patient underwent x-rays at Mountainview Hospital on 05/19/13. In these images, the cervical spine can be seen, but the cervical spine was not visible. Impression: 1) Cervicalgia. 2) Radiculopathy, cervical region.
- 03/26/19 **Progress Note**, John Thalgott, M.D. Center for Disease and Surgery of the Spine. The patient presents for a follow up. The patient notes that both Dr. Kaplan and Dr. Oliveri think he would benefit from a Spinal Cord Stimulator. Impression: 1) Radiculopathy, cervical. 2) Neuropraxia of upper extremity, left. Plan: Follow up in one month.
- 03/26/19 **Vocational Rehabilitation Loss of Earning Capacity Assessment Third Supplemental Report**, Ira I. Spector, M.S., Certified Vocational Services.
- 04/30/19 **Psychological Evaluation**, Staci R. Ross, Ph.D. impression: 1) Industrial. 2) Adjustment disorder with depressed mood.

- 05/17/19-
05/22/19 **Physical Therapy Note**, Rhea Agbayani, PT. ATI Physical Therapy. Impression: 1) Cervical radiculopathy. 2) Cervical stenosis.
- 06/03/19 **Consultation Note**, Joseph J. Schifini, M.D. Chief Complaint: Neck pain, left greater than right, with numbness in both hands and all fingers. History: The patient presents with pain that started on 06/19/13 while at work. He was driving when he ran into a forklift. He was evaluated at Concentra Medical Center and referred to Dr. Perry. He underwent physical therapy, five cervical injections and then was referred to Dr. Kaplan. Dr. Kaplan performed a cervical spine surgery which resulted in no changes for the patient. He was referred for a spinal cord stimulator without trial. Impression: 1) Cervical post fusion syndrome. 2) Multilevel cervical degenerative disc disease. 3) Objective bilateral upper extremity radiculopathy, left greater than right. 4) Failed conservative therapy. 5) Status post work related injury on June 19, 2013. Plan: 1) Perform Left C5-6 transforaminal selective epidural steroid injection under fluoroscopic guidance. 2) Consider bilateral C5-6 transforaminal selective epidural steroid injection under fluoroscopic guidance depending on results of initial injection. 3) Continue current medication regimen. 4) Follow up with Dr. Thalgott.
- 06/03/19 **Letter to Dr. Thalgott**, Joseph J. Schifini, M.D. Letter regarding the recommendations made following the patient's appointment.
- 06/11/19 **Procedure Note**, Joseph J. Schifini, M.D. Las Vegas Surgery Center. Pre-Operative Impression: 1) Cervical post fusion syndrome. 2) Multilevel cervical degenerative disc disease. 3) Objective bilateral upper extremity radiculopathy left greater than right. 4) Failed conservative therapy. 5) Status post work related injury on June 19, 2013. Procedure: 1) Left C5-6 transforaminal selective epidural steroid injection under fluoroscopic guidance. 2) Intravenous conscious sedation with versed. Complications: None.
- 06/11/19 **Letter to Dr. Thalgott**, Joseph J. Schifini, M.D. Letter regarding the patient's status following his injection.
- 06/18/19 **Letter to Dr. Thalgott**, Joseph J. Schifini, M.D. Patient was evaluated one week following his injection. The patient reported no reduction in his pain. The patient is concerned with his continued pain. At this time, the examiner is recommending a second set of injections in the form of bilateral C5-6 transforaminal selective epidural steroid injections.
- 07/02/19 **Nursing Assessment**, Las Vegas Surgery Center. Pre-Op Impression: Pain. Planned Procedure: Bilateral injection to be performed by Dr. Schifini. Surgical History: 1) >10 years - cervical spine. 2) <= 5years – cervical spine. 3) <= 5 years – ACL.

- 07/02/19 **Procedure Note**, Joseph J. Schifini, M.D. Las Vegas Surgery Center. Pre-Operative Impression: 1) Cervical post fusion syndrome. 2) Multilevel cervical degenerative disc disease. 3) Objective bilateral upper extremity radiculopathy left greater than right. 4) Failed conservative therapy. 5) Status post work related injury on June 19, 2013. Procedure: 1) Right C5-6 transforaminal selective epidural steroid injection under fluoroscopic guidance. Complications: None.
- 07/02/19 **Procedure Note**, Joseph J. Schifini, M.D. Las Vegas Surgery Center. Pre-Operative Impression: 1) Cervical post fusion syndrome. 2) Multilevel cervical degenerative disc disease. 3) Objective bilateral upper extremity radiculopathy left greater than right. 4) Failed conservative therapy. 5) Status post work related injury on June 19, 2013. Procedure: 1) Left C5-6 transforaminal selective epidural steroid injection under fluoroscopic guidance. 2) Intravenous conscious sedation with versed. Complications: None.
- 07/02/19 **Letter to Dr. Thalgott**, Joseph J. Schifini, M.D. The patient received another set of injections in the form of a bilateral C5-6 transforaminal selective epidural steroid injections under fluoroscopic guidance.
- 07/29/19 **Letter to Dr. Thalgott**, Joseph J. Schifini, M.D. The patient was seen in follow up and continues to complain of neck, upper back, and left arm symptoms. He has undergone two sets of cervical injections toward his C5-6 segment; unfortunately, they provided no relief. Due to the lack of relief the examiner is recommending a spinal cord stimulator placement.
- 07/30/19 **Progress Note**, John Thalgott, M.D. Center for Disease and Surgery of the Spine. The patient presents for follow up. He is status post injections: one on the left and two bilateral injections. The patient is a candidate for the SCS trial. Impression: 1) Radiculopathy, cervical. 2) Neuropraxia of upper extremity, left. 3) Ulnar nerve entrapment at elbow. 4) Neuroforaminal stenosis of the cervical spine. Plan: 1) Posterior cervical fusion with instrumentation. 2) CT of the cervical spine. 3) Referral to pain management.

Miscellaneous Medical:

Duplicate medical records.

Labs.

Southwest Medical Associates – Consent, Personal Health and Social History, Patient Registration, Pathology Reports, Lab Work, HEW Note

Referral Summary

Duplicate Medical Records

ATI Physical Therapy – Communication Preferences, Quick DASH Survey, Neck Disability Index Questionnaire, VR-12 Health Survey, Medical History, Medical Lien, Motor Vehicle Accident Information

Duplicate Medical Records

Duplicate Medical Records

Center for Disease and Surgery of the Spine – Patient Registration, Pain Drawing, Accident Injury Questionnaire

Las Vegas Surgery Center – Pain Management History and Physical, Pain Clinic Orders, Consents, Medication Administration Record, Procedure Record, Discharge Instructions, Patient Registration, Nursing Assessment

Duplicate Medical Records

Joseph J. Schifini, M.D. – Patient Information, Controlled Substance Agreement Form

Las Vegas Pain Control Associates – Patient Information

Duplicate Medical Records

Miscellaneous Nonmedical:

Correspondence from Associated Risk Management.

Income tax returns.

Wage calculation form for claims agents use.

Nevada Prescription Monitoring Program – Patient Request

Depositions:

05/03/16, deposition of Bahram Yahyavi, 89 pages.

Rough Draft Deposition of Mary Shannon, M.D., 12/14/18, 57 pages

Legal:

Defendants second supplement to early case conference production of documents and witness list.

Plaintiff's disclosure of documents, witnesses.

Defendant's first supplement to early case conference production of documents and witness list.

Plaintiff's reply to defendant's first set of admissions to plaintiff Bahram Yahyavi.

Before the appeals officer.

Plaintiff's Ninth Supplemental Expert Disclosure and supplemental NRCP 16.1 (a)(3) Pre-Trial Disclosures

Plaintiff's Fourteenth Supplement to the Early Case Conference List of Documents and Witnesses and NRCP 16.1 (a)(3) Pre-Trial Disclosures

Plaintiff's Eleventh Supplemental Expert Disclosure and Supplemental NRCP 16.1 (a)(3) Pre-Trial Disclosures

Plaintiff's Tenth Supplemental Expert Disclosure and Supplemental NRCP 16.1 (a)(3) Trial Disclosures

Plaintiff's Fifteenth Supplement to the Early Case Conference List of Documents and Witnesses and NRCP 16.1 (a)(3) Pre-Trial Disclosures

Duplicate Legal Items

Plaintiff's Seventeenth Supplement to Early Case Conference List of Documents and Witnesses and NRCP 16.1 (a)(3) Pre-Trial Disclosure

Billing:

Account financial History.

HCPNV, \$18.00

Photocopies, \$9.72

Heart Center of Nevada, \$400.00

Victor Klausner, D.O., 0 balance

Nick Zarkes, M.D., 0 balance
David Oliveri, M.D., 0 balance
Nevada CVS Pharmacy, \$544.29
Clinical Neurology Specialists, \$3850.00
Desert Radiologists, 0 balance
Nevada Spine Clinic, 0 balance
Downtown Neck and Back Clinic, \$1775.00
Radar Medical Group, \$722.25
Shadow ER Physicians, \$1531.00
Summerlin Hospital Medical Center, \$2989.00
EMP of Clark, \$665.55
Pacific Anesthesia Consultants, \$150.00
Kelly Hawkins PT, 0 balance
Kinex Medical Company, 0 balance
Mattsmith PT., 0 balance
Joseph Schifini, M.D., 0 balance; ^\$2,150
Chynoweth Hill Leavitt, summary of billing
University Medical Center, \$5904.20
Nevada Auto Network Self Insured Group, \$109,126.06, amount paid to date for claims.
ATI Physical Therapy, 01/09/19 to 02/08/19 - \$1,043.52; 01/09/19 to 02/20/19 - \$5,041.98;
05/17/19 to 05/22/19 - \$830.01
Las Vegas Neurosurgical Institute, \$1,050
Neurology Center of Las Vegas, \$1,841
Duplicate Billing Records
Center for Disease, Surgery of the Spine, \$970
Las Vegas Neurosurgical Institute, 06/01/18 to 03/06/19 - \$1,958.80
Duplicate Billing
Joseph J. Schifini, M.D., \$2,150.00

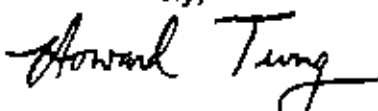
SUMMARY OF MEDICAL OPINION:

After review of these additional medical records, my opinions remain unchanged, which have been stated to a reasonable degree of medical probability.

Should further medical records become available, I would appreciate the opportunity to review them, as they could further support or alter my opinion.

I hope this helps to answer some of the questions at hand. Please do not hesitate to contact me if I can be of any further assistance.

Sincerely,



Howard Tung, M.D.
HT/cj

4



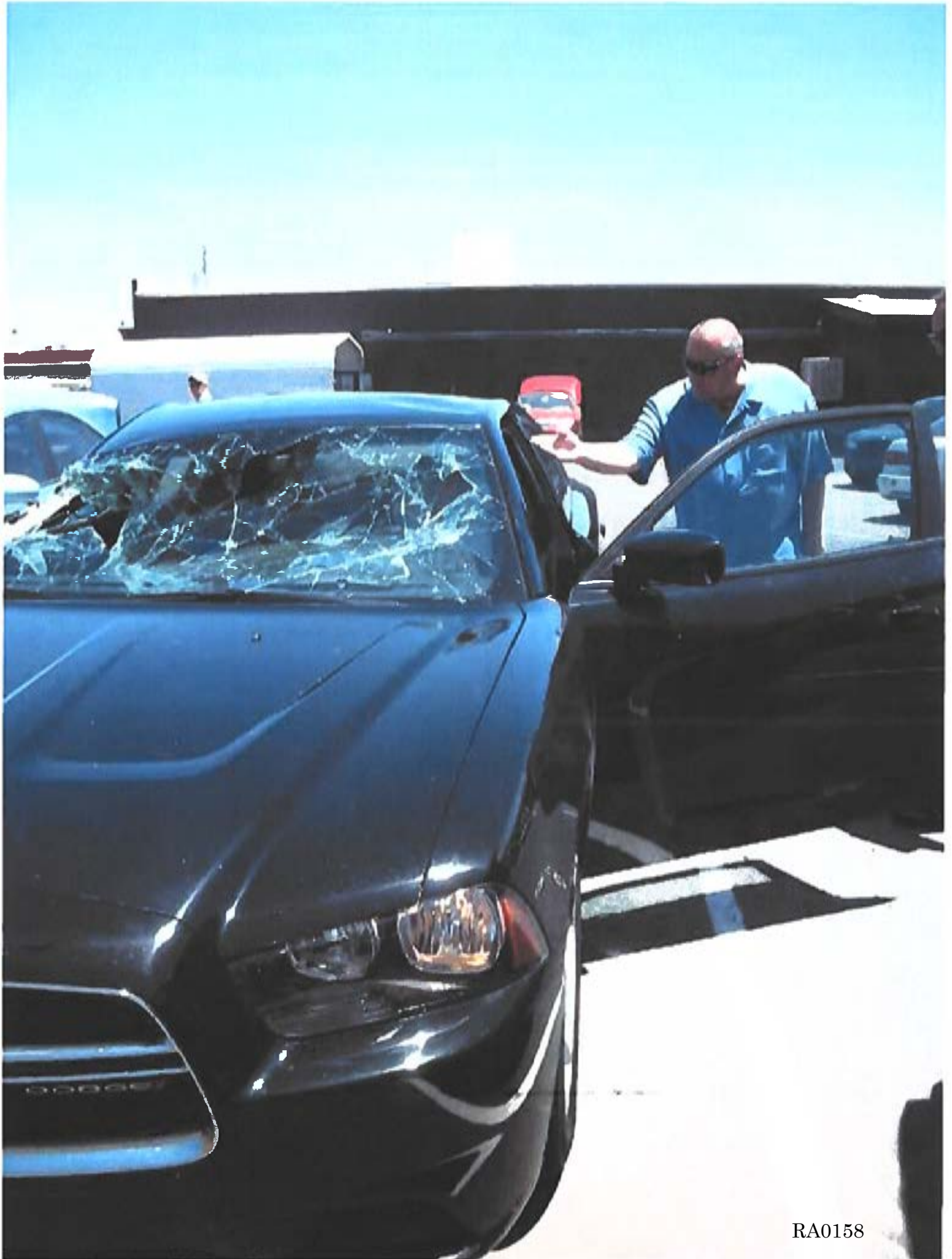
RA0155



RA0156



RA0157



RA0158



RA0159



RA0160



RA0161



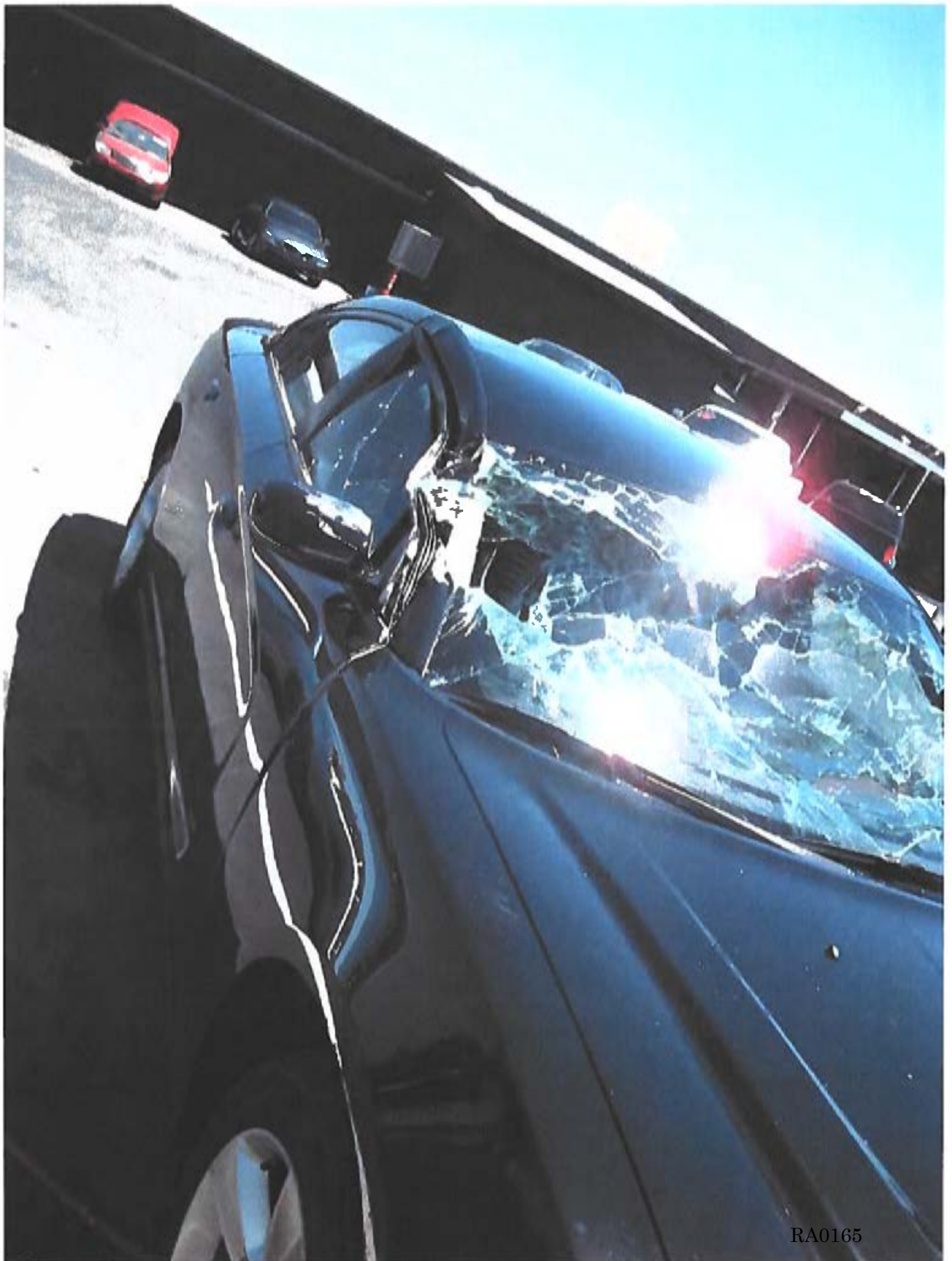
RA0162



RA0163



RA0164



RA0165



RA0166



RA0167





RA0169



RA0170



RA0171



RA0172



RA0173



RA0174



RA0175



RA0176



RA0177



Prehospital Care Report Summary

Las Vegas Fire and Rescue

Date:06/19/2013 Call #:3155813 Booklet:76937924 Branch: Station 01 Time Zone:America/Los Angeles

Call Information:

Disposition: Treated/Transported
Unit #: R201 - Rescue 201, Ground-Ambulance - ALS2 Trip Type: N/A

Run Type to Scene: Emergency Scheduled: No

Incident Facility:

Incident Location: E Sahara Ave / Glen Ave - Las Vegas, NV 89104 (Clark County)

Incident Location Type: Scene of Accident or Acute Event - Street/Hwy

Receiving Facility: UMC Trauma (Hospital) - 800 Rose Street - Las Vegas, NV 89106

Facility Address: 800 Rose Street - Las Vegas, NV 89106

Destination Type: N/A

Dest. Reason: Specialist Care

Registration #: 9931033303

Online Medical Control

Authorization Type: Protocol

Loaded Mileage: N/A

Crew Members: Christopher Baxter, EMT Paramedic(DOC); Anthony Bell, Advanced EMT

Moved to Amb By: Stretcher Transport Position: Supine From Amb By:

Other Units On Scene: CCFD

Call Origin: N/A Lights/Siren: Scene / Destination-Not used

Patient Information:

Name: SAHRAM YAHYAVI

Address:

Phone:

Email:

DOB: 12/21/1961

Gender:Male

Age: 51 Years

Weight: 200.0 lbs, 90.72 kg

Broselow:

Driver License:

Other Contact Info

Name:

Phone:

Cell Phone:

Relationship:

Current Meds: LISINAPRIL

Env Allergies:

Med Allergies: NKDA

Patient Physician:

Advanced Directives:

PMH: Hypertension

Comment:

Patient Physical Limitations:

Comment:

Comments:

Comments:

Comments:

Payer Information:

Priority: Primary Name: Self-Pay

Policy Holder: Apt

Relationship of Patient to Insured:

Type: Self Pay

Policy #: SELF PAY

Phone:

Group #:

DOB:

Clinical:

Onset Date/Time: 06/19/13

Dispatch Reason (EMD): 29B-Traffic 29B-Traffic/Transportation Accidents

Medical Need: Medically Necessary

Chief Complaint (Primary): Alt. Level Conscious **Duration:**
Provider Impression: Alt. Level Conscious
Mechanism of Injury: MVA To MV
Protocol 1: General Trauma Patient Assessment **Protocol 2:**

Assessments:

| Time | Employee | Type | Summary |
|------|----------|--------------|---|
| | | ABC | Edema: None Cap Refill: < 2 Seconds Pertinent Negatives: Breathing: Normal Quality: Unlabored Lung Sounds: Left: Clear Lung Sounds: Right: Clear Skin Color: Normal Skin Temperature: Normal Skin Condition: Normal |
| | | Injury | Injury - Chest Location Modifier: Left Injury: Dislocation Injury Modifier: Deformity Comments: L lower rib deformed and possibly separated from sternum |
| | | Injury | Location Modifier: Left Injury: Swelling Injury Modifier: Comments: L knee had an abrasion Injury - Face Location Modifier: Injury: Laceration Injury Modifier: Comments: Pt's lip had a small laceration inside |
| | | Head To Toe | Head and Neck: Left Eye: Reactive Right Eye: Reactive |
| | | Neurological | AVPU: Alert |

Vitals:

| Time | Employee | Summary |
|----------|---------------------|---|
| | | Rhythm 1: Sinus Tach. Rhythm 2: |
| 10:37:51 | Baxter, Christopher | BP: 184/ 131 Pulse: 112 Resp: 18 SPO2: 98 Blood Sugar: 144 Pain: 8 |
| 10:43:00 | Baxter, Christopher | BP: 158/ 112 Pulse: 101 Resp: 18 SPO2: 95 Pain: 8 |
| 10:53:00 | Baxter, Christopher | BP: 143/ 108 Pulse: 101 Resp: 18 SPO2: 98 |

Treatments/Medications:

| Time | Employee | Summary |
|----------|---------------------|--|
| 10:38:00 | Baxter, Christopher | Treatment- ALS Assessment Attempts: N/A Success: Yes Level: ALS |
| 10:38:00 | Baxter, Christopher | Treatment- Spinal Immobilization Attempts: N/A Success: Yes Level: BLS |
| 10:39:00 | Bell, Anthony | Treatment- Pulse Oximetry |

| | | |
|----------|--------------------|---|
| | | Attempts: N/A Success: Yes Level: BLS |
| 10:43:00 | Ball, Anthony | Treatment- IV Start / Saline Bag Attempts: N/A Success: Yes Level: ALS2 |
| 10:45:00 | Bader, Christopher | Treatment- ECG / 3-Lead Attempts: N/A Success: Yes Level: ALS2 |

Supply

Qty Supply

Vehicle Accident/Safety Equipment:

Areas of Impact:

Driver Side:

Passenger Side:

Front: Passenger Windshield, Driver Windshield

Rear:

Exterior Damage: Moderate

Interior Damage: Spidered Window, None

Extrication Required: No

Airbags Deployed:

Safety Equipment: Lap Belt, Shoulder Belt

Patient Position: Sitting

Patient Ejected:

Driver/Passenger: Driver

Vehicle Type: Car

Cellular Phone:

Posted Speed Limit:

ECG Device Incident Number:

FlexFields:

FlexField

Value

Provider Impression - If yes, which criteria does it meet? (select all that apply)

Step 1 Physiologic: Glasgow coma scale is 13 or less

Provider Impression - Does patient meet Trauma Field Triage Criteria?

Yes

Narrative History Text:

PT REPORTS HE WAS DRIVING AND A FORKLIFT PULLED OUT IN FRONT OF HIM. HE STS HE HIT HIS HEAD ON SOMETHING HE SAYS HE NOW HAS FOREHEAD, REAR HEAD, NECK, L BICEP, L LOWER RIBCAGE PAIN. HE SAYS HE WAS WEARING HIS SEATBELT. HE DOES NOT KNOW HOW FAST HE WAS GOING. BYSTANDERS REPORT NEGATIVE LOC AND NEGATIVE AMBULATION. PT DENIES ALCOHOL OR DRUG USE. PT DENIES ANY CP, SOB, N/V, OR ANY OTHER COMPLAINTS NFI.

R201 FOUND A SEDAN WITH ROUGHLY 3" PASSENGER SIDE A-POST COMPARTMENT INTRUSION, SHATTERED WINDSHIELD THAT WAS 3-6" INTO THE PASSENGER COMPARTMENT, AND NO OTHER DAMAGE. NEGATIVE AIRBAG DEPLOYMENT. R201 FOUND A 51YO MALE SITTING IN THE DRIVER'S SEAT, ABC'S INTACT, NO RESPIRATORY DISTRESS. PULSE STRONG AND REGULAR. A/O X 3 (NOT ORIENTED TO PLACE). GCS 13 (EYES OPEN TO SPEECH, CONFUSED). SKIN W/D. CAP REFILL <2 SEC. PUPILS PEARL. LUNG SOUNDS CLEAR AND EQUAL BILATERAL. EKG SHOWS SINUS TACH WITHOUT ECTOPY. +CMS DEFORMITY OF THE LEFT LOWER RIB CAGE. ABRASION NOTED TO PT'S L KNEE. SMALL LACERATION NOTED INSIDE PT'S LIP. NO CREPITUS NOTED ON PALPATION. NO OTHER APPARENT TRAUMA NOTED. PT LETHARGIC AND SLOW TO ANSWER QUESTIONS. SECONDARY FURTHERMORE UNREMARKABLE.

NOTE: PT WAS TOO ALTERED TO BE ABLE TO PROVIDE AN ADDRESS OR INSURANCE INFORMATION. THIS INFORMATION MAY BE ABLE TO BE GATHERED FROM THE HOSPITAL AFTER THE PT IS LESS ALTERED.

OBVIOUS ALTERED LEVEL, OBVIOUS SOFT TISSUE TRAUMA, PROBABLE SKELETAL TRAUMA.

ABC'S. ASSESSED. C-SPINE ASSESSED. C-SPINE IMMOBILIZATION. +CMS PRE AND POST IMMOBILIZATION. GURNEY. R201 LOAD. V/S. IV. EKG. TRANSPORT CODE 1 TO UMC TRAUMA ER. V/S. SECONDARY ASSESSMENT. PT TURNED OVER TO UMC TRAUMA ER BED 2. PT CONDITION URGENT WITHOUT CHANGE. REPORT TO RN. R201 RETURNED TO SERVICE.

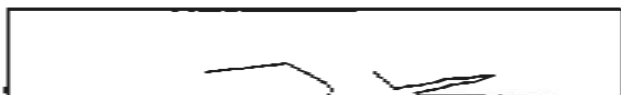
Auth Signature: Yes Privacy Sig: No Unable to Sign: No Refused to Sign: No

Signature Image(s):

Authorization Signature - BAHRAW YAHYAYI - 06/19/2013 11:16

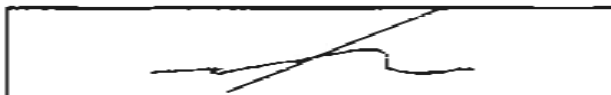
Privacy Notice Signature

I request that payment of authorized Medicare, Medicaid, or any other insurance benefits made on my behalf to Las Vegas Fire and Rescue (LVFR) for any services provided to me by (LVFR) now, in the past, or in the future. I understand that I am financially responsible for the services and supplies provided to me by (LVFR) regardless of my insurance coverage, and in some cases, may be responsible for co-insurance in addition to that which was paid by my insurance. I agree to immediately remit to (LVFR) any payments that I receive directly from insurance or any source whatsoever for the services provided to me and I assign all rights to such payments to (LVFR). I authorize (LVFR) to appeal payment denials or other adverse decisions on my behalf without further authorization. I authorize and direct any holder of medical information or other relevant documentation about me to release such information to (LVFR) and its billing agents, the Centers for Medicare and Medicaid Services, and/or any other payers or insurers, and their respective agents or contractors, as may be necessary to determine these or other benefits payable for any services provided to me by LVFR now, in the past, or in the future. A copy of this form is as valid as an original. 05/04/2010



Receiving RN/MD Signature

Technician Signature - Barker, Christopher - 06/19/2013 11:12



Recommended Service Level: ALS1 Dispatch Service Level: ALS

5

LOCATION OF THE COLLISION

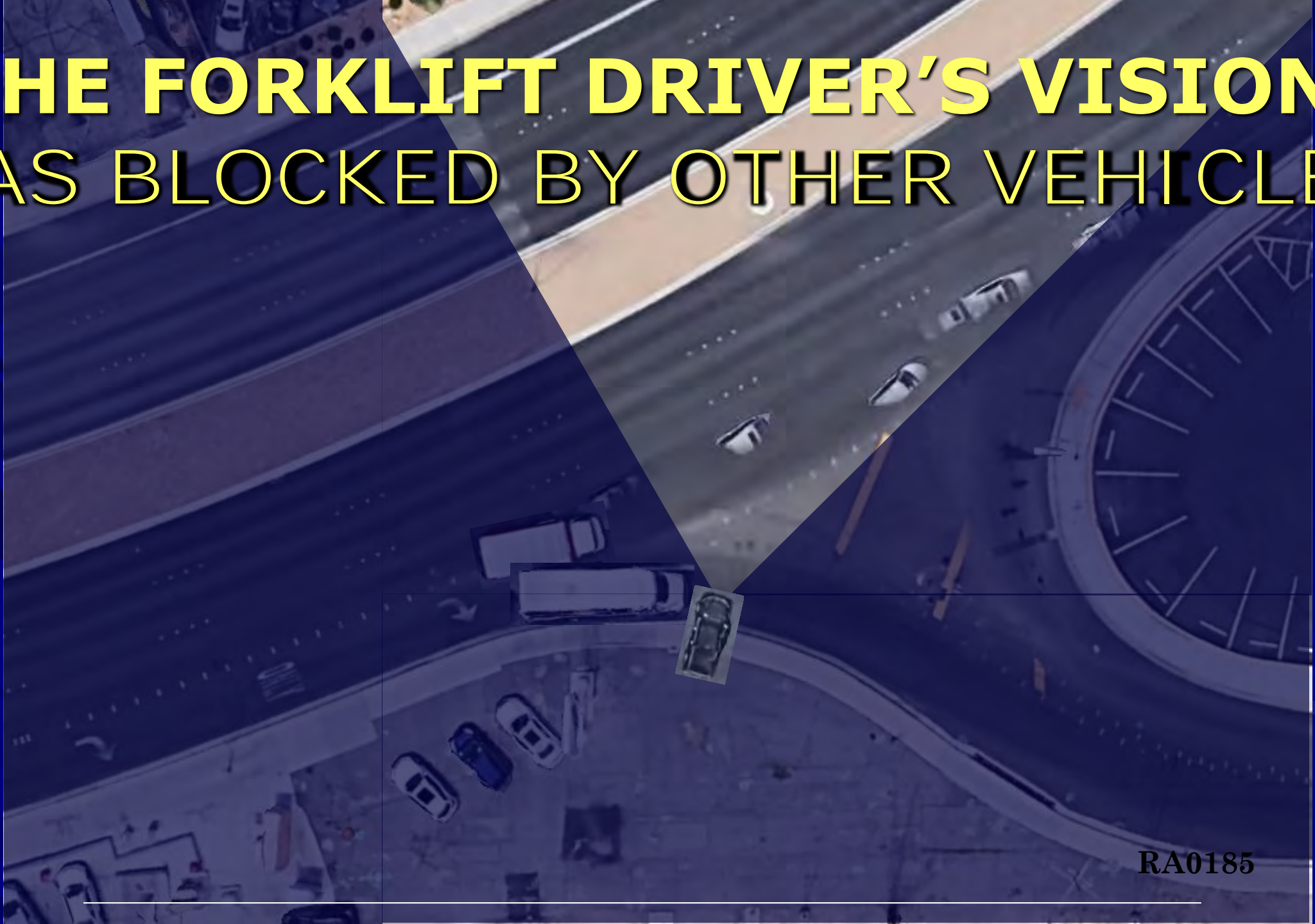


BAHRAM'S INTENDED ROUTE- LESS THAN A HALF MILE



RA0184

THE FORKLIFT DRIVER'S VISION WAS BLOCKED BY OTHER VEHICLES



RA0185

JUNE 19, 2013

14 Months Before

- No reported neck complaints
- No reported arm complaints
- No exam findings
- No pain medication
- No PT/Chiropractic treatment
- No MRIs
- No Pain Management
- No Surgery
- Working full-time
- Earning \$160,000 per year
- Living an active life

14 Months After

- Ambulance (altered consciousness)
- Full trauma activation
- Severe neck pain
- Left arm complaints
- Physical Therapy
- Chiropractic treatment
- X-rays, CTs and MRIs
- Pain Management
- Surgical Evaluation
- Forced to resign
- Income Loss

JUNE 19, 2013 - PRESENT:

81

Doctor
Visits

32

Chiropractic
Visits

137

Physical Therapy
Treatments

17

X-Rays/MRIs

26

Spine Injections

1

Spine Fusion
Surgery