

THE SUPREME COURT OF THE STATE OF NEVADA

JAIME ROBERTO SALAIS, AND TOM
MALLOY CORPORATION aka/dba
TRENCH SHORING COMPANY,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT, COUNTY OF CLARK, STATE
OF NEVADA, AND THE HONORABLE
RONALD J. ISRAEL,

Respondents,

and

MAIKEL PEREZ-ACOSTA, AND
ROLANDO BESSU HERRERA,

Real Parties in Interest.

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Jun 14 2021 01:58 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. _____

**APPENDIX TO PETITION FOR WRIT OF MANDAMUS, OR IN THE
ALTERNATIVE, PROHIBITION**

VOLUME 1

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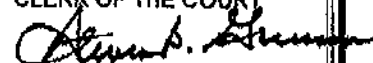
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Steven D. Grierson
CLERK OF THE COURT



1 **COMP**

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3 **ADAM S. KUTNER, ESQ.**

4 Nevada Bar No. 004310

5 1137 South Rancho Drive, Suite 150-A

6 Las Vegas, Nevada 89102

7 (702) 382-0000

8 Attorneys for Plaintiff's

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 **MAIKEL PEREZ-ACOSTA, individually,)**

12 **ROLANDO BESSU HERRERA,)**

13 **individually,)**

14 **Plaintiff's,)**

CASE NO.: A-18-772273-C

15 **vs.)**

DEPT NO.: Department 28

16 **JAIME ROBERTO SALAIS, individually,)**

17 **TOM MALLOY CORPORATION, aka/dba)**

18 **TRENCH SHORING COMPANY, a foreign)**

19 **corporation, DOES I through V, inclusive,)**

20 **and ROE CORPORATIONS I through V,)**

21 **inclusive,)**

22 **Defendants.)**

COMPLAINT

23 COMES NOW Plaintiff's, MAIKEL PEREZ-ACOSTA , by and through their counsel,
24 ADAM S. KUTNER, ESQ., of the law firm of Adam S. Kutner, P.C., and as for their complaint
25 against Defendants, alleges as follows:

26 **FIRST CAUSE OF ACTION**

27 **NEGLIGENCE**

28 **I.**

That Plaintiff, MAIKEL PEREZ-ACOSTA , is and at all times mentioned herein, was a
resident of Clark County, State of Nevada.

II.

That Plaintiff, ROLANDO BESSU HERRERA is and at all times mentioned herein, was a resident of Clark County, State of Nevada.

III.

That Defendant, JAIME ROBERTO SALAIS , upon information and belief, is and at all times mentioned herein, was a resident of Clark County, State of Nevada.

IV.

At all times relevant herein, Defendant TOM MALLOY CORPORATION, aka/dba TRENCH SHORING COMPANY, upon information and belief, is a foreign corporation duly organized, qualified, and existing under the laws of the State of Nevada, and was doing business in Clark County, Nevada.

V.

The true names and capacities of the Defendants designated herein as DOE Individuals or ROE CORPORATIONS are presently unknown to Plaintiff's at this time who, therefore, sues said Defendants by such fictitious names and when their true names and capacities are ascertained, Plaintiff's will amend this Complaint accordingly to insert the same herein. Plaintiff's are informed and believes, and based upon such information and belief, alleges, that Defendants, and each of them, designated as DOES, and/or ROE CORPORATIONS are, in some manner, responsible for the occurrences and injuries sustained by Plaintiff's, as alleged herein.

VI.

On or about July 12, 2016, Plaintiff's MAIKEL PEREZ-ACOSTA and ROLANDO BESSU HERRERA, were the properly restrained passengers of a 2011 Ford Focus, traveling northbound on Lamb Boulevard, approaching its intersection with Carey Avenue, in Clark County, Nevada.

1 Defendant JAIME ROBERTO SALAIS , in the course and scope of his employment, was driving
2 a 2014 Izuzu Truck, owned by Employer/Defendant TOM MALLOY CORPORATION, aka/dba
3 TRENCHSHORING COMPANY, and was traveling northbound on Lamb Boulevard, approaching
4 its intersection with Carey Avenue, immediately behind Plaintiff's, failing to use due care, failing
5 to observe slowed or stopped traffic in front of him, failing to maintain a safe and proper distance
6 between vehicles, failing to reduce his rate of travel, and driving too fast for conditions, causing the
7 front portion of his vehicle to impact the rear of Plaintiff's vehicle. Plaintiff's sustained substantive
8 injury in the course of this collision.
9

10
11 VII.

12 Defendant JAIME ROBERTO SALAIS was operating the vehicle in a negligent, careless,
13 reckless and wanton manner, thereby causing a collision between said vehicles. That by reason of
14 the Defendant's negligent acts and as a direct and proximate result thereof, Plaintiff's sustained
15 great pain of body and mind, and mental stress and anxiety, all or some of which conditions may be
16 permanent and disabling in nature, all to Plaintiff's damage in an amount in excess of Fifteen
17 Thousand Dollars and No Cents (\$15,000.00).
18

19 VIII.

20 That by reason of the Defendant's negligent acts and as a direct and proximate result thereof,
21 Plaintiff's have incurred expenses for medical care and treatment and expenses incidental thereto,
22 all to Plaintiff's damage, the present amount of which is unknown; such expenses will continue in
23 the future, all to Plaintiff's' damage in a presently unascertainable amount. In this regard, Plaintiff's
24 will make known the amount of said damages to this Court and all Defendants when the same have
25 been fully ascertained.
26
27
28

IX.

That by reason of the Defendant's negligent acts and as a direct and proximate result thereof, Plaintiff's, who were a well and able-bodied individual; as a direct and proximate result of the negligence, carelessness, recklessness and wantonness of said Defendants, and each of them, has been absent from employment which has resulted in a loss of earning capacity, all to Plaintiff's damage in an amount in unknown at the present time. When the amount of said damages is ascertained, Plaintiff's will make know said damages to this Court and all Defendants.

X.

That by reason of the Defendant's negligent acts and as a direct and proximate result thereof, Plaintiff's vehicle was wrecked and damaged; said Plaintiff's also lost the use of said vehicle during the time in which the same was repaired, and incurred rental expenses, all to Plaintiff's damage in a sum unknown at the present time, but when the same is ascertained, Plaintiff's will seek leave of the Court to amend this Complaint accordingly to show such damages.

SECOND CAUSE OF ACTION**RESPONDEAT SUPERIOR**

XI.

Plaintiff's repeats and incorporates by reference all of the allegations contained in Paragraphs I through IX of the First Cause of Action stated above.

XII.

At all times relevant herein, Defendant JAIME ROBERTO SALAIS, was an agent, servant and employee of Defendant TOM MALLOY CORPORATION, aka/dba TRENCH SHORING COMPANY, and all of said other defendants, and at all times herein mentioned, was acting within the scope of employment an agency and with the knowledge, permission and consent of all of said

1 other defendants. Therefore, Defendant TOM MALLOY CORPORATION, aka/dba TRENCH
2 SHORING COMPANY, as Employer is responsible and liable for all of Employee's negligent
3 conduct set forth herein under the theory of Respondeat Superior.
4

5 XIII.

6 That by reason of the Defendant's negligent acts and as a direct and proximate result thereof,
7 Plaintiff's sustained great pain of body and mind, and mental stress and anxiety, all or some of which
8 conditions may be permanent and disabling in nature, all to Plaintiff's' damage in an amount in
9 excess of Fifteen Thousand Dollars and No Cents (\$15,000.00).
10

11 XIV.

12 That by reason of the Defendant's negligent acts and as a direct and proximate result thereof,
13 Plaintiff's has incurred expenses for medical care and treatment and expenses incidental thereto, all
14 to Plaintiff's damage, the present amount of which is unknown; such expenses will continue in the
15 future, all to Plaintiff's damage in a presently unascertainable amount. In this regard, Plaintiff's will
16 make known the amount of said damages to this Court and all Defendants when the same have been
17 fully ascertained.
18

19 XV.

20 That by reason of the Defendant's negligent acts and as a direct and proximate result thereof,
21 Plaintiff's, who were a well and able-bodied individual; as a direct and proximate result of the
22 negligence, carelessness, recklessness and wantonness of said Defendants, and each of them, has
23 been absent from employment which has resulted in a loss of earning capacity, all to Plaintiff's
24 damage in an amount in unknown at the present time. When the amount of said damages is
25 ascertained, Plaintiff's will make know said damages to this Court and all Defendants.
26
27
28

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THIRD CAUSE OF ACTION

NEGLIGENT ENTRUSTMENT

XVI.

Plaintiff's repeats and incorporates by reference all of the allegations contained in Paragraphs I through IX of the First Cause of Action, and Paragraphs X through XIV of the Second Cause of Action, inclusive.

XVII.

Plaintiff is informed, believes and thereon alleges, that at the aforesaid time and place, Defendant TOM MALLOY CORPORATION, aka/dba TRENCH SHORING COMPANY, owned the vehicle driven by Defendant JAIME ROBERTO SALAIS. As such, Defendant TOM MALLOY CORPORATION, aka/dba TRENCH SHORING COMPANY, knew or should have known, of the significant hazards arising from the operation of motor vehicles on public streets.

XVIII.

Defendant TOM MALLOY CORPORATION, aka/dba TRENCH SHORING COMPANY, knew or should have known that Defendant JAIME ROBERTO SALAIS lacked the necessary skill and training in operating a motor vehicle entrusted to him for his use.

XIX.

As such Defendant TOM MALLOY CORPORATION, aka/dba TRENCH SHORING COMPANY knew or should have known, that the entrustment of the aforesaid vehicle to Defendant JAIME ROBERTO SALAIS would inflict injury and damage to persons using the public streets, including the Plaintiff's.

XX.

Defendant TOM MALLOY CORPORATION, aka/dba TRENCH SHORING COMPANY

1 possessed the duty from entrusting the aforesaid vehicle to Defendant JAIME ROBERTO
2 SALAIS .

3
4 XXI.

5 Contrary to this duty and in complete disregard, Defendant TOM MALLOY
6 CORPORATION, aka/dba TRENCH SHORING COMPANY negligently entrusted the vehicle to
7 Defendant JAIME ROBERTO SALAIS for his use in Clark County, Nevada. As a direct and
8 proximate result of the aforesaid conduct of Defendant TOM MALLOY CORPORATION, aka/dba
9 TRENCH SHORING COMPANY, Plaintiff's have sustained injuries and damages as set forth
10 herein.
11

12 XXII.

13 As a further direct and proximate result of the negligence and carelessness of Defendants,
14 Plaintiffs' MAIKEL PEREZ-ACOSTA and ROLANDO BESSU HERRERA have been caused to
15 secure the services of attorney ADAM S. KUTNER, ESQ., in order to prosecute this action and is
16 entitled to recover reasonable attorney's fees therefore.
17

18 **FOURTH CLAIM FOR RELIEF**

19 **(Negligent Hiring, Supervision and Retention)**

20 XXIII.

21 Plaintiff's repeats and realleges the allegations above, as though fully set forth herein.
22

23 XXIV.

24 At all times mentioned herein, Defendant TOM MALLOY CORPORATION, aka/dba
25 TRENCH SHORING COMPANY had a duty to hire competent persons, properly train them for tasks
26 they would perform, and supervise them in the performance of those tasks.
27
28

XXV.

Defendant TOM MALLOY CORPORATION, aka/dba TRENCH SHORING COMPANY
breached their duty to properly train, supervise, retain and/or supervise its employees.

XXVI.

As a direct and proximate result of the aforementioned, Plaintiff's sustained injuries to his
neck, back, bodily limbs, organs, and systems all or some of which conditions may be permanent and
disabling in nature, all to his general damage in a sum in excess of \$15,000.

XXVII.

As a direct and proximate result of the aforementioned, Plaintiff's were required to and did
receive medical and other treatment for his injuries received in an expense all to his damage in a sum
in excess of \$15,000. Said services, care, and treatment are continuing and shall continue in the future,
at a presently unascertainable amount, and Plaintiff's will amend their Complaint accordingly when
the same shall be ascertained.

XXVIII.

Prior to the injuries complained of herein, Plaintiff's were able bodied readily and physically
capable of engaging in all other activities for which he was otherwise suited.

XXIX.

Due to his injuries as set forth herein, Plaintiff's have sustained past wage loss and will
continue to suffer wage loss in the future, in an amount to be determined at the time of trial.

XXX.

Due to his injuries as set forth herein, Plaintiff's have sustained pain, suffering, loss of
enjoyment of life, past, present and future in an amount in excess of \$15,000.00.

///

XXXI.

As a further direct and proximate result of the negligence of Defendants, Plaintiff sustained damage to his vehicle, as well as loss of use, all of which he is entitled to recover from Defendants

XXXII.

Plaintiff's have been compelled to retain the services of an attorney to prosecute this action and is, therefore, entitled to reasonable attorney's fees, interest, and costs incurred herein.

WHEREFORE, Plaintiffs', MAIKEL PEREZ-ACOSTA and ROLANDO BESSU HERRERA, reserving the right to amend this Complaint at the time of the trial of the actions herein to include all items of damages not yet ascertained, demands judgment against Defendants, and each of them, as follows:

First Cause of Action (Negligence)

1. General damages in excess of Fifteen Thousand Dollars and No Cents (\$15,000.00);
2. Special damages in excess of Fifteen Thousand Dollars and No Cents (\$15,000.00);
3. Reasonable attorney's fees and costs incurred herein; and
4. For such other and further relief as the Court may find just and proper.

Second Cause of Action (Respondeat Superior)

1. General damages in excess of Fifteen Thousand Dollars and No Cents (\$15,000.00);
2. Special damages in excess of Fifteen Thousand Dollars and No Cents (\$15,000.00);
3. Reasonable attorney's fees and costs incurred herein; and
4. For such other and further relief as the Court may find just and proper.

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1 **Third Cause of Action (Negligent Entrustment)**

- 2 1. General damages in excess of Fifteen Thousand Dollars and No Cents (\$15,000.00);
- 3 2. Special damages in excess of Fifteen Thousand Dollars and No Cents (\$15,000.00);
- 4 3. Reasonable attorney's fees and costs incurred herein; and
- 5 4. For such other and further relief as the Court may find just and proper.
- 6
- 7

8 **Fourth Cause of Action (Negligent Hiring, Supervision and Retention)**

- 9 1. General damages in excess of Fifteen Thousand Dollars and No Cents (\$15,000.00);
- 10 2. Special damages in excess of Fifteen Thousand Dollars and No Cents (\$15,000.00);
- 11 3. Reasonable attorney's fees and costs incurred herein; and
- 12 4. For such other and further relief as the Court may find just and proper.
- 13
- 14
- 15
- 16

17 DATED: March 29, 2018

18 ADAM S. KUTNER, P.C.

19

20

21 ADAM S. KUTNER, ESQ.
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Attorney for Plaintiff's's

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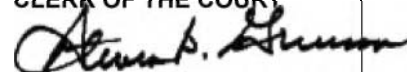
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CORORATION dba TRENCH SHORING
COMPANY and JAMES ROBERT SALAIS

DISTRICT COURT
CLARK COUNTY, NEVADA

MAIKEL PEREZ-ACOSTA, individually,
ROLANDO BESSU HERRERA,
individually,

Plaintiffs,

v.

JAIME ROBERTO SALAIS, individually,
TOM MALLOY CORPORATION,
aka/dba TRENCH SHORING
COMPANY, a foreign corporation, DOES
I through V, inclusive, and ROE
CORPORATIONS I through V, inclusive,

Defendants.

Case No. A-18-772273-C

DEPT NO.: 28

ANSWER TO COMPLAINT

Defendants TOM MALLOY CORPORATION d/b/a TRENCH SHORING COMPANY
and JAMES ROBERT SALAIS ("Defendants"), by and through its counsel of record, Todd A.
Jones, Esq. of the law firm of Mokri Vanis & Jones, LLP., hereby answers Plaintiffs MAIKEL

PEREZ-ACOSTA and ROLANDO BESSU HERRERA's (hereinafter collectively as "Plaintiff")
Complaint on file herein as follows:

FIRST CAUSE OF ACTION - NEGLIGENCE

1. Answering paragraph 1 of Plaintiffs' Complaint, Defendants are without sufficient information to form a belief as to the truth of the matters asserted therein and therefore deny each and every allegation contained therein.

2. Answering paragraph 2 of Plaintiffs' Complaint, Defendants are without sufficient information to form a belief as to the truth of the matters asserted therein and therefore deny each and every allegation contained therein.

3. Answering paragraph 3 of Plaintiffs' Complaint, Defendants admit the allegations contained therein.

4. Answering paragraph 4 of Plaintiffs' Complaint, Defendants admit the allegations contained therein.

5. Answering paragraph 5 of Plaintiffs' Complaint, Defendants are without sufficient information to form a belief as to the truth of the matters asserted therein and therefore deny each and every allegation contained therein.

6. Answering paragraph 6 of Plaintiffs' Complaint, Defendants admit that on July 12, 2016, defendant JAIME ROBERTO SALAIS was driving a vehicle owned or leased by his employer TOM MALLOY CORPORATION aka/dba TRENCH SHORING COMPANY. As to any and all remaining allegations asserted in paragraph 6, Defendants are without sufficient information to form a belief as to the truth of the matters asserted therein and therefore deny each and every allegation contained therein.

7. Answering paragraph 7 of Plaintiffs' Complaint, Defendants assert that the allegations contained therein constitute legal conclusions and thus no response is required. In any event, Defendants deny each and every allegation contained therein as against it. As to any and all remaining allegations asserted in paragraph 7, Defendants are without sufficient information to form a belief as to the truth of the matters asserted therein and therefore deny each and every allegation contained therein.

1 8. Answering paragraph 8 of Plaintiffs' Complaint, Defendants assert that the
2 allegations contained therein constitute legal conclusions and thus no response is required. In any
3 event, Defendants deny each and every allegation contained therein as against it. As to any and all
4 remaining allegations asserted in paragraph 8, Defendants are without sufficient information to
5 form a belief as to the truth of the matters asserted therein and therefore deny each and every
6 allegation contained therein.

7 9. Answering paragraph 9 of Plaintiffs' Complaint, Defendants assert that the
8 allegations contained therein constitute legal conclusions and thus no response is required. In any
9 event, Defendants deny each and every allegation contained therein as against it. As to any and all
10 remaining allegations asserted in paragraph 9, Defendants are without sufficient information to
11 form a belief as to the truth of the matters asserted therein and therefore deny each and every
12 allegation contained therein.

13 10. Answering paragraph 10 of Plaintiffs' Complaint, Defendants assert that the
14 allegations contained therein constitute legal conclusions and thus no response is required. In any
15 event, Defendants deny each and every allegation contained therein as against it. As to any and all
16 remaining allegations asserted in paragraph 10, Defendants are without sufficient information to
17 form a belief as to the truth of the matters asserted therein and therefore deny each and every
18 allegation contained therein.

19 **SECOND CAUSE OF ACTION – RESPONDEAT SUPERIOR**

20 11. Answering paragraph 11 of Plaintiffs' Complaint, Defendants repeat and reallege
21 its responses to paragraphs 1-10 above as though fully set forth herein in full, inclusive.

22 12. Answering paragraph 12 of Plaintiffs' Complaint, Defendants assert that the
23 allegations contained therein constitute legal conclusions and thus no response is required. In any
24 event, Defendants deny each and every allegation contained therein.

25 13. Answering paragraph 13 of Plaintiffs' Complaint, Defendants assert that the
26 allegations contained therein constitute legal conclusions and thus no response is required. In any
27 event, Defendants deny each and every allegation contained therein as against it. As to any and all
28 remaining allegations asserted in paragraph 13, Defendants are without sufficient information to

1 form a belief as to the truth of the matters asserted therein and therefore deny each and every
2 allegation contained therein.

3 14. Answering paragraph 14 of Plaintiffs' Complaint, Defendants assert that the
4 allegations contained therein constitute legal conclusions and thus no response is required. In any
5 event, Defendants deny each and every allegation contained therein as against it. As to any and all
6 remaining allegations asserted in paragraph 14, Defendants are without sufficient information to
7 form a belief as to the truth of the matters asserted therein and therefore deny each and every
8 allegation contained therein.

9 15. Answering paragraph 15 of Plaintiffs' Complaint, Defendants assert that the
10 allegations contained therein constitute legal conclusions and thus no response is required. In any
11 event, Defendants deny each and every allegation contained therein as against it. As to any and all
12 remaining allegations asserted in paragraph 15, Defendants are without sufficient information to
13 form a belief as to the truth of the matters asserted therein and therefore deny each and every
14 allegation contained therein.

15 **THIRD CAUSE OF ACTION – NEGLIGENT ENTRUSTMENT**

16 16. Answering paragraph 16 of Plaintiffs' Complaint, Defendants repeat and reallege
17 its responses to paragraphs 1-15 above as though fully set forth herein in full, inclusive.

18 17. Answering paragraph 17 of Plaintiffs' Complaint, Defendants admit that
19 Defendant TOM MALLOY CORPORATION aka/dba TRENCH SHORING COMPANY owned
20 or leased the vehicle driven by Defendant JAIME ROBERTO SALAIS. As to any and all
21 remaining allegations asserted in paragraph 17, Defendants deny each and every remaining
22 allegation contained therein.

23 18. Answering paragraph 18 of Plaintiffs' Complaint, Defendants assert that the
24 allegations contained therein constitute legal conclusions and thus no response is required. In any
25 event, Defendants deny each and every allegation contained therein.

26 19. Answering paragraph 19 of Plaintiffs' Complaint, Defendants assert that the
27 allegations contained therein constitute legal conclusions and thus no response is required. In any
28 event, Defendants deny each and every allegation contained therein.

1 20. Answering paragraph 20 of Plaintiffs' Complaint, Defendants assert that the
2 allegations contained therein constitute legal conclusions and thus no response is required. In any
3 event, Defendants deny each and every allegation contained therein.

4 21. Answering paragraph 21 of Plaintiffs' Complaint, Defendants assert that the
5 allegations contained therein constitute legal conclusions and thus no response is required. In any
6 event, Defendants deny each and every allegation contained therein as against it. As to any and all
7 remaining allegations asserted in paragraph 21, Defendants are without sufficient information to
8 form a belief as to the truth of the matters asserted therein and therefore deny each and every
9 allegation contained therein.

10 22. Answering paragraph 22 of Plaintiffs' Complaint, Defendants assert that the
11 allegations contained therein constitute legal conclusions and thus no response is required. In any
12 event, Defendants deny each and every allegation contained therein.

13 **FOURTH CLAIM FOR RELIEF – NEGLIGENT HIRING, SUPERVISION &**
14 **RETENTION**

15 23. Answering paragraph 23 of Plaintiffs' Complaint, Defendants repeat and reallege
16 its responses to paragraphs 1-22 above as though fully set forth herein in full, inclusive.

17 24. Answering paragraph 24 of Plaintiffs' Complaint, Defendants assert that the
18 allegations contained therein constitute legal conclusions and thus no response is required. In any
19 event, Defendants deny each and every allegation contained therein.

20 25. Answering paragraph 25 of Plaintiffs' Complaint, Defendants assert that the
21 allegations contained therein constitute legal conclusions and thus no response is required. In any
22 event, Defendants deny each and every allegation contained therein.

23 26. Answering paragraph 26 of Plaintiffs' Complaint, Defendants assert that the
24 allegations contained therein constitute legal conclusions and thus no response is required. In any
25 event, Defendants deny each and every allegation contained therein as against it. As to any and all
26 remaining allegations asserted in paragraph 26, Defendants are without sufficient information to
27 form a belief as to the truth of the matters asserted therein and therefore deny each and every
28 allegation contained therein.

1 27. Answering paragraph 27 of Plaintiffs' Complaint, Defendants assert that the
2 allegations contained therein constitute legal conclusions and thus no response is required. In any
3 event, Defendants deny each and every allegation contained therein as against it. As to any and all
4 remaining allegations asserted in paragraph 27, Defendants are without sufficient information to
5 form a belief as to the truth of the matters asserted therein and therefore deny each and every
6 allegation contained therein.

7 28. Answering paragraph 28 of Plaintiffs' Complaint, Defendants are without
8 sufficient information to form a belief as to the truth of the matters asserted therein and therefore
9 deny each and every allegation contained therein.

10 29. Answering paragraph 29 of Plaintiffs' Complaint, Defendants are without
11 sufficient information to form a belief as to the truth of the matters asserted therein and therefore
12 deny each and every allegation contained therein.

13 30. Answering paragraph 30 of Plaintiffs' Complaint, Defendants are without
14 sufficient information to form a belief as to the truth of the matters asserted therein and therefore
15 deny each and every allegation contained therein.

16 31. Answering paragraph 31 of Plaintiffs' Complaint, Defendants assert that the
17 allegations contained therein constitute legal conclusions and thus no response is required. In any
18 event, Defendants deny each and every allegation contained therein as against it. As to any and all
19 remaining allegations asserted in paragraph 31, Defendants are without sufficient information to
20 form a belief as to the truth of the matters asserted therein and therefore deny each and every
21 allegation contained therein.

22 32. Answering paragraph 32 of Plaintiffs' Complaint, Defendants assert that the
23 allegations contained therein constitute legal conclusions and thus no response is required. In any
24 event, Defendants deny each and every allegation contained therein as against it. As to any and all
25 remaining allegations asserted in paragraph 32, Defendants are without sufficient information to
26 form a belief as to the truth of the matters asserted therein and therefore deny each and every
27 allegation contained therein.

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1 **AFFIRMATIVE DEFENSES**

2 **FIRST AFFIRMATIVE DEFENSE**

3 The Complaint fails to state a claim upon which relief can be granted.

4 **SECOND AFFIRMATIVE DEFENSE**

5 That Plaintiffs are barred from recovery herein by reason of their own voluntary
6 assumption of risk in that each and all of the matters, conditions, acts and omissions of which
7 Plaintiffs complain were fully known to Plaintiffs and the risk and danger, if any, were
8 voluntarily assumed by them.

9 **THIRD AFFIRMATIVE DEFENSE**

10 Plaintiffs' causes of action are barred by their own negligence, which negligence was
11 greater than the Defendants', if any, and was a proximate cause of their injuries and damages.

12 **FOURTH AFFIRMATIVE DEFENSE**

13 Prior to and at the time of the incident as alleged in the Complaint, Plaintiffs were
14 negligent in the manner in which they conducted themselves, which negligence proximately
15 caused and contributed to the injuries, if any, and the damages, if any, claimed by Plaintiffs,
16 *thereby barring Plaintiffs from some or any recovery in this action.

17 **FIFTH AFFIRMATIVE DEFENSE**

18 At the time and place alleged in Plaintiffs' Complaint and for a period of time prior
19 thereto, Plaintiffs did not exercise ordinary care, caution or prudence for the protection of their
20 own safety, and the injuries and damages complained of by Plaintiffs in their Complaint, if any,
21 were directly and proximately caused or contributed to by the fault, failure to act, carelessness
22 and negligence of Plaintiffs.

23 **SIXTH AFFIRMATIVE DEFENSE**

24 That the negligence, if any, or the conduct of these answering Defendants (which
25 allegation is made for purposes of this pleading only and shall not be considered an admission)
26 was not a substantial factor in bringing about the Plaintiffs' alleged injuries and damages and,
27 therefore, were not a contributing or proximate cause thereof.

28 ///

1 **SEVENTH AFFIRMATIVE DEFENSE**

2 Any injuries Plaintiffs may have sustained, as alleged in the Complaint herein, were not
3 caused by any negligence or want of care on the part of these answering Defendants, but through
4 the design, negligence, or want of care of unknown third persons.

5 **EIGHTH AFFIRMATIVE DEFENSE**

6 Any damages which the Plaintiffs may have sustained by reason of the allegations
7 contained in the Complaint were proximately caused by the acts of persons other than these
8 answering Defendants and, therefore, Plaintiffs are not entitled to any relief from these answering
9 Defendants.

10 **NINTH AFFIRMATIVE DEFENSE**

11 That the Complaint, and each and every cause of action contained therein, fails to set forth
12 facts sufficient to constitute a cause of action against these answering Defendants.

13 **TENTH AFFIRMATIVE DEFENSE**

14 Defendants place in issue the negligence or other tortious conduct of all persons, firms or
15 entities which caused or contributed in any degree to the happening of the incident as alleged in
16 the Complaint and to the injuries if any, and the damages, if any, suffered by Plaintiffs as a result
17 of said incident.

18 **ELEVENTH AFFIRMATIVE DEFENSE**

19 That Plaintiffs have failed to act reasonably to mitigate the injuries, if any, and damages,
20 if any, that are alleged in the Complaint. Such failure to mitigate on the part of the Plaintiffs bar
21 or reduce their right to recover any damages against these answering Defendants.

22 **TWELFTH AFFIRMATIVE DEFENSE**

23 The damages and injuries sustained by Plaintiffs, as alleged in his Complaint herein, if
24 any, were the result of an avoidable accident.

25 **THIRTEENTH AFFIRMATIVE DEFENSE**

26 The actions of these answering Defendants in no way caused or contributed to the
27 Plaintiffs' injuries and/or damages.

28 ///

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs failed to wear proper seatbelts and safety restraints thereby causing and/or contributing to Plaintiffs' alleged injuries attributable to said incident.

FIFTEENTH AFFIRMATIVE DEFENSE

Defendants are not legally responsible for the acts and/or omissions of those parties named herein as fictitious DOES, ROES, or named as any other entity.

SIXTEENTH AFFIRMATIVE DEFENSE

Attorney's fees are only recoverable through contract or by statute and are not recoverable as damages in a lawsuit for personal injury damages. Plaintiffs' claim for attorney's fees as alleged in Plaintiffs' Complaint, are not recoverable herein and have been improperly pled in Plaintiffs' Complaint. Defendants specifically reserve the right to have Plaintiffs improperly pled claims for attorney's fees dismissed prior to trial.

SEVENTEENTH AFFIRMATIVE DEFENSE

The occurrence referred to in Plaintiffs' Complaint, and all injuries and damages resulting therefrom, if any, were caused by intervening and superseding causes over which these answering Defendants had no control.

EIGHTEENTH AFFIRMATIVE DEFENSE

The alleged injuries and damages claimed in Plaintiffs' Complaint were caused in whole, or in part, by pre-existing medical, emotional, and/or physical conditions neither caused nor contributed to by these answering Defendants.

NINETEENTH AFFIRMATIVE DEFENSE

All and/or part of the medical damages and/or diagnostic studies performed on Plaintiffs were unnecessary and/or unreasonable in costs, and were not casually related to the alleged occurrence referred to in Plaintiffs' Complaint.

TWENTIETH AFFIRMATIVE DEFENSE

Defendants are not liable to Plaintiffs under the sudden emergency doctrine.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Plaintiffs are prohibited from more than one recovery for the same injury or harm.

1 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

2 The Plaintiffs have a duty to preserve evidence which they knew, or reasonably should
3 have known, would be relevant to this action, and any failure to do so bars the prosecution of this
4 action against these answering Defendants and/or requires the application of appropriate sanctions
5 and safeguards to prevent unfair prejudice to these answering Defendants.

6 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

7 To the extent Plaintiffs have waived, relinquished and/or released some or all of his claims
8 against these answering Defendants, they are estopped from pursuing them in this action.

9 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

10 Pursuant to N.R.C.P. 11, as amended, all possible affirmative defenses may not have been
11 alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the
12 filing of this answer and, therefore, these answering Defendants reserve the right to amend this
13 answer to allege additional affirmative defenses if subsequent investigation and discovery
14 warrant.

15 WHEREFORE, Defendants TOM MALLOY CORPORATION d/b/a TRENCH
16 SHORING COMPANY and JAMES ROBERT SALAIS pray for judgment as follows:

- 17 1. That Plaintiffs' Complaint is dismissed and Plaintiffs takes nothing thereby;
18 2. For costs, expenses and attorney's fees incurred by Defendants in the defense of
19 Plaintiffs' lawsuit; and
20 3. For such other relief as the Court may deem just and proper.

21 Dated this 7th day of May, 2018.

MOKRI VANIS & JONES, LLP.

22 /s/ Todd A. Jones

23 Todd A. Jones, Esq.
24 Nevada Bar No. 12983
25 8831 West Sahara Avenue
26 Las Vegas, Nevada 89117
27 Telephone: 702.880.0688
28 Facsimile: 702.471.0075
 Attorneys for Defendant TOM MALLOY
CORPORATION d/b/a TRENCH SHORING
COMPANY and JAMES ROBERT SALAIS

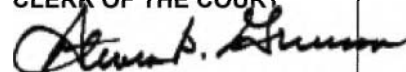
CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of May, 2018, I served a true and correct copy of the foregoing **ANSWER TO COMPLAINT** by electronic service through Odyssey to all parties on the Court's e-service list for the above-referenced matter.

/s/Debbie Steinhauer

Employee of Mokri Vanis & Jones, LLP

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Steven D. Grierson
CLERK OF THE COURT


DOEW

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*Attorneys for Plaintiff***MAIKEL PEREZ-ACOSTA****DISTRICT COURT****CLARK COUNTY, NEVADA**

MAIKEL PEREZ-ACOSTA, an Individual,
ROLANDO BESSU HERRERA, an Individual,

Case No.: A-18-772273-C

Dept No.: 28

Plaintiffs

vs.

PLAINTIFF'S INITIAL
DESIGNATION OF EXPERT
WITNESSES

JAIME ROBERTO SALAIS, an Individual, TOM
MALLOY CORPORATION aka/dba TRENCH
SHORING COMPANY, foreign corporation,
DOES I through V, inclusive; and ROE
CORPORATIONS I through V, inclusive,

Defendants.

Plaintiff, MAIKEL PEREZ- ACOSTA, by and through his counsel of record, MICHAEL
C. KANE, ESQ., BRADLEY J. MYERS, ESQ., and JASON C. BARRON, ESQ. of
THE702FIRM, hereby pursuant to Nevada Rule of Civil Procedure 16.1 and 26 hereby designates
the following retained expert(s):

THE702FIRM

ATTORNEYS AT LAW

0 S. Seventh Street, Suite 400

LAS VEGAS, NEVADA 89101

PHONE: (702) 776-3333

I.

RETAINED EXPERTS

1. Stuart S. Kaplan, M.D.
LVNI CENTER FOR SPINE AND BRAIN SURGERY
3012 South Durango Drive
Las Vegas, NV 89117
Ph. (702) 825-0088

Dr. Stuart Kaplan is a retained treating physician. He is Board Certified in Neurological Surgery. After graduating from medical school at Harvard Medical School in 1994, Dr. Kaplan completed his surgical internship and neurosurgical residency training at Washington University Medical Center. Dr. Kaplan is expected to testify consistent with his report and his medical chart, including records contained therein prepared by other healthcare providers. He has also reviewed documents outside of his medical chart for the purpose of providing treatment, defending that treatment, preparing his expert report and rebutting defendant's expert report.

He is expected to give expert opinions regarding the treatment of Plaintiff, the necessity of treatment rendered, the necessity of future treatment to be rendered, the causation of the necessity for past and future medical treatment, his expert opinion as to past and future restrictions of activities, including work activities, caused by the accident and prognosis for recovery/future treatment. His opinions shall include pain and suffering of the Plaintiff; the cost of past medical care, diagnostic testing, treatment and medication for both his care and the care within his chart prepared by other healthcare providers; the cost of future medical care, diagnostic testing, surgery, and medication for both his care and the care within his chart prepared by other healthcare providers; and whether those past and future medical costs fall within the ordinary and customary charges in the community for similar medical care and treatment for both his care and the care within his chart prepared by other healthcare providers.

Dr. Kaplan is Plaintiff's treating physician and is also designated as a retained expert/rebuttal witness who may be used at trial to present evidence requiring testimony under NRS 50.275, 50.285, and 50.305. Dr. Kaplan has reviewed Plaintiff's medical records which have been previously disclosed regarding his injuries and subsequent treatment and/or issued expert opinions regarding causation, treatment and/or prognosis.

1 The exhibits to be used as a summary of support for Dr. Kaplan's opinions are Plaintiff's
2 medical records, billing and any other documents which are stated in, or attached to, Dr. Kaplan's
3 report, all expert reports, as well as the report attached hereto.

4 The basis of Dr. Kaplan's opinions include, but are not limited to, his education, training
5 and experience in medicine, the nature of the trauma Plaintiffs were subjected to because of
6 Defendant's negligence, Plaintiff's medical history, symptoms, diagnostic testing, his
7 examination(s) of Plaintiff and his review of Plaintiff's medical records, medical literature, and
8 his research regarding the customary and reasonable charge for Plaintiff's medical care. Dr.
9 Kaplan may also testify as a rebuttal medical expert. Dr. Kaplan's report, curriculum vitae,
10 including a list of publications, fee schedule and prior testimony list is attached hereto.

11 2. David J. Oliveri, M.D.
12 851 S. Rampart Blvd., Ste 115
13 Las Vegas, NV 89145
14 Ph. (702) 778-9300

15 David J. Oliveri is a board-certified diplomat of the American Board of Physical Medicine
16 and Rehabilitation and the American Board of Electrodiagnostic Medicine. Dr. Oliveri is also a
17 certified independent medical examiner and a certified life care planner.

18 Dr. Oliveri is expected to provide testimony regarding, but not limited to, his review of
19 Plaintiff's medical records; his opinion regarding Plaintiff's past medical care and/or treatment;
20 future medical care and/or treatment, and his opinion as to past and future restrictions of activities,
21 including work activities, caused by the accident. Dr. Oliveri is also expected to provide opinions
22 regarding Plaintiff's injuries and the causation of same; and his opinion as to Plaintiff's need for
23 future care and/or treatment. Dr. Oliveri will also testify that the treatment provided by the medical
24 providers listed herein, was reasonable, necessary, and caused by the subject accident. Dr. Oliveri
25 will testify as to the extent of Plaintiff's vocational injuries, and the impact of those injuries on the
26 employability of the Plaintiff. He is also expected to testify with regard to the Plaintiff's past
27 employment history, his future employment prospects, and potential, and Plaintiff's earning
28 capacity.

1 The basis for Dr. Oliveri's opinions are expected to include, but are not limited to, his
2 education, training, and experience; the nature of the trauma sustained; Plaintiff's medical history
3 and treatment received; and his review of Plaintiff's medical records. A copy of Plaintiff's records
4 and billing were produced in Plaintiff's Initial Disclosure of Witnesses and Documents Pursuant
5 to NRCP 16, and supplements thereafter.

6 Dr. Oliveri's report, Curriculum Vitae, fee schedule, and prior testimony list are attached
7 hereto.

8 3. J. Matthew Sims, MC, MS
9 Lora K. White, RNBC, BSN, CCM, CNLCP
 Sims & White, PLLC
10 389 East Palm Lane, Suite 1
 Phoenix, AZ 85004
11 Ph. (602) 253-2033

12 Lora White, is a Certified Nurse Life Care Planer, whose qualifications are set forth in her
13 CV, attached hereto. J. Matthew Sims is a Vocational Economist Expert, whose qualifications are
14 set forth in his CV, attached hereto. Lora White and J. Mathew Sims are expected to provide
15 testimony regarding, but not limited to, their review of Plaintiff's medical records; their opinion
16 regarding Plaintiff's past medical care and/or treatment; and their opinion as to past and future
17 restrictions of activities, including work activities, caused by the accident. Lora White and J.
18 Mathew Sims are also expected to provide opinions regarding Plaintiff's injuries and the causation
19 of same; and their opinion as to Plaintiff's need for future care and/or treatment. Lora and Matthew
20 will also testify that the treatment provided by the medical providers listed herein, was reasonable,
21 necessary, and caused by the subject accident. J. Mathew Sims will testify as to the extent of
22 Plaintiff's vocational injuries, and the impact of those injuries on the employability of the Plaintiff.
23 They are also expected to testify with regard to the Plaintiff's past employment history, his future
24 employment prospects, and potential, and Plaintiff's earning capacity. The basis for Lora White
25 and J. Matthew Sims' opinions are expected to include, but are not limited to, their education,
26 training, and experience; the nature of the trauma sustained; Plaintiff's medical history and
27 treatment received; and their review of Plaintiff's medical records. A copy of Plaintiff's records
28

1 and billing were produced in Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant
2 to NRCF 16, and supplements thereafter.

3 Lora White and J. Matthew Sims are designated as a retained expert/rebuttal witnesses who
4 may be used at trial to present evidence requiring testimony under NRS 50.275, 50.285, and
5 50.305. They have interviewed Plaintiff and reviewed Plaintiff's medical records which have been
6 previously disclosed regarding her injuries and subsequent treatment and/or issued expert opinions
7 regarding causation, treatment and/or prognosis.

8 The exhibits to be used as a summary of support for Lora White and J. Matthew Sims'
9 opinions are Plaintiff's medical records, medical billing and any other documents which are stated
10 in, or attached to, their report, all other expert reports.

11 Sims and White's report is attached hereto.

12 II.

13 LIST OF MEDICAL PROVIDERS

14 Non-Retained Expert Witnesses

15 Plaintiff hereby identifies the following health care and medical providers relating to the
16 treatment and care of Plaintiff MAIKEL PEREZ-ACOSTA for injuries he suffered as a result of
17 the subject incident:

18 The Plaintiff's treating physicians are expected to testify consistently with the opinions and
19 observations expressed in their medical records. These treating physicians are expected to give
20 expert opinions regarding Plaintiff's treatment, the necessity of the treatment rendered, the
21 necessity of future treatment to be rendered, the causation of the necessity for past and future
22 treatment, their expert opinion as to past and future restrictions of activities, including work
23 activities, caused by the incident.

24 Their opinions shall include the cost of past medical care, future medical care, and whether
25 those medical costs fall within ordinary and customary charges in the community for similar
26 medical care and treatment. Their testimony will include expert opinions regarding the effect of
27 the incident-related injuries on Plaintiff's ability to engage in activities of daily living. Their
28 testimony may also include expert opinions as to whether the Plaintiff has a diminished work life
expectancy, work capacity, and/or life expectancy as a result of the incident.

1 In rendering their opinions, Plaintiff's treating physicians will rely upon the records of all
 2 physicians, health care providers, and experts who have rendered medical care and treatment to
 3 the plaintiff and their respective expert opinions regarding the nature, extent and cause of
 4 plaintiff's injuries, the reasonableness and necessity of Plaintiff's past medical treatment, the
 5 reasonable future medical care that has been necessitated by the incident, the amount,
 6 reasonableness and necessity of charges for medical treatment rendered to the Plaintiff, the
 7 amount, reasonableness and necessity of future medical treatment caused by Plaintiff's incident
 8 related injuries, including lifetime medical, surgical, rehabilitative and associated medical
 9 expenses, the charges for Plaintiff's past and future medical care as being customary for physicians
 10 and/or health care providers in the medical community; the nature, extent and manner in which the
 11 Plaintiff's incident-related injuries have affected his ability to continue to perform current
 12 occupations and activities of daily living, and the nature and extent and manner in which Plaintiff's
 13 incident-related injuries have diminished Plaintiff's work life expectancy and restricted Plaintiff's
 14 future daily living activities. Said treating physicians' expert opinion shall encompass, not only
 15 the foregoing, but also any ancillary treatment or diagnosis, prognosis, or causation of the
 16 Plaintiff's injuries that is not contained within the physician's medical chart NRCP 16.1(a)(2).

17 These physicians will also defend their opinions by explaining why they may agree or
 18 disagree with other physicians and/or medical experts disclosed by either party. In the absence of
 19 a stipulation or admission, the Custodian of Records will also testify regarding the authentication
 20 of the documents identified and produced herein or an affidavit from said Custodian of Records
 21 shall be produced at trial in lieu thereof.

- 22 1. Andrew Mitchell, D.C. and/or
 23 Jason Chong, D.C. and/or
 24 Person Most Knowledgeable and/or Custodian of Records
MEADOWS CHIROPRACTIC
 25 3441 W. Sahara, Ste. C-7
 Las Vegas, NV 89102
 Ph. (702) 220-9191

26 Dr. Andrew Mitchell is a board-certified chiropractic physician who graduated from Life
 27 Chiropractic College West in 1996.
 28

1 Dr. Jason Chong is a board-certified chiropractic physician who graduated from Cleveland
2 Chiropractic College of Los Angeles in 1997.

3 Drs. Mitchell and Chong are expected to provide expert testimony relating to their review
4 of Plaintiff MAIKEL PEREZ ACOSTA'S medical records, opinions regarding past medical care
5 and/or treatment, and opinions regarding Plaintiff's potential need for future care and/or treatment,
6 including the treatment and medical reasonableness of other medical providers. They will also
7 provide opinions regarding the causation of Plaintiff's injuries and the necessity and
8 reasonableness of Plaintiff's past and future medical expenses.

9 Drs. Mitchell and Chong provided care and treatment to Plaintiff MAIKEL PEREZ
10 ACOSTA for injuries sustained in the subject incident (please refer to the documentation
11 previously produced as Meadows Chiropractic Medical Records and Billing in Plaintiff's 16.1
12 Initial Disclosures and any and all supplements thereto). It is anticipated that their testimony in
13 this matter will be based upon their training, education and experience in the Las Vegas, Nevada
14 community and their familiarity with community standards of reasonable billing for like or similar
15 services rendered.

16 Drs. Mitchell and Chong, for purposes of this litigation, are hereby disclosed as a non-
17 retained expert treating physicians in the field of chiropractic. Their anticipated testimony in the
18 capacity of expert treating physician will be comprised of those opinions formed and developed
19 during the course of their treatment of Plaintiff MAIKEL PEREZ ACOSTA, including any and all
20 sources of information or records which may have influenced their judgment and opinions during
21 the period of their treatment of said Plaintiff.

22 It is anticipated that Drs. Mitchell and Chong, will testify regarding the nature and extent
23 of Plaintiff MAIKEL PEREZ ACOSTA's injuries (whether they be new injuries or exacerbations
24 of pre-existing conditions), any preexisting history of like or similar pain complaints, the
25 likelihood that the injuries or exacerbations of prior injuries were caused by the subject incident
26 as alleged by said Plaintiff, the reasonableness and necessity of treatment provided, the
27 reasonableness of medical billing charges within the local community, their treatment plan,
28 considerations for future treatment requirements as well as its associated costs, and any other

1 considerations which influenced his opinions. Drs. Mitchell and Chong may further opine
 2 regarding his observations of the patient's pain, suffering, and disability. Drs. Mitchell and Chong
 3 reserve the right to provide rebuttal testimony should any aspect of their treatment of said Plaintiff
 4 be criticized by any outside retained expert otherwise unfamiliar with the Plaintiff's condition at
 5 the time treatment was rendered. Each of their opinions as described above is expected to be
 6 provided to a reasonable degree of medical certainty. Drs. Mitchell and Chong CV, Fee Schedule
 7 and Testimony History are attached hereto.

8 The NRCP 30(b)(6) Corporate Representative of Meadows Chiropractic is anticipated to
 9 testify regarding the full institutional knowledge of Meadows Chiropractic as it pertains to the
 10 treatment provided Plaintiff MAIKEL PEREZ ACOSTA, as referenced herein, and the associated
 11 billing charges. It is anticipated this witness may testify to the topics of inquiry enumerated within
 12 any NRCP 30(b)(6) deposition notice of this entity served during the course of discovery. This
 13 witness may testify to the institution's customary practices, procedures, policies as it pertains to
 14 the course of Plaintiff's treatment and billing charges secondary thereto.

15 The Custodian of Records for Meadows Chiropractic is anticipated to testify regarding the
 16 authenticity of those records produced by Meadows Chiropractic at the request of either Plaintiff
 17 or Defendant during the course of discovery. This witness may further testify regarding the
 18 entity's policies and procedures for document creation, retention, and preservation.

- 19
 20 2. Kelly Morgan, M.D. and/or
 21 Shamoona A. Ahmed, M.D. and/or
 22 Julian Almeyda-Perez, M.D. and/or
 23 Swati Wadhvani, M.D. and/or
 24 Person Most Knowledgeable and/or Custodian of Records
 25 **UNIVERSITY MEDICAL CENTER /**
EMP OF CLARK, UMC (McCOURT), PLLC
 1800 West Charleston Boulevard
 Las Vegas, NV 89102
 Ph. (702) 383-2000

26 Dr. Kelly Morgan is a board-certified Emergency Medicine physician who graduated from
 27 Medical School at Case Western Reserve University School of Medicine, and completed his/her
 28 Emergency Medicine residency training at University of Nevada Reno School of Medicine. Dr.

1 Kelly treated Plaintiff at the emergency room of University Medical Center following the incident
2 of July 12, 2016.

3 Dr. Shamoona Ahmed is an Internal Medicine physician who graduated from Baqai
4 Medical and Dental College, and completed his/her residency training at University of Nevada
5 Reno School of Medicine, and an Infectious Disease Fellowship at the University of Florida. Dr.
6 Ahmed treated Plaintiff at University Medical Center for injuries resulting from the incident of
7 July 12, 2016, including but not limited to Cauda Equina Syndrome.

8 Dr. Julian Almeyda-Perez is an Internal Medicine physician who graduated from Instituto
9 Superior de Ciencias Medicas de la Habana, and completed his residency training at University of
10 Nevada Reno School of Medicine. Dr. Almeyda-Perez treated Plaintiff at University Medical
11 Center for injuries resulting from the incident of July 12, 2016, including but not limited to Cauda
12 Equina Syndrome.

13 Dr. Swati Wadhwani is an Internal Medicine physician who graduated from Lady Hardinge
14 Medical School, and completed her residency training at University Medical Center Southern
15 Nevada. Dr. Wadhwani treated Plaintiff at University Medical Center for injuries resulting from
16 the incident of July 12, 2016, including but not limited to Cauda Equina Syndrome.

17 These providers are expected to give expert opinions in accordance with NRCP 16.1 and
18 NRS 50.275, 50.285, and 50.305, in relation to treating medical providers and regarding the nature
19 of the injuries sustained by Plaintiff and the cause of his injuries, diagnoses as reflected in the
20 medical records, chart, prognosis, the necessity and reasonableness of the treatment rendered, the
21 necessity and reasonableness of future treatment to be rendered, the causation of the necessity for
22 past and future medical treatment, expert opinions as to past and future restrictions of
23 activities, including work activities, caused by the incident. They are further expected to testify
24 as to Plaintiff's injuries, including but not limited to the back and lower extremity. They will also
25 discuss all opinions set forth in the medical records, charts, reports and depositions. Their opinions
26 shall include the cost of past medical care, future medical care, and whether those medical costs
27 fall within the usual and customary charges in the community for similar medical care and
28 treatment. Their testimony may also include expert opinions as to whether Plaintiff has diminished
work life expectancy, work capacity, and/or life expectancy as a result of the incident.

3. Albert Capanna, M.D. and/or
 NRCP 30(b)(6) Corporate Representative and/or Custodian of Records
CAPANNA INTERNATIONAL NEUROSCIENCE CONSULTANTS
 716 South 6th Street
 Las Vegas, NV 89101
 Ph. (702) 382-1960

Albert Capanna, M.D is a board-certified Neurological Surgeon who graduated from medical school at Wayne State University School of Medicine in 1974, and his residency training at St. John Hospital and Medical Center, and Fellowship training at University of Zurich and University of Paris. Dr. Capanna was brought in for surgical consultation by the attending physicians at University Medical Center to evaluate, diagnose and treated Plaintiff while at University Medical Center for the injuries he suffered as a result of the incident of July 12, 2016.

Dr. Capanna is expected to give expert opinions in accordance with NRCP 16.1 and NRS 50.275, 50.285, and 50.305, in relation to treating medical providers and regarding the nature of the injuries sustained by Plaintiff and the cause of his injuries, diagnoses as reflected in the medical records, chart, prognosis, the necessity and reasonableness of the treatment rendered, the necessity and reasonableness of future treatment to be rendered, the causation of the necessity for past and future medical treatment, expert opinions as to past and future restrictions of activities, including work activities, caused by the incident. He is further expected to testify as to Plaintiff's injuries, including but not limited to the back and lower extremity, specifically equina cauda syndrome. He will also discuss all opinions set forth in the medical records, charts, reports and depositions. His opinions shall include the cost of past medical care, future medical care, and whether those medical costs fall within the usual and customary charges in the community for similar medical care and treatment. Their testimony may also include expert opinions as to whether Plaintiff has diminished work life expectancy, work capacity, and/or life expectancy as a result of the incident.

4. Sep Bady, M.D. and/or
 NRCP 30(b)(6) Corporate Representative and/or Custodian of Records
ADVANCED ORTHOPEDICS & SPORTS MEDICINE
 8420 West Warm Springs Road, Suite 100
 Las Vegas, NV 89113
 Ph. (702) 740-5327

1 Sep Bady, M.D is a board-certified Orthopedic Surgeon who graduated from medical
2 school at Tufts University School of Medicine, and completed his residency training at Loma
3 Linda University Medical Center, and Spine Fellowship training at Spine Care Fellowship. Dr.
4 Bady evaluated, diagnosed and treated Plaintiff for the injuries he suffered as a result of the
5 incident of July 12, 2016.

6 Dr. Bady is expected to give expert opinions in accordance with NRCP 16.1 and NRS
7 50.275, 50.285, and 50.305, in relation to treating medical providers and regarding the nature of
8 the injuries sustained by Plaintiff and the cause of his injuries, diagnoses as reflected in the medical
9 records, chart, prognosis, the necessity and reasonableness of the treatment rendered, the necessity
10 and reasonableness of future treatment to be rendered, the causation of the necessity for past and
11 future medical treatment, expert opinions as to past and future restrictions of activities,
12 including work activities, caused by the incident. He is further expected to testify as to Plaintiff's
13 injuries, including but not limited to the back and right lower extremity. He will also discuss all
14 opinions set forth in the medical records, charts, reports and depositions. His opinions shall include
15 the cost of past medical care, future medical care, and whether those medical costs fall within the
16 usual and customary charges in the community for similar medical care and treatment. Their
17 testimony may also include expert opinions as to whether Plaintiff has diminished work life
18 expectancy, work capacity, and/or life expectancy as a result of the incident.

19 5. Steven A. Holper, M.D. and/or
20 NRCP 30(b)(6) Corporate Representative and/or Custodian of Records
21 **STEPHEN A. HOLPER, M.D., P.C.**
22 3233 W. Charleston Blvd., Suite 202
23 Las Vegas, NV 89102
24 Ph. (702) 878-3510

25 Dr. Steven Holper is a board-certified physiatrist who graduated from medical school at
26 Universidad Autonoma de Guadalajara College of Medicine. He examined, evaluated, diagnosed,
27 and treated Plaintiff for injuries related to the collision of July 12, 2016, including but not limited
28 to back pain, right leg pain, difficulty sleeping, erectile dysfunction, and urinary incontinence.

 Dr. Holper is expected to testify as to his review of Plaintiff's medical records, examination
and treatment of Plaintiff, opinions that Plaintiff's past medical care and/or treatment was

1 reasonable and necessary-- including treatments and care provided by other, non-reporting medical
2 experts who similarly treated for Plaintiff as a result of the incident of July 12, 2016.

3 Dr. Holper will also provide opinions that Plaintiff's need for medical care and treatment
4 was caused by the incident of July 12, 2016, and likewise address any medical issues related to
5 this topic. Dr. Holper will also testify that the costs of Plaintiff's past and future medical treatment
6 are customary and reasonable for the local medical community.

7 The basis of Dr. Holper's opinions include, but are not limited to, his education, training
8 and experience in medicine, the nature of the trauma Plaintiff was subjected to because of
9 Defendant's negligence, Plaintiff's medical history, Plaintiff's symptoms, diagnostic testing, his
10 examination(s) of Plaintiff and his review of Plaintiff's medical records, medical literature, and
11 his research regarding the customary and reasonable charge for Plaintiff's medical care. Dr.
12 Holper may also testify as a rebuttal medical expert. A copy of Plaintiff's records and billing were
13 produced in Plaintiff's Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16, and
14 supplements thereafter.

15 6. Person Most Knowledgeable and/or Custodian of Records
16 **DESERT RADIOLOGISTS**
17 P.O. Box 3057
18 Indianapolis, IN 46206
19 Ph. (888) 727-1074

20 These providers are expected to give expert opinions in accordance with NRCP 16.1 and
21 NRS 50.275, 50.285, and 50.305, in relation to treating medical providers and regarding the nature
22 of the injuries sustained by Plaintiff and the cause of his injuries, diagnoses as reflected in the
23 medical records, chart, prognosis, the necessity and reasonableness of the treatment rendered, the
24 necessity and reasonableness of future treatment to be rendered, the causation of the necessity for
25 past and future medical treatment, expert opinions as to past and future restrictions of
26 activities, including work activities, caused by the incident. They are further expected to testify
27 as to Plaintiff's injuries, including but not limited to the back and right lower extremity injured in
28 the incident as set forth in the Complaint. They may also discuss all opinions set forth in the
medical records, reports and depositions. Their opinions shall include the cost of past medical care,
future medical care, and whether those medical costs fall within the usual and customary charges

1 in the community for similar medical care and treatment. Testimony may also include expert
 2 opinions as to whether Plaintiff has diminished work life expectancy, work capacity, and/or life
 3 expectancy as a result of the incident.

4 7. Ho Nguyen, M.D. and/or
 5 Stephen Chen, M.D. and/or
 6 **STEINBERG DIAGNOSTIC MEDICAL IMAGING /**
 7 **RED ROCK DIAGNOSTICS, LLC**
 8 2767 North Tenaya Way
 Las Vegas, NV 89128
 Ph. (702) 732-6000

9 These providers are expected to give expert opinions in accordance with NRCP 16.1 and
 10 NRS 50.275, 50.285, and 50.305, in relation to treating medical providers and regarding the nature
 11 of the injuries sustained by Plaintiff and the cause of his injuries, diagnoses as reflected in the
 12 medical records, chart, prognosis, the necessity and reasonableness of the treatment rendered, the
 13 necessity and reasonableness of future treatment to be rendered, the causation of the necessity for
 14 past and future medical treatment, expert opinions as to past and future restrictions of
 15 activities, including work activities, caused by the incident. They are further expected to testify
 16 as to Plaintiff's injuries, including but not limited to the back and right lower extremity injured in
 17 the incident as set forth in the Complaint. They may also discuss all opinions set forth in the
 18 medical records, reports and depositions. Their opinions shall include the cost of past medical care,
 19 future medical care, and whether those medical costs fall within the usual and customary charges
 20 in the community for similar medical care and treatment. Testimony may also include expert
 21 opinions as to whether Plaintiff has diminished work life expectancy, work capacity, and/or life
 22 expectancy as a result of the incident.

23 8. Matt Treinen, D.O. and/or
 24 **PUEBLO MEDICAL IMAGING**
 25 100 North Green Valley Parkway, Suite 130
 Henderson, NV 89074
 Ph. (702) 228-0031

26 These providers are expected to give expert opinions in accordance with NRCP 16.1 and
 27 NRS 50.275, 50.285, and 50.305, in relation to treating medical providers and regarding the nature
 28 of the injuries sustained by Plaintiff and the cause of his injuries, diagnoses as reflected in the

1 [REDACTED] medical records, chart, prognosis, the necessity and reasonableness of the treatment rendered, the
 2 necessity and reasonableness of future treatment to be rendered, the causation of the necessity for
 3 past and future medical treatment, expert opinions as to past and future restrictions of
 4 activities, including work activities, caused by the incident. They are further expected to testify
 5 as to Plaintiff's injuries, including but not limited to the back and right lower extremity injured in
 6 the incident as set forth in the Complaint. They may also discuss all opinions set forth in the
 7 medical records, reports and depositions. Their opinions shall include the cost of past medical care,
 8 future medical care, and whether those medical costs fall within the usual and customary charges
 9 in the community for similar medical care and treatment. Testimony may also include expert
 10 opinions as to whether Plaintiff has diminished work life expectancy, work capacity, and/or life
 11 expectancy as a result of the incident.

12 The NRCP 30(b)(6) Corporate Representative of Pueblo Medical Imaging is anticipated to
 13 testify regarding the full institutional knowledge of Pueblo Medical Imaging as it pertains to the
 14 treatment provided Plaintiff MAIKEL PEREZ ACOSTA, as referenced herein, and the associated
 15 billing charges. It is anticipated this witness may testify to the topics of inquiry enumerated within
 16 any NRCP 30(b)(6) deposition notice of this entity served during the course of discovery. This
 17 witness may testify to the institution's customary practices, procedures, policies as it pertains to
 18 the course of Plaintiff's treatment and billing charges secondary thereto.

19 The Custodian of Records for Pueblo Medical Imaging is anticipated to testify regarding
 20 the authenticity of those records produced by Pueblo Medical Imaging at the request of either
 21 Plaintiff or Defendant during the course of discovery. This witness may further testify regarding
 22 the entity's policies and procedures for document creation, retention, and preservation

23 9. Person Most Knowledgeable and/or Custodian of Records
 24 **ASP CARES PHARMACY**
 25 501 South Rancho Drive, Suite G46
 Las Vegas, NV 89133

26 ASP Cares Pharmacy filled prescribed medications to Plaintiff. The Person Most
 27 Knowledgeable and/or Custodian of Records is expected to give expert opinions in accordance
 28 with NRCP 16.1 and NRS 50.275, 50.285, and 50.305, in relation to treating medical providers

and regarding the nature of the injuries sustained by Plaintiff and the cause of his injuries, diagnoses as reflected in the medical records, chart, prognosis, the necessity and reasonableness of the treatment rendered, the necessity and reasonableness of future treatment to be rendered, the causation of the necessity for past and future medical treatment, expert opinions as to past and future restrictions of activities, including work activities, caused by the incident. They are further expected to testify as to Plaintiff's injuries, including but not limited to the back and right lower extremity injured in the incident as set forth in the Complaint. They may also discuss all opinions set forth in the medical records, reports and depositions. Their opinions shall include the cost of past medical care, future medical care, and whether those medical costs fall within the usual and customary charges in the community for similar medical care and treatment. Testimony may also include expert opinions as to whether Plaintiff has diminished work life expectancy, work capacity, and/or life expectancy as a result of the incident.

10. Gobinder S. Chopra M.D. and/or
Treating Physicians and/or
Person Most Knowledgeable and/or Custodian of Records
6410 Medical Center Suite, Suite A-100
Las Vegas, NV 89148

Gobinder S. Chopra, M.D., is a board-certified neurologist who graduated from Dayanand Medical College, and completed his residency training at VA Greater Los Angeles Healthcare System, and a Clinical Neurophysiology Fellowship at Stanford University. He examined, evaluated and treated Plaintiff for injuries resulting from the incident of July 12, 2016. It is anticipated that his testimony in this matter will be based upon his training, education and experience as radiologist in the Las Vegas, NV community and his familiarity with community standards of reasonable billing for like or similar services rendered.

Dr. Chopra, for purposes of this litigation, is hereby disclosed as a non-retained expert treating physicians in the field of neurology. His anticipated testimony in the capacity of expert treating physicians will be comprised of those opinions formed and developed during the course of his treatment of Plaintiff MAIKEL PEREZ ACOSTA, including any and all sources of information or records which may have influenced his treatment and opinions during the period of his treatment of said Plaintiff.

1 It is anticipated that Dr. Chopra will testify regarding the nature and extent of Plaintiff
 2 MAIKEL PEREZ ACOSTA'S injuries (whether they be new injuries or exacerbations of pre-
 3 existing conditions), any preexisting history of like or similar pain complaints, the likelihood that
 4 the injuries or exacerbations of prior injuries were caused by the subject incident as alleged by said
 5 Plaintiff, the reasonableness and necessity of treatment provided, the reasonableness of medical
 6 billing charges within the local community, their treatment plan, considerations for future
 7 treatment requirements as well as its associated costs, and any other considerations which
 8 influenced his opinions. Dr. Chopra may further opine regarding his observations of the patient's
 9 pain, suffering, and disability. Dr. Chopra reserves the right to provide rebuttal testimony should
 10 any aspect of their treatment of said Plaintiff be criticized by any outside retained expert otherwise
 11 unfamiliar with the Plaintiff's condition at the time treatment was rendered. Each of his opinions
 12 as described above is expected to be provided to a reasonable degree of medical certainty.

13 The NRCP 30(b)(6) Corporate Representative of Gobinder S. Chopra, M.D. is anticipated
 14 to testify regarding the full institutional knowledge of Gobinder S. Chopra, M.D. as it pertains to
 15 the treatment provided Plaintiff MAIKEL PEREZ ACOSTA, as referenced herein, and the
 16 associated billing charges. It is anticipated this witness may testify to the topics of inquiry
 17 enumerated within any NRCP 30(b)(6) deposition notice of this entity served during the course of
 18 discovery. This witness may testify to the institution's customary practices, procedures, policies
 19 as it pertains to the course of Plaintiff's treatment and billing charges secondary thereto.

20 The Custodian of Records for Gobinder S. Chopra, M.D. is anticipated to testify regarding
 21 the authenticity of those records produced by Gobinder S. Chopra, M.D. at the request of either
 22 Plaintiff or Defendant during the course of discovery. This witness may further testify regarding
 23 the entity's policies and procedures for document creation, retention, and preservation.

24 11. Stuart S. Kaplan, M.D.
 25 **LVNI CENTER FOR SPINE AND BRAIN SURGERY /**
 26 **WESTERN REGIONAL CENTER FOR BRAIN & SPINE SURGERY**
 27 3012 South Durango Drive
 28 Las Vegas, NV 89117
 Ph. (702) 825-0088

1 Dr. Stuart Kaplan is a retained treating physician. He is Board Certified in Neurological
2 Surgery. After graduating from medical school at Harvard Medical School in 1994, Dr. Kaplan
3 completed his surgical internship and neurosurgical residency training at Washington University
4 Medical Center. Dr. Kaplan is expected to testify consistent with his report and his medical chart,
5 including records contained therein prepared by other healthcare providers. He has also reviewed
6 documents outside of his medical chart for the purpose of providing treatment, defending that
7 treatment, preparing his expert report and rebutting defendant's expert report.

8 He is expected to give expert opinions regarding the treatment of Plaintiff, the necessity of
9 treatment rendered, the necessity of future treatment to be rendered, the causation of the necessity
10 for past and future medical treatment, his expert opinion as to past and future restrictions of
11 activities, including work activities, caused by the accident and prognosis for recovery/future
12 treatment. His opinions shall include pain and suffering of the Plaintiff; the cost of past medical
13 care, diagnostic testing, treatment and medication for both his care and the care within his chart
14 prepared by other healthcare providers; the cost of future medical care, diagnostic testing, surgery,
15 and medication for both his care and the care within his chart prepared by other healthcare
16 providers; and whether those past and future medical costs fall within the ordinary and customary
17 charges in the community for similar medical care and treatment for both his care and the care
18 within his chart prepared by other healthcare providers.

19 Dr. Kaplan is Plaintiff's treating physician and is also designated as a retained
20 expert/rebuttal witness who may be used at trial to present evidence requiring testimony under
21 NRS 50.275, 50.285, and 50.305. Dr. Kaplan has reviewed Plaintiff's medical records which have
22 been previously disclosed regarding his injuries and subsequent treatment and/or issued expert
23 opinions regarding causation, treatment and/or prognosis.

24 The exhibits to be used as a summary of support for Dr. Kaplan's opinions are Plaintiff's
25 medical records, billing and any other documents which are stated in, or attached to, Dr. Kaplan's
26 report, all expert reports, as well as the report attached hereto.

27 The basis of Dr. Kaplan's opinions include, but are not limited to, his education, training
28 and experience in medicine, the nature of the trauma Plaintiffs were subjected to because of

1 Defendant's negligence, Plaintiff's medical history, symptoms, diagnostic testing, his
 2 examination(s) of Plaintiff and his review of Plaintiff's medical records, medical literature, and
 3 his research regarding the customary and reasonable charge for Plaintiff's medical care. Dr.
 4 Kaplan may also testify as a rebuttal medical expert. Dr. Kaplan's report, curriculum vitae,
 5 including a list of publications, fee schedule and prior testimony list is attached hereto.

6
 7 12. Jorg Rosler, M.D. and/or
 8 Andrew Hall, M.D. and/or
 9 Person Most Knowledgeable and/or Custodian of Records
 10 **INTERVENTIONAL PAIN & SPINE INSTITUTE**
 851 South Rampart Blvd., Suite 100
 Las Vegas, NV 89145
 (702) 357-8004

11 Dr. Jorg Rosler is Board Certified in Anesthesiology by the American Board of
 12 Anesthesiology. After graduating from medical school at University of Gottingen Faculty of
 13 Medicine, Dr. Rosler completed his residency training at Indiana University School of Medicine.
 14 Dr. Rosler evaluated, diagnosed and treated Plaintiff for the injuries he suffered as a result of the
 15 incident which occurred on July 12, 2016. Dr. Rosler's curriculum vitae and fee schedule are
 16 attached hereto.

17 Dr. Andrew Hall is Board Certified in Anesthesiology, with a Subspecialty Certification in
 18 Pain Medicine, by the American Board of Anesthesiology. After graduating from medical school
 19 at University of Illinois College of Medicine, Dr. Hall completed his residency training at
 20 University of Chicago, and his Fellowship in Pain Medicine at UCSF. Dr. Hall evaluated,
 21 diagnosed and treated Plaintiff for the injuries he suffered as a result of the incident which occurred
 22 on July 12, 2016. Dr. Hall's curriculum vitae and fee schedule are attached hereto.

23 These providers are expected to give expert opinions in accordance with NRCP 16.1 and
 24 NRS 50.275, 50.285, and 50.305, in relation to treating medical providers and regarding the nature
 25 of the injuries sustained by Plaintiff and the cause of his injuries, diagnoses as reflected in the
 26 medical records, chart, prognosis, the necessity and reasonableness of the treatment rendered, the
 27 necessity and reasonableness of future treatment to be rendered, the causation of the necessity for
 28 past and future medical treatment, expert opinions as to past and future restrictions of

activities, including work activities, caused by the incident. They are further expected to testify as to Plaintiff's injuries, including but not limited to the low back and right leg injured in the incident as set forth in the Complaint. They may also discuss all opinions set forth in the medical records, reports and depositions. Their opinions shall include the cost of past medical care, future medical care, and whether those medical costs fall within the usual and customary charges in the community for similar medical care and treatment. Testimony may also include expert opinions as to whether Plaintiff has diminished work life expectancy, work capacity, and/or life expectancy as a result of the incident.

13. NRCP 30(b)(6) Corporate Representative and/or Custodian of Records
SURGICAL ARTS CENTER
 9499 West Charleston Boulevard, Suite 250
 Las Vegas, NV 89117
 Ph. (702) 933-3600

Surgical Arts Center is the surgical facility in which Dr. Rosler performed selective nerve root blocks and discography on Plaintiff's low back. The Person Most Knowledgeable and/or Custodian of Records are expected to give expert opinions in accordance with NRCP 16.1 and NRS 50.275, 50.285, and 50.305, in relation to cost of treatment provided to Plaintiff at this facility. Their opinions shall include the cost of past medical care and whether those medical costs fall within the usual and customary charges in the community for similar medical care and treatment.

These witnesses are expected to give expert opinions regarding the treatment of Plaintiff, the necessity of the treatment rendered, the necessity of future treatment to be rendered, the causation of the necessity for past and future medical treatment, expert opinion as to past and future restrictions of activities, including work activities, caused by the incident. Their opinions shall include the cost of past medical care, future medical care, and whether those medical costs fall within ordinary and customary charges in the community, for similar medical care and treatment. Their testimony may also include expert opinions as to whether Plaintiff has diminished work life expectancy, work capacity, and/or life expectancy as a result of the accident.

14. Stuart S. Kaplan, M.D. and/or
 NRCP 30(b)(6) Corporate Representative and/or Custodian of Records
VALLEY HOSPITAL MEDICAL CENTER
 620 Shadow Lane
 Las Vegas, NV 89106
 Ph. (702) 388-4827

Valley Hospital Medical Center is the surgical facility in which Dr. Kaplan performed Anterior Lumbar Interbody Fusion L5-S1 with Anterior Plate. The Person Most Knowledgeable and/or Custodian of Records are expected to give expert opinions in accordance with NRCP 16.1 and NRS 50.275, 50.285, and 50.305, in relation to cost of treatment provided to Plaintiff at this facility. Their opinions shall include the cost of past medical care and whether those medical costs fall within the usual and customary charges in the community for similar medical care and treatment.

The NRCP 30(b)(6) Corporate Representative of Valley Hospital Medical Center is anticipated to testify regarding the full institutional knowledge of Valley Hospital Medical Center as it pertains to the treatment provided to Plaintiff MAIKEL PEREZ ACOSTA, as referenced herein, and the associated billing charges. It is anticipated this witness may testify to the topics of inquiry enumerated within any NRCP 30(b)(6) deposition notice of this entity served during the course of discovery. This witness may testify to the institution's customary practices, procedures, policies as it pertains to the course of Plaintiff's treatment and billing charges secondary thereto.

The Custodian of Records for Valley Hospital Medical Center is anticipated to testify regarding the authenticity of those records produced by Valley Hospital Medical Center at the request of either Plaintiff or Defendant during the course of discovery. This witness may further testify regarding the entity's policies and procedures for document creation, retention, and preservation.

15. Rogelio Machuca, M.D., and/or
 NRCP 30(b)(6) Corporate Representative and/or Custodian of Records
MACHUCA FAMILY MEDICINE
 1501 South Eastern Avenue
 Las Vegas, NV 89104
 Ph. (702) 778-7614

1 Rogelio Machuca, M.D. who is board-certified in Family Medicine graduated from medical
2 school at University of Nebraska and his completed his residency training in Family Medicine at
3 the University of Nevada. He is expected to provide expert testimony relating to his review of
4 Plaintiff MAIKEL PEREZ ACOSTA'S medical records, opinions regarding past medical care
5 and/or treatment, and opinions regarding Plaintiff's potential need for future care and/or treatment,
6 including the treatment and medical reasonableness of other medical providers. He will also
7 provide opinions regarding the causation of Plaintiff's injuries and the necessity and
8 reasonableness of Plaintiff's past and future medical expenses.

9 Dr. Machuca provided care and treatment to Plaintiff MAIKEL PEREZ ACOSTA for
10 injuries sustained in the subject incident (please refer to the documentation previously
11 produced). It is anticipated that his testimony in this matter will be based upon his training,
12 education and experience as chiropractor in the Las Vegas, NV community and his familiarity with
13 community standards of reasonable billing for like or similar services rendered.

14 Dr. Machuca, for purposes of this litigation, is hereby disclosed as a non-retained expert
15 treating physicians in the field of family medicine. His anticipated testimony in the capacity of
16 expert treating physicians will be comprised of those opinions formed and developed during the
17 course of his treatment of Plaintiff MAIKEL PEREZ ACOSTA, including any and all sources of
18 information or records which may have influenced his judgment and opinions during the period of
19 his treatment of said Plaintiff.

20 It is anticipated that Dr. Machuca will testify regarding the nature and extent of Plaintiff
21 MAIKEL PEREZ ACOSTA'S injuries (whether they be new injuries or exacerbations of pre-
22 existing conditions), any preexisting history of like or similar pain complaints, the likelihood that
23 the injuries or exacerbations of prior injuries were caused by the subject incident as alleged by said
24 Plaintiff, the reasonableness and necessity of treatment provided, the reasonableness of medical
25 billing charges within the local community, their treatment plan, considerations for future
26 treatment requirements as well as its associated costs, and any other considerations which
27 influenced their opinions. Dr. Machuca may further opine regarding his observations of the
28 patient's pain, suffering, and disability. Dr. Machuca reserves the right to provide rebuttal

1 testimony should any aspect of their treatment of said Plaintiff be criticized by any outside retained
 2 expert otherwise unfamiliar with the Plaintiff's condition at the time treatment was rendered. Each
 3 of his opinions as described above is expected to be provided to a reasonable degree of medical
 4 certainty.

5 The NRCP 30(b)(6) Corporate Representative of Machuca Family Medicine is anticipated
 6 to testify regarding the full institutional knowledge of Machuca Family Medicine as it pertains to
 7 the treatment provided Plaintiff MAIKEL PEREZ ACOSTA, as referenced herein, and the
 8 associated billing charges. It is anticipated this witness may testify to the topics of inquiry
 9 enumerated within any NRCP 30(b)(6) deposition notice of this entity served during the course of
 10 discovery. This witness may testify to the institution's customary practices, procedures, policies
 11 as it pertains to the course of Plaintiff's treatment and billing charges secondary thereto.

12 The Custodian of Records for Machuca Family Medicine is anticipated to testify regarding
 13 the authenticity of those records produced by Machuca Family Medicine at the request of either
 14 Plaintiff or Defendant during the course of discovery. This witness may further testify regarding
 15 the entity's policies and procedures for document creation, retention, and preservation.

16 16. Willis Y. Wu, M.D., and/or
 17 Michael J. Eastman, PA-C, and/or
 18 NRCP 30(b)(6) Corporate Representative and/or Custodian of Records
 19 **INNOVATIVE PAIN CARE CENTER**
 20 9065 South Pecos Road, Suite 203
 Henderson, NV 89074
 Ph. (702) 684-7246

21 Willis Y. Wu, M.D. is board certified in Anesthesiology and Pain Medicine. Dr. Wu
 22 graduated from medical school at Drexel University College of Medicine and completed his
 23 residency training at Einstein College of Medicine/Einstein Hospital Medical Center, and
 24 Fellowship training at University of Iowa Hospital and Clinics. He is expected to provide expert
 25 testimony relating to their review of Plaintiff MAIKEL PEREZ ACOSTA'S medical records,
 26 opinions regarding past medical care and/or treatment, and opinions regarding Plaintiff's potential
 27 need for future care and/or treatment, including the treatment and medical reasonableness of other
 28

1 medical providers. He will also provide opinions regarding the causation of Plaintiff's injuries and
2 the necessity and reasonableness of Plaintiff's past and future medical expenses.

3 Dr. Wu provided care and treatment to Plaintiff MAIKEL PEREZ ACOSTA for injuries
4 sustained in the subject incident (please refer to the documentation previously produced). It is
5 anticipated that his testimony in this matter will be based upon his training, education and
6 experience as an anesthesiologist and pain management specialists in the Las Vegas, NV
7 community and his familiarity with community standards of reasonable billing for like or similar
8 services rendered.

9 Dr. Wu, for purposes of this litigation, is hereby disclosed as a non-retained expert treating
10 physician in the field of anesthesiology and pain management. His anticipated testimony in the
11 capacity of expert treating physicians will be comprised of those opinions formed and developed
12 during the course of his treatment of Plaintiff MAIKEL PEREZ ACOSTA, including any and all
13 sources of information or records which may have influenced his judgment and opinions during
14 the period of his treatment of said Plaintiff.

15 It is anticipated that Dr. Wu will testify regarding the nature and extent of Plaintiff
16 MAIKEL PEREZ ACOSTA'S injuries (whether they be new injuries or exacerbations of pre-
17 existing conditions), any preexisting history of like or similar pain complaints, the likelihood that
18 the injuries or exacerbations of prior injuries were caused by the subject incident as alleged by said
19 Plaintiff, the reasonableness and necessity of treatment provided, the reasonableness of medical
20 billing charges within the local community, their treatment plan, considerations for future
21 treatment requirements as well as its associated costs, and any other considerations which
22 influenced their opinions. They may further opine regarding their observations of the patient's
23 pain, suffering, and disability. They reserve the right to provide rebuttal testimony should any
24 aspect of their treatment of said Plaintiff be criticized by any outside retained expert otherwise
25 unfamiliar with the Plaintiff's condition at the time treatment was rendered. Each of their opinions
26 as described above is expected to be provided to a reasonable degree of medical certainty.

27 The NRCP 30(b)(6) Corporate Representative of Innovative Pain Care Center are
28 anticipated to testify regarding the full institutional knowledge of Innovative Pain Care Center as

1 it pertains to the treatment provided Plaintiff MAIKEL PEREZ ACOSTA, as referenced herein,
 2 and the associated billing charges. It is anticipated this witness may testify to the topics of inquiry
 3 enumerated within any NRCP 30(b)(6) deposition notice of this entity served during the course of
 4 discovery. This witness may testify to the institution's customary practices, procedures, policies
 5 as it pertains to the course of Plaintiff's treatment and billing charges secondary thereto.

6 The Custodian of Records for Innovative Pain Care Center is anticipated to testify
 7 regarding the authenticity of those records produced by Innovative Pain Care Center at the request
 8 of either Plaintiff or Defendant during the course of discovery. This witness may further testify
 9 regarding the entity's policies and procedures for document creation, retention, and preservation.

10 17. NRCP 30(b)(6) Corporate Representative and/or Custodian of Records
 11 **SOUTHWEST MEDICAL PHARMACY & HOME MEDICAL**
 12 **EQUIPMENT**
 13 620 Placid Street
 Las Vegas, NV 89119

14 The NRCP 30(b)(6) Corporate Representative of Southwest Medical Pharmacy & Home
 15 Medical Equipment is anticipated to testify regarding the full institutional knowledge of Southwest
 16 Medical Pharmacy & Home Medical Equipment as it pertains to the treatment and/or equipment
 17 provided Plaintiff MAIKEL PEREZ ACOSTA, as referenced herein, and the associated billing
 18 charges. It is anticipated this witness may testify to the topics of inquiry enumerated within any
 19 NRCP 30(b)(6) deposition notice of this entity served during the course of discovery. This witness
 20 may testify to the institution's customary practices, procedures, policies as it pertains to the course
 21 of Plaintiff's treatment and billing charges secondary thereto.

22 The Custodian of Records for Southwest Medical Pharmacy & Home Medical Equipment
 23 is anticipated to testify regarding the authenticity of those records produced by Southwest Medical
 24 Pharmacy & Home Medical Equipment at the request of either Plaintiff or Defendant during the
 25 course of discovery. This witness may further testify regarding the entity's policies and procedures
 26 for document creation, retention, and preservation.

27 18. NRCP 30(b)(6) Corporate Representative and/or Custodian of Records
 28 **WALGREENS PHARMACY**
 1701 N. Green Valley Parkway
 Henderson, NV 89074

1 The NRCP 30(b)(6) Corporate Representative of Walgreens Pharmacy is anticipated to
 2 testify regarding the full institutional knowledge of Walgreens Pharmacy as it pertains to the
 3 treatment provided Plaintiff MAIKEL PEREZ ACOSTA, as referenced herein, and the associated
 4 billing charges. It is anticipated this witness may testify to the topics of inquiry enumerated within
 5 any NRCP 30(b)(6) deposition notice of this entity served during the course of discovery. This
 6 witness may testify to the institution's customary practices, procedures, policies as it pertains to
 7 the course of Plaintiff's treatment and billing charges secondary thereto.

8 The Custodian of Records for Walgreens Pharmacy is anticipated to testify regarding the
 9 authenticity of those records produced by Walgreens Pharmacy at the request of either Plaintiff or
 10 Defendant during the course of discovery. This witness may further testify regarding the entity's
 11 policies and procedures for document creation, retention, and preservation.

- 12 19. NRCP 30(b)(6) Corporate Representative and/or Custodian of Records
 13 **PARTELL PHARMACY**
 14 2560 E. Sunset Road, Suite 120
 15 Las Vegas, NV 89120

16 The NRCP 30(b)(6) Corporate Representative of Partell Pharmacy is anticipated to testify
 17 regarding the full institutional knowledge of Partell Pharmacy as it pertains to the treatment
 18 provided Plaintiff MAIKEL PEREZ ACOSTA, as referenced herein, and the associated billing
 19 charges. It is anticipated this witness may testify to the topics of inquiry enumerated within any
 20 NRCP 30(b)(6) deposition notice of this entity served during the course of discovery. This witness
 21 may testify to the institution's customary practices, procedures, policies as it pertains to the course
 22 of Plaintiff's treatment and billing charges secondary thereto.

23 The Custodian of Records for Partell Pharmacy is anticipated to testify regarding the
 24 authenticity of those records produced by Partell Pharmacy at the request of either Plaintiff or
 25 Defendant during the course of discovery. This witness may further testify regarding the entity's
 26 policies and procedures for document creation, retention, and preservation.

27 DOCUMENTS IDENTIFIED

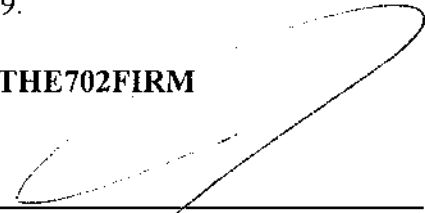
- 28 1. Stuart S. Kaplan, M.D.: Curriculum Vitae, Testimony List, Fee Schedule, Report
 dated October 9, 2019;

2. David J. Oliveri, M.D.: Curriculum Vitae, Fee Schedule, Testimony List, Comprehensive Medical Evaluation Report dated September 29, 2019;
3. Lora White, RN-BC, BSN, CCM, CNLCP, LNCP-C: Curriculum Vitae and Testimony List; J. Matthew Sims, MC, MS: Curriculum Vitae and Testimony List; Sims & White Fee Schedule; Sims & White, PLLC Report dated October 27, 2019;
4. Meadows Chiropractic - Andrew Mitchell, D.C. and Jason Chong, D.C.: Curriculum Vitae and Fee Schedule; and
5. Interventional Pain and Spine Institute - Hans Jorg Rosler, M.D. and Andrew Hall, M.D.: Curriculum Vitae and Fee Schedule.

Plaintiff reserves the right to supplement this Designation of Expert Witnesses with any and all other relevant information and documents and records which come into his possession during discovery.

DATED this 29th day of October, 2019.

THE702FIRM



MICHAEL C. KANE, ESQ.
Nevada Bar No. 10096
BRADLEY J. MYERS, ESQ.
Nevada Bar No. 8857
JASON C. BARRON, ESQ.
Nevada Bar No. 7270
400 South 7th Street #400
Las Vegas, Nevada 89101
Attorneys for Plaintiff
MAIKEL PEREZ-ACOSTA

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of October, 2019, I caused service of a true and correct copy of the foregoing **PLAINTIFF'S INITIAL DESIGNATION OF EXPERT WITNESSES** to be made by the Eighth Judicial District Court's Odyssey E-file & Serve program, upon all parties registered to use this service, and listed as electronic service recipients herein, in accordance with the Clark County District Court's Administrative Order No. 14-2, issued 5/9/14:

John Dormy, Esq.
Todd A. Jones, Esq.
MOKRI VANIS & JONES, LLP.
8831 West Sahara Avenue
Las Vegas, Nevada 89117
Attorneys for Defendants TOM MALLOY CORPORATION dba
TRENCH SHORING COMPANY and JAMES ROBERT SALAIS


An Employee of THE702FIRM

EXHIBIT 1



LAS VEGAS NEUROSURGICAL INSTITUTE

Stuart S. Kaplan, MD, FAANS

2471 Professional Ct Las Vegas, NV 89128-0825

Phone: (702) 835-0088 Fax: (702) 826-3818

CURRICULUM VITAE

Boards Certification

- American Board of Neurological Surgery: *Board Certified* in Neurological Surgery
November 2004
- National Board of Medical Examiners

Fellowship

- St. Louis Children's Hospital, St. Louis, MO
– Pediatric Fellowship, 2001 – 2002

Research Fellowships

- American Heart Association, Harvard Medical School
– Medical Student Research Fellowship, 1992 – 1993
- Washington University
– NIH Research Fellowship, 1998 – 2000

Residency

- Washington University Medical Center, St. Louis, MO
– Residency, Neurological Surgery, 1995 – 2001

Internship

- Washington University Medical Center, St. Louis, MO
– Internship, Neurological Surgery, 1994 – 1995

Medical School

- Harvard Medical School, Boston, MA
– Doctorate of Medicine, 1994

CURRICULUM VITAE**Stuart S. Kaplan, MD****Page Two**

College

- Dartmouth College, Hanover, NH
 - B.A. 1989
 -

Licensure

- Missouri - Active
- Ohio – Active
- Nevada – Active
- Arizona - Active
- California- Active

Memberships

- American Association of Neurological Surgeons
- Congress of Neurological Surgeons
- Sections: Neurotrauma and Critical Care, Disorders of the Spine and Peripheral Nerves and Tumors.
- Society of Neuroscience

Academic Appointments

- University of Cincinnati School of Medicine, Cincinnati, OH
 - Assistant Professor of Neurosurgery, 2002 – 2004

Honors and Awards

- *Summa cum laude*
- *Phi Beta Kappa*
- High Honors in Anthropology
- Presidential Scholar
- Rufus Choate Scholar
- Academic citations in Anthropology and Physics

Abstracts – Oral Presentations

1. Kaplan SS, Breuing K, Eriksson E, Liu P, Miller DR: Controlled tissue infection in partial thickness burns – A new experimental model. Plastic Surgery Research Council, 1991.
2. Sherburn EW, Kaplan SS, Kaufman BA, Noetzel MJ, Park TS: Outcome of surgically treated birth-related brachial plexus injuries in twenty cases. Southern Neurosurgical Society, 1997.
3. Park TS, Kaplan SS, Gidday JM: Leukocyte-endothelial adherence in penumbral cortex 24 hours after permanent MCAO in mice. American Academy of Neurological Surgeons, 1998.

CURRICULUM VITAE**Stuart S. Kaplan, MD****Page Three**

4. Gidday JM, Misko TP, Kaplan SS, Gonzales ER, Perez RS, Shah AR, Salvemini D, Park TS: Peroxynitrite promotes leukocyte adherence and blood-brain barrier breakdown following cerebral ischemia. Neuroscience, 1998.
5. Majid A., He YY, Gidday JM, Kaplan SS, Park TS, Choi, DW, Hsu CY: Intrinsic, hemodynamic-independent differences in vulnerability to permanent focal cerebral ischemia in common mutant mouse strains. AHA Conference on Stroke and Cerebral Circulation, 1998.
6. Kaplan SS, Park TS, Gonzales ER, Gidday JM: Leukocyte adherence and vascular injury is attenuated by hydroxyethyl starch following global cerebral ischemia in newborn piglets. Neuroscience, 1999.
7. Kaplan SS, Park TS, Gonzales ER, Gidday JM: Hydroxyethyl starch and mannitol inhibit asphyxia-induced increases in leukocyte adherence and vascular permeability. Congress of Neurological Surgeons, 1999.
8. Kaplan SS, Gidday JM, Dugan LL, Gonzales ER, Perez RS, Park TS: Leukocyte dependent blood-brain barrier breakdown is attenuated by a novel carboxyfullerene derivative in a model of newborn hypoxic-ischemic encephalopathy in piglets. AANS/CNS Section on Pediatric Neurological Surgery, 1999.
9. Kaplan SS, Park TS, Gonzales ER, Perez RS, Shah AR, Gidday JM: Mannitol reduces post-ischemic leukocyte adherence and vascular injury in the pig cerebral microcirculation. Southern Neurosurgical Society, 2000.
10. Park TS, Kaplan SS, Gidday JM: Neutrophil elastase knockout mice exhibit reduced BBB breakdown and infarct volume following focal stroke. American Society of Pediatric Neurosurgeons, 2002.

Abstracts – Posters

1. Kaplan SS, Ogilvy CS, Crowell RM, Heros RC: Surgical results for internal carotid artery bifurcation aneurysms. Congress of Neurological Surgeons, 1993.
2. Ogilvy CS, Kaplan SS: Mild hypothermia, mannitol and induced hypertension prevent stroke in a rabbit model of focal cerebral ischemia. Congress of Neurological Surgeons, 1993.
3. Kaplan SS, Gidday JM, Gonzales ER, Perez RS, Dowling JL, Park TS: Leukocyte-endothelial adherence in penumbral cortex 24 hours after permanent MCAO in mice. Neuroscience, 1998.
4. Kaplan SS, Gidday JM, Gonzales ER, Perez RS, Park TS: Increased postischemic leukocyte-endothelial adherence in penumbral cortex in a model of permanent mouse MCAO. Neurotrauma Society Meeting, 1998.

CURRICULUM VITAE**Stuart S. Kaplan, MD****Page Four**

5. He YY, Majid A, Choi DW, Gidday JM, Kaplan SS, Gonzales ER, Park TS, Hsu CY: Strain-related differences in vulnerability to permanent focal cerebral ischemia in C57/BL6, BALB/C, and SV129 mice. *Neuroscience*, 1998.
6. Park TS, Gidday JM, Gonzales E, Kaplan SS: Peroxynitrite mediates the acute cerebrovascular inflammatory response following asphyxia in neonatal piglets. *AANS/CNS Section on Pediatric Neurological Surgery*, 1998.
7. Gidday JM, Kaplan SS, Gonzales ER, Perez RS, Shah AR, Park TS: Reduction in cerebrovascular inflammatory response following permanent MCAO in mouse by postischemic ibuprofen. *Neuroscience*, 1999.
8. Park TS, Kaplan SS, Gonzales ER, Perez RS, Shah AR, Gidday JM: Peroxynitrite mediates blood-brain barrier breakdown and venular leukostasis during reperfusion following global ischemia in piglets. *Neuroscience*, 1999.
9. Zhu Y, McMahan BK, Shah AR, Gonzales ER, Perez RS, Kaplan SS, Gidday JM: Protection from retinal ischemic injury by short-term ischemia or hypoxia: New *in vivo* mouse models of preconditioning. *Invest. Ophthalmol. Vis. Sci.*, 2000.
10. Gidday JM, Gasche Y, Shah AR, Kaplan SS, Perez RS, Shipley JM, Senior RM, Chan PH, Park TS: Reduction in cerebral vasogenic edema and infarct volume in MMP-9 null mice and following MMP-9 inhibition. *Neuroscience*, 2000.
11. Kaplan SS, Park TS, Gonzales ER, Perez RS, Shah AR, Gidday JM: Postischemic mannitol administration attenuates acute inflammation and blood-brain barrier breakdown following global ischemia in piglets. *Neuroscience*, 2000.
12. Gidday JM, Kaplan SS, Shah AR, Perez RS, Gonzales ER, Shapiro SD, Park TS: Genetic and pharmacologic evidence for neutrophil elastase mediating inflammatory brain injury following transient focal ischemia in mice. *International Society for Cerebral Blood Flow and Metabolism*, 2001.
13. Park TS, Shah AR, Perez RS, Kaplan SS, Gonzales ER, Shapiro SD, Gidday JM: Neutrophil elastase contributes to blood-brain barrier breakdown and lesion volume following transient focal ischemia in mice. *Neuroscience*, 2001.
14. Gidday JM, Gonzales ER, Perez RS, Kaplan SS, Park TS: Role of hydroxyl radical in promoting acute cerebrovascular inflammation following asphyxia in piglets. *Experimental Biology*, 2002.

Book Chapters

1. Diminick M, Kaplan S, Salmeron J: Peripheral Vascular Disease, in Lilly LS, (ed): *Pathophysiology of Heart Disease*. Philadelphia: Lea and Febiger, 1993, pp 239-254.
2. Park TS, Kaplan SS: Birth Brachial Plexus Injury. In Youmans' *Neurological Surgery*, 5th ed., (submitted).

CURRICULUM VITAE**Stuart S. Kaplan, MD****Page Five**

Original Publications (peer review)

1. Fried MP, Mallampati SR, Liu FC, Kaplan S, Caminear DS, Samonte BR: Laser resistant stainless steel endotracheal tube: experimental and clinical evaluation. *Lasers in Surgery and Medicine* 11: 301-306, 1991.
2. Kaplan SS, Ogilvy CS, Gonzalez R, Gress D, Pile-Spellman J: Extracranial vertebral artery pseudoaneurysm presenting as subarachnoid hemorrhage. *Stroke* 24: 1397-1399, 1993.
3. Kaplan SS, Ogilvy CS, Crowell RM: Incidentally discovered arteriovenous malformation of the anterior fossa dura. *Br J Neurosurg* 8: 755-759, 1994.
4. Ames A, Maynard KI, Kaplan S: Protection against CNS ischemia by temporary interruption of function-related processes of neurons. *J Cereb Blood Flow Metab* 15: 433-439, 1995.
5. Ogilvy CS, Chu D, Kaplan S: Mild hypothermia, hypertension and mannitol are protective against infarction during experimental intracranial temporary vessel occlusion. *Neurosurgery* 38: 1202-1210, 1996.
6. Ogilvy CS, Carter BS, Kaplan S, Rich C, Crowell RM: Temporary vessel occlusion for aneurysm surgery: risk factors for stroke in patients protected by induced hypothermia and hypertension and intravenous mannitol administration. *J Neurosurg* 84: 785-791, 1996.
7. Sherburn EW, Kaplan SS, Kaufman BA, Noetzel MJ, Park TS: Outcome of surgically treated birth-related brachial plexus injuries in twenty cases. *Pediatr Neurosurg* 27:19-27, 1997.
8. Kaplan SS, Wright NM, Yundt KD, Lauryssen C: Adjacent fracture-dislocations of the lumbosacral spine – a case report. *Neurosurgery* 44:1134-1137, 1999.
9. Kaplan SS, Lauryssen C: Cerebellar hemorrhage after evacuation of an acute supratentorial subdural hematoma – a case report. *Br J Neurosurg* 13:329-331, 1999.
10. Kaplan SS, Park TS, Gonzales ER, Gidday JM: Hydroxyethyl starch reduces leukocyte adherence and vascular injury in the newborn pig cerebral circulation after asphyxia. *Stroke* 31:2218-2223, 2000.
11. Majid A, He YY, Gidday JM, Kaplan SS, Gonzales ER, Park TS, Fenstermacher JD, Wei L, Choi DW, Hsu CY: Differences in vulnerability to permanent focal cerebral ischemia among 3 common mouse strains. *Stroke* 31:2707-2714, 2000.
12. Kaplan SS, Park TS, McKinstry RC, Fuller C, Ojemann JG: Gliomatosis Cerebri. *Pediatr Neurosurg* 36:111-112, 2002.
13. Kaplan SS, Ojemann JG, Grange DK, Fuller C, Park TS: Intracranial infantile myofibromatosis with intraparenchymal involvement. *Pediatr Neurosurg* 36:214-217, 2002.

CURRICULUM VITAE**Stuart S. Kaplan, MD****Page Six**

14. Kaplan SS, Ojemann JG, Park TS: Pediatric sylvian fissure meningioma. *Pediatr Neurosurg* 36:275-276, 2002.

15. Breuing K, Kaplan S, Liu P, Onderdonk AB, Eriksson E: Wound fluid bacterial levels exceed tissue bacterial counts in controlled porcine partial-thickness burn infections *Plast Reconstr Surg* 111:781-788, 2003.

Continuing Education

- Center for Continuing Education in the Health Sciences, University of Pittsburgh
 - Principles and Practices of Gamma Knife Radiosurgery, January 12-16, 2004

Affiliation

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Hospital Privileges

- University Medical Center
- Valley
- MountainView



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 Stuart S. Kaplan MD, FAANS
 Gregory L. Douds MD, FAANS

Aurangzeb N. Nagy, MD
 Patrick S. McNulty, MD
 Scott G. Glickman, DO

Stuart S. Kaplan, MD Deposition/Trial Log 2007-2019

PATIENT NAME	DATE	ATTORNEY
Day, Patrick	2007	Kristine Jensen
Sirigos, Michael	09/26/07	-
Parque, Mary	10/24/07	James Edwards
Clarkson, Ronald	04/04/08	George Ranalli
Richmond, Andre	05/09/08	Zaniel (Ranalli)
Summers, Gaynell	06/13/08	Rasmussen & Kang
Miller, Douglas	06/27/08	Hall, Prangle & Schoonveld
Toews, Toni	09/19/08	Crockett & Myers
Barnes, John	02/20/09	Kristine Jensen
Fiato, Rose	04/03/09	Bruce Dickenson
Savko-Wood, Barbara	05/22/09	Kim Johnson
Clark, Jeffrey	08/28/09	Prince & Keating
Rashid, Mollia	10/02/09	Lewis & Associates
Stickel, Daniel	11/06/09	Bradley Booke
Mirkovic, Biljana	11/13/09	Travis Jameson
Bell, Kindra	12/04/09	Michael McOsker
Courson, Deborah	03/26/10	Gary Call
Valdez, Susanna	04/23/10	Bryan Lewis
Bowen, Misty	06/25/10	Alfonso Peets
Piccolella, Anthony	10/08/10	Richard Pyatt
Rodriguez, Daniel	11/03/10	Tamela Kahle
Corbett, Lisa	02/04/11	John Gormley
Witherspoon, Todd	02/25/11	Hutchison & Steffen
Rico, Jose Luis	03/04/11	Jane Eberhardy
Jackson, Catrina	03/25/11	Bill McGaha
Martin, John	04/08/11*	Matt Hoffmann
Beckstead, Traci	09/30/11	Tom Winner
Amogawin, Cecilia	10/07/11	Phillip Emerson
Williams, Robert	10/21/11	Prince & Keating

*Trial Date

1 | Page

PATIENT NAME	DATE	ATTORNEY
Dvorak, Barbara	11/30/11	Tamela Kahle
Thomas-Vogel, Tahney	12/01/11	McCormick Barstow
Ealy, Ziola	12/09/11	Jake Spencer
Lu, Jianquin	01/20/12	Mark Jackson
Rothstein, Joey	02/23/12*	Dennett Windspear
Franco, Deanna	05/04/12	Barron & Pruitt
Bernstein-Lorenz, Nancy	05/25/12	Vannah & Vannah
Hicks, Stephen	06/29/12	Adam Davis
Perez, Andy	08/03/12	Paul Shpirt
Singh, Sharmila	08/24/12	Trevor Atkin
Williams, Randy	08/31/12	Steve Rogers
Garner, Shannon	09/07/12	Larry Smith
Ealy, Ziola	09/19/12*	Vannah & Vannah
Wang, Charles	10/12/12	Paul Haire
Dennison, Karyl	01/04/13	AJ Sharp
Geburu, Daniel	02/08/13*	Pyatt & Silvestri
Allison, Joseph	03/01/13*	Glen Lerner
Diamond, Heather	03/22/13	Prince & Keating
Moghadam, Mehron	04/05/13	David Jones
Navarro, Ray	04/12/13	Schuetze & McGaha
Calloway, Darin	05/10/13	Sean Claggett
Rosenberger, Sandra	05/31/13	Vannah & Vannah
Austin, Freddie	06/07/13	Clayson & Mikesell
Guardado, John	06/21/13	Thorndal & Armstrong
Peralta, Guido	07/12/13	JUWW
Long, Louis	07/19/13	McCourt & Lukas
Beasley, Jeremy	08/16/13	Ranalli Law
Espino, Jose	08/23/13	Thorndall & Armstrong
Rayford-Redd, Michelle	08/29/13	Hutchison & Steffen
Burns, Sondrea	08/29/13	Hutchison & Steffen
Weiss, Steve	08/30/13	Tamara Lile
Sturtze, David	09/06/13	Ranalli Law
Newell, Patricia	09/13/13	Eglet Wall
Dana, Rebecca	10/04/13	Snell & Wilmer
Martone, Gabriella	10/17/13	Vannah & Vannah
Mendoza, Jason	10/18/13	Morris Anderson
Aiu, Nicole	11/15/13	Ranalli Law
Martone, Gabrielle	12/13/13	Robert Cottle
Trejo, Eduardo	01/10/14	PSH Law
Guillen, Richard	01/17/14	Ranalli Law
Rodden, Joseph	02/07/14	Naqvi
Dragasic, Kathy	02/21/14	Crockett & Myers
Arellano, Benito	02/28/14	RMCM
Meza, Rosa	02/28/14	RMCM
Baker, Tress	03/14/14	Danny Simon
Wylie, Virginia	03/28/14	Tammy Littleman

*Trial Date

PATIENT NAME	DATE	ATTORNEY
Ceja, Ruben	05/23/14	Laxalt & Nomura
Trejo, Eduardo	05/30/14	Harris & Harris
Drew, Jeff	06/03/14*	Ganz & Hauf
Cervantes-Lopez, Christian	06/06/14	RMCM Law
Orizaga, Luz	06/10/14	Wilson Elser
Romero, Herman	06/11/14	Laurie Yott
Dana, Rebecca	06/20/14	Atkin, Winner & Sherrod
Soto, Miguel	06/24/14	Ranalli Law
Maluf-Ordonez, Jorge	06/24/14	Vannah & Vannah
Gutierrez, Victor	07/18/14	Eglet Wall
Dean, David	07/22/14	Thorndal, Armstrong
Cournoyer, Steven	07/25/14	Eglet Wall
Figueroa, David	08/15/14	Atkin, Winner & Sherrod
Ashe, Lamar	08/19/14	Bremer, Whyte, Brown
Snyder, Sierra	08/29/14	George Ranalli
Richard, Larry	09/09/14	Wilson, Elser
Barajas, Jessica	09/12/14	Backus, Carranza
Phillips, Nicol	09/26/14	Laura Hunt
Baldomar, Jovita	10/24/14	Emerson Manke
Keller, Patrick	10/28/14	Emerson Manke
Wyett, Patricia	10/29/14	Richard Harris
Burke, Georgianna	11/04/14	Hall, Jaffe, Clayton
Alexander, Cindy	11/07/14	Atkinson, Watkins
Anderson, Vivian	11/18/14	Seegmiller
Fleishman, Mark	11/26/14	Ramzy Ladah
Thornton, Nina	12/02/14	David Sampson
Ivalle, Don	12/05/14	Kevin Diamond
Nicholson, Carl	12/16/14	Glen Lerner
Chavez, Erick	12/12/14	-
Ramos-Vasquez, Heriberto	12/19/14	-
Gonzales, Marie	12/30/14	Tara Easley
Iopa, Raelynn	01/02/15	Ralph Schwartz
Barden, William	01/03/15	Harris & Harris
Agustin, John	01/09/15	Ralph Schwartz
Barden, April	01/10/15	Harris & Harris
Masagatani, Keith	01/23/15	Cram, Valdez, Brigman
Leal, Yolanda	01/30/15	Bernstein & Poisson
Ceja, Ruben	02/06/15	Lloyd Baker
Parades, Jose	02/11/15	Morris Anderson
Esparza, Kathleen	02/17/15	Glen Lerner
Waters-Maria, Deana	02/20/15	Curtiss Chamberlain
Alkwayek, Youseff	02/25/15	Harris & Haris
Gustin, Cole	03/25/15	Lewis Brisbois
Saab, Salim	04/08/15	Ramzy Ladah
Hendrickson, Kelly	04/10/15	Grimes Law
Richards, Larry	04/15/15	Brian Harris

*Trial Date

PATIENT NAME	DATE	ATTORNEY
Bevilaqua, Edward	04/17/15	-
Goldberg, Rachael	04/22/15	-
Williams, Randy	05/15/15	Gabriel Mercado
Li, YiWei	05/22/15	Vannah & Vannah
Tarroza, Juan	05/29/15	Ryan Anderson
Ashe, Lamar	05/30/15	Bremer, Whyte
Ramirez, Amador	06/05/15	Eglet Wall
Curiel, Santos	06/05/15	Eglet Wall
Cowden, Alesha	07/11/15	Ranalli & Zaniel
DelPriore, Dara	06/26/15	-
Tosdevin, Jacquelin	07/10/15	RMCM
Thomas, Cherie	07/31/15	Ranalli Law
McCabe, Susie	08/07/15	Morris Anderson
Kenourgios, John	08/08/15	Barron & Pruitt
Finner, Tramon	08/14/15	Emerson Manke
Nada, Waile	08/21/15	Ranalli Law
Rejincos, William	09/11/15	Ranalli Law
Taylor, Kathleen	09/18/15	RMCM
Owen, Chesley	09/19/15	Atkin, Winner & Sherrod
Ortiz, Dagoberto	09/25/15	Thorndal, Armstrong
Phillips, Derstea	10/02/15	Brian Harris
Houston, Kimberly	10/03/15	Olson, Cannon, Gormley
Soroa, Caridad	10/03/15	Olson, Cannon, Gormley
Baroudi, Hickmat	10/09/15	Keating Law
Garcia-Hernandez, Maris	10/23/15	-
Carrillo, Maria	10/24/15	Moran Law Group
Vargas, Enedina	10/24/15	Moran Law Group
Liu, Yang	10/24/15	Ranalli Law
Cade, Daniel	11/13/15	RMCM Lawyers
Dawson, Rebecca	11/14/15	Pyatt Silvestri
Broyles, Lakeesha	11/20/15	Keating Law
Grimble, George	12/04/15	Kolesar & Leatham
Rodriguez, Miguel	12/04/15	Kolesar & Leatham
Stewart, Jesse	12/05/15	Ivy Gage
Grasso, Giulian	12/05/15	RMCM
Bernardo, Jo Marie	12/12/15	Vannah & Vannah
Owen, Chesley	12/12/15	Atkin, Winner & Sherrod
Aviles, Darwin	12/29/15	Vannah & Vannah
Cruz, Mario	12/29/15	Vannah & Vannah
McCombs, Tony	01/08/16	Cooksey, Toolen, Cage, et al.
Li, Xin	01/09/16	Keating Law
Lai, Kim	01/15/16	Atkin, Winner & Sherrod
Nogier, Michelle	01/16/16	Hutchison & Steffan
Martinez, Kathia	01/16/16	Marris Anderson
Amini, Landon	01/22/16	Ranalli & Zaniel
Albersen-Hoaxie, Meisha	01/29/16	Wilson, Elser, et al.

PATIENT NAME	DATE	ATTORNEY
Matthews, Samanatha	01/30/16	Ranalli & Zaniel
Castillo, Luis	01/30/16	Morris Anderson
Carrillo, Pedro	02/04/16	Morris Anderson
Baroudi, Hickmat	02/12/16	Ladah & Keating
Imran, Muhammad	02/13/16	Stephenson & Dickinson
Guerrero, Cesar	02/21/16	McCormick & Barstow
Lewis, Ricardo	02/27/16	RMCM
Seebald, Oliver	03/14/16	Peck & Sommers
Lopez-Olivas, Fanuel	03/23/16	Eglet Prince
Haddad, Nassif	03/25/16	The 702 Firm
Gomez-Cruz, Jose	04/01/16	BWBO
Taylor, Joshua	04/04/16	Ranalli & Zaniel
Finner, Tramon	04/07/16	Curtiss Chamberlain
Cazares, Adriana	04/08/16	Vannah & Vannah
Resendez, Gabriela	04/16/16	Danny Simon
Galante, Cheryl	04/16/16	Keating Law
Robinson, Clarence	04/18/16	Stephenson & Dickinson
Padilla, Angelica	04/23/16	Vannah & Vannah
Pelayo, Leslie	04/23/16	Vannah & Vannah
Thomas, Steven	04/27/16	Harris & Harris
Raucci, Janine	04/30/16	Danny Simon
Barnes, Denise	05/07/16	Ganz & Hauf
Pelayo, Bertha	05/14/16	Vannah & Vannah
Corona, Alma	05/14/16	Vannah & Vannah
Leblebajian, Jirair	06/03/16	Lewis & Roca
Lewis, Frances	06/04/16	AWS
Little, Jill	06/10/16	JUWW
Lucero-Romero, Maria	06/24/16	Ganz & Hauf
Smith, Beatrice	06/25/16	Michelle Anderton
Corona, Alma	06/28/16	Vannah & Vannah
Sosa, Abel	06/28/16	Vannah & Vannah
McClure, Carolyn	06/30/16	Brown, Bonn & Friedman
Gwaltney, Michelle	07/01/16	Atkin, Winner & Sherrod
Baskerville, Nakia	07/02/16	Hennes & Haight
Wilson, Barbara	07/09/16	Keating Law
Abanobi, Chris	07/11/16	Favros
Monter-Hernandez, Ismael	08/03/16	HJC Law
Henriquez, Jeny	07/18/16	Ocgas
Morris, Melanie	07/25/16	Ranalli Law
Sanchez, Jeanette	08/05/16	Boyack
Verduzco, Salvador	08/12/16	Cory Hilton
Datcher, Yolanda	08/23/16	-
Rodriguez, Francisco	08/26/16	DeCastroverde
Milligan, Leanna	09/16/16	PS & A
Ash, Sarah	09/17/16	Thorndal
Parker, Tanya	09/23/16	Morris Anderson

PATIENT NAME	DATE	ATTORNEY
Yamashita, Brad	10/01/16	Claggett & Sykes
Mayorga, Amber	10/21/16	CPK Law
Dominguez, Esperanza	10/22/16	RZFM
Schissler, Susan	10/28/16	Naqvi Law
Malita, Marian	10/29/16	Campbell & Williams
Stanley, Sally	11/01/16	Sean Claggett
To, Maria	11/05/16	AWS
Landeros, Juan	11/12/16	Ladah Law
Lopez, Clara	11/18/16	Vannah & Vannah
Traynor, Michael	11/19/16	Dennett Winspear
Gerard, James	12/02/16	Ranalli Law
Dailey, Jaela	12/03/16	The 702 Firm
Madrid, Margarita	12/09/16	Christiansen Law
Garey, Luis	12/21/16	Vannah & Vannah
Jones, Amber	12/23/16	-
Ojeda, Gerardo	12/30/16	RMCM
Mendoza, Charles	01/04/17	Eglet Law
Rivas, Maribel	01/06/17	Kring & Chung
Jones, Amber	01/11/17	The 702 Firm
King, Carl	01/18/17	Christiansen Law
Hirji, Shafik	01/20/17	Eglet Prince
Datcher, Yolanda	01/12/17*	Byron Browne
Mirales, Sabrina	02/08/17	John Shannon
Alcala, Edward	02/15/17	AWS
Granillo, Lorena	02/15/17	AWS
Fleming, Kelsey	02/22/17	Ganz & Hauf
Scalzitti, Debra	02/24/17	James Ream
Thompson, Carl	03/01/17	Lasso Injury
Polash, H M	03/03/17	Ganz & Hauf
Ferguson, Timi	03/13/17	RZFM
Castro, Azucena	03/15/17	The Cottle Firm
Royal, Vanessa	03/17/17	Hurley Rogner
Dana, Rebecca	03/17/17*	Ganz & Hauf
Linares, Claudia	03/20/17*	Brian Harris
Hale, Jessica	03/22/17	Lewis Brisbois
Xu, Weifang	03/24/17	Vannah & Vannah
Truebas, Madelin	03/25/17	Holland & Hart
Carrasco, Magda	03/29/17	The 702 Firm
Gerard, James	03/31/17	Ranalli & Zaniel
Delgado, Yursaiski	04/05/17	Vannah & Vannah
Rodriguez, Victor	04/14/17	Stephenson & Dickinson
Canney, Brian	04/17/17	Atkin, Winner & Sherrod
Malta, Ivan	05/03/17	Browne Law Group
Camacho, Agustin	05/03/17	The Cottle Firm
Navarette, Jose	05/03/17	The Cottle Firm
Hernandez, Michel	05/10/17	Ranalli & Zaniel

*Trial Date

PATIENT NAME	DATE	ATTORNEY
O'Connor, Diane	05/11/17	Vannah & Vannah
Villa-Flores, Jose	05/15/17	Brian Harris
Hao, Francisco	05/17/17	Eglet Prince
Spitz, Tyler	05/19/17	Pyatt Silvestri
Rinehart, Brad	05/20/17	Ranalli Law
Garcia, Cruz	05/20/17	John Shannon
Medina, Leonor	05/22/17	Eglet Prince
Mitchell, Candice	05/31/17	Atkin, Winner & Sherrod
Boytor, Timothy	06/02/17	Bernstein & Poisson
Davis, Jonathan	06/09/17	RZFM
Avila, Miriam	06/14/17	Browne Law Group
Karol, Barbara	06/21/17	Liberty Mutual
Frank, Jennifer	06/21/17	Eglet Prince
McMullen, Susan	06/23/17	Vannah & Vannah
Murillo, Lino	07/08/17	Julie Mersch
Carter, Maria	07/10/17*	Ganz & Hauf
Salgado, Leticia	07/18/17	David Sampson
Gonzales, Tyson	07/19/17	Paul Powell
Valadez, Armando	07/21/17	Vannah & Vannah
Colbert, Robin	08/15/17	Hennes & Haight
D'Amico, Javier	08/16/17	Joshua Harmon
Rizzo, Adeline	08/18/17	Richard Harris Law
Carmona-Perez, Crescensiano	08/22/17	Vannah & Vannah
Kunkel, Jessica	08/23/17	John Shannon
Kuhn, Debra	08/25/17	Van Alfen, McCurry et al.
Collins, Cathleen	08/30/17	Ganz & Hauf
Razo, William	09/06/17	Vannah & Vannah
Gomez, Erika	09/13/17	DeCastroverde
Siegfried, Debra	09/22/17	Powell Law
Livesey, Jennifer	09/27/17	Ladah Law
Tambito, Dorothea	09/29/17	John Shannon
McDaniel, Denise	10/04/17	Ganz & Hauf
Gomez, Rigoberto	10/12/17	Barron & Pruitt
Lopez, Sonia	10/13/17	Cooper Levenson
Fernandez, Joaquin	10/25/17	Stovall & Associates
Ghebrihwet, Tewolde	10/31/17	Asberom & Brown
Borchik, Ryan	11/01/17	Ganz & Hauf
Coursey, Kenneth	11/13/17	Naqvi Law
Inman, Jeff	11/17/17	Liberty Mutual
Madzyharyan, Mesrop	11/18/17	Dennett Winspear
Leonard, Carl	12/01/17	Ganz & Hauf
Lopez, David	12/05/17	Ranalli & Zaniel
Haberman, Maryann	12/11/17	OCGAS
Burk, Aurelia	12/20/17	Eglet Law
Ramirez, Araceli	01/03/18	PSA
Chavez, Irma	01/10/18	Moss Berg

*Trial Date

PATIENT NAME	DATE	ATTORNEY
Zimmerman, Kenya	02/02/18	The Cottle Firm
Saucedo, Jaime	02/07/18	HJC
Thompson, Carl	02/09/18*	Claggett & Sykes
Hardy, Thomas	02/14/18	Ranalli, Zaniel et al.
Honeyman, Jennifer	02/21/18	Brian Harris
Yiv, Sam	02/23/18	Byron Browne
Bounmasananh, Diane	02/23/18	Byron Browne
Demas, Phillip	02/28/18	Dennett Winspear
Ditta, Veronica	03/02/18	Cooper Levenson
Martinez, Gaudia	03/09/18	OCGAS
Rodriguez, Elizabeth	03/14/18	The Cottle Firm
Boothe, Carolyn	03/23/18	Hennes & Haight
Clark, Janet	04/04/18	Dennett Winspear
Padua, Steve	04/11/18	The 702 Firm
Lopez, Elvira	04/12/18	Vannah & Vannah
Honeyman, Jennifer	04/16/18	Brian Harris
Winn, Marshall	04/20/18	Fassett Cardoza
Wieser, Gregg	04/25/18	Mainor Wirth
Sandoval, Jessica	04/27/18	Ganz & Hauf
Brulee, Burnett	05/02/18	Howard & Howard
Malta, Ivan	05/09/18*	Dallas Horton
Carlson, Donna	05/11/18	Sgro Roger
Franco, Laura	05/23/18	Ganz & Hauf
Uvence, Martha	05/30/18	Ganz & Hauf
Wheaton, Ken	06/01/18	Claggett & Sykes
Thayer, Amber	06/01/18	Cabbott Law
Gardner, Mary	06/06/18	Liberty Mutual
Enriquez, Eleazar	06/11/18	John Shannon
Gallegos, Herlinda	06/13/18	Lewis Brisbois
Haddock, John	06/15/18	McCormick Barstow
Moreno, Richard	06/20/18	Eglet Law
Perdomo, Leslie	06/27/18	DeCastroverde
Espinosa, Anadelkis	06/29/18	Goldberg & Osbourne
Sosa-Santos, Demarys	07/06/18	Kolesar & Leatham
Richardson, Murray	07/11/18	CVBN
Huntington, Tara	07/13/18	Hennes & Haight
McDevitt, Patricia	07/16/18	Resnick & Louis
Bussard, Barbara	07/18/18	McCormick Barstow
Foster, Thomas	07/25/18	Mark Chalpin
Jones, Anthony	07/27/18	Liberty Mutual
Ochoa, Haley	08/03/18	Harris & Harris
Escobedo, Leonore	08/08/18	Patton & Klraly
Lucero-Romero, Maria	08/10/18	Ganz & Hauf
Shaul, Tasey	08/23/18*	Clark McCourt
Hernandez, Ralph	08/24/18	Vannah & Vannah
Wise, Dennis	09/05/18	Stovall & Associates

*Trial Date

PATIENT NAME	DATE	ATTORNEY
Ramirez, Araceli	09/07/18*	PSA Law
Krummel, William	09/07/18	Hennes & Haight
Thomas, Hardy	09/12/18	Ranalli Law
Burns, Richard	09/18/18	Kolesar & Leatham
Etchebarren, John	09/19/18	Eric Blank
Glover, Eugene	09/21/18	George Bochanis
Crickon, Martha	09/26/18	Farmers Insurance
Dancer, Christene	10/05/18	AWH
Lopez, Octavio	10/17/18	AWS
Zeches, Judy	10/24/18	Paul Powell
Ulanowski, Jowita	10/26/18	Moss Berg
Buckner, Barbara	11/07/18	Ganz & Hauf
Reyes, Irosbel	11/09/18	Christensen & Jensen
Sanchez, Melissa	11/14/18	Frias Transportation
Thomasen, Tommy	11/16/18	David Boherer
Demos, Rebecca	11/28/18	Hennes & Haight
Rodriguez, Alfredo	12/05/18	TPLF
Duncan, Duncan & Howard	12/07/18	Law HJC
Fowler, David	12/19/18	702 Firm
Cho, Hee	12/21/18	Byron Browne
Julian, Michael	01/02/19	RMCM
Gonzales, Marie	01/04/19	Barron & Pruitt
Navarro, Gerardo	01/09/19	Decastroverde
McLaughlin, Rachel	01/11/19	David Samson
Sandoval, Shane	01/16/19	AWS
Taylor, Jeanette	01/18/19	David Samson
Tasnaboon, Ken	01/24/19	Ryan Alexander
O'Campo, Rocendo	01/30/19	Keating
Durnell, Ashley	02/01/19	RZFM
Kunsihege, Crystal	02/06/19	Hennes & Haight
Habte, Haben	02/13/19	Ganz & Hauf
Garcia, Anthony	02/15/19	Dennett Winspear
Dong, Jing	02/20/19	LINCOLN, GUSTAFSON & CERCOS LLP
Cho, Hee	02/22/19	Byron Browne
Lehigh, Scott	02/27/19	Byron Browne
Larson, Rochelle	03/01/19	AWS
Lee, Victoria	03/06/19	Hammond & Hammond
Velazquez, Jesus	03/13/19	Decastroverde
Demos, Rebecca	03/15/19	Hennes & Haight
Galvan, Carmen	03/20/19	Dennett Winspear
Womack, Robert	03/22/19	Dan Newlin
Cueto, Arley	04/10/19	RZFM
Fredrich, Laurie	04/12/19	Eglet Law
Elliott, Tiffany	04/17/19	SMLP Law
Aquino, Christine	05/08/19	Ganz & Hauf

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Letter Preparation/Review:	\$1000.00 per/hr:
Medical Records Review: (Includes Narrative Report)	\$1000.00 per/hr:
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Prep Time Day of Deposition:	\$1000.00 per/hr:
Actual Deposition/IME:	\$1500.00 per/hr:
Transcript Certification of Deponent Review:	\$1000.00 per/hr:
Court Appearance/Testimony:	\$6000.00 per/half day:
Cost Estimate Form:	\$1000.00 per/letter:

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LAS VEGAS NEUROSURGICAL INSTITUTE

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October 9, 2019

Jason Barron, Esq.
The 702 Firm
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Las Vegas, Nevada 89101
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jason@the702firm.com

RE: PEREZ-ACOSTA, MAIKEL
Date of birth: 05/12/82 (37 years)
Date of injury: 07/12/16

Dear Mr. Barron,

I am in receipt of 1,177 pages of records you have asked me to review regarding Maikel Perez-Acosta.

All of my opinions will be drawn in the end to a reasonable degree of medical probability. Of course, I reserve the right to amend or alter any or all my opinions based upon additional information provided.

REVIEW OF RECORDS:

Color photographs of a dark colored Ford 4-door sedan reveals significant damage to the back end with the trunk ajar and bend into the trunk space. The trunk cannot lay flush with large dents, intrusion into the trunk space, and scratches. The back bumper is not connected on the passenger side. The back window is shattered. There is also a picture of an Isuzu flatbed work truck with what appears to be an indentation right below the windshield.

Undated Letter from the Social Security Administration that Mr. Maikel Perez Acosta has been found to be medically disabled.

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07/12/16	Walgreen's prescription through 01/29/19 total prescriptions 57.
07/12/16	Meadows Chiropractic statement through 07/13/16 total \$360.00
07/12/16	Meadows chiropractic handwritten note. Complaints: Range of motion, muscle spasms, tinnitus, blurred vision, anxiety / nervousness. Pain diagram was reviewed revealing pain in the upper, mid, and low back with pain in the right leg down to the ankle. Remarks: Prior 2002 not MVA. Worked in mining accident which lead to multiple back surgeries.
07/13/16	University Medical Center bill total charges \$24,128.44.
07/13/16	EMP of Clark UMC McCourt PLLC total charges \$1,703.70.
07/13/16	Capanna International Neuroscience Consultants through 07/15/16 total \$3,135.00.
07/13/16	University Medical Center, Kelly Morgan, MD, Trauma Admit. CC: Back pain. HPI: This is a 34-year-old gentleman who comes in today complaining of central back pain. The patient has a history of prior back surgeries x2. States he had 5 vertebrae refused. This was done in Cuba five years ago after an MVA. He was told he would never walk again. The patient went to physical therapy for years and has been able to walk. The patient states he was the restrained back seat passenger of a vehicle that was involved in a motor vehicle collision yesterday morning at 9:30 am, the patient was rear ended. There was no passenger compartment intrusion. Airbags did not deploy. The patient had been ambulatory since then. The patient states since the accident he has had increasing right leg numbness. The patient was actually at physical therapy today were he was starting for the first time and was referred over for spinal pain and concerns for acute cord impingement. The patient states that he has had pain in his back, it has been pretty constant. No real radiculopathy. Over the last about 24-36 hours, the patient has reported increasing right leg symptoms. He has had new numbness and tingling down the right leg. He has been having trouble moving his right foot and has had four episodes of urinary incontinence. The patient denies any fecal incontinence. He states he is unable to move his right ankle which is new and is now having difficulty walking. He states previously he had been walking pretty well. He denies any other fevers or chills. No history of IV drug use. The patient denies any other neck pain. No chest or abdominal pain. No upper extremity pain or any other concerns. He has had the two prior back surgeries that look like some decompression and laminectomy per the CT reports. The patient thought that there was hardware in. Medical decision making: This is a 34-year-old male seen and evaluated here. The patient was initially over in the ER, he was brought over here to trauma. He was given two tablets of Norco initially for pain. The patient has been resting

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comfortably in a semi-recumbent position. He has had no worsening of his symptoms. His pain has been well controlled on the hydrocodone. After getting the CT scan will go ahead and proceed with MRI after confirming there was actually no hardware in the patient's lumbar spine. Once got the results of the MRI at 12:45, spoke with Dr. Capanna at 12:50 am regarding the cauda equina syndrome. He recommended Decadron at this time 10 mg and then 8 mg q.6h. The plan is for neuro checks q.2 hours in IMC and plan is likely for decompression whether this is done via IR versus operative management was unclear at this time. Did go ahead and send off preop labs for him. At this time, patient has not had any significant progression of his symptoms. His pain has been well controlled. Spoke with Dr. Ahmed who has agreed to the admission, and at this time the patient is going to be admitted to IMC in guarded condition. Clinical impression: Status post motor vehicle collision, acute cauda equina syndrome with epidural fluid collection, right lower extremity numbness and weakness.

- 07/13/16 University Medical Center, CT lumbosacral spine without contrast. History: MVA. New right leg deficit. Impression: Multiple remote changes are noted. No significant spinal canal stenosis. If there is persistent clinical concern or if there are signs and symptoms do not resolve, short-term follow up MRI of the spine may be of further assistance.
- 07/13/16 University Medical Center, MRI lumbar spine without contrast. History: Back pain. Impression: There is an epidural fluid collection just deep to the T12-L1 laminectomy extending inferiorly to the level of L3. The fluid collection exerts local mass effect on the conus medullaris with cephalad displacement with resultant significant tenting of the nerve roots of the cauda equina.
- 07/13/16 University Medical Center, MRI thoracic spine without contrast. History: Back pain. Impression: Unremarkable MRI of the thoracic spine. Please see separately reported lumbar spine dictation for further details regarding the epidural fluid collection at T12-L1 and adjacent mass effect on the cord medullaris and tenting of the nerve roots.
- 07/13/16 University Medical Center, CT thoracic spine without contrast. History: MVC. Impression: Normal CT of the thoracic spine without contrast.
- 07/14/16 University Medical Center, Albert Capanna, MD, consultation. This 34 year-old male was in a car accident the night before presentation here on 07/12/16 and presents with concern that his right leg felt weaker and he felt numbness in his right leg and a little bit in his left leg. He also had bowel and bladder incontinence. CT scan of the spine was done, and he was called. CT of his thoracic spine and lumbar spine and then an MRI of his thoracic and lumbar spine. Past medical history notable for thoracolumbar laminectomy at T12-L1 in Cuba in 2004, otherwise healthy. The CT scan of the thoracic spine was

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negative. There were no fractures, dislocations, etc. The MRI scan was likewise confirmatory of that. The CT of the lumbar spine showed an anterior compression fracture of L1, slight subluxation about 3 mm of T12 anteriorly to L1. The MRI of the lumbar spine showed the compression fracture which was remote, and the anterior subluxation. Workup with MRI and CT of the lumbar spine showed a decompressive laminectomy at T12-L1. MRI thoracic spine likewise showed the decompressive laminectomy at T12 and L1. The patient, however, at the step-off had some fluid posteriorly interpreted as epidurally. He thought it was actually intradurally and part of the previous injury. His cauda equina was compressed. Probable intradural not extradural fluid. He thought this was a remote injury on his interpretation of the MRI of the lumbar spine. Diagnosis: Cauda equina injury. Remote lumbar decompression secondary to trauma and compression fracture L1 with laminectomy at T12-L1. Recent motor vehicle accident last night. Recommend give the patient Decadron stat and keep him on it. He thought this would resolve. It was possible he will need surgical intervention, but he did not think so at this point.

07/14/16

University Medical Center, Shamoona Ahmed, MD, history and physical exam. CC: Right lower extremity weakness. HPI: This is a 34-year-old gentleman Spanish speaking only who came to the ER because of right lower extremity weakness, as well as numbness, loss of urinary and bowel control. The patient had surgery done on his back in 2004 in Cuba. Since then, he has been able to walk without support of a walker. According to him, he was involved in a motor vehicle accident last night when he was rear-ended by another car. He started having back pain, however, it was intermittent. Back pain got more progressively worse since morning. He described it as sharp in nature radiating to his right lower extremity. Then later on, he started noticing weakness of his right lower extremity along with numbness. He felt his "lower extremity felt heavy." He was limping but denies any falls. He also noticed loss of urinary control, as well as bowel control and therefore, decided to come to the ER. In trauma, his initial workup was concerning for cauda equina syndrome. MRI thoracolumbar spine done confirmed cauda equina. Neurosurgery was consulted by the trauma and they recommended neuro checks q.2 hours, as well as Decadron 8 mg every 6 hours and will evaluate patient in the morning. Patient is being admitted to IMC. At the time of his assessment, he states his weakness has slightly improved. He is able to move his right foot, but he continues to have numbness. Assessment: This is a 34-year-old male with no known medical history of back pain followed by laminectomy presented to the ED because of weakness and numbness of right lower extremity and loss of urinary and bowel control. The patient had MRI showed cauda equina syndrome. Cauda equina syndrome, right lower extremity weakness and numbness likely secondary to cauda equina syndrome, acute back pain, leukocytosis likely related to the steroid he received in trauma before the blood was drawn, chronic back

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pain, status post laminectomy, urinary and bowel incontinence. Plan: Patient will be admitted to IMC for neuro check q.2 hours. Will continue Decadron 8 mg every 6 hours as recommended by the neurospine surgery. The patient will be strict npo. We will put him on Pepcid bid, start him on IV fluids, and follow further recommendations by neurosurgery for possible surgery in the morning. Nurse informed if the neuro status worsens, call MD and if so, we will upgrade the patient to ICU and recall neurosurgery. Deep vein thrombosis prophylaxis. Start the patient on Lovenox, but will hold in the morning, as patient will likely go for surgery. Plan is discussed with the patient and he agrees. Further recommendations to follow.

- 07/14/16 University Medical Center, Julian Almeyda-Perez, MD, discharge summary. Admitted 07/14/16 and patient left against medical advice on 07/14/16 at 1800 hours. Admission diagnosis: Cauda equina syndrome, right lower extremity weakness and numbness, acute lower back pain, leukocytosis, chronic back pain status post laminectomy 13 years prior, urinary and bowel incontinence. Consultant Dr. Albert Capanna for spine surgery. Hospital course: The patient was admitted to the hospital on IMC status consulted by Dr. Capanna and was put on a Decadron trial. He saw this patient around 1600 hours yesterday. He was quite frustrated because he was still npo. He spoke with Dr. Capanna who agreed that at this point in time he was going to observe only, and no surgery was planned for the day. Therefore, he agreed to allow po on this patient. However, an hour or so after he saw the patient, he was notified by the nurses that the patient had gotten out of bed. He went to the bathroom and he was dressing up refusing to stay in the hospital. Patient was counseled about the consequences of leaving the hospital against medical advice and the severity of his problem. All this was done through the Spanish interpreter. Despite all the explanations, the patient was quite reluctant to stay in the hospital and he ended up leaving the hospital around 1800 hours. He signed the AMA papers that are going to be kept in the chart for future references.
- 07/15/16 University Medical Center bill through 07/16/16 total charges \$8,060.15.
- 07/15/16 University Medical Center bill through 07/16/16 total account balance \$1,470.00 estimated insurance liability.
- 07/15/16 University Medical Center, Lauren Pellman, MD, ED Chart. Primary diagnosis: Cauda equina syndrome. CC: Spinal injury / pain. HPI: 34 year-old male with chronic back pain status post laminectomy 13 years ago with recent car accident in cauda equina symptoms presenting one day after regaining. Patient was in a car accident on 07/12/16 and afterwards he had low back pain, fecal incontinence, urinary incontinence, and primarily right leg pain and numbness. He presented to UMC on 07/14/16 where he was found to have cauda equina syndrome with compression at L1. Dr. Capanna did consult on this

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patient and elected to do steroids and possible surgery. He left AMA yesterday from UMC frustrated and being npo. He stated since he left, he has had worsening back pain, right lower extremity pain, incontinence (fecal and urinary). He is still able to walk but has great difficulty with it. Past surgical history includes back surgery in 2003. Dr. Capanna stated he did not believe there was any surgical intervention required as he thinks that seeing fluid that is compressing spinal cord is chronic from his previous laminectomy done 10 to 15 years ago in Cuba. He suggests continuing Decadron, although does not think he will take the patient to the OR given the chronicity of his imaging findings. Patient readmitted for steroids, pain management, possible surgical management if this becomes required. Admitted to general surgical unit.

07/15/16 University Medical Center, David Obert, MD, emergency department admit. CC: Cauda equina. 34-year-old male history of prior spinal fusion with worsening symptoms with lower extremity weakness, loss of bowel and bladder control. He was recently admitted to UMC and left AMA after being told he may require surgical intervention. Patient returns today stating symptoms getting worse and wants further evaluation. Medical decision making: Discussed case with internal medicine and neurosurgery aware of patient's return. Plan is for admission for continued management. Clinical impression: Cauda equina, history of significant thoracic spinal surgery.

07/15/16 University Medical Center, Swati Wadhwani, MD, history and physical. CC: Pain in the right lower extremity and urinary and fecal incontinence since Tuesday. HPI: 34 year-old man with remote history of back surgery and mainly remote lumbar decompression surgery secondary to trauma and compression fracture of L1 with laminectomy of T12 and L1 who apparently had an MVA on Tuesday. He was evaluated by neurosurgery but then left AMA because he was hungry, although he was surprisingly given permission to eat already prior to his discharge. Apparently, he states he is having right lower extremity pain sharp in nature 8/10 in intensity. He does report weakness in the right lower extremity since Tuesday. He does report loss of urinary and bowel control. He does report he is able to walk but does need some support to walk. He reports sharp back pain. He reports right lower extremity feels very heavy. Assessment and plan: This is a 34-year-old man with a remote history of lumbar surgery who presents with right lower extremity weakness and numbness and also urinary and fecal incontinence likely secondary to cauda equina syndrome. The MRI does show epidural fluid collection at the T12 to L1 area and suggestion of cauda equina. Neurosurgery was contacted yesterday. He spoke with the referring ER physician Dr. Pellman. They are going to notify Dr. Capanna again to see the patient since there is no plan for surgery today. He is going to be placed on a regular diet and then npo after midnight on the day of surgery. He is going to be placed on Decadron 8 mg IV q6 and he is going to be placed on Protonix for the GI prophylaxis while on IV Decadron. Will place him on prn oral and IV pain medications. Right lower extremity pain. Will place on prn IV and oral pain medications. Urinary and fecal incontinence likely

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secondary to cauda equina. The patient is monitored on IMC floor. He is going to have neuro checks every 2 hours. Will obtain basic labs, CBC, renal panel in the morning.

07/15/16 University Medical Center, Albert Capanna, MD, history and physical. He was called about this 34-year-old male by the ER physician. He had signed out AMA last night because he did not want to have surgical intervention. Surgical intervention was not being proposed for him. He was in an auto accident the day before he was admitted. He came in the day after saying he has had some weakness in his right lower extremity and bowel incontinence and had bladder incontinence. The ER physicians thought he had just bowel incontinence and the bladder was new. He advised the urinary incontinence that it was not new, he had that before, and it is well documented by several doctors in his chart. Underwent Decadron treatment and he was then getting better. Complete workup with CT scans and MRI scans of the thoracic and lumbar spine only shows previous surgery which was done in 2004 in Cuba to a decompressive laminectomy at T12-L1. He had some epidural fluid posteriorly to his cauda equina compressing it. He did not think he had it epidurally, thought he had it intradurally and it was from a remote surgery for a compression fracture, had a step-off there. He did not have a fusion and the appropriate surgery that he should have had in my opinion. He thought this was residual scarring etc. from previous surgery. The patient on exam had atrophy of his lower extremities that was obviously not new since a couple of days ago. The question was diagnosis of remote thoracolumbar decompression secondary to compression fracture at L1 anteriorly and subluxation minimal of T12 on L1. This depends on how you count his spine as well, but some radiologists are counting it different depending on whether using a last 12th rib down from cervical 1 (C1) or count up from the lumbar area. At any rate, the injured area is obvious. He told the ER physician he was not doing any surgery on the patient. He will be treated conservatively. If he continues with pain, he can be seen by pain management as an outpatient. He will continue on the Decadron and then have a tapering dose eventually in a week or two. He will not operate on the patient. He apparently came to my office before coming in the hospital and was not pleasant with my office staff. He may have litigious activities going on with his MVA. Obviously, he had at least two MVAs historically. He had the other one that led to his previous surgery. The patient at any rate in his opinion does not warrant surgical intervention that may cause more problems and based on what he sees in the scan is unlikely to help him. He therefore should be treated conservatively and can be discharged whenever appropriate per his attending doctors.

07/16/16 University Medical Center, Nadeem Tariq, MD, discharge summary. Admitted 07/15/16. Disposition: Home. Consultation: Dr. Capanna and patient cleared to be discharged home. Discharge diagnoses: Cauda equina syndrome, chronic back pain. Hospital course: 34-year-old Spanish speaking man admitted for history of cauda equina syndrome, right lower extremity weakness and numbness, acute low back pain, leukocytosis, chronic back pain status post laminectomy around 13 years ago, urinary and bowel resection. He was

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admitted on 07/14/16 and discharged on 07/14/16. He had lower extremity, urinary and fecal incontinence since Tuesday and was evaluated by Dr. Capanna who recommended he be treated conservatively. Patient will be on Decadron with taper in a week or two. Dr. Capanna is not going to operate on the patient. According to Dr. Capanna, patient has litigious activities going on with his motor vehicle accident which he had at least two MVAs done in the past. Per Dr. Capanna patient can be discharged. He came in and evaluated the patient. He discussed the plan from Dr. Capanna. The patient wants to go home and will be discharged. Discharge instructions: He will follow up with his PCP and Dr. Capanna per instructions.

- 07/16/16 Southwest Medical HME walker front wheel \$119.39.
- 07/18/16 Chiropractic note / discharge. Patient came in noting feeling worse. Patient went to UMC on 07/13 where they wanted to do surgery then for an inflamed spinal cord. Instead, they medicated and observed for three days. No more treatment here. Patient released to seek spinal surgeon for further evaluation and treatment.
- 08/01/16 Yee Advanced Orthopedic and Sports Medicine bill through 09/02/16 total \$1,230.00.
- 08/01/16 Sep Bady, MD. HPI: 34 year-old gentleman passenger in a Ford Fusion on 07/12/16 when he was rear-ended by a truck. He had immediate onset of back pain and was taken to UMC. Initially, they discussed surgical intervention, but decided against surgery. Since then he has been having difficulty walking. He has severe pain on the right leg and feels the right leg is weak. He has been using a walker since then. He had a car accident 13 years ago in Cuba requiring surgery. He said he has done fine since the surgery 13 years ago. Assessment: Low back pain with right lower extremity weakness and L1 compression fracture status post motor vehicle accident. Plan: Obtain MRI lumbar spine to assess damage from MVA and why right leg is so weak. He may need a lumbar brace pending review of the MRI. Follow up for review of the MRI.
- 08/22/16 Steven Holper, MD bill through 09/07/16 balance due \$750.00.
- 08/22/16 Steven Holper, MD, initial report. Presenting complaints: Mid and lower back pain, right leg pain, difficulty sleeping, erectile dysfunction, urinary incontinence. This patient is a 33-year-old right-handed male who is referred for medical evaluation. The patient is status post MVA on 7/12/16. He was riding as a front seat passenger in a motor vehicle traveling on Lamb and Lake Mead. The patient's vehicle was struck from the rear. He was taken to UMC Hospital. He was evaluated, treated, and released. He was told he had realized a spinal fracture at the middorsal region. Apparently, he developed his symptoms several days post injury. He was seen by Dr. Mitchell who determined he had a potentially significant neurologic problem and then referred him to UMC Hospital. He was admitted.

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He was prepped for surgery and then he was given antibiotics and sent home for no apparent reason. I am referring this patient to Dr. Kim spinal surgeon at this time. It is likely too late to be able to do anything for him from a neurologic standpoint. He more likely than not should have undergone surgical intervention immediately post injury. Recommend referral to spinal surgery, reassess in two weeks, hold chiropractic care for now.

- 08/30/16 Steinberg Diagnostic Medical Imaging account financial ledger amount \$400.00.
- 08/30/16 Steinberg Diagnostic Medical Imaging, MRI lumbar spine without contrast. Clinical history: Motor vehicle accident 07/12/16. L1 compression fracture. Patient refused surgery at the time. Low back pain. Loss of sensation in the right leg. Patient has an incision along his lower back. Impression: Compression type fracture involving the L1 vertebral body resulting in loss of height anteriorly by approximately 50%. There is 5 mm offset at the posterior aspect of T12 on L1. Some of this is likely related to posterior bulging of the cortex, as no significant offset is identified at the anterior margin of the T12 and L1 vertebral bodies. In addition, there is anterior displacement of the conus and cauda equina nerve roots at T12-L2 related to an intradural posterior cystic structure. This likely represents a posttraumatic arachnoid cyst. It demonstrates mass effect on the conus and cauda equina nerve roots. 4 mm focus of intermediate T2 signal intensity is also seen within the spinal cord at the level of T12. This may represent a posttraumatic syrinx versus myelomalacia or sequelae of intramedullary hemorrhage. Mild marrow edema with within the L1 posterior elements. No significant marrow edema seen within the vertebral body of L1. Suspect subluxation at the T12-L1 facet joints. Correlate with prior imaging. This can be further assessed with CT lumbar spine. Mild disc disease at L5-S1.
- 09/02/16 Sep Bady, MD. HPI: Patient here for follow up with MRI for review. He notes he had surgery 14 years ago in Cuba for multilevel compression fractures. He was in a wheelchair after that for three years. He is doing fairly well and walking without assisted device until the accident on 07/12. Since then, the right leg was weak, and he has to use a walker to walk. Discussed with the patient there is some kyphosis at the T12-L1 level. To correct this surgically would require a multilevel fusion likely from T10-L2. This type of surgery may or may not help him overall. It is possible but the motor vehicle accident caused further injury to this weak area of the spine. Considering there is no guarantee the surgery would help they will try physical therapy and discuss further.
- 09/07/16 Steven Holper, MD, reevaluation. His concern is the patient has residual neurologic issues that are likely permanent in nature including urinary incontinence, erectile dysfunction, etc. He needs to review the UMC Hospital records in an effort to determine why he was discharged when he was seen post injury. He had an MRI of the lumbar spine on 8/30/16

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ordered by Dr. Bady. This study indicating a rather significant pathology which would explain his current neurologic dilemma. He has a compression type fracture involving the L1 vertebral body by about 50% or so. There is some offset T12 on L1 by 5 mm. There is anterior displacement of into the conus and cauda equina nerve roots at T12-L2 related to an intradural posterior cystic structure representing a posttraumatic arachnoid cyst. He possibly has a posttraumatic syrinx versus myelomalacia or sequelae of intramedullary hemorrhage at T12. He suspects subluxation at T12-L1 facet joints. It was recommended that a CT scan be performed to further delineate pathology and is ordering the same. He will need to get him referred to Dr. Germin. At this point in time there really is nothing that can be done from a chiropractic standpoint. He provided Norco for pain control. He will reassess him in the next two to three week or so. Due to the fact he cannot control his urine he maintains his fluid intake to a minimum. This is inappropriate. He needs to realize an appropriate catheter device and/or diapers.

09/07/16 ASP Cares bill for acetaminophen/hydrocodone 60 total \$249.00.

09/27/16 Steven Holper, MD, final report. He persists with complaints suggestive of erectile dysfunction. He exhibits no sensation referencing his right lower extremity. He has 4-/5 dorsiflexion strength and plantarflexion strength bilaterally. DTRs both lower extremities 2/4. No clonus noted. He is developing significant atrophy referencing his right foreleg musculature. He attempted to refer this patient to Nevada Orthopedic and Spine Center, however per discussion with their office, he was not seen at their facility. His diagnosis was T8 spinal cord injury. He has an element of T8 involvement that at this point in time is likely permanent. This would portend a prognosis of poor at best. He more likely than not will not recover from a neurologic standpoint. He was left with a permanent neurologic deficit including right lower extremity atrophy with erectile dysfunction and various additional neurologic pathology that needs to be assessed further with the patient presenting to a neurologist for a complete assessment which would include EMG/NCV studies. From a historical standpoint he was seen by Dr. Mitchell who recognized a significant neurologic condition and he immediately referred this patient to UMC Hospital. Apparently, he was scheduled to undergo surgical remediation and for whatever reason surgery was canceled. He has been unable to ascertain as to exactly what happened as there was a possibility that surgical remediation early on could have avoided permanent deficits which presently is in my opinion irreversible.

10/27/16 GS Chopra CHTD patient information through 12/21/16 charges \$4,050.00.

10/27/16 Gobinder Chopra, MD, neurological consultation. 34 year-old male with past medical history of arthritis presents with right leg pain and lower extremity numbness. Patient has seen a neurologist in the past and is not currently taking medications. Patient had MRI of lumbar spine without contrast on 08/30/16 at the request of Dr. Bady as patient had an

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MVA on 07/12/16. L1 compression fracture. Patient refused surgery at that time. He is complaining of low back pain and loss of sensation in the right leg. Patient apparently had a multilevel compression fracture previously. He was in a wheelchair after that for three years. Patient was doing fairly well and walking without assistive devices until the accident on July 12th. Since then the patient has noticed that his right leg is weak, and he has to use a walker. Plan: Neurosurgical spine consultation, EMG/nerve conduction study and somatosensory evoked potentials bilateral lower extremities, UMC records, follow up with consultants.

- 12/14/16 Gobinder Chopra, MD. SSEP testing. Patient complaints: Pain in lower extremities worse on the right and history of back surgery. Impression: SSEP done on 12/14/16 revealed the stimulation of posterior tibia nerves showed prolonged P37 latencies on the right and normal P37 latencies on the left. Please correlate clinically with neurological examination and radiological studies.
- 12/15/16 Gobinder Chopra, MD. CC: EMG/nerve conduction study. Impression: Impression: Evidence of active denervation changes seen distal bilateral lower extremity muscles on EMG examination of bilateral lower extremities. Bilateral lumbosacral paraspinal muscles were investigated, although patient could not relax during the testing. Motor, sensory and reflex nerve conduction responses were performed on bilateral lower extremities revealing evidence of delayed left peroneal motor onset latency, reduced amplitude. Right peroneal motor response could not be obtained, bilateral tibial motor response could not be obtained. Right peroneal abdomen and right tibial F-wave response could not be obtained. These findings are suggestive of moderate to severe peripheral polyneuropathy involving the distal lower extremities. Please correlate with clinical neurological examination; serological studies and radiological findings. Patient has been recommended neurosurgery consultation.
- 12/21/16 Gobinder Chopra, MD. CC: Follow up EMG. Plan: Patient using walker to ambulate. EMG/nerve conduction and SSEPs bilateral lower extremities discussed. Spine surgery consultation recommended. Pain management follow up. Physical therapy. Extensive discussion of workup done. All questions answered. Follow up with all consultants. Follow up with neurology after all testing have been completed.
- 01/18/17 Western Regional Center for Brain and Spine Surgery account inquiry through 10/17/17 total \$3,100.
- 01/18/17 Western Regional Center for Brain and Spine Surgery health insurance claim form total charge \$1,000.00.

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- 01/18/17 Western Regional Center for Brain and Spine Surgery. 34-year-old male presents with a complaint of low back pain sent over by Dr. Chopra. He has been complaining of a lot of pain in his low back and pain in the right leg as well. He states he was involved in a car accident. He was the passenger that was rear-ended while driving. He states in Cuba he had problems with his low back about 14 years ago. He had two operations to his lumbar spine. He states something fell on him back then in Cuba. He was in a tunnel. He states he was asymptomatic at the time in which this accident happened. On exam, he has a pretty significant scar in his thoracic and upper lumbar region. He states this accident happened about seven months ago. After the accident, he went to UMC. He states he was supposed to see Dr. Capanna afterwards, but he never did as he states Dr. Capanna "never showed up." He states he had MRI scans done at UMC. MRI of the lumbar spine was reviewed 07/13/16 which reveals an old fracture of L1. He has got a CSF collection at the levels of the laminectomy defect. He has evidence of abnormal signal change in the cord at T12 at the level of the conus. I believed the fluid collection was related to his previous surgery. He has chronic muscular atrophy involving his legs. He walks with the use of a walker. He has pretty extensive weakness of plantar and dorsiflexion on the right foot 1-2/5. He has good strength in both plantar, as well as dorsiflexion on the left. He states he has numbness in the right leg since the accident. I recommended pain management evaluation for him and EMG/nerve conduction study of the legs. He walks with the use of a walker. It appears Dr. Chopra recommended a nerve test, but I did not have the results. He clearly had chronic issues from before.
- 01/25/17 Interventional Pain and Spine Institute through 09/25/18 total balance \$16,780.00.
- 01/25/17 Interventional Pain and Spine Institute, Jorg Rosler, MD, initial. CC: Lower back pain, right lower extremity pain. HPI: 34 year old male involved in MVA on 07/12/16. He was the restrained passenger in a vehicle that was traveling about 35 miles per hour when he got rear-ended by a truck. His vehicle was considered a total loss. The patient reports he was jolted within the vehicle upon impact. No reported head trauma or loss of consciousness. Emergency care was not required. HE then presented to UMC Hospital where he was evaluated, treated, and released. He underwent x-rays and CT scans at the hospital. The patient complains of ongoing low back pain and right lower extremity pain described as aching, throbbing, continuous rated 10/10 with difficulty sleeping due to pain symptoms. The patient reports a long-standing history of lower back pain for which he underwent two lumbar surgeries in Cuba. He was evaluated by Dr. Kaplan (myself) and I recommended him to pain management as well as EMG/nerve conduction study by Dr. Chopra. Recommend conservative treatment, prescribed naproxen, Zanaflex, and tramadol, obtain results of EMG/nerve conduction study from Dr. Chopra, continue to follow with myself, return to clinic in 3-4 weeks.

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- 02/22/17 Interventional Pain and Spine Institute, Jorg Rosler, MD. Follow up visit reports low back pain 9/10 with radiation to the right lower extremity. He underwent EMG/nerve conduction study which revealed peripheral neuropathy. Recommendations remain the same.
- 02/24/17 Pueblo Medical Imaging statement MRI x2 total \$3,300.00.
- 02/24/17 Pueblo Medical Imaging, MRI lumbar spine without contrast. Clinical indication: Back pain. Comparison: MRI thoracic spine 02/24/17. Impression: 1 mm disc bulge L5-S1. Congenital nonunion posterior elements T12 and L1. Compression deformity at L1 is likely congenital. There is some anterior displacement of the nerve roots within the thecal sac at this level without discrete mass. This is likely congenital. Conus is mildly prominent without discrete mass. Given the changes in the conus and displacement of the nerve roots at this level, follow up contrast enhanced MRI is recommended for complete evaluation.
- 02/24/17 Pueblo Medical Imaging, MRI thoracic spine without contrast. Clinical indication: Back pain. Comparison MRI lumbar spine 02/24/17. Impression: Deformity of L1 is likely congenital. There is nonunion posterior elements T12 and L1. Prominent conus without discrete mass. There is some anterior displacement of the nerve roots at the T12-L1 level. This all may be congenital. Follow up contrast enhanced MRI for complete evaluation is recommended.
- 03/13/17 Western Regional Center for Brain and Spine Surgery. He had been seen by Dr. Rosler's office with back pain and right leg pain. He saw Dr. Chopra and had a nerve test that was consistent with lower extremity peripheral neuropathy. It does not appear as though any injections have been done. I have rereviewed the MRI. He stated he has pain in the back, pain in the right leg, and minimal movement of the foot. He states the minimal movement of the foot is new. He states the surgery to his back and the spinal cord injury was back 15 years ago. I told him that he has a spinal cord injury there. He states the leg is getting weaker. Since the more recent accident, his nerves are clumped at the level of the thoracic fusion. I had spoken with Dr. Rosler directly. I thought a bilateral L5-S1 selective nerve root block would be reasonable, and he would set it up.
- 03/22/17 Interventional Pain and Spine Institute, Jorg Rosler, MD. Follow up visit experiencing low back pain 10/10 with right lower extremity pain and weakness. He followed up with me and I recommended bilateral L5-S1 SNRBs which he will schedule bilateral L5 SNRB and return after injection. Prescribed naproxen, Zanaflex, tramadol.
- 04/03/17 Surgical Arts Center bill total \$5,819.32.

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- 04/03/17 Surgical Arts Center, Jorg Rosler, MD, operative report. Procedure: Bilateral L5 selective nerve root block. Preoperative pain score 8-9/10, postoperative pain score 0/10.
- 04/12/17 Interventional Pain and Spine Institute, Jorg Rosler, MD. He underwent bilateral L5-S1 SNRB on 04/03/17 with pain relief lasted two days. He is experiencing low back pain rated 8/10 with right lower extremity weakness. Recommend follow up with Dr. Kaplan (myself), prescribed naproxen, Zanaflex, tramadol, return to clinic in four weeks.
- 05/10/17 Interventional Pain and Spine Institute, Andrew Hall, MD. Follow up experiencing continued low back pain rated 8-9/10 with right lower extremity radiating pain and weakness pending evaluation with myself. He states he is unable to sleep at night due to severe pain. Follow up with Dr. Kaplan (myself) ASAP, stop tramadol, trial Norco, increase Zanaflex, continue naproxen, return to clinic in four weeks.
- 05/22/17 Western Regional Center for Brain and Spine Surgery health insurance claim form total charge \$350.00.
- 05/22/17 Western Regional Center for Brain and Spine Surgery. I saw him in March, and he has been seen by Dr. Rosler and Dr. Hall. I felt bilateral L5-S1 SNRBs would be reasonable and he underwent bilateral L5 SNRBs with pain scores from an 8-9 down to a 0. He states when he left the surgery center that day the pain was about the same. I have rereviewed the film. At this stage, I am going to recommend medical management. He has persistent pain in his back as well as his legs. I am going to talk to Dr. Rosler, and further recommendations will be forthcoming.
- 06/07/17 Interventional Pain and Spine Institute, Jorg Rosler, MD. Follow up visit with continued low back pain rated 9/10 with right lower extremity radiating pain and weakness. Followed up with me and I recommended continued medical management. Await further recommendations from Dr. Kaplan (myself), continue Norco, Zanaflex, and naproxen, return to clinic in four weeks.
- 06/22/17 Western Regional Center for Brain and Spine Surgery health insurance claim form total charge \$350.00.
- 06/22/17 Western Regional Center for Brain and Spine Surgery. I saw him in May, and we talked about medical management for him. He has seen Dr. Rosler. He has quite a bit of pain in his low back and it is very significant for him. I reviewed his MRI at SimonMed on 02/24/17. He does have a disc tear at 5-1 level. He does have evidence of an old fracture at the L1 region. I am going to send him back to Dr. Rosler for a lumbar discogram with attention to the L5-S1 level and we will see if that indeed is his pain generator and go from there.

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- 07/05/17 Interventional Pain and Spine Institute, Andrew Hall, MD. Follow up visit experiencing continued low back pain rated 9-10/10 with right lower extremity radiating pain and weakness. He was recently evaluated by myself and I recommended lumbar CT discogram L3-S1. Schedule lumbar CT discography per my request, continue naproxen, Zanaflex, and Norco, return to clinic after procedure.
- 07/17/17 Surgical Arts Center bill total \$9,268.32.
- 07/17/17 Surgical Arts Center, Jorg Rosler, MD, operative report. Procedures: Provocation discography with disc stimulation at levels L3-4, L4-5, and L5-S1. Discography interpretation at levels L3-4, L4-5, and L5-S1. Fluoroscopy. Diagnostic conclusions: Positive provocation discography at L5-S1 with concordant pain upon stimulation. Negative study at L3-4 and L4-5.
- 07/17/17 Red Rock Diagnostics statement of account balance due \$650.00.
- 07/17/17 Steinberg Diagnostic Medical Imaging, CT lumbar spine status post discogram. Clinical history: Back pain. Impression: Stable old compression fracture of L1 with 50% loss of height anteriorly and retropulsion. Evidence of posterior decompression without central spinal canal stenosis. Retropulsion of L1 compression fracture contributes to mild neuroforaminal stenosis at T12-L1.
- 07/24/17 Interventional Pain and Spine Institute, Jorg Rosler, MD. Follow up visit following lumbar CT discogram L3-S1 on 07/17/17. He is continuing with low back pain rated 9-10/10 with right lower extremity radiating pain and weakness. He reports continued urinary problems noting almost daily difficulty with urinary incontinence since the accident. Follow up with myself regarding CT discogram and await recommendations. Referral made to urologist. No myelopathic signs / symptoms on exam. Continue Naproxen and Zanaflex, increase Norco. Return to clinic in four weeks.
- 08/18/17 Western Regional Center for Brain and Spine Surgery. I sent him back to Dr. Rosler for a discogram which was positive at the L5-S1 level, negative at L3-4, and negative at L4-5. I reviewed over the post discography CT scan that reveals a grade 3 tear with a tear at the 7 o'clock position. I reviewed over the MRI again. He was concerned about the muscle loss he has in his legs. I told him it was related to his previous injury. I am going to recommend an L5-S1 fusion for this man with an anterior approach and we will see how he does from that.

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- 08/21/17 Interventional Pain and Spine Institute, Andrew Hall, MD / David Webb, MD. Follow up visit with continued low back pain rated 10/10 with right lower extremity radiating pain and weakness. Recommendation same.
- 09/11/17 Interventional Pain and Spine Institute, Andrew Hall, MD / David Webb, MD. Follow up visit with continued low back pain rated 10/10 with right lower extremity radiating pain and weakness. Recommendations remain same. Will obtain urologist records and consult will be made via PCP.
- 09/20/17 Western Regional Center for Brain and Spine Surgery. We talked about an L5-S1 fusion. In the meantime, he has seen Dr. Webb. He is scheduled for surgery next month. He had questions regarding the surgery with his wife. He has had prior surgery before and was asking about such. Neurologically, he is the same. He walks with the use of a walker. He has obvious muscle atrophy in the legs related to the previous spinal cord injury. We discussed a disabled plate and I believe he should have it from his previous spinal cord injury that he had. It has come to my attention he has been having urinary issues. He does have a previous spinal cord injury. I think he needs to see a urologist in order to address that.
- 10/09/17 Interventional Pain and Spine Institute, Andrew Hall, MD / David Webb, MD. Follow up visit with continued low back pain rated 10/10 with right lower extremity radiating pain and weakness. He reports he is scheduled for surgical intervention with myself on 10/17/17. Recommend continue with surgery on 10/17/17. Will temporary increase medications for planned surgery. Prescribed naproxen, Zanaflex, and Norco.
- 10/13/17 Valley Hospital Medical Center, x-ray chest 2 views. History: Low back pain. Impression: No evidence of an acute pulmonary process.
- 10/17/17 Valley Hospital Medical Center bill through 10/18/17 total \$186,100.02.
- 10/17/17 Valley Hospital Medical Center, Bruce Hirschfeld, MD, consult – vascular surgery. CC: Need for assistance with anterior exposure of lumbosacral spine. HPI: 34 year-old Latin American male previously status post multilevel posterior lumbar reconstruction in 2002 with subsequent hardware removal. He did well until he was involved in an MVC on 07/12/16 after which he developed chronic progressive and intractable low back pain associated with right greater than left lower extremity radicular symptoms for which he uses a walker. He was found to have a traumatic disc disruption with degeneration at L5-S1. He has failed a course of reasonable conservative medical treatment and is now for anterior standalone reconstruction at L5-S1. Pain score 6. Assessment: Traumatic disc disruption with degeneration L5-S1, status post MVC 07/12/16, status post multilevel posterior lumbar reconstruction 2002 with subsequent hardware removal, chronic low

PEREZ ACOSTA, MAIKEL

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back pain secondary to above, right greater than left lower extremity radicular symptoms secondary to above hepatitis B 2005 without sequelae, tobacco abuse. Plan: He will assist Dr. Kaplan (myself) with anterior exposure of the lumbosacral spine via a right-sided retroperitoneal approach with vascular mobilization at L5-S1. Options to surgery and risks and benefits of surgery are as defined by Dr. Kaplan (myself), but with respect to the retroperitoneal approach and vascular mobilization are reconfirmed by him.

- 10/17/17 Valley Hospital Medical Center, Bruce Hirschfeld, MD, operative report. Procedure: Right retroperitoneal approach with mobilization of right iliac artery, right iliac vein, takedown of middle sacral vessels, and mobilization of left iliac vessels for anterior exposure of spine at L5-S1. Primary repair of rent crotch of vena cava.
- 10/17/17 Valley Hospital Medical Center, Stuart Kaplan, MD, operative report. Procedure: Anterior intraoperative fluoroscopy greater than one hour, intraoperative neuromonitoring greater than one hour, anterior lumbar interbody discectomy and fusion at L5-S1 with placement of instrumentation.
- 10/17/17 Valley Hospital Medical Center, x-ray spine lumbosacral spine. Use of fluoroscopy and spot film acquisition during lower lumbar fusion.
- 10/17/17 Intraoperative neurophysiology, Morton Hyson, MD. Impression: This intraoperative monitoring study was unremarkable.
- 10/17/17 Valley Hospital Medical Center, x-ray abdomen 1 view. History: Final instrument count, anterior approach. Impression: *Cervical* spine fusion hardware at L5-S1. No other retained radiopaque for metal foreign bodies. Normal bowel gas pattern.
- 10/18/17 Valley Hospital Medical Center, Ryan Simons, PA-C / Stuart Kaplan, MD. Discharge diagnosis: Lumbar 5 through sacral 1 anterior lumbar interbody fusion. Discharged on hydrocodone-acetaminophen. Follow up in 1-2 weeks. Resume home medications. Activity ad lib. Diet regular. Patient discharged stable. Hospital course uneventful.
- 11/01/17 Western Regional Center for Brain and Spine Surgery. He was taken to surgery on 10/17/17 for an ALIF L5-S1. He states he has a little bit of pain in the back. History was obtained via an interpreter as he is Spanish speaking. He states the pain in the leg is better. He is taking Norco now. He can tell a difference with his back. His wound looks good. Steri-Strips are falling off. The patient was told to use the lumbar brace as needed. We will get x-rays in a month.
- 11/06/17 Interventional Pain and Spine Institute, David Webb, MD. Follow up visit with continued low back pain rated 8-9/10 with right lower extremity radiating pain and weakness. He

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- underwent ALIF L5-S1 with myself on 10/17/17 and will be undergoing x-rays of the lumbar spine. Recommend continue home exercise regimen, obtain urologist records, consult via PCP, continue Zanaflex, naproxen, and Norco, return to clinic in four weeks.
- 11/20/17 West Valley Imaging, lumbar spine series. History: History of recent surgery. Impression: Uncomplicated postsurgical findings. Compression deformity of L1.
- 11/27/17 Western Regional Center for Brain and Spine Surgery. He was taken to surgery for an ALIF L5-S1 on 10/17/17. He states before surgery he was smoking two packs a day and now, he smokes a pack every three days. We discussed again smoking and pseudoarthrosis risk. X-rays of the lumbar spine look good. He states he has a little bit of pain in his lower lumbar. He states the pain was better than it was prior to surgery. I think he is doing as well as we can hope. I can feel the sutures under the skin. He is taking ibuprofen as well as hydrocodone about four times a day. He is going to be seen by pain management. I would like to see him start reducing his pain medication requirements. I will see him back in another three weeks with x-rays. He is walking with his walker, but he looks clinically much better than he did prior to surgery.
- 12/01/17 Interventional Pain and Spine Institute, David Webb, MD. Follow up visit with continued low back pain rated 10/10 with right lower extremity radiating pain and weakness status post ALIF L5-S1 on 10/17/17. Continue home exercise regimen. Obtain urologist records. Continue naproxen, Zanaflex, Norco. Consider SCS for persistent lumbar pain. Return to clinic in four weeks.
- 01/02/18 Interventional Pain and Spine Institute, David Webb, MD. Follow up visit with continued low back pain rated 7/10 with right lower extremity radiating pain and weakness. Same recommendations. Consider PT consult secondary to extreme atrophy in right lower extremity. Return to clinic in four weeks.
- 01/30/18 Interventional Pain and Spine Institute, David Webb, MD. Follow up visit with continued low back pain 5-6/10 with right lower extremity pain. Patient to be evaluated by myself on 02/28/18. Recommendations same.
- 02/27/18 West Valley Imaging, lumbar spine x-rays. History: Status post surgery. Impression: Degenerative changes. Status post *ORIF*.
- 02/28/18 Western Regional Center for Brain and Spine Surgery. I did an ALIF on him at L5-S1 on 10/17/17 and he is about four months postop. He got new x-rays at West Valley Imaging on 02/27/18 which reveals hardware in good position at L5-S1. He thinks the surgery helped. His wound is healed fine. He states it feels hard. We told him because he is so thin that he could possibly feel the sutures or the scarring itself. The wound looks perfectly

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fine. Clinically, he is doing fine. From my perspective, he can follow up with me on a prn basis. I think he is doing very well.

- 03/06/18 Interventional Pain and Spine Institute, David Webb, MD. Follow up visit with low back pain rated 9/10 with right lower extremity pain. Recommendations same.
- 04/03/18 Interventional Pain and Spine Institute, David Webb, MD. Follow up visit with low back rated 10/10 with right lower extremity pain evaluated by myself on 02/28/18 with follow up as needed. Recommendations same.
- 04/04/18 Complaint was reviewed. On or about July 12, 2016, Plaintiff's Maikel Perez-Acosta and Rolando Bessu Herrera were the properly restrained passengers of a 2011 Ford Focus traveling northbound on Lamb Boulevard approaching its intersection with Carey Avenue in Clark County, Nevada. Defendant Jaime Roberto Salais in the course and scope of his employment was driving a 2014 Isuzu truck owned by Employer/Defendant Tom Malloy Corporation aka/dba Trench Shoring Company and was traveling northbound on Lamb Boulevard, approaching its intersection with Carey Avenue immediately behind Plaintiff's failing to use due care failing to observe slowed or stopped traffic in front of him failing to maintain a safe and proper distance between vehicles failing to reduce his rate of travel, and driving too fast for conditions, causing the front portion of his vehicle to impact the rear of Plaintiff's vehicle. Plaintiff's sustained substantive injury in the course of this collision.
- 05/01/18 Interventional Pain and Spine Institute, David Webb, MD. Follow up visit with low back pain 10/10 with right lower extremity pain. Recommendations same with schedule SCS education with St. Jude.
- 05/08/18 Answer to complaint was reviewed.
- 05/29/18 Interventional Pain and Spine Institute, Andrew Hall, MD. Follow up visit with low back pain 9/10 with right lower extremity pain here to meet with the SCS device rep. He notes Norco is not helping as much as it used to. Schedule psychology evaluation for clearance prior to lumbar SCS trial and then schedule trial with Dr. Hall. Continue current Norco, naproxen, Zanaflex, add duloxetine. Consider PT consultation due to atrophy right lower extremity. Return to clinic after trial.
- 05/31/18 Interventional Pain and Spine Institute cost estimate spinal cord stimulator trial \$12,000, plus surgery center fee \$20,000 to \$22,000.

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- 06/26/18 Interventional Pain and Spine Institute, Jorg Rosler, MD. Follow up visit with low back pain rated 7-8/10 with right lower extremity pain. He states the duloxetine helps his symptoms. Recommendations same.
- 07/24/18 Interventional Pain and Spine Institute, Ray Troche, PA-C / Andrew Hall, MD. Follow up visit reports low back pain rated 5-6/10 with right lower extremity pain. Duloxetine helping. He wishes to postpone SCS trial and psychology evaluation. Recommend lumbar SCS trial for postlaminectomy syndrome. Patient would require psychology evaluation for risk stratification prior to proceeding. Continue current medications of Norco, duloxetine, naproxen, and Zanaflex, recommend PT consultation secondary to extreme atrophy in right lower extremity, return to clinic after trial.
- 08/21/18 Interventional Pain and Spine Institute, Ray Troche, PA-C / Andrew Hall, MD. Follow up visit reports low back pain 8-9/10 with right lower extremity pain. Recommend SCS trial for postlaminectomy syndrome require psychological evaluation, continue Norco, duloxetine, naproxen, and Zanaflex, recommend PT consult.
- 09/25/18 Interventional Pain and Spine Institute, Marcelo Gomez, PA-C / Jorg Rosler, MD. Follow up visit reports low back pain 10/10 with right lower extremity pain. Recommend lumbar SCS trial for postlaminectomy syndrome require psychological evaluation, continue Norco, duloxetine, naproxen, and Zanaflex, recommend PT consult.
- 10/29/18 Rogelio Machuca, MD. CC: New patient looking for establishment. Patient with past medical history of thoracic and lumbar disc disease status post two surgeries. He is complaining of back pain 10/10 constant sharp pain. He has atrophy of bilateral lower extremities. He has not worked since 2016. He is disabled. He has been irritable and adjusting to life with pain and assistance with ADLs. Refer to pain specialist. Refer to BH. Order labs. Prescribed Norco.
- 10/29/18 Plaintiff Maikel Perez-Acosta's responses to defendants first set of request for admissions was reviewed.
- 10/29/18 Plaintiff Rolando Bessu Herrera's responses to defendants first set of request for admissions was reviewed.
- 11/05/18 Plaintiff Rolando Bessu Herrera's answers to defendants first set of interrogatories was reviewed.
- 11/05/18 Plaintiff Maikel Perez-Acosta's answers to defendants first set of interrogatories was reviewed.
 Response to #7: He worked previously from 2015 as a freelance mechanic.

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Response to #8: He did not have any medical or mental problems at the time of the accident.

Response to #10: "I believe that as a result of the subject incident, I suffered injuries to my neck, upper, mid, and low back; headaches; I have lost bladder control and I urinate on myself from time to time. I required a back surgery, my right foot is numb and weak, and I now need the assistance of a walker to walk. I have pain throughout my body and require constant pain control medication. I have lost strength in my legs, arms and body. I have been declared physically disabled by the medical doctors due to the injuries I received from this accident."

Response to #11:

Meadows Chiropractic	\$360.00
Capanna International Neuroscience	\$3,135.00
Desert Radiologists	\$798.00
University Medical Center Hospital	\$32,188.59
Emp of Clark UMC 07/13/16	\$1,703.70
Emp of Clark UMC 07/15/16	\$3,026.70
Southwest Medical Home Health	\$119.39
Advanced Orthopedic	\$1,230.00
UMC Quick Care	\$1,470.00
Steven Holper, MD	\$750.00
Steinberg Diagnostic Medical Imaging 08/30/16	\$400.00
ASP Cares	\$249.00
Gobinder Chopra, MD	\$4,050.00
Western Regional Center for Brain and Spine Surgery	\$38,470.00
Interventional Pain and Spine Institute	\$15,220.00
Pueblo Medical Imaging	\$3,300.00
Surgical Arts Center	\$15,087.64
Steinberg Diagnostic Medical Imaging 07/17/17	\$650.00
Valley Hospital Medical Center	\$186,100.02
Total:	\$308,308.04

Future medical and related expenses:

Spinal cord stimulator trial	\$12,000.00
Estimated Surgery Center Fee	\$20,000.00 - \$22,000.00
Total Special Damages:	\$340,308.04 - \$342,308.04

Response to #13: "I require a walker now to ambulate and I also need to wear adult diapers because of the loss of bladder control. I also now require someone to drive me everywhere as I am unable to drive myself, I will need assistance for the rest of my life with everyday tasks. I was told I will need surgery to implant a back stimulator."

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Response to #14: "I will require surgery to implant a stimulator, this was recommended by Interventional Pain and Spine Institute, Dr. Jorg Rosler, MD. The total estimated cost is to be between \$32,000 and \$34,000."

Response to #18: "Since the accident I have not been able to work, I have been put on permanent medical disability for the rest of my life due to the injuries from this accident."

Response to #21: "Since the accident I have not been able to work, I cannot perform my duties as a mechanic, I suffer from chronic pain, and am too weak to work. I have been placed on permanent disability due to the injuries sustained in the accident."

Response to #22: "I lost my income because of this accident, I had to borrow money from family and friends. I also had trouble paying rent and other bills due to the loss of income."

Response to #28: He stated he had never been in any other car accidents.

Response #38: "Defendant failed to stop behind the vehicle I was traveling in and rear ended us."

CONCLUSION: In conclusion, after reviewing over the above-mentioned medical records, I can state the below to a reasonable degree of medical probability. Mr. Perez Acosta is a 37-year-old male. I have been provided pictures of the Ford 4-door sedan revealing significant damage to the back of the vehicle. There is also a picture of the Isuzu flatbed truck with an indentation below the windshield. While I am certainly not an accident reconstruction specialist, it does appear as though this accident was a significant one that could result in spinal injury.

Mr. Perez Acosta was a restrained passenger in the subject vehicle. He was seen the same day at Meadows Chiropractic. He related a history of prior back surgeries. He was seen at UMC Hospital the following day. There was concern about a cauda equina type syndrome. He was evaluated and underwent imaging studies of the spine including a CT of the lumbar spine, MRI of the lumbar spine, MRI of the thoracic spine, and CT of the thoracic spine. The MRI of the lumbar spine revealed evidence of old trauma at the thoracolumbar junction consistent with his history of a prior spinal injury necessitating surgery in Cuba. On examination, he was noted to have atrophy of the legs. He described new right leg symptoms. He was seen by Dr. Al Capanna at UMC Hospital and it was elected to observe. He left against medical advice; however, he returned the following day. He was treated conservatively. After discharge, he was seen by Dr. Sep Bady who recommended an MRI of the lumbar spine. He described to Dr. Sep Bady a previous car accident 13 years earlier requiring surgery. He additionally saw Dr. Holper. He also saw Dr. Chopra who recommended and performed nerve studies of the legs. He was referred to see myself on 01/18/17 and I reviewed the imaging studies. I identified the chronic muscular atrophy involving his legs related to his prior trauma. He had extensive weakness in the lower extremities. I recommended a pain management evaluation. He was seen by Dr. Rosler. He underwent another MRI scan of the lumbar and thoracic spine performed on 02/24/17. I recommended bilateral L5-S1 selective nerve root blocks which were performed by Dr. Rosler. The pain scores went from a 9 to a 0. When he returned to see me, I recommended a lumbar discogram which was performed. It was positive at the L5-S1 level and negative at the L3-4 and L4-5 levels. On post discography CAT scan, I identified a grade 3 tear at the L5-S1 level. On 10/17/17, he was taken to surgery by me for an anterior lumbar interbody

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fusion at the L5-S1 level. His postoperative course was unremarkable. I last saw him on 02/28/18. His x-rays revealed the hardware in good position, and he felt as though the surgery helped him. I do appreciate he has been seen at Dr. Rosler's office after being discharged by myself. The last medical record from pain management I have is on 09/25/18 which reveals significant low back pain and right leg pain. Consideration was made by Dr. Rosler for psychological evaluation and a spinal cord stimulator trial. He has been seen by Dr. Machuca as well in October of 2018. I have not been provided any medical records after 10/29/18.

In conclusion, after reviewing over the above-mentioned medical records, it is clear Mr. Perez Acosta had prior lumbar trauma at the thoracolumbar level necessitating surgery. He has been left with chronic lower extremity weakness and atrophy consistent with a cauda equina type syndrome. Mr. Perez Acosta was then involved in the subject accident on 07/12/16. He relayed new symptoms as it relates to the subject motor vehicle accident including right leg pain. He underwent imaging studies, an EMG/nerve conduction study, a short course of chiropractic treatment, selective nerve root blocks at the L5-S1 level, discography, and ultimately surgery for an L5-S1 fusion. Based upon the records provided to me, I believe more likely than not that Mr. Perez Acosta suffered a discogenic injury at the L5-S1 level as it relates to the subject motor vehicle accident. I do not believe that his need for surgery has any relationship to his prior thoracolumbar surgery performed in Cuba many years ago as this is not an adjacent segment. He related to me that he got improvement from the surgery that I performed. However, it appears as of late 2018, Dr. Rosler's office has been considering a spinal cord stimulator trial for persistent symptoms. Based upon the results of the spinal cord stimulator trial, surgery could be entertained. Certainly, while I will defer to Dr. Rosler, a spinal cord stimulator trial may be difficult due to the patient's prior thoracolumbar surgery and scarring. In situations such as this, open spinal cord stimulator trials need to be considered if a percutaneous one from below is not able to be technically performed.

Given his young age of 37 and given the rates of adjacent segment breakdown of 1-4% per year, it becomes more likely than not that Mr. Perez Acosta will become symptomatic at an adjacent segment, likely the L4-5 level, in 18 to 20 years. Of course, prior to considering surgery, all means of conservative therapy would be utilized including imaging studies, a course of conservative physical therapy, and possibly injections prior to considering surgery.

The cost for a one-level lumbar decompression and fusion is \$69,150 for the surgical fee. The assistant surgical fee is \$13,620. The anesthesia fees are approximately \$4,000 to \$5,000. The hospital costs are approximately \$225,000 to \$275,000. The above costs include the hardware implanted as well. It does not include such things as bone growth stimulators, support braces, or postoperative physical therapy. The above costs are standard and customary for the Las Vegas community.

I do appreciate that Dr. Rosler has provided the cost for a spinal cord stimulator trial in his letter of 05/31/18. If successful, patients such as this would undergo an MRI of the thoracic spine of approximately \$1,600 prior to implant which he has undergone previously. The cost for a spinal cord stimulator implant is \$17,500 for the surgical fee. The assistant surgical fee is \$3,500. The anesthesia

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fees are approximately \$2,000 to \$3,000. The hospital costs are approximately \$150,000 to \$200,000. The above costs include the hardware implanted as well. The above costs are standard and customary for the Las Vegas community. Generally, patients require battery changes every 3 to 7 years depending on usage with costs slightly less than the actual implant itself, as the epidural electrode does not need to be replaced.

The treatment as listed above was usual, standard, and customary and causally related to the subject motor vehicle accident apart from a few caveats. I do appreciate that he was seen at UMC Hospital two times. However, I believe the concern was about a cauda equina syndrome that I believe was likely preexisting. I suspect his doctors were being cautious. I do note he underwent multiple MRI scans of the thoracic and lumbar spine which were duplicative. As it relates to the billings, they are usual, standard, and customary and causally related to the subject motor vehicle accident apart from a few caveats. I do appreciate the consult performed by Dr. Albert Capanna of \$3,135 is higher than I would expect. The Southwest Medical HME walker for \$119 I believe was likely related to his preexisting condition. I note a bill to ASP Cares for 60 hydrocodone of \$249 which is higher than I would expect. The billings associated with the duplicative MRI scans additionally should be removed from the ledger.

All of my opinions above are to a reasonable degree of medical probability. Of course, I reserve the right to amend or alter any or all my opinions based upon additional information provided.

Sincerely,



STUART S. KAPLAN, MD, FAANS
SSK:lls
Dictated but not edited

EXHIBIT 2

DAVID J. OLIVERI, M.D.
Professional Corporation
Tax ID # 88-0315037

Office address:
851 S. Rampart Blvd. Suite 115
Las Vegas, NV 89145
Telephone (702) 778-9300
Facsimile (702) 778-9301

Remittance address:
PO Box 370183
Las Vegas, NV 89137

2019

Pursuant to Federal Rule 26(a)(2), I have attached the following:

- 1) Curriculum Vitae outlining my qualifications
- 2) Fee schedule
- 3) List of cases in which I have given expert testimony in the prior four years

I have no publications in the last ten years.

Sincerely,

A handwritten signature in black ink, appearing to read 'DJO', with a long horizontal flourish extending to the right.

David J. Oliveri, MD

DAVID J. OLIVERI, M.D.
CURRICULUM VITAE
Tax ID #88-0315037
Updated June 2019

BUSINESS ADDRESS & CONTACT INFORMATION

851 S. Rampart Blvd., Suite 115
Las Vegas, NV 89145
Telephone: (702) 778-9300
Facsimile: (702) 778-9301
Office contact email: betty@djomd.com

BIOGRAPHICAL DATA

Born 12/27/62; Washington State
United States Citizen
Married

BOARD CERTIFICATION

Board Certified (Diplomate), American Board of Physical Medicine and Rehabilitation. Certificate # 4531, 5-18-94. Recertified 2004 and 2014; valid through 2024.

SUB-SPECIALTY CERTIFICATION

Board Certified (Diplomate), American Board of Electrodiagnostic Medicine. Certificate # 2028, 4-9-95. Recertified 2005 and 2015; valid through 2025.

Certified Independent Medical Examiner (CIME). American Board of Independent Medical Examiners. Certificate valid through June 2022.

Certified Life Care Planner (CLCP). International Commission on Health Care Certification (ICHCC) with prerequisite course study through Institute of Rehabilitation Education & Training (IRET). Certificate valid through May 2021.

ELECTRODIAGNOSTIC LABORATORY CERTIFICATION

Accreditation with Exemplary Status by American Association of Neuromuscular & Electrodiagnostic Medicine (AANEM). Certificate #NV003.

ACTIVE MEDICAL LICENSURE

Nevada	License	6819	(since 1993)
California	License	G-069433	(since 1990)
Arizona	License	22230	(since 1993)

SCOPE OF PRACTICE

Office consultation and treating physician for patients with musculoskeletal, neuromuscular, and spine injuries or disorders.

Board Certified Electromyographer (EMG/NCV).

Life Care Planning.

Forensic Evaluations and Record Reviews.

Expert witness qualifications in Nevada (State and Federal Court), Arizona (State and Federal Court), Utah (State and Federal Court), and California (State Court).

Permanent impairment rating evaluating physician in workers' compensation (Nevada certified) and personal injury.

Acute Inpatient Rehabilitation Medical Director/Associate Director 1993-2013.

Chief of Staff/Medical Staff President 1998-present.

RESIDENCY TRAINING

7/90 to 7/93	Stanford University Medical Center. Stanford, California Residency in Physical Medicine and Rehabilitation
7/92 to 7/93	Chief Resident, Physical Medicine and Rehabilitation, Stanford University Medical Center
6/89 to 7/90	Veterans Administration Medical Center. West Los Angeles, California. Internship, Internal Medicine.

MEDICAL/PREMEDICAL EDUCATION

9/85 to 5/89	University of Southern California School of Medicine. Los Angeles, California. Doctor of Medicine 5/11/89
9/83 to 6/85	University of Washington, Seattle, Washington. Bachelor of Science in Biology 6/15/85
9/81 to 6/83	Eastern Washington University. Cheney, Washington

PRACTICE EXPERIENCE

7/93 to Present	Private practice in Las Vegas, Nevada
4/98 to Present	President Medical Staff, Encompass Rehabilitation Hospital of Las Vegas (formerly HealthSouth)
05/13 to Present	Program Director, Encompass Rehabilitation Hospital of Las Vegas (formerly HealthSouth)
10/12 to 05/13	Medical Director (Interim), HealthSouth Rehabilitation Hospital of Las Vegas
11/11 to 09/12	Associate Medical Director, HealthSouth Rehabilitation Hospital of Las Vegas
4/98 to 11/11	Medical Director, HealthSouth Rehabilitation Hospital of Las Vegas
7/93 to 3/98	Associate Medical Director at HealthSouth Rehabilitation Hospital of Las Vegas (formerly Rehabilitation Hospital of Nevada-Las Vegas)
5/97 to 5/98	Invited member of charter committee to provide Quality Assurance to State of Nevada Impairment Ratings (PPD's)
1996 to 1998	Board Member Arthritis Foundation
1996	Chair, Standards of Practice Committee, MedOne Managed Care Organization for Workers Comp

10/91 to 6/93	Sequoia Hospital, Redwood City, California Staff physician, part-time, inpatient rehabilitation unit and industrial medicine program
8/91 to 6/93	Social Security Disability Examiner San Jose, California

PROFESSIONAL MEMBERSHIPS

Fellow: American Academy of Physical Medicine and Rehabilitation (AAPMR).

Fellow: American Association of Neuromuscular & Electrodiagnostic Medicine (AANEM).

Fellow: North American Spine Society (NASS).

Member: Spine Intervention Society (SIS).

Member: American Medical Association (AMA).

Member: Clark County Medical Society and Nevada State Medical Association.

CONTINUING MEDICAL EDUCATION (CME); PRIOR 4-5 YEARS

07/2018 - 06/2019 Total: 33.0 credit hours

05/2019 Risk Management Consult: Handoffs and Hospitalists. MedRisk. 5 credits. (5 credits qualify for Ethics)

05/2019 Suicide Assessment and Prevention. 6 credits.

02/2019 How to Start, Build, and Run a Successful Physician Life Care Planning Practice (Speaker at conference). 14 credits.

01/2019 Self-directed program of PM&R (SAE-P) AAPM&R. Update in Concussion. 8 credits.

07/2017 - 06/2018 Total: 30.25 credit hours

06/2018 Self-directed program of PM&R (SAE-P) AAPM&R. Spinal Cord Injury Medicine. 8 credits.

05/2018 SAFE Opioid Prescribing. American College of Physicians. 3 credits. (3 credits qualify for Opioid CME)

04/2018 Risk Management Consult: Electronic Medicine 2nd Edition. MedRisk. 5 credits. (5 credits qualify for Ethics)

10/2017 Summer Spine Meeting On-Demand. North American Spine Society. 14.25 credits.

07/2016 - 06/2017 Total: 45.00 credit hours + 8 life care planning hours

05/2017 MRI of the Spine: Essentials for the Spine Specialist. North American Spine Society. 9 credits.

04/2017 Certified Life Care Planner Role and Function Survey. International Commission on Health Care Certification (IHCC). 8 life care planning ethics credits.

04/2017 Risk Management Consult: Achieving Cultural Competence. MedRisk. 6 credits. (6 credits qualify for Ethics)

03/2017 Coding Update 2017. North American Spine Society. Las Vegas, NV. 14 credits.

10/2016 AMA Guides 5th Edition Training. American Board of Independent Medical Examiners. Las Vegas, NV. 8 credits.

07/2016 Self-directed program of PM&R (SAE-P) AAPM&R. Concepts in Physiatric Pain Management. 8 credits.

07/2015 - 06/2016 Total: 55.00 credit hours + 15 life care planning hours

06/2016 Self-directed program of PM&R (SAE-P) AAPM&R. Concussion and Mild Traumatic Brain Injury. 8 credits.

05/2016 Risk Management Consult: Repairing Difficult Patient Relationships. 2nd Edition. MedRisk. 6 credits. (6 credits qualify for Ethics and 3 credits qualify for prevention of medical errors)

04/2016 American Academy of Physician Life Care Planners Inaugural Assembly. San Antonio, TX. 15 credits.

02/2016 Evidence-Based Medicine Training. North American Spine Society. 9.5 credits.

11/2015 Comprehensive Review of Electrodiagnostic Medicine and Neuromuscular Disorders. 31.5 credits.

07/2014 - 06/2015 Total: 55.75 credit hours

04/2015 Risk Management Consult: Managing Disruptive Physician Behavior. MedRisk. 5 credits. (5 credits qualify for Ethics and 2 credits qualify for prevention of medical errors)

01/2015 Extended-Release and Long-Acting Opioids: Assessing Risks, Safe Prescribing. Federation of State Medical Boards. 3 credits. (2 credits qualify for Ethics)

10/2014 American Association of Neuromuscular & Electrodiagnostic Medicine. Annual Meeting. Savannah, GA. 15.75 credits.

10/2014 AMA Guides 6th Edition Training and Workshop. American Board of Independent Medical Examiners. Las Vegas, NV. 19 credits.

08/2014 2014 Electrodiagnostic Self-Assessment Examination. 13 credits.

MEDICAL STAFF APPOINTMENTS (CURRENT)

1993 to present Encompass Rehabilitation Hospital of Las Vegas
(Formerly HealthSouth Rehabilitation Hospital of Las Vegas
and Rehabilitation Hospital of Nevada-Las Vegas)

DAVID J. OLIVERI, M.D., P.C.
Professional Corporation

Remittance Address:
PO Box 370183
Las Vegas, NV 89137

Tax ID # 88-0315037

2019 MED-LEGAL FEES & CANCELATION FEES
Updated January 2019

Med-legal record reviews, evaluations, conferences, meetings, research, trial/deposition preparation and report preparation will be billed at \$900 per hour.

For Independent Medical Evaluations (IME), there is a \$1,800 deposit fee due at the time the appointment is scheduled. This fee will be applied toward all work performed. However, this fee is considered nonrefundable if the IME is canceled or rescheduled within 21 days of the scheduled appointment or if the examinee is a no-show or is unable to complete the evaluation for any reason.

There is also a \$1,800 IME reschedule fee if the IME appointment is canceled or rescheduled within 21 days of the appointment, the examinee is a no-show, or is unable to complete the evaluation for any reason.

2019 TESTIMONY FEE SCHEDULE

DAVID J. OLIVERI, M.D., P.C.
Professional Corporation

Deposition Remittance Address:
851 S. Rampart Blvd., Suite 115
Las Vegas, NV 89145

T a x I D # 88-0315037

DEPOSITION FEE: \$2,800 prepayment (\$1,400 per hour with a two hour minimum prepayment). Payment is due 2 1/2 weeks prior to deposition.

1. The party taking the deposition is required to submit a prepayment of \$2,800 **at least 2 1/2 weeks prior** to the scheduled deposition time. **If prepayment is not received by that time, the reserved deposition time will be canceled and can be rescheduled for a later date.**
2. A cancellation fee of the full deposition amount (\$2,800) will be charged if the deposition is cancelled or rescheduled within **two weeks** of the scheduled deposition time.

TRIAL TESTIMONY: \$1,400/hour with 4 hour minimum (\$5,600)

ARBITRATION TESTIMONY: \$1,400/hour with 3 hour minimum (\$4,200)

DATE	CASE NAME	TESTIMONY	CASE #
1/5/2015	BARDEN v. ZOLL	Deposition	A670702
1/7/2015	BARDEN v. ZOLL	Deposition	A670702
1/15/2015	BUCHANAN v. REBEL OIL	Deposition	A691004
1/27/2015	LEE v. MANNING	Arbitration	A682509
2/9/2015	HIRJI v. JACOBSEN	Deposition	A676419
2/11/2015	STEPANOVIC v. BRADLEY	Deposition	A677209
3/2/2015	FERNANDEZ-MENDIOLA v. ZERKLE	Deposition	A688031
3/18/2015	FERNANDEZ-MENDIOLA v. ZERKLE	Deposition	A688031
3/20/2015	VUKOVIC v. GLOZMAN	Court	A674421
3/24/2015	VUKOVIC v. GLOZMAN	Court	A674421
4/6/2015	LAVALEE v. LOWES	Deposition	A686814
4/8/2015	WILLIAMS v. CALFEE	Deposition	A686049
4/13/2015	JOHNSON v. STEWART	Deposition	A676827
4/15/2015	LEVINE v. FAIRMAN	Deposition	A702844
4/20/2015	FINNERTY v. HOWMEDICA	Deposition	cv00114
4/22/2015	CALDERA v. COWDEN	Deposition	A686750
5/11/2015	RAFFERTY v. ADCOCK	Deposition	A689923
5/20/2015	KENOURGIOS v. COLLINS	Deposition	A690218
6/2/2015	SHEHAN v. OVERBAY	Arbitration	A639285
6/8/2015	QUINN v. LAW	Deposition	A663399
6/10/2015	DE LUGO-OWEN v. VAN HORNE	Deposition	A696288
7/15/2015	KENOURGIOS v. COLLINS	Deposition	A690218
8/12/2015	LINARES v. AYALA	Deposition	A697107
8/17/2015	RODRIGUEZ v. GANDHI	Deposition	A684718
8/26/2015	NOOCHAN v. XEROX	Deposition	A698691
8/26/2015	BALDWIN v. ESCOBEDO	Court	A679174
9/23/2015	ESTRADA-GROBL v. HRN SERVICES	Deposition	A672867
9/30/2015	NZUWA v. POTTER	Deposition	A696777
10/5/2015	CAMPO-GIL v. MANHAS	Deposition	A687655
10/12/2015	KLING v. AMERIPRISE AUTO	Deposition	A689244
10/19/2015	THOMAS v. ORTIZ	Deposition	A699950
10/21/2015	OHM v. LAS VEGAS PAVING	Deposition	A698252
11/2/2015	WATERS-MARIA v. UHS	Court	A663473
11/2/2015	CREMEN v. HARD ROCK	Deposition	A677762
11/4/2015	GRASSO v. DIGNITY HEALTH	Deposition	A680572
11/18/2015	FILON v. DEMUS	Deposition	A686607
11/30/2015	ROBINSON v. OVERTON	Deposition	A701348
12/9/2015	NOGIER v. TAYKAY	Deposition	A702692

OLIVERI TESTIMONY LIST 2015

DATE	CASE NAME	TESTIMONY	CASE #
1/6/2016	OWEN v. BARS	Deposition	A693540
1/11/2016	HARRISON-PIERRE v. GAYHEART	Deposition	A690542
1/11/2016	LAIRD v. SMITH	Arbitration	A664416
1/20/2016	FRULAND v. FCHI LLC	Deposition	A682461
1/25/2016	ZAMBA v. MARSHALL	Deposition	A706471
2/10/2016	PRATER v. SOUTHWEST AUTO	Deposition	A698889
2/12/2016	SOTO-RAMIREZ v. HERNANDEZ	Court	A653217
2/16/2016	GARCIA v. AWERBACH	Court	A637772
2/29/2016	GARCIA-HERNANDEZ v. VANVEEN	Deposition	cv-01493
3/2/2016	GU v. SCINOCCA	Deposition	A704419
3/7/2016	VOLUNGIS v. ABDULLA	Deposition	A702810
3/30/2016	LUCERO-ROMERO v. DANIELS	Deposition	A704019
4/13/2016	BARNES v. ROSS	Deposition	A703758
4/15/2016	STEPANOVIC v. BRADLEY	Arbitration	A677209
4/18/2016	COX v. MGM	Deposition	A705164
4/20/2016	GARCIA-HERNANDEZ v. VANVEEN	Deposition	cv-01493
5/2/2016	VOLUNGIS v. ABDULLA	Court	A702810
5/4/2016	RESENDEZ v. SMITHS FOOD & DRUG	Deposition	A694339
5/18/2016	KIM v. A-CAB	Deposition	A707738
6/8/2016	ESTRADA-GROBL v. HRN SERVICES	Deposition	A672867
6/27/2016	WOODCOCK v. MGM	Deposition	A684385
6/28/2016	FLORES v. McCANDLESS	Deposition	A703897
7/18/2016	HOLM v. LUCKY CAB	Deposition	A708126
7/25/2016	RAMIREZ v. CR AND MR, INC	Deposition	A692081
7/27/2016	SMITH v. AWG AMBASSADOR	Deposition	A701510
8/1/2016	MAGAHAN v. ESPARZA	Deposition	A705419
8/22/2016	DAILY v. PEZZUTO	Deposition	A714672
8/31/2016	HERBERT v. RED ROCK MEDICAL	Deposition	A726133
9/7/2016	MORRIS v. MOTTER	Deposition	A712803
9/12/2016	BALLESTER v. CRUZ DABU	Deposition	A699696
9/14/2016	ROBINSON v. OVERTON	Deposition	A701348
9/19/2016	HAWKINS v. MEADOWS MALL	Deposition	A715577
9/21/2016	YAHYAVI v. CAPRIATI CONST.	Deposition	A718689
10/10/2016	MALITA v. MIRAGE	Deposition	A688148
10/19/2016	TRAYNOR v. COLORADO CASUALTY	Deposition	A730212
10/31/2016	MALITA v. MIRAGE	Deposition	A688148
11/1/2016	ROSS v. NP PALACE	Deposition	A701941
11/9/2016	SILVA v. GONZALEZ	Deposition	A699604
11/30/2016	GRANILLO v. LOOMIS	Deposition	A712639
11/30/2016	ALCALA v. LOOMIS	Deposition	A712639
12/6/2016	WANG v. DESERT CAB	Arbitration	A724308
12/7/2016	CORONA-RAMOS v. RAMOS	Deposition	A722139
12/12/2016	CANNEY v. ONORATO	Deposition	A730032
12/14/2016	ABANOBI v. HINEBAUGH	Deposition	A712968

OLIVERI TESTIMONY LIST 2016

DATE	CASE NAME	TESTIMONY	CASE #
1/11/2017	WOOD v. CANYON GATE	Deposition	A719522
2/1/2017	WADKINS v. TRAVELERS	Deposition	?????
2/6/2017	HANSEN v. SHILSKY	Deposition	A720895
2/22/2017	BELL v. TARGET	Deposition	A707331
3/1/2017	DELGADO v. REPUBLIC SS DISPOSAL	Deposition	A732255
3/21/2017	LINARES v. AYALA	Court	A697107
3/27/2017	HERNANDEZ-PEREZ v. DELICATE	Deposition	A728250
4/19/2017	GONZALES v. NAVARRO	Deposition	A728994
4/24/2017	HOUSTON v. ANDERSON	Deposition	A724801
5/3/2017	CHAVEZ-CASTILLO v. CENTURYLINK	Deposition	A733986
5/24/2017	HONEYMAN v. GRAND BAZAAR	Deposition	A727385
5/31/2017	URMANSKI v. YAMAHA	Deposition	A713990
6/5/2017	LAZO v. LAS VEGAS PAVING	Deposition	A733535
6/5/2017	FIGUEROA v. LAS VEGAS PAVING	Deposition	A733535
6/7/2017	MALTA v. RUSSELL	Deposition	A734807
6/19/2017	O'CONNOR v. FREEMAN	Deposition	A727552
6/21/2017	BOMBARDIER v. COLTEY	Deposition	A698813
6/28/2017	KABOUD v. STEVENS	Deposition	A726424
7/17/2017	BROWN v. SAM'S WEST	Deposition	A722413
7/31/2017	IBARRA v. MARSHALL	Deposition	A730891
8/14/2017	WOOD v. CANYON GATE	Court	A719522
8/30/2017	SCHAFER v. MONTES	Deposition	A736290
8/30/2017	OWEN v. BARS	Arbitration	A693540
9/20/2017	MITCHELL v. KMART	Deposition	A723198
9/27/2017	BOGART v. ORR	Deposition	A727329
9/27/2017	MCINTIRE v. ORR	Deposition	A727329
10/16/2017	DAMERY v. MCGRATH	Court	A620078
10/18/2017	ORELLANA-VARGAS v. ELEVEN 11 COND	Deposition	A730111
10/30/2017	SOLOGUB v. ARIA	Deposition	A728395
11/1/2017	RAMIREZ v. ALEXANDER	Deposition	A724460
11/6/2017	BRADT v. DELGADO	Deposition	A733769
11/13/2017	MALDONADO v. DITO	Deposition	A739845
11/15/2017	SIMAO v. RISH	Deposition	A539455
11/30/2017	YANNATONE v. DRAKE	Court	A713605
12/6/2017	SIEGFRIED v. LOPEZ	Deposition	A722816
12/7/2017	LEONARD v. GRAY	Deposition	A728416
12/11/2017	MENDOZA v. TORRES	Deposition	A733263

OLIVERI TESTIMONY LIST 2017

OLIVERI TESTIMONY LIST 2018

DATE	CASE NAME	TESTIMONY	CASE #
1/8/2018	MALDONADO v. DITO	Deposition	A739845
1/10/2018	ZIMMERMAN v. ZIMPRICH	Deposition	A739294
1/18/2018	CLINKSCALE v. RUFIN	Deposition	A729321
1/22/2018	ZACARI v. CIHLAR	Deposition	A742378
1/31/2018	CORTESE v. SANGIOVESE	Deposition	A753796
2/7/2018	BROOKS v. AVILA	Deposition	A737423
2/28/2018	THOMAS v. BREWER	Deposition	A738149
3/7/2018	LYONS v. RAMIREZ	Deposition	A729199
3/12/2018	RODRIGUEZ-IGNACIO v. TIGGART	Deposition	A749637
3/14/2018	ALFONSI v. CONNOLLY	Deposition	A732859
4/2/2018	SANDOVAL v. PRIETO	Deposition	A715259
4/4/2018	JENSEN v. CARILLO-PALACIOS	Deposition	A738228
4/9/2018	PADUA v. CABRERA-MARTINEZ	Deposition	A734442
4/13/2018	OCONNOR v. CSAA	Arbitration	Not assigned
4/16/2018	ANDREW v. ROBERTS	Deposition	A742299
4/18/2018	MCGRATH v. MARTINEZ	Deposition	A742202
5/2/2018	WINN v. FAYE	Deposition	A743246
5/8/2018	MALTA v. RUSSELL	Court	A734807
5/9/2018	KAESBAUER v. AQUARIUS GAMING	Deposition	A701944
6/6/2018	MORENO v. RTC	Deposition	A751519
6/11/2018	SOSA-SANTOS v. PENGUIN WORLDWIDE	Deposition	A738319
6/14/2018	BARNES v. BANKRUPTCY ESTATE OF ROSS	Court	A703758
6/26/2018	BARNES v. BANKRUPTCY ESTATE OF ROSS	Court	A703758
6/27/2018	CHOI v. DOUGLAS	Deposition	A758281
7/25/2018	FLORES-ARCHILA v. SANTIAGO-DOMINGUEZ	Deposition	A737628
8/6/2018	ABERNATHY v. FENSKE	Deposition	A736064
8/8/2018	BALLE v. SUMMERLIN SOUTH	Deposition	A706950
8/22/2018	MACIAS v. GOODRICH	Deposition	A776516
8/24/2018	BARNES v. BANKRUPTCY ESTATE OF ROSS	Court	A703758
8/27/2018	POMPA-ELIAS v. WIXOM	Deposition	A730753
9/12/2018	PINEDA-REYES v. PEREYDA	Deposition	A754369
9/17/2018	FALLON v. FREAKLING BROS	Deposition	A753909
10/2/2018	ROSS v. NP PALACE	Court	A701941
10/8/2018	WEBB v. ZHANG	Deposition	A737935
10/11/2018	ABERNATHY v. FENSKE	Court	A736064
10/15/2018	SANCHEZ v. SAMRITH	Deposition	A751126
11/5/2018	CAINES v. ACME UNDERGROUND	Deposition	A750278
11/12/2018	CHAPPELL v. JOEY'S	Deposition	A752231
11/14/2018	HITZEMANN v. LAS VEGAS PAVING CORP	Deposition	A736423
11/19/2018	LILLEY v. TAN	Deposition	A749596
11/28/2018	KNAPP v. REDINGTON	Deposition	A740095
11/29/2018	LUCERO-ROMERO v. DANIELS	Arbitration	A704019
12/5/2018	MADDOCK v. MOFFETT	Deposition	A726529

OLIVERI TESTIMONY LIST 2019

DATE	CASE NAME	TESTIMONY	CASE #
1/14/2019	EGUSQUIZA-RODRIGUEZ v. AJ INDUSTRIES	Deposition	A748239
1/28/2019	DOUGLAS v. CENTENNIAL DEVELOPMENT	Deposition	A715234
3/11/2019	COCHRAN v. NEVADA PROPERTY 1, LLC	Deposition	A687601
3/13/2019	ELLIOTT v. DOMINGUEZ-FRESCAS	Deposition	A777067
3/20/2019	PARPART v. NEW CASTLE CORP.	Deposition	A753732
3/22/2019	THOMPSON v. ALLSTATE INSURANCE	Deposition	17-cv-00181
4/3/2019	HUMPHREY v. AMERICAN MEDICAL RESPONSE	Deposition	A757673
4/22/2019	RIVERS v. VALADEZ RAMIREZ	Deposition	A761280
5/1/2019	FLYNN v. MERILLAT	Arbitration	A726040
5/8/2019	SCHWEER v. DIAZ	Deposition	A766063
5/13/2019	LOMBARDI v. ALBERTSONS	Deposition	A76643
5/15/2019	STRATMAN v. FARIS	Deposition	A767754
5/22/2019	MARSHALL v. BRADY	Deposition	A751491
5/23/2019	McCOVERY v. CASTILLO-TOBAR	Arbitration	A744525

DAVID J. OLIVERI, M.D.

DIPLOMATE, AMERICAN BOARD OF PHYSICAL MEDICINE AND REHABILITATION
 DIPLOMATE, AMERICAN BOARD OF ELECTRODIAGNOSTIC MEDICINE

851 S. RAMPART BOULEVARD • SUITE 115 • LAS VEGAS, NV 89145
 (702) 778-9300 • FACSIMILE (702) 778-9301

COMPREHENSIVE MEDICAL EVALUATION

EXAMINEE : Maikel Perez-Acosta
EXAM DATE : 09/24/19
REPORT DATE : 09/29/19
D.O.L. : 07/12/16

I have been requested to perform a face-to-face evaluation as well as to review a number of documents and provide my conclusions and opinions within the scope of my area of expertise as a Board Certified physician in Physical Medicine & Rehabilitation. The documents received for review are outlined below. I have also summarized these documents in the Record Review section of this report. The received documents are as follows:

1. Meadows Chiropractic records and billing.
2. UMC records and billing.
3. Capanna International Neuroscience Consultants records and billing.
4. Advanced Orthopedics and Sports Medicine records and billing.
5. Steven Holper, M.D. records and billing.
6. Stein Diagnostic records and billing.
7. Gobinder Chopra, M.D. records and billing.
8. Western Regional Center for Brain & Spine Surgery records and billing.
9. Interventional Pain & Spine Institute records and billing.
10. Pueblo Medical Imaging records and billing.
11. Valley Medical Hospital records and billing.
12. Bruce Hirschfeld, M.D. records.
13. West Valley Imaging records.
14. Machuca Family Medicine records.
15. Walgreens billing.
16. Emp of Clark UMC McCourt billing.
17. Southwest Medical billing.
18. ASP Cares Pharmacy billing.
19. Surgical Arts Center billing.

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20. Red Rock Diagnostics billing.

IDENTIFICATION

37-year-old right-handed male.

HISTORY

GENERAL:

The history is obtained from the examinee as well as the medical records that have been carefully reviewed by me and summarized by me below. Betty from my office provided translation. I had the examinee complete a pain diagram in conjunction with his appointment. I entered the exam room at 8:30 a.m. and completed the face-to-face evaluation at 10:10 a.m. Betty from my office was present during the entire evaluation. The examinee presented alone for his appointment. He drove himself to the appointment. He presented with a single-point cane as an ambulatory aid.

PREINJURY STATUS:

The examinee states that in approximately the year 2000 he was working as a shrimp fisherman. This was in Cuba. He was digging for some dirt under a tunnel or a bridge when it collapsed on his torso. They put him in the boat and took him to the hospital. His lower extremities were numb but he states he could move them. He was told he had a fracture in his thoracolumbar region. He underwent what sounds to be a fusion surgery initially. He states that 11 months later, they removed the hardware in a second operation. He remembers using a walking stick after the surgery for a couple of months. He eventually was able to return back to fishing. He states he had normal bowel and bladder control and had normal sexual activity. He states he worked as a fisherman until he left Cuba for the United States in approximately 2015 or 2016. He states in the United States he lived alone in a first floor apartment. He was able to drive a vehicle but, at the time, did not have a car or a driver's license. He does not recall lower extremity numbness. He states he ambulated without a device. On specific questioning, he admits to noticing some atrophy in his right lower extremity after the 2000 incident but states that it did get worse in the six months or so leading up to the 2016 subject accident. In this regard, he reiterates a number of times that he had normal motor strength in his

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lower extremities and did not drag a foot.

Also on specific questioning he states that he always had some aching in his lower thoracic region. He states that with weather changes there would be pain. He does not recall taking medication leading up to the subject accident.

POSTINJURY CONDITION/INJURIES:

Denied.

MECHANISM OF INJURY:

On 07/12/16 he was the restrained passenger in a 2011 Ford Focus. He was in the front passenger seat. They were at a stoplight. The stoplight turned green and they started to go through the intersection. He then states they had to stop secondary to traffic ahead. They were rear-ended by an Isuzu commercial truck. The examinee remembers hearing a horn honk behind and then remembers the rear-end impact. They did not hit a vehicle in front.

CURRENT CHIEF COMPLAINT(S):

Constant lower back pain with lower extremity symptoms. He also reports ongoing incontinence.

HISTORY OF PRESENT ILLNESS:

He states that they called 911 at the scene of the accident but the police officers did not come. They took photographs of the vehicles and exchanged information. He remembers feeling pain in his upper and lower back and pain down the right lower extremity. He was seen by a chiropractor the day after the accident. At that time he was having trouble controlling his bladder. The chiropractor recommended that he go to the emergency room. He went to UMC and was evaluated. He remembers having some testing done at the emergency department. He remembers being told that he would require surgery on his lower back. He states that surgery did not occur. He ended up checking himself out of UMC against medical advice because he states that he was asking for help to go to the restroom and no help came. He ended up defecating on himself and got upset and left. He also states he does not recall ever seeing Dr. Capanna for consultation.

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He then returned to UMC the day after leaving against medical advice. He was kept overnight and discharged home. He subsequently was seen by a number of different physicians. He was seen by Dr. Kaplan and Dr. Rosler. He ended up having some lumbar injections which provided some temporary benefit. He underwent lumbar discography. He was recommended for an L5-S1 fusion by Dr. Kaplan. He underwent that surgery on 10/17/17. The examinee states that the surgery significantly helped the lower back pain and right lower extremity symptoms initially. However, there has been some worsening over time. There has been a discussion about a spinal cord stimulator.

At the time of this face-to-face evaluation he reports the following ongoing problems:

1. Lower back. He reports constant lower back pain as well as constant right buttock pain that travels into the posterior thigh to about the posterior knee. He notices numbness on the plantar aspect of the right foot. He uses a cane while ambulating in and out of the house. He switches between the left and the right hand. He notices weakness in his right lower extremity and states that he drags his foot. He is asked about pain levels. He took medication the morning of this appointment. He states his current pain level is 6-7/10. In the last 30 days the lowest is 2-3/10 and the highest is 10/10.
2. Bladder/bowel. He states that he rarely feels the urge to urinate. He states he has some degree of urinary incontinence on a daily basis. The last time he had some bowel incontinence was a month ago. He states that his sexual function is impaired. He is able to obtain an erection but it is not hard enough for him to engage in sexual activity without taking some type of medication.

The examinee states that he was seeing Innovative Pain Care for ongoing medications. However, earlier this summer he went back to Cuba to visit and was not able to take his medications with him. Upon return he states that Innovative Pain Care Center did a urine drug screen that came back negative. He states as a result of the negative drug screen they terminated him as a patient. He has more recently been seen by a Dr. Dimuro.

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He lives with his wife, two children and his mother-in-law in a two-level house. He has been in the United States for about four years. He is a United States resident and states that he will become eligible for citizenship soon.

PAST MEDICAL HISTORY:

Allergies: None.

Medical Illnesses: None.

Current Physicians: Dr. Dimuro as well as Dr. Machuca.

Past Surgeries: Thoracolumbar fusion with hardware removal. Also, L5-S1 anterior fusion.

Current Medications: Generic Percocet 10/325 mg approximately four per day. He also takes Cymbalta every morning.

SOCIAL HISTORY:

He is married with two children ages two and seven. He finished his first year of high school in Cuba. He occasionally drinks alcohol. He smokes about one-half pack of cigarettes per day.

OCCUPATIONAL HISTORY:

Prior to the subject accident he was working for an individual doing mechanic work for about one year. He has not worked since. He has applied successfully for social security disability.

REVIEW OF SYSTEMS:

Noncontributory other than the above.

MEDICAL RECORD REVIEW

07/12/16 **Date of Loss.**

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07/12/16 **Meadows Chiropractic.** (Patient intake form indicates in Spanish that patient was in a motor vehicle accident on 07/12/16 and was one of four passengers in a Ford 2011 Focus. Unsigned office form indicates the following: Other symptoms: Range of motion. Muscle spasm. Tinnitus. Blurred vision. Anxiety/nervousness. All complaints due to stated injury: Yes. Lumbar range of motion: decreased. Pain on palpation to lower thoracic, lumbar, lumbosacral and sacroiliac. Spasm to mid- and lower thoracic, lumbar, lumbosacral and sacroiliac. No pain prior to accident. Remarks indicate "Prior 2002 – not MVA. Involved in mining accident which lead to multiple back surgeries." Mechanism of injury: Passenger. Belted. No ER. Did not expect collision. Multiple diagnoses are checked totaling fifteen, relating to the thoracic, lumbar and sacroiliac spine. Muscle spasm. Visual disturbance. Tinnitus. Anxiety and panic.)

07/13/16 **Chiropractic Treatment Note.** Patient came in feeling worse. Right leg weak and numb. Not fully able to fully control right ankle. Also notes partial loss of bladder control. Rec he go to ER immediately. (Pain diagram from 07/12/16 notes pain level of 8 with markings at upper, mid and lower back pain with pain radiating down the right leg and a new diagnosis of lumbar radiculitis on 07/13/16.)

07/13/16 **UMC. Emergency Department.** Chief complaint: Back pain. This is a 34-year-old gentleman, very pleasant who comes in today complaining of central back pain. The patient has a history of prior back surgeries X2. States that he had 5 vertebrae refused. This was done in Cuba 5 years ago, after an MVA. He was told he would never walk again. The patient went to physical therapy for years, has been able to walk. The patient states that he was the restrained back seat passenger of a vehicle that was involved in a motor vehicle collision yesterday morning at 9:30 a.m. The patient was rear-ended. There was no passenger compartment intrusion. Airbags did not deploy. The patient had been ambulatory since then. The patient states that since the accident he has had increasing right leg numbness. The patient was actually at physical therapy today where he was starting it for the first time and was referred over for spinal pain and concerns for acute cord impingement. The patient states that he has had pain in his back, it has been pretty constant. No real radiculopathy. Over the last about 24-36 hours, the patient has reported increasing right leg symptoms. He has had new numbness and tingling down the right leg. He has been having trouble moving his right foot and has 4 episodes of urinary incontinence. The patient denies any fecal incontinence. He states he is unable to move his right ankle which is new, and is now having

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difficulty walking. He states that previously he had been walking pretty well. The patient denies any other neck pain. No upper extremity pain or any other concerns. The patient has tenderness to palpation along the thoracic and lumbar spines, with no acute step-off, no crepitus, but was tender. He does have some tight paraspinous muscles. No active spasm. The patient does exhibit decreased rectal tone. On the right motor hip is 4/5 with hip flexion and extension, knee is 3+ out of 5 strength with flexion and extension and ankle has 2/5 strength, he is unable to move it against gravity. Does have evidence of a foot drop. Sensation is decreased throughout the entire right lower extremity in all dermatomes. The left side was intact and I am unable to elicit reflexes on the right leg. The patient also exhibited saddle anesthesia on my exam. Clinical impression: Status post motor vehicle collision. Acute cauda equina syndrome with epidural fluid collection. Right lower extremity numbness and weakness. At this time, patient has not had any significant progression of his symptoms. (Spoke with Dr. Capanna regarding cauda equina syndrome. Patient admitted to IMC Unit. Prescribed Decadron.)

07/13/16 **CT Thoracic Spine.** Impression: Normal CT of the thoracic spine without contrast.

07/13/16 **CT Lumbosacral Spine.** Impression: Multiple remote changes are noted. No significant spinal canal stenosis.

07/13/16 **MRI Thoracic Spine without contrast.** Impression: Unremarkable MRI of the thoracic spine. Please see separately reported lumbar spine dictation for details regarding the epidural fluid collection at T12-L1 and adjacent mass effect on the cord medullaris and tenting of the nerve roots.

07/13/16 **MRI Lumbar Spine without contrast.** Impression: There is an epidural fluid collection just deep to the T12-L1 laminectomy extending inferiorly to the level of L3. The fluid collection exerts local mass effect on the conus medullaris with cephalad displacement, with resultant significant tenting of the nerve roots of the cauda equina.

07/14/16 **UMC History and Physical. Shamoona Ahmed, M.D.** Chief complaint: Right lower extremity weakness. This is a 34-year-old gentleman, Spanish-speaking only, who came to the ER because of the right lower extremity weakness, as well as numbness, loss of urinary and bowel control. Assessment: Cauda equina syndrome. Right lower extremity weakness and numbness, likely

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secondary to cauda equina syndrome. Leukocytosis, likely related to the steroid he received in trauma before the blood was drawn. Chronic back pain, status post laminectomy. Urinary and bowel incontinence. (Patient admitted to IMC for neuro check q.2 hours. Recommend neurosurgery consult. Prescribed Decadrom and Lovenox.)

07/14/16 **Albert Capanna, M.D.** Workup with MRI and CT of the lumbar spine shows a decompressive laminectomy at T12-L1. MRI TS this likewise shows the decompressive laminectomy at T12 and L1. The patient, however, at the step-off had some fluid posteriorly interpreted as epidurally. I think it is actually intradurally and part of the previous injury. His cauda equina is compressed. Probable intradural not extradural fluid. I think this is a remote injury. My interpretation of the MRI of the lumbar spine. Diagnoses: Cauda injury syndrome. Remote lumbar decompression secondary to trauma and compression fracture L1 with laminectomy at T12-L1. Recent motor vehicle accident last night. It is possible he will need surgical intervention, but I do not think so at this point.

07/14/16 **UMC. Discharge Summary.** (Patient discharged against medical advice at 1800 hours. Patient was counseled about leaving against medical advice and the severity of his problem through an interpreter.)

07/15/16 **UMC. Emergency Department.** Chief complaint: Spinal injury/pain. Patient did leave AMA yesterday although symptoms have seemed to progress since then, stating that his numbness and pain in his right leg are worse in addition to the fact that his urinary incontinence is worsening as well. I did discuss this with Dr. Capanna you [sic] initially consult on the patient yesterday for possible surgical intervention. He did state that at this time he does not believe there is any surgical intervention required. He thinks that seeing fluid that is compressing spinal cord is chronic from his previous laminectomy done 10 to 15 years ago in Cuba. He does suggest continuing Decadron although does not think he will take patient to the OR given the chronicity of his imaging findings. The right and lower extremity is weak. Able to move lower extremities but has decreased sensation. Has had 2 episodes of bowel and bladder incontinence. Unable to ambulate. Primary diagnosis: Cauda equina syndrome. (Admitted to the hospital. Prescribed Decadron. Current every-day smoker; 2 packs/day; smoker since 1995.)

07/15/16 **UMC History and Physical. Swati Wadhwani, M.D.** Chief

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complaint: Pain in the right lower extremity and urinary and fecal incontinence since Tuesday. Apparently he left AMA because he was hungry although he was surprisingly given permission to eat already prior to his discharge. Apparently he states that he is having right lower extremity pain, sharp in nature, 8/10 in intensity. Assessment and plan: They are going to notify Dr. Capanna again to see the patient. (History obtained with Spanish interpreter.)

07/15/16 **Dr. Capanna.** He had signed out AMA last night because he did not want to have surgical intervention. Surgical intervention was not being proposed for him. Complete workup with CT scans and MRI scans of the thoracic and lumbar spine only shows previous surgery which was done in 2004 in Cuba to a decompressive laminectomy at T12-L1. Question was that he had some epidural fluid posteriorly to his cauda equina compressing it. I did not think he had it epidurally, I think he had it intradurally and it is from a remote surgery for a compression fracture, had a stepoff there. He did not have a fusion and the appropriate surgery that he should have had in my opinion. I think this is residual scarring etc. from previous surgery. The patient on exam has atrophy of his lower extremities that is obviously not new since a couple of days ago. The question is diagnosis of remote thoracolumbar decompression secondary to compression fracture at L1 anteriorly and subluxation minimal of T12 on L1. This depends on how you count his spine, as well. But some radiologists are counting it different depending on whether using a last 12th rib down from cervical 1 (C1) or count up from the lumbar area. At any rate, the injured area is obvious. I told the ER physician we are not doing any surgery on the patient. He will be treated conservatively. If he continues with pain, he can seen by the Pain Management as an outpatient. I will not operate on the patient. He apparently came to my office before coming in to the hospital and was not pleasant with my office staff. He may have litigious activities going on with his MVA. Obviously he has had at least 2 MVAs historically. He had the other one that led to his previous surgery. The patient at any rate in my opinion, does not warrant surgical intervention that may cause more problems and based on what I see in the scan is unlikely to help him. Can be discharged whenever appropriate per his attending doctors. (Recommends continuing Decadron and tapering down.)

07/16/16 **UMC. Discharge Summary.** (Urine drug screen positive for opioids. Prescribed Pantoprazole, Colace, Decadron and Norco.)

07/18/16 **Chiropractic Treatment Note.** Patient went to UMC on 7/13

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where they wanted to do SX then for inflamed spinal cord. Instead they medicated and observed for 3 days. No more TX here. Pt released to seek spinal surgeon for further eval and TX.

08/01/16

Sep Bady, M.D. Advanced Orthopedics & Sports Medicine.

Patient is a 34-year-old gentleman who was a passenger in a Ford Fusion on July 12, 2016 when he was rear-ended by a truck. He had immediate onset of back pain and was taken to the UMC Hospital. Initially they discussed surgical intervention for him and then decided against surgery. Since then he's been having difficulty walking. He has severe pain on the right leg and he feels the right leg is weak. He has been having to use a walker since then. He had a car accident 13 years ago in Cuba requiring surgery. He said he has done fine since that surgery 13 years ago. On examination, the patient is thin and very fit. He has a long incision along his thoracic spine. He has tenderness along the upper to lower lumbar spine and significant pain with extension and flexion of the spine. He has to hold a walker to stabilize himself during the examination. In a seated position, the patient has significant weakness with the right lower extremity. The quadriceps strength is 4-5 strength while the hamstring is 3 out of 5 strength, dorsiflexion of the foot is 2-3 out of 5 strength. He notes that prior to this accident he had no weakness of the right leg. Assessment: Low back pain with right lower extremity weakness and L1 compression fracture status post motor vehicle accident. Plan: I discussed with the patient that we should obtain an MRI of the lumbar spine to assess how much damage was caused by this motor vehicle accident and why the right leg is so weak. He was not given a lumbar brace from the hospital.

08/22/16

Steven Holper, M.D. Initial Report.

Presenting complaints: Mid and lower back pain. Right leg pain. Difficulty sleeping. Erectile dysfunction. Urinary incontinence. This patient is a 33-year-old male who was riding as a front seat passenger in a motor vehicle traveling on Lamb and Lake Mead. The patient's vehicle was struck from the rear. He was taken to UMC Hospital. He was evaluated, treated and released. He was told that he had realized a spinal fracture at the mid dorsal region. Apparently he developed his symptoms several days post injury. He was seen by Dr. Mitchell who astutely determined that he had a potentially significant neurologic problem and then referred him to UMC Hospital. He was admitted. He was prepped for surgery and then he was given antibiotics and sent home for no apparent reason. Neurologic assessment indicating that he has an absent bilateral cremasteric reflex. Pinprick sensibility decreased beginning at T8 downward. Muscle strength right lower extremity generally 3+/5. Reflex is

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absent at the Achilles and patellar. He appears to be exhibiting lower motor neuron damage that is likely permanent in nature. (Referred by Dr. Mitchell of Meadows Chiropractic. Occupational status listed as unemployed. Recommends spinal surgeon. Pain diagram shows markings at mid and lower back and right knee.)

08/30/16 **MRI Lumbar Spine without contrast. Steinberg Diagnostic. Ho Nguyen, M.D.** Impression: Compression type fracture involving the L1 vertebral body resulting in loss of height anteriorly by approximately 50%. There is 5 mm offset at the posterior aspect of T12 on L1. Some of this is likely related to posterior bulging of the cortex, as no significant offset is identified at the anterior margin of T12 and L1 vertebral bodies. In addition, there is anterior displacement of the conus and cauda equina nerve roots at T12-L2 related to an intradural posterior cystic structure. This likely represents a posttraumatic arachnoid cyst. It demonstrates mass effect on the conus and cauda equina nerve roots. 4 mm focus of intermediate T2 signal intensity is also seen within the spinal cord at the level of T12. This may represent a posttraumatic syrinx versus myelomalacia or sequelae of intramedullary hemorrhage. Mild marrow edema with within the L1 posterior elements. No significant marrow edema seen within the vertebral body of L1. Suspect subluxation at the T12-L1 facet joints. Correlate with prior imaging. This can further assess with CT lumbar spine. Mild disc disease at L5-S1.

09/02/16 **Dr. Bady.** Again he notes that he had surgery in Cuba 14 years ago for multilevel compression fracture. He was in a wheelchair after that for 3 years. He is doing fairly well and walking without assisted device until an accident on July 12. Since then the right leg is weak and he has to use a walker to walk. Again a translator was present for this part of the interview. I discussed with the patient that there is some kyphosis at the T12-L1 level. To correct this would surgically require a multilevel fusion likely from T10-L2. (Recommends physical therapy.)

09/07/16 **Dr. Holper.** My concern is that the patient has residual neurologic issues that are likely permanent in nature including urinary incontinence, erectile dysfunction, etc. His examination remains essentially unchanged. He has some noted hematuria. He noted blood in his urine beginning about three days or so ago. He has a positive Murphy's punch test bilaterally. He has pain with urination. (Recommends neurology consult. Recommends catheter and/or diapers. Prescribed Norco.)

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09/27/16 **Dr. Holper.** He persists with complaints suggestive of erectile dysfunction. He exhibits no sensation referencing his right lower extremity. He has 4-/5 dorsi flexion strength and plantar flexion strength bilaterally. DTR both lower extremities 2/4. No clonus noted. He is developing significant atrophy referencing his right foreleg musculature. I did attempt to refer this patient to Nevada Orthopedic and Spine Center, however per discussion with their office he was not seen at their facility. My diagnosis was T8 spinal cord injury. He has an element of T8 involvement that at this point in time is likely permanent. (Recommends neurology consult and EMG/NCV studies.)

10/27/16 **Gobinder Chopra, M.D.** Suspected subluxation of the T12/L1 facet joints. Patient is complaining of weakness in the legs, stiffness in the back, pain in the left leg, loss of sensation in the right leg. Patient apparently has not done any physical therapy. Patient apparently was a passenger in Ford Fusion on July 12, 2016 when he was rear-ended by a truck. He had immediate onset of back pain and was taken to UMC Hospital. Initially surgical consultation was discussed. At that time patient had decided against surgery. Since then he has been having a difficult time walking, he has severe pain in the right leg and feels that his legs are weak. He has been having to use a walker. Extended family and translator were present for history and examination. Patient has tenderness along the upper to lower lumbar spine and significant pain with extension and flexion of the spine. Significant right lower extremity weakness, quadriceps 4+/5, hamstrings 3+/5, dorsiflexion of the foot 3/5. Left leg strength 4+ to 5-/5 in his quadriceps, plantar flexion and dorsiflexion. Significant atrophy of both lower extremities. Sensory exam: Decreased pinprick T12 below. Gait: Tow walk, heel walk, tandem gait impaired. DTR: Symmetrical and 2+/4 bilateral upper extremities. Reflexes: Biceps, triceps, brachioradialis 2+/4. Hyperreflexic patellar deep tendon reflexes. 0/4 bilateral Achilles. Diagnoses: MVA. Pain in left leg. Numbness. L1 wedge compression fracture, sequela. Cauda equina syndrome. Conus medullaris syndrome. Arachnoid cyst. Post-traumatic syrinx. Height: 65 in. Weight: 105 lb. (Recommends X-rays lumbar spine, updated MRI of lumbar spine, MRI thoracic spine, neurosurgery consult, somatosensory-evoked potentials bilateral lower extremities and EMG/NCV bilateral lower extremities. Prescribed Prednisone.)

12/14/16 **Somatosensory-Evoked Potentials. Dr. Chopra.** Impression: The stimulation of posterior tibia nerves showed prolonged P37 latencies on the right and normal P37 latencies on the left.

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12/15/16 **EMG/NCV Bilateral lower extremities. Dr. Chopra.**

Impression: Evidence of active denervation changes seen distal bilateral lower extremities muscles on EMG examination of bilateral lower extremities. Please see list of muscles investigated, bilateral lumbosacral paraspinal muscles were investigated, although patient could not relax during the testing. Motor, sensory and reflex nerve conduction responses were performed on bilateral lower extremities revealing evidence of delayed left peroneal motor onset latency, reduced amplitude. Right peroneal motor response could not be obtained, bilateral tibial motor response could not be obtained. Right peroneal abdomen and right tibial F-wave response could not be obtained. These findings are suggestive of moderate to severe peripheral polyneuropathy involving the distal lower extremities. (Data reviewed. There are 1+ fibs and PSW in L5 and S1 muscles and normal volitional motor units. Recommends neurosurgery consult.)

12/21/16 **Dr. Chopra.** (Results of EMG/NCV and SSEPs reviewed with patient. Recommends spine surgery consult, pain management follow-up and physical therapy.)

01/18/17 **Stuart Kaplan, M.D. Western Regional Center for Brain & Spine Surgery.** The patient is a 34 year old male who presents with a complaint of low back pain. He is Spanish speaking male. History obtained via one of our interpreters in the office. He states in Cuba he had problems with his low back about 14 years ago. He had two operations on his lumbar spine. He states something fell on him back then in Cuba. He was in a tunnel. On exam, he has got pretty significant scar up his thoracic and upper lumbar region. He states this accident happened about seven months ago. After the accident, he went to UMC Hospital. He states he was supposed to go see Dr. Capanna afterwards, but he never did, as he states Dr. Capanna "never showed up." He has chronic muscular atrophy involving his legs. He walks with the use of a walker. He has pretty extensive weakness of plantar and dorsiflexion on the right foot 1-2/5. He has good strength in both plantar, as well as dorsiflexion on the left. He states he has numbness in his right leg since the accident. MRI of the lumbar spine was reviewed 07/13/2016. This reveals an old fracture of L1. He has got a CSF collection at the levels of the laminectomy defect. He has got evidence of abnormal signal change in the cord at T12 at the level of clonus. I believe the fluid collection is related to his previous surgery. Diagnoses: Lumbar spinal stenosis. Acute low back pain. (Recommends pain management and EMG/NCV of legs.)

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01/25/17 **Jorg Rosler, M.D. Interventional Pain & Spine Institute.**

Chief complaints: Lower back pain, right lower extremity pain. The patient complains of ongoing low back pain and right lower extremity pain. Intensity rated at 10/10 dependent upon activities. He has difficulty sleeping at night due to pain symptoms. The patient ambulates with walker. There was severely restricted range of motion in flexion, extension, bilateral rotation and lateral bending. Severe pain increased in flexion, extension and bilateral rotations. Moderately tender to palpation midline at L4-5 and L5-S1 with paraspinal tenderness and spasms. Positive facet loading bilaterally. Straight Leg Raise was equivocal on right. Reflexes: 2+ in bilateral biceps, triceps, brachioradialis, patellar and Achilles. Hoffman's was not present. Strength was graded 2/5 in dorsiflexion/extension in right foot and right leg pain. Impressions: Lumbar sprain/strain, status post motor vehicle accident, with mechanical lower back pain and right leg weakness. Preexisting low back, 2 prior lumbar surgeries, pain had resolved prior to his MVA. (Recommends conservative modalities and follow-up with Dr. Kaplan. Prescribed Naproxen, Zanaflex and Tramadol.)

02/22/17 **Dr. Rosler.** He reports low back pain rating 9/10 with radiation to the right lower extremity. (Refilled medications.)

02/24/17 **MRI Thoracic Spine without contrast (0.5 Tesla). Pueblo Medical Imaging. Matt Treinen, D.O.** Impression: Deformity of L1 is likely congenital. There is nonunion posterior elements T12 and L1. Prominent conus without discrete mass. There is some anterior displacement of the nerve roots at the T12-L1 levels. This all may be congenital. (Report indicates comparison to MRI lumbar spine 02/24/17.)

02/24/17 **MRI Lumbar Spine without contrast (1.5 Tesla). Pueblo Medical Imaging. Dr. Treinan.** Impression: 1 mm disc bulge L5-S1. Congenital nonunion posterior elements T12 and L1. Compression deformity at L1 is likely congenital. There is some anterior displacement of the nerve roots within the thecal sac at this level without discrete mass. This is likely congenital. Conus is mildly prominent without discrete mass. (Report indicates comparison to MRI thoracic spine 02/24/17.)

03/13/17 **Dr. Kaplan.** He saw Dr. Chopra and had a nerve test that was consistent with lower extremity peripheral neuropathy. It does not appear as though he had any injections done. I have once again reviewed the MRI. He does

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have disc desiccation and tear at L5-S1. He does have evidence of an old L1 fracture with posterior thoracic decompression and a cystic fluid collection involving the canal. He states he has pain in the back, pain in the right leg and minimal movement of the foot. He states the minimal movement of the foot is new. He states the leg is getting weaker. Since the more recent accident, his nerves are clumped at the level of the thoracic fusion. (Recommends bilateral L5-S1 selective nerve root block.)

03/22/17 **Dr. Rosler.** He is experiencing low back pain rated 10/10 with right lower extremity pain and weakness. Schedule bilateral L5 SNRB as requested by Dr. Kaplan. (Prescribed Naproxen, Zanaflex and Tramadol.)

04/03/17 **Procedure. Bilateral L5 selective nerve root block. Dr. Rosler.** (Pain score changed from 8-9/10 to 0/10 post procedure.)

04/12/17 **Dr. Rosler.** Pain relief lasted 2 days. He is experiencing low back pain rating 8/10 with right lower extremity weakness. (Recommends following up with Dr. Kaplan. Refills medications.)

05/10/17 **Andrew Hall, M.D. Interventional Pain & Spine Institute.** He is experiencing continued low back pain rating 8-9/10 with right lower extremity radiating pain and weakness. He is pending evaluation with Dr. Kaplan. He states he is unable to sleep at night due to severe pain. (Prescribes Naproxen, Norco and Zanaflex.)

05/22/17 **Dr. Kaplan.** He underwent a bilateral L5 selective nerve root block. Pain scores went from an 8-9 down to a 0. He states when he left the surgery center that day the pain was about the same. I re-reviewed the film. At this stage, I am going to recommend medical management. Further recommendations will be forthcoming.

06/07/17 **Dr. Rosler.** He is experiencing continued low back pain rating 9/10 with right lower extremity radiating pain and weakness. Follow up with Dr. Kaplan. (Prescribed Norco, Zanaflex and Naproxen.)

06/22/17 **Dr. Kaplan.** He has been in quite a bit of pain in his low back. His pain is very significant for him. He does have a disc tear at the 5-1 level. He does have evidence of the old fracture at the L1 region. (Recommends L5-S1

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lumbar discogram.)

07/05/17 **Dr. Hall.** He is experiencing continued low back pain rating 9-10/10 with right lower extremity radiating pain and weakness. (Refilled medications.)

07/17/17 **Procedure. Provocation discography with disc stimulation at levels L3-4, L4-5, and L5-S1. Discography. Fluoroscopy. Dr. Rosler.**
Negative provocation discography at L3-4 with an opening pressure of 20 psi. There was no pain recorded, only pressure sensation. Final peak pressure was 79 psi. 3 cc of nonionic contrast material revealed a morphologically normal disc. Negative provocation discography at L4-5 with an opening pressure of 27 psi. There was no pain recorded, only pressure sensation. Final peak pressure was 80 psi. 3 cc of nonionic contrast material revealed a morphologically slightly abnormal disc. Positive provocation discography at L5-S1 with an opening pressure of 18 psi. There was concordant pain reported at 7 psi above opening pressure and pain was rated 10 out of 10. Final peak pressure was 32 psi. 3 cc of nonionic contrast material revealed a morphologically abnormal disc.

07/17/17 **CT Lumbar Spine status post discogram. Steinberg Diagnostic. Stephen Chen, M.D.** (Grade 3 fissure at L4-5 and L5-S1).

07/24/17 **Dr. Hall.** He is experiencing continued low back pain rating 9-10/10 with right lower extremity radiating pain and weakness. He reported continued urinary problems, noting almost daily difficulty with urinary incontinence since the accident. (Recommends follow-up with Dr. Kaplan, urology consult and increase Norco. Prescribed Naproxen, Zanaflex and Norco.)

08/18/17 **Dr. Kaplan.** The discogram was positive at the L5-S1 level, negative at L3-4 and negative at L4-5. I reviewed over the post discography CT scan. This does reveal a grade 3 tear with a tear at the seven o'clock position. I have reviewed over the MRI again which does reveal the evidence of the abnormal signal within the spinal cord at T12, the slippage of T12-L1. He is concerned about the muscle loss he has in his legs. I have told him that was related to his previous injury. (Recommends anterior lumbar interbody fusion with anterior plate).

08/21/17 **David Webb, M.D. Interventional Pain & Spine Institute.**
He is experiencing continued low back pain rating 10/10 with right lower

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extremity radiating pain and weakness. Referral made to urologist for ongoing urinary symptoms. No myelopathic signs/symptoms on exam. (Refilled medications.)

09/11/17 **Dr. Hall.** He is experiencing continued low back pain rating 10/10 with right lower extremity radiating pain and weakness. Will obtain urologist recs. (Refilled medications.)

09/20/17 **Dr. Kaplan.** He is scheduled for surgery next month. He neurologically is the same. He walks with the use of a walker. He has obvious muscle atrophy in the legs related to his previous spinal cord injury. It has come to my attention he has been having problems with urinary issues. (Recommends urology consult.)

10/09/17 **Dr. Webb.** (Pain rated 10/10. Refilled medications.)

10/17/17 **Surgery. Right retroperitoneal approach with mobilization of right iliac artery, right iliac vein, takedown of middle sacral vessels and mobilization of left iliac vessels for anterior exposure of spine at L5-S1. Primary repair of rent crotch of vena cava. Anterior-intraoperative fluoroscopy greater than one hour. Dr. Kaplan.** (Exposure of lumbosacral spine by Bruce Hirschfeld, M.D. Anesthesiologist is Peter Volk, M.D. Assistant is Ryan Simons, P.A.-C. Performed at Valley Hospital. There is neuromonitoring. He is discharged 10/18/17.)

11/01/17 **Dr. Kaplan.** He states he has a little bit of pain in his back. He is speaking Spanish and history obtained via one of our interpreters. He states the pain in his leg is better. He is taking Norco now. He can tell a difference with his back. His wound looks good. (Recommends X-ray of lumbar spine.)

11/06/17 **Dr. Webb.** (Pain rated 8-9/10. Recommends continue home exercise plan. Prescribed Naproxen, Zanaflex and Norco.)

11/20/17 **X-Ray Lumbar Spine. West Valley Imaging. Luke Cesaretti, M.D.** Impression: Uncomplicated postsurgical findings. Compression deformity of L1.

11/27/17 **Dr. Kaplan.** He states before surgery he was smoking two

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packs a day. Now he smokes a pack every three days. We discussed smoking and pseudoarthrosis risk. He has a little bit of pain in his lower lumbar. He states the pain was better than it was prior to surgery. I think he is doing as well as we can hope. He is walking with his walker, but he looks clinically much better than he did prior to surgery. (Recommends reducing pain medications. History obtained with interpreter.)

12/04/17 **Dr. Webb.** Lumbar exam: Well healing post surgical incision site. Pt ambulates with walker. (Low back pain rated 10/10. Medications refilled. Consider SCS for persistent low back pain.)

01/02/18 **Dr. Webb.** Lumbar exam: The patient ambulated with the assistance of a front-wheeled walker. (Low back pain rated 7/10. Medications refilled. Consider PT consultation secondary to extreme atrophy in right lower extremity.)

01/30/18 **Dr. Webb.** He is experiencing low back pain rated 5-6/10 with right lower extremity pain. Patient will be evaluated by Dr. Kaplan on 02.28.18. (Prescribed Naproxen, Zanaflex and Norco.)

02/27/18 **X-Rays Lumbar Spine. West Valley Imaging. Dr. Cesaretti.**
Impression: Degenerative changes. Status post ORIF.

02/28/18 **Dr. Kaplan.** He thinks the surgery helped. His wound has healed just fine. He states it feels hard. We told him because he is so thin that he could possibly feel the sutures or the scarring itself. Clinically, he is doing very fine. From my perspective, he could follow up with me on a p.r.n. basis.

03/06/18 **Dr. Webb.** (Low back pain rated 9/10. Medications refilled.)

04/03/18 **Dr. Webb.** (Low back pain rated 10/10. Medications refilled.)

05/01/18 **Dr. Webb.** (Low back pain rated 10/10. Recommends scheduling SCS education. Medications refilled.)

05/29/18 **Dr. Hall.** He is experiencing low back pain rated 9/10 with right lower extremity pain. He is here today to meet with the SCS device rep. He notes that Norco is not helping as much as it used to. (Recommends psychology

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evaluation for lumbar SCS trial clearance and PT consultation for right lower extremity atrophy. Prescribed Norco, Duloxetine, Naproxen and Zanaflex.)

06/26/18 **Dr. Rosler.** He is experiencing low back pain rated 7-8/10 with right lower extremity pain. He states the Duloxetine helps his symptoms. (Medications refilled.)

07/24/18 **Dr. Hall.** Duloxetine is helping. He wishes to postpone SCS trial and psychology evaluation. (Low back pain rated 5-6/10. Medications refilled.)

08/21/18 **Dr. Hall.** (Low back pain rated 8-9/10. Prescribed Norco, Duloxetine, Naproxen and Zanaflex.)

09/25/18 **Dr. Rosler.** Low back pain rated 10/10. Medications refilled.)

10/29/18 **Rogelio Machuca, M.D. Machuca Family Medicine.** He is c/o back pain 10/10 constant sharp pain, he has atrophy on B/L LE. He has not worked since 2016. He is disabled. He has been irritable and adjusting to life with pain and assistance with ADLs. He is unable to have FROM on B/L foot. Back: Normal curvature, tenderness. Healed surgical scar on back and abd. Muscle atrophy on B/L LE. Diagnoses: Lumbar disc disease with myelopathy. Muscle atrophy of lower leg. Irritability. ED. (Recommends pain specialist and lab work.)

11/05/18 **Innovative Pain Care Center.** (Billing for consultation.)

12/03/18 **Innovative Pain Care Center.** (Billing for followup.)

01/08/19 **Innovative Pain Care Center.** (Billing for followup and urine drug screen.)

02/05/19 **Innovative Pain Care Center.** (Billing for followup.)

03/05/19 **Innovative Pain Care Center.** (Billing for followup.)

04/02/19 **Innovative Pain Care Center.** (Billing for followup.)

05/06/19 **Innovative Pain Care Center.** The primary pain complaint

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continues to be located in the lumbar spine and radiates into the right leg and right hip. The patient currently rates the severity of the primary pain complaint at a level of 8/10 on average and 10/10 at its worst. (Refilled generic Percocet and cyclobenzaprine. Also indicates that he is on duloxetine.)

06/03/19 **Innovative Pain Care Center.** (Refill of Percocet.)

07/08/19 **Innovative Pain Care Center.** (Refill of Percocet.)

08/05/19 **Innovative Pain Care Center.** (Refill of medication.)

Photographs are reviewed. They show a shattered back window and damage to the rear of the 2011 Ford Focus. Photographs show minor damage to the bumper of the Isuzu Trench Shoring Co. flatbed truck.

Interrogatories dated November 5, 2018 are reviewed. The following answers are noted.

Interrogatory No. 7. He is asked if was working at the time of the accident, he answers he was not working.

Interrogatory No. 8. He is asked if he had any physical, emotional or mental conditions that may have contributed to the accident. He answers he did not have any medical or mental problems at the time of the accident.

Interrogatory No. 10. He is asked if he has any complaints attributed to the accident. He responds that he suffered injuries to the neck, upper back and low back as a result of the accident. He has lost bladder control. He's had back surgery, his right foot is numb and weak and he uses a walker. He takes medication to control his pain. He has lost strength in his legs, arms and body. He has been declared physically disabled by a medical doctor due to the injuries he sustained from the accident.

Interrogatory No. 13. He is asked of medical services necessitated by the injuries attributed to the incident. He answers he requires a walker to ambulate and wears adult diapers due to bladder incontinence. He requires a driver as he is unable to drive himself. He states he needs assistance with

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activities of daily living.

Interrogatory No. 18. He is asked whether he has loss of income or earning capacity due to the incident. He answers he has unable to work since the accident. He has been placed on permanent medical disability.

Interrogatory No. 19. He is asked about his employment prior to and at the time of the incident. He answers he was a freelance mechanic in Cuba and since 2015 after immigrating from Cuba. Since the accident, he states he has been unable to work.

Interrogatory No. 22. He is asked whether there are other damages attributed to the accident. He answers he has lost his income because of the accident. He has had to borrow money from family and friends and has trouble paying his bills.

Interrogatory No 23. He is asked if he had complaints or injuries prior to the accident. He answers he did not suffer any previous injuries prior to the accident.

Interrogatory No. 28. He is asked to identify any other car accidents he has been involved in. He answers he has never been in any other car accidents.

Interrogatory No. 34. He is asked whether a report was made by any person concerning the accident. He answers the police and/or ambulance never showed up to the accident and no reports were made.

MEDICAL BILLING REVIEW

PROVIDER	DATE OF SERVICE: FROM	DATE OF SERVICE: TO	CHARGES
Meadows Chiropractic	07/12/16	07/13/16	\$360.00
Capanna International Neuroscience Consultants	07/13/16	07/15/16	3,135.00
Emp of Clark UMC McCourt	07/13/16	07/13/16	1,703.70

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PROVIDER	DATE OF SERVICE: FROM	DATE OF SERVICE: TO	CHARGES
UMC	07/13/16	07/16/16	32,188.59
Southwest Medical (walker)	07/16/16	07/16/16	119.39
Walgreens	07/16/16	01/08/19	5,082.69
Advanced Orthopedics & Sports Medicine	08/01/16	09/02/16	1,230.00
Steven Holper, M.D.	08/22/16	09/27/16	750.00
ASP Cares Pharmacy	09/07/16	09/07/16	249.00
Steinberg Diagnostic	09/14/16	09/14/16	400.00
G.S. Chopra, M.D.	10/27/16	10/21/16	4,050.00
Western Regional Center for Brain & Spine	01/18/17	12/10/18	38,496.00
Interventional Pain & Spine Institute	01/25/17	09/25/18	16,780.00
Pueblo Medical Imaging	02/24/17	02/24/17	3,300.00
Surgical Arts Center	04/03/17	07/17/17	15,087.64
Red Rock Diagnostics	07/17/17	07/17/17	650.00
Valley Hospital	10/17/18	10/18/17	186,100.02
Innovative Pain Care Center	11/05/18	08/05/19	\$ 4,141.41

PHYSICAL EXAMINATION

GENERAL:

The examinee's measured height with shoes is 5 feet 5-1/2 inches. His measured weight with clothing is 120 pounds.

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EXTREMITIES:

He does have generalized atrophy in the bilateral thighs and lower legs. However, he is a very thin individual in addition.

His calf circumferences are 22 cm on the right and 25 cm on the left.

TRUNK/SPINE:

There is a 21 cm healed scar at the thoracolumbar junction midline.

There is a 5 cm midline lower abdominal scar present.

Active lumbar motion is measured with electronic inclinometers. Lumbar extension is 10 degrees with lower back pain. True lumbar flexion is 50 degrees and gross lumbar flexion is 70 degrees with lower back pain.

SENSORY:

There is patchy decreased sensory to light touch in the bilateral lower extremities. There does appear to be less sensation on the right S1.

PROPRIOCEPTION:

Intact at the bilateral great toes.

MOTOR:

There is diffuse weakness in the bilateral lower extremities. Hip flexors are 3/5 on the left and 2/5 on the right. Knee extensors are 4/5 on the left and 3/5 on the right. Ankle dorsiflexion is 4/5 on the left and 0/5 on the right. Ankle plantar flexion is less than 3 on the left as he is unable to do a heel lift. On the right it is 1/5. EHL strength is 3/5 on the left and 0/5 on the right.

REFLEXES:

2+ at the bilateral biceps, triceps and brachioradialis. The bilateral quadriceps and

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Achilles are unobtainable.

GAIT:

He has an abnormal gait. He is observed ambulating with a single-point cane in the right hand. He places the cane on the ground during right lower extremity stance phase. I also had him ambulate for a few steps in the room without a cane. He was safe but had a better gait with the cane. There is obvious limited ankle dorsiflexion on the right during swing phase. He does have a tendency to circumduct the right lower extremity during swing phase.

QUESTIONNAIRES

PAIN DIAGRAM: Appropriate.

NUMERIC PAIN SCALE: Currently 6-7/10, 30-day best 2-3/10, 30-day worst 10/10.

The Numeric Pain Scale is obtained by verbally requesting pain levels from the examinee with 10/10 being defined as the worst pain imaginable and needing to go to the emergency room and 0/10 being no pain. The scores provided by the examinee allow the examiner to correlate perceived level of pain with diagnoses and objective findings.

RADIOGRAPHIC/OTHER STUDIES

The reports are noted. I also directly reviewed the lumbar MRI scan from UMC on 07/13/16 as well as the Steinberg lumbar MRI scan from 08/30/16. They are the same. There is evidence of prior trauma with a fracture of L1. There is evidence of T12-L1 fusion. There is some overlap of the anterior inferior portion of T12 relative to L1. There is an intradural cyst that spans from about T12 to L2. It occupies almost the entirety of the thecal sac. The scans are essentially the same. There is posterior bulging at L5-S1.

DIAGNOSES

DIAGNOSIS ASSOCIATED WITH 07/12/16 MVA:

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1. L5-S1 DISC INJURY WITH RIGHT LUMBAR RADICULITIS STATUS POST ANTERIOR L5-S1 FUSION RECONSTRUCTION ON 10/17/17.

DISCUSSION

I have been asked to evaluate Mr. Perez-Acosta in reference to the subject accident. My conclusions and opinions are outlined below.

CONCLUSIONS/OPINIONS

PREEXISTING CONDITIONS/INJURIES:

This examinee had what sounds to be a very significant injury at L1 in Cuba in approximately the year 2000. He has radiographic evidence of a fracture of L1 with a T12-L1 fusion surgery and hardware removal. He also has MRI evidence of an intradural arachnoid cyst that spans from about T12 to L2. While he does not recall having bladder or bowel issues leading up to the 2016 subject accident, the medical records reflect that he had a chronic condition related to the thoracolumbar junction with associated bilateral lower extremity atrophy and weakness. This will be further discussed below.

POSTINJURY CONDITIONS/INJURIES:

The examinee denies subsequent injuries or accidents after 07/12/16.

QUESTIONNAIRES:

I had him complete a pain diagram which was appropriate. I also obtained pain levels verbally. His current and low-end pain levels are appropriate. I did define and reiterate the 0 to 10 pain scale indicating that a 10 would be him needing to go to the emergency room. With that description, he did report to me that in the last 30 days his pain levels have been as high as 10/10. This does appear to be higher than what would be medically expected based on his condition.

MEDICAL CAUSATION:

Comments regarding causation are referenced to the mechanism of injury as well as the history, medical records, and physical examination performed. A number of

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factors have been taken into account with respect to the causation issue. These factors are as follows:

1. As noted above, the examinee has a chronic condition with respect to his thoracolumbar junction. In approximately the year 2000 he had trauma to his spine that resulted in a fracture of L1. He underwent what seems to be a posterior lumbar decompression, fusion and instrumentation at T12-L1 in Cuba. A year later he had hardware removal. The examinee tells me that he had some residual aching in the thoracolumbar junction with intermittent pain during weather changes. He also states that he does recall seeing some atrophy in his right lower extremity but he denies having weakness or problems with bowel or bladder or sexual function. My review of the medical records reflects a more substantial condition that preexisted his subject accident. He was noted at UMC to have significant atrophy in the lower extremities. MRI scanning confirms the old fracture and surgery at T12-L1. However, there was also a large intradural subarachnoid cyst that spans from about T12 to L2. This is compressing the region of the cauda equina and the intrathecal nerves. This intradural cyst finding would be consistent with Mr. Perez-Acosta having chronic lower extremity atrophy, loss of reflexes, and likely having some issues with bowel/bladder. If there is any medical or nonmedical information available with respect to his physical condition leading up to the 07/12/16 subject accident, I would be interested in reviewing this and providing further comment.
2. There is no subsequent injury or accident after 07/12/16.
3. The subject accident occurred on 07/12/16. He was the restrained front seat passenger in a 2011 Ford Focus. They had to stop because of traffic ahead and were rear-ended by an Isuzu commercial truck.
4. The day following the subject accident the examinee presented to the chiropractor's office with thoracic and lumbar spine pain, pain traveling down the right lower extremity and partial loss of bladder control. The chiropractor appropriately recommended that he go immediately to the emergency room given the partial loss of bladder control.
5. He was then seen at UMC on 07/13/16. They indicate that he was having progressive worsening of right lower extremity pain since the subject accident. They identified lower extremity weakness and

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atrophy consistent with my examination. However, they also identified saddle anesthesia and started him on intravenous Decadron for a presumptive diagnosis of cauda equina syndrome. Dr. Capanna was consulted and he correctly identified the cystic structure as being intradural and thought that this was related to the remote trauma and that Mr. Perez-Acosta was not a surgical candidate at this time. From my perspective, there are some challenges with respect to cauda equina issue. Specifically, while the examinee recalls having lower extremity atrophy prior to the subject accident, he does not report having bowel or bladder issues or sexual functioning issues prior to 07/12/16. After 07/12/16 he has had ongoing issues with bowel and bladder problems. My initial impression is that most of these cauda equina symptoms are related to the prior remote trauma with the intradural cyst at T12 to L2. It is possible that the subject accident caused an exacerbation/aggravation of this preexisting condition.

6. After being seen and admitted to UMC twice, he was then seen by Dr. Bady on 08/01/16 with severe pain in the right lower extremity.
7. Dr. Chopra evaluated him and eventually performed electrodiagnostic studies on 12/15/16. I have reviewed the studies. I note that Dr. Chopra reports normal volitional motor units in the lower extremities. This does not make sense to me medically given the significant atrophy that is present in multiple muscles. There was some active denervation bilaterally in L5 and S1 that was relatively minimal. This active denervation could be part of the ongoing chronic issue at L1 or could be related to some additional active radiculopathy associated with the subject accident.
8. Dr. Kaplan evaluated the examinee and recommended pain management. Selective epidurals were performed at L5-S1 on 04/03/17 and resulted in some temporary benefit. Provocation discography was done on 07/17/17 that resulted in pain at low pressures at L5-S1 and normal controls at L3-4 and L4-5. The post discogram CT scan reported a grade 3 annular fissure posteriorly at L5-S1.
9. Based on the clinical presentation of severe lower back pain radiating into the right lower extremity, Dr. Kaplan recommended and performed an anterior L5-S1 fusion reconstruction on 10/17/17. The examinee has had some improvement in his symptoms.
10. At the time of this face-to-face examination, the examinee reports

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ongoing lower back pain into the right lower extremity. He also reports bowel and bladder and sexual issues. For the reasons outlined above, the cauda equina symptomatology involving the bowel, bladder and sexual issues seems anatomically most consistent with the remote spinal trauma at L1. The more severe pain complaints into the right lower extremity, based on history and available records for review, are related to the injuries sustained on 07/12/16. As will be further discussed below, apparently there has been some discussion regarding spinal cord stimulation. This may be of benefit in terms of the right lower extremity symptoms. However, there would likely be challenges in placing the stimulator given the anatomy at T12-L1 and the intradural cyst.

Taking all of the above factors into account, it is my conclusion to a reasonable degree of medical probability that the diagnoses outlined above in the “Diagnoses Associated with 07/12/16 MVA” section are directly and causally related to that subject accident.

APPROPRIATENESS OF CARE/BILLING:

Comments regarding appropriateness of care are referenced to the comments above regarding medical causation. It is my conclusion that the medical care provided to Mr. Perez-Acosta following the 07/12/16 subject accident has been reasonable, medically necessary and directly and causally related to the 07/12/16 subject accident.

I have also been provided multiple medical bills for review, as outlined above. I have analyzed that billing based on my experience reviewing medical bills over the last two decades as well as using database information. Specifically, I have used my FAIRHealth online database subscription for purposes of spot checking medical bills from providers associated with specific CPT codes. I have also utilized my subscription to the American Hospital Directory for evaluation of hospital charges. With respect to the FAIRHealth database, they provide geographically-specific fee data on a percentile basis for individual CPT codes and their data is updated regularly and is considered authoritative.

Additional comments are necessary with respect to terminology and definitions. With respect to “usual and customary,” database information provides charges

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deemed usual and customary for up to the 90th or 95th percentile. While there is no universally accepted definition of “usual and customary,” I have considered up to the 95th percentile as being usual and customary for procedural codes. With respect to office visit charges (consultation and followup), it is my conclusion that highly specialized physicians can have usual and customary charges that are outside of the 95th percentile. My basis for this conclusion is that unlike CPT codes used by specialty physicians (surgical codes, injection codes, EMG codes), office visit CPT codes are used by all physicians including those with minimal postgraduate training. As a result, the bell-shaped curve is skewed more toward lower charges with the office visit charges.

Based on the methodology outlined above, the reviewed billing is usual and customary for the services provided. This billing is directly and causally related to the 07/12/16 subject accident.

WORK CAPACITY/DISABILITY:

My understanding of the occupational history of Mr. Perez-Acosta is essentially limited to the brief history obtained from him in this regard at the time of the face-to-face evaluation. It is my understanding that he was working with an individual doing mechanic work leading up to the subject accident. It is my understanding that he has not worked since the subject accident. Given the complexity of his preexisting condition at T12-L1, I would need some additional information regarding his medical and functional status leading up to 07/12/16 in order to comment on any impact the subject accident has had on his current level of function or current disability.

PROGNOSIS/FUTURE MEDICAL CARE:

As noted above, this examinee likely has a set of chronic issues that are related to the remote trauma to his L1 vertebral body in Cuba years ago. This would include lower extremity atrophy as well as some cauda equina symptomatology. As far as the 07/12/16 subject accident is concerned, his prognosis is overall guarded with respect to the residual lower back and right lower extremity radicular symptoms associated with the 07/12/16 accident. I have been asked to research and prepare reports with respect to the future medical needs for this examinee that are specifically related to the 07/12/16 subject motor vehicle accident. I have done so as attached. In this regard, I reached out to Dr. Kaplan telephonically and spoke

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with him on 09/29/19. Dr. Kaplan states that Mr. Perez-Acosta, given his young age, requires a provision for an adjacent segment fusion reconstruction surgery at L4-5. For purposes of the attached reports, I have listed this as occurring in 20 years from the initial surgery. I have also outlined the provision for ongoing physician visits, palliative physical therapy and prescribing of his current medications. It is possible that there will be further discussion regarding spinal cord stimulation. If that does occur, I will revise and update my reporting accordingly. However, there are definitely challenges given his abnormal anatomy at the T12-L1 level that would make it somewhat difficult to place a stimulator.

In order to calculate the cumulative costs associated with his future medical needs, I have utilized the most current Governmental Life Expectancy Table, as attached. The examinee is currently 37 years of age. According to the attached table published in November of 2018, the average life expectancy of a 37-year-old Hispanic male is an additional 44.0 years. For purposes of the attached reports, I will use the value of 44 years for those items expected to be provided on an ongoing basis.

Respectfully submitted,



David J. Oliveri, M.D.

DJO:cak

DD: 09/29/19

DT: 09/30/19

attachments: (1) Governmental Life Expectancy Table
(2) Future Medical Needs Report
(3) Future Medical Costs Report

Table 11. Life table for Hispanic males: United States, 2015Spreadsheet version available from: https://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/67_07/Table11.xlsx.

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
0-1	0.005348	100,000	535	99,526	7,929,637	79.3
1-2	0.000378	99,465	38	99,446	7,830,111	78.7
2-3	0.000203	99,428	20	99,417	7,730,664	77.8
3-4	0.000156	99,407	15	99,400	7,631,247	76.8
4-5	0.000110	99,392	11	99,386	7,531,847	75.8
5-6	0.000127	99,381	13	99,375	7,432,461	74.8
6-7	0.000120	99,368	12	99,362	7,333,086	73.8
7-8	0.000111	99,356	11	99,351	7,233,724	72.8
8-9	0.000100	99,345	10	99,340	7,134,373	71.8
9-10	0.000086	99,335	9	99,331	7,035,033	70.8
10-11	0.000076	99,327	8	99,323	6,935,702	69.8
11-12	0.000077	99,319	8	99,316	6,836,378	68.8
12-13	0.000102	99,312	10	99,307	6,737,063	67.8
13-14	0.000156	99,302	15	99,294	6,637,756	66.8
14-15	0.000234	99,286	23	99,274	6,538,462	65.9
15-16	0.000319	99,263	32	99,247	6,439,188	64.9
16-17	0.000406	99,231	40	99,211	6,339,941	63.9
17-18	0.000507	99,191	50	99,166	6,240,730	62.9
18-19	0.000620	99,141	61	99,110	6,141,564	61.9
19-20	0.000735	99,079	73	99,043	6,042,455	61.0
20-21	0.000853	99,006	84	98,964	5,943,412	60.0
21-22	0.000960	98,922	95	98,874	5,844,448	59.1
22-23	0.001038	98,827	103	98,776	5,745,573	58.1
23-24	0.001082	98,724	107	98,671	5,646,798	57.2
24-25	0.001100	98,617	108	98,563	5,548,127	56.3
25-26	0.001109	98,509	109	98,454	5,449,564	55.3
26-27	0.001120	98,400	110	98,345	5,351,109	54.4
27-28	0.001130	98,290	111	98,234	5,252,765	53.4
28-29	0.001140	98,179	112	98,123	5,154,530	52.5
29-30	0.001151	98,067	113	98,010	5,056,408	51.6
30-31	0.001161	97,954	114	97,897	4,958,398	50.6
31-32	0.001171	97,840	115	97,783	4,860,501	49.7
32-33	0.001187	97,725	116	97,667	4,762,718	48.7
33-34	0.001214	97,609	118	97,550	4,665,051	47.8
34-35	0.001250	97,491	122	97,430	4,567,500	46.9
35-36	0.001292	97,369	126	97,306	4,470,070	45.9
36-37	0.001340	97,243	130	97,178	4,372,764	45.0
37-38	0.001398	97,113	136	97,045	4,275,586	44.0
38-39	0.001465	96,977	142	96,906	4,178,541	43.1
39-40	0.001544	96,835	149	96,760	4,081,635	42.2
40-41	0.001636	96,686	158	96,607	3,984,874	41.2
41-42	0.001742	96,527	168	96,443	3,888,268	40.3
42-43	0.001859	96,359	179	96,270	3,791,824	39.4
43-44	0.001987	96,180	191	96,085	3,695,555	38.4
44-45	0.002129	95,989	204	95,887	3,599,470	37.5
45-46	0.002281	95,785	218	95,675	3,503,583	36.6
46-47	0.002456	95,566	235	95,449	3,407,908	35.7
47-48	0.002679	95,331	255	95,204	3,312,459	34.7
48-49	0.002964	95,076	282	94,935	3,217,256	33.8
49-50	0.003303	94,794	313	94,638	3,122,321	32.9
50-51	0.003676	94,481	347	94,307	3,027,683	32.0
51-52	0.004066	94,134	383	93,942	2,933,376	31.2
52-53	0.004471	93,751	419	93,541	2,839,433	30.3
53-54	0.004887	93,332	456	93,104	2,745,892	29.4
54-55	0.005321	92,876	494	92,629	2,652,788	28.6
55-56	0.005790	92,382	535	92,114	2,560,159	27.7
56-57	0.006302	91,847	579	91,557	2,468,045	26.9
57-58	0.006850	91,268	625	90,955	2,376,488	26.0
58-59	0.007436	90,643	674	90,306	2,285,533	25.2
59-60	0.008066	89,969	726	89,606	2,195,227	24.4
60-61	0.008762	89,243	782	88,852	2,105,621	23.6

See footnote at end of table.

Table 11. Life table for Hispanic males: United States, 2015—Con.Spreadsheet version available from: https://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/67_07/Table11.xlsx.

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
61–62	0.009523	88,461	842	88,040	2,016,769	22.8
62–63	0.010314	87,619	904	87,167	1,928,730	22.0
63–64	0.011106	86,715	963	86,233	1,841,563	21.2
64–65	0.011900	85,752	1,020	85,242	1,755,330	20.5
65–66	0.012728	84,731	1,078	84,192	1,670,088	19.7
66–67	0.013630	83,653	1,140	83,083	1,585,896	19.0
67–68	0.014615	82,513	1,206	81,910	1,502,813	18.2
68–69	0.015733	81,307	1,279	80,667	1,420,903	17.5
69–70	0.017020	80,028	1,362	79,346	1,340,236	16.7
70–71	0.018506	78,665	1,456	77,938	1,260,890	16.0
71–72	0.020181	77,210	1,558	76,431	1,182,952	15.3
72–73	0.022003	75,652	1,665	74,819	1,106,522	14.6
73–74	0.023880	73,987	1,767	73,104	1,031,702	13.9
74–75	0.025789	72,220	1,863	71,289	958,599	13.3
75–76	0.027713	70,358	1,950	69,383	887,310	12.6
76–77	0.029965	68,408	2,050	67,383	817,927	12.0
77–78	0.032838	66,358	2,179	65,268	750,544	11.3
78–79	0.036472	64,179	2,341	63,009	685,276	10.7
79–80	0.040797	61,838	2,523	60,577	622,267	10.1
80–81	0.045589	59,315	2,704	57,963	561,690	9.5
81–82	0.050970	56,611	2,885	55,169	503,727	8.9
82–83	0.056594	53,726	3,041	52,206	448,558	8.3
83–84	0.062707	50,685	3,178	49,096	396,353	7.8
84–85	0.069911	47,507	3,321	45,846	347,257	7.3
85–86	0.076634	44,186	3,386	42,493	301,410	6.8
86–87	0.086271	40,800	3,520	39,040	258,918	6.3
87–88	0.096899	37,280	3,612	35,474	219,878	5.9
88–89	0.108565	33,667	3,655	31,840	184,405	5.5
89–90	0.121303	30,012	3,641	28,192	152,565	5.1
90–91	0.135130	26,372	3,564	24,590	124,373	4.7
91–92	0.150049	22,808	3,422	21,097	99,783	4.4
92–93	0.166037	19,386	3,219	17,776	78,686	4.1
93–94	0.183049	16,167	2,959	14,687	60,910	3.8
94–95	0.201012	13,208	2,655	11,880	46,222	3.5
95–96	0.219827	10,553	2,320	9,393	34,342	3.3
96–97	0.239369	8,233	1,971	7,248	24,949	3.0
97–98	0.259489	6,262	1,625	5,450	17,702	2.8
98–99	0.280017	4,637	1,299	3,988	12,252	2.6
99–100	0.300770	3,339	1,004	2,837	8,264	2.5
100 and over	1.000000	2,335	2,335	5,427	5,427	2.3

NOTE: This life table is based on death rates that have been adjusted for race and ethnicity misclassification on death certificates. Updated classification ratios were applied; see Technical Notes.

SOURCE: NCHS, National Vital Statistics System, Mortality.

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Future Medical Needs Maikel Perez-Acosta

DOB: May 12, 1982
D/E: Jul 12, 2016
Date Prepared: Sep 29, 2019
Primary Disability: Lumbar disc injury,
 radiculitis

Physician Care

Item / Service	Age	Year	Frequency/ Replacement	Purpose	Cost	Comment	Vendor
Specialty Physician Monitoring	37	Beginning	Every 1-3 months	Monitor condition, prescribe therapy	Per Unit \$312.00		
		2019					
	80	Ending *			Per Year \$1,248.00 to \$3,744.00		
							1

Refer to my report for further details. Based on the current FAIRHealth online fee analyzer, Las Vegas 95th percentile data, the charge for a 99214 visit is \$312.

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 radiculitis

Future Medical Needs

Maikel Perez-Acosta

Ancillary Medical Care

Item / Service	Age	Year	Frequency/ Replacement	Purpose	Cost	Comment	Vendor
Physical Therapy	37	Beginning	See below	Palliative and Postoperative therapy	Per Unit \$200.00		
		2019			Per Year \$2,400.00		
	80	Ending *	2062				2

Mr. Perez-Acosta would benefit from some palliative therapy ongoing and some therapy after future surgery. I have utilized the current FAIRHealth online fee analyzer 75th percentile Las Vegas data in order to calculate the expected costs associated with that physical therapy. A "typical" visit to physical therapy for such therapy would involve a combination of 4 items in the categories of: modalities, "hands-on" therapy and therapeutic exercise. Modalities would include application of heat (CPT code 97010), electrical stimulation (97014) and/or ultrasound (97035). Therapeutic massage is code 97124. Therapeutic exercise is code 97110.

The current FAIRHealth fee analyzer Las Vegas data lists a 75th percentile charge for 97010 at \$30, 97014 at \$39, 97035 at \$46, 97124 at \$45 and 97110 at \$68.

Based on the above, if he has manual therapy, two modalities and therapeutic exercise, it would be reasonable for an average provision of \$200 per visit for the visit to therapy.

I have included a provision for 12 visits ongoing and some therapy after future surgery.

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Future Medical Needs

Maikel Perez-Acosta

Medications

Item / Service	Age	Year	Frequency/ Replacement	Purpose	Cost	Comment	Vendor
Prescription Medication	37	Beginning	See below	Manage pain	Per Unit		
		2019					
	80	Ending *	2062		Per Year \$5,700.00		3

He will require some medication ongoing consistent with his current regimen. Cost below average retail price per GoodRx.

Narcotic analgesic: Generic Percocet 10-325 (#120) \$309

Anti-spasm: Generic Cymbalta 60 mg (#30) \$166

The monthly total is \$475. The yearly total is \$5700.

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Future Medical Needs Maikel Perez-Acosta Radiographic Services

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 radiculitis

Item / Service	Age	Year	Frequency/ Replacement	Purpose	Cost	Comment	Vendor
Preop Radiographic Studies	55	Beginning	Once	Update imaging before surgery	Per Unit \$1,815.00		
		2037					
	55	Ending *			Per Year \$1,815.00		
		2037					4

I have utilized the current FAIRHealth online fee analyzer 75th percentile Las Vegas data in order to calculate the expected costs as follows:

Lumbar X-rays (CPT 72110): \$165
 Lumbar MRI (72148): \$1650

Total is \$1815

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Future Medical Needs Maikel Perez-Acosta

Surgical Intervention and Procedures

Item / Service	Age	Year	Frequency/ Replacement	Purpose	Cost	Comment	Vendor
Preoperative Medical Clearance	55	Beginning 2037	Once	Clearance before future spinal surgery	Per Unit \$1,506.00		
		Ending *			Per Year \$1,506.00		
	55	2037					5

I have relied on current FAIRHealth fee analyzer 75th percentile Las Vegas data as follows:

1. Primary care consult (CPT 99244) \$530.
2. ECG (CPT 93000): \$80.
3. Comprehensive metabolic panel (CPT 80053): \$74.
4. CBC (CPT 85025): \$42.
5. PT/PTT (CPT 85610, 85730): \$37 + \$52.
6. Hepatitis panel (CPT 80074): \$502.
7. HIV (CPT 86703): \$113.
8. Venipuncture fee (CPT 36415) \$22.
9. Urinalysis (CPT 81000) \$25.
10. Chest X-Ray (CPT 71010) \$29.

Total is therefore \$1,506.

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Future Medical Needs Maikel Perez-Acosta

Surgical Intervention and Procedures

Item / Service	Age	Year	Frequency/ Replacement	Purpose	Cost	Comment	Vendor
Lumbar Adjacent Segment Fusion Surgery	55	Beginning 2037	Once	Surgical treatment of adjacent segment syndrome	Per Unit		
		Ending *			Per Year \$295,382.00		
	55	2037					6

Please also refer to my report for further details. Based on my assessment and my conversation with Dr. Kaplan, he needs a provision for a posterior fusion reconstruction at the adjacent segment. For purposes of this report I have listed it in 20 years from the first surgery. For the surgical cost provision outlined below, I have relied on my American Hospital Directory (AHD) subscription (for the hospital charge estimate), current FAIRHealth online database 75th percentile Las Vegas data (for the specific CPT and HCPS data), and my experience reviewing billing from many other patients who have undergone similar surgeries. The surgical cost provision is as follows:

1. One set of lumbar epidurals: \$12,000 (estimate).
2. Hospital charges per AHD (MS-DRG 460): Most current updated data available is UMC 2018 \$208,177 and Valley Hospital 2018 \$239,144. I will therefore use \$223,000 as the hospital estimate.
3. Spinal Surgeon: Posterior decompression (CPT 63047) \$12,499, posterior fusion (CPT 22612) \$8500, allograft (CPT 20930) \$875, autograft (CPT 20936) \$831, insertion of intervertebral device times 2 (CPT 22853) \$3,400, (posterior instrumentation (CPT 22840) \$3110; Total of \$29,215.
4. Assistant Spinal Surgeon \$7,304 (25% of surgeon fee).
5. Anesthesiologist \$5,000 (estimate).
6. Neuromonitoring \$15,000 (estimate)
7. Postoperative outpatient therapy 12 visits @ \$200 is \$2,400 (see earlier in report).
9. Lumbar orthosis (HCPS L0648) \$1463.

Total is therefore \$295,382.

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Future Medical Needs Maikel Perez-Acosta

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Aids for Independent Function

Item / Service	Age Year		Frequency/ Replacement	Purpose	Cost		Comment	Vendor
	Beginning	Year			Per Unit	Per Year		
Household Services	37	2019	See below	Improve safety and quality of life				
	80	Ending *						
		2062						7

Mr. Perez-Acosta is medically expected to have difficulties with household activities that are related to injuries sustained on 07/12/16. I defer to an economist or other qualified expert to assess her need for replacement services.

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Future Medical Costs

Maikel Perez-Acosta

DOB: May 12, 1982
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Date Prepared: Sep 29, 2019
Primary Disability: Lumbar disc injury,
radiculitis

Summary Cost with Range

Item/Service	Beginning Date	Ending Date	Cost Per Year**	Number of Years	Total**
Physician Care					
1 Specialty Physician Monitoring	2019	2062	\$1,248.00 to \$3,744.00	*44	\$54,912.00 to \$164,736.00
				Sub Total	\$54,912.00 to \$164,736.00
Ancillary Medical Care					
2 Physical Therapy	2019	2062	\$2,400.00	*44	\$105,600.00
				Sub Total	\$105,600.00 to \$105,600.00
Medications					
3 Prescription Medication	2019	2062	\$5,700.00	*44	\$250,800.00
				Sub Total	\$250,800.00 to \$250,800.00
Radiographic Services					
4 Preop Radiographic Studies	2037	2037	\$1,815.00	*1	\$1,815.00
				Sub Total	\$1,815.00 to \$1,815.00
Surgical Intervention and Procedures					
5 Preoperative Medical Clearance	2037	2037	\$1,506.00	*1	\$1,506.00
6 Lumbar Adjacent Segment Fusion Surgery	2037	2037	\$295,382.00	*1	\$295,382.00
				Sub Total	\$296,888.00 to \$296,888.00

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Future Medical Costs
Maikel Perez-Acosta

DOB: May 12, 1982
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Date Prepared: Sep 29, 2019
Primary Disability: Lumbar disc injury,
radiculitis

Summary Cost with Range

Item/Service	Beginning Date	Ending Date	Cost Per Year**	Number of Years	Total**
Aids for Independent Function					
7 Household Services	2019	2062		*44	
Sub Total					\$0.00
					\$0.00

loplite9 (29) ©1994-1998. * Dates are inclusive, i.e., 1997-1999 equals 3 years. ** "Cost Per Year" & "Total" are annualized if item is periodic replacement

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Future Medical Costs
Maikel Perez-Acosta

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Primary Disability: Lumbar disc injury,
radiculitis

Summary Cost with Range

Item/Service	Beginning Date	Ending Date	Cost Per Year**	Number of Years	Total**
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Grand Total \$710,015.00 to \$819,839.00

If any item has periodic replacement, "Grand Total" Cost is annualized.

EXHIBIT 3

LORA WHITE, RN-BC, BSN, CCM, CNLCP, LNCP-C

Medical Services Consultant/Life Care Planner

Cost Analyst

389 East Palm Lane, Suite 1, Phoenix, AZ 85004

602-253-2033/ fax 602-253-2133

Tucson Office: 520-749-4674

white@simsandwhite.com

EDUCATION

- B.S.N. - University of Utah 1993
- Continuous education updates of nursing issues, trends and skills by attending State Board approved conferences and classes
- Certification Course by American Association of Nurse Life Care Planners
- Currently enrolled in FNP Program at University of Cincinnati with anticipated graduation date of May 2020

LICENSES/PROFESSIONAL RECOGNITION

- Registered Nurse in Arizona
- Certified Nurse Life Care Planner
- Certified Case Manager
- Medicare Set Aside Consultant Certified from 2008-2014
- RN-Board Certified
- Medical Billing Analyst
- Faculty CLE lecturer on "Economic Loss Issues in Personal Injury," Maricopa County Bar Association, April 2006
- Faculty CLE lecturer for Wood, Smith, Henning & Berman LLP, "Overview of Economic Damages," March 2009.
- Participation in Executive Forum of Nurse Life Care Planners, May 2009 to Present
- President's Honor Roll and Dean's List, University of Utah
- CLE lecturer for "Medicare Set Asides in Personal Injury Litigation", NBI Inc., December 2010
- CLE lecturer for "Calculating Brain Injury Damages and Life Care Plans", NBI Inc., March 2013
- CLE lecturer for "Life Care Plans and Rebuttals", Tucson Defense Bar, May 23, 2016

EXPERIENCE

- Physical, mental, emotional and social assessment of the home/community based and workers' compensation patient population
- Development of appropriate and detailed plan of care for the home care patient
- Coordinate and oversee physical, occupational, and speech therapists, social workers, and home health aides
- Evaluate patient progress, compliance, communicate patient status with other disciplines and physician, and adjust treatment plan as appropriate
- Patient and family teaching regarding health maintenance needs
- Technical nursing procedures as ordered by physician

Lora K. White

Page 2

- Hospital based case management and utilization review utilizing Interqual criteria
- Long Term Care Case Management
- Case management of worker's compensation claims, including coordination of care, monitoring progress of recovery, and facilitating early return to work status as well as cost savings and price negotiations
- Medical record review and chronological summaries for use in various legal settings
- Legal Nurse Consulting
- Development of Life Care Plans and Rebuttals
- Expert Witness Testimony

MEMBERSHIPS

- American Association of Nurse Life Care Planners, since 2004
- International Association of Rehab Professionals, 2009-Present
- Brain Injury Association of Arizona, since 2010
- Member of the Daughters of the American Revolution, since 2011
- Past Board Member, Humane Society of Southern Arizona, since 2012-2018
- American Nurse Association, since 2015

EMPLOYMENT HISTORY

- | | |
|--|-----------------|
| • Sims and White, PLLC | 2008 to Present |
| • Interim Home Care | 1999 to 2010 |
| • Broadspire, formerly a Crawford Company | 2002 to 2008 |
| • Tucson Medical Center – Tucson, AZ | 1999 to 2001 |
| • Integrated Health Services (Home Care Division) – Tucson, AZ | 1995 to 1999 |
| • University of Utah Medical Center, Salt Lake City, UT | 1993 to 1995 |

**LORA K. WHITE
TESTIMONY/DEPOSITION
LIST**

Patient	File No.	Case No.	Date	Description
De La Rosa, Sammantha Sammantha De La Rosa, Robert B. Fleming, Javier and Karen De La Rosa vs. Patrick Henderson, Kent Vincent, Children's Orthopedic Specialists, in the Superior Court of The State of Arizona in and for the County of Pima		CV2012-3143	4/2/14	Deposition
Scott, John Scott v. Olaiz, in the Superior Court of the State of Arizona in and for the County of Maricopa		CV2010-025227	4/15/14	Testimony
Mahurin, Katherin Katherin Mahurin v. Edward Fry, et al, in the State of New Mexico, County of Sante Fe, First Judicial District Court		CV-2012-03411	5/13/14	Deposition
Apodaca, Billy Gloria Apodaca, representative of the Estate of Manuel Apodaca v. Tucson Mather Plaza, LLC, in the Superior Court of the State of Arizona in and for the county of Pima		CVC20122716	5/22/14	Deposition
Hardt, Cathie Cathie Hardt v. Arizona Heart Hospital in the Superior Court of the State of Arizona in and for the County of Maricopa		PB2009-002468	5/27/14	Deposition
Lakosky, Cory Cory Lakosky v. Gary Scaramuzzo. Private Arbitration testimony in Pima County, Arizona			6/26/14	Arbitration
Miller-Porras (Ehrick), Brittany Brittany May Miller-Porras and Taylor Ehrick v. Caren Lynn Borjeson, DO and Elliot C. Maness, DO in Superior Court of the State of Arizona in and for the County of Maricopa		CV2012-010243	7/14/14	Deposition
Turner, Helen Helena Marie Turner v. Bashas' Inc. in the Superior Court of the State of Arizona in and for the County of Maricopa		CV2013-051298	7/15/14	Deposition
Buckner, David Sr. David Buckner, Sr. vs. Five Guys Operations, LLC in the Superior Court of the State of Arizona in and for the County of Maricopa		CV2012-018069	7/29/14	Deposition
Hafler, Mary Katherine Mary Katherine Hafler v. Lori Levine and Carondelet Health Network, St. Mary's Hospital in the Superior Court for the State of Arizona in and for the County of Pima		C2012-6260	8/19/14	Deposition
Garlick, Steven Steven Garlick v. Humana Insurance Company in the Superior Court of the State of Arizona in and for the County of Maricopa		CV2012-009888	8/22/14	Deposition
Bennett, Bradley Bradley W. Bennett v. Pratt Regional Medical Center; Banner Gateway Medical Center; Banner Good Samaritan Medical Center; Daniel J. Suiter; Pratt Internal Medicine Group; Dr. William Allen; United Radiology Group; David Jon Bennett, DO; Steven I. Zell, MD; Mohammad Ali N. Khan, MD; Albert Su, MD in United States District Court District of Arizona		CV2013-00380-PHX-GMS	10/10/14	Deposition

Perryman-Hughes	C20133076	10/22/14	Testimony
Austin Perryman-Hughes v. Sheriff Clarence Dupnik and Deputy Anthony James Doran in the Superior Court of the State of Arizona in and for the County of Pima			
Dojaquez, Jesus	C20127580	10/23/14	Deposition
Jesus Dojaquez v. All Things Metal; Sigma Contracting, Inc. in the Superior Court of the State of Arizona in and for the County of Pima			
Collister, Robert	C2012 4637	10/30/14	Deposition
Robert Wayne Collister v. Northwest Hospital in the Superior Court of the State of Arizona in and for the County of Pima			
McKinney-Hamilton, Barbara	2013-0073AV	11/18/14	Testimony
Barbara McKinney-Hamilton v. Tohono O'Odham Gaming Enterprise			
Swenk, Leon	CV2011-018908	11/19/14	Deposition
Leon Swenk v. Stancey V. Gaskins and Guardian Protection Services, Inc.; Dealer Only Drive Service, Inc.			
Hardt, Cathie	PB2009-002468	12/4/14	Testimony
Cathie Hardt v. Arizona Heart Hospital in the Superior Court of the State of Arizona in and for the County of Maricopa			
Grigg, Kathryn	CV2012-090126	1/21/14	Arbitration
Kathryn Grigg and Thomas Grigg v. Kathleen Ann Sundsrud in the Superior Court of the State of Arizona in and for the County of Maricopa			
Michael Lee Hoste	CV2013-006600	3/26/2015	Deposition
Michael Lee Hoste and Cheryl L. Hoste v. Ferrellgas, Inc. and Michael P. Rainville in the Arizona Superior Court of Maricopa County			
Michael Lee Hoste	CV2013-006600	4/8/2015	Testimony
Michael Lee Hoste and Cheryl L. Hoste v. Ferrellgas, Inc. and Michael P. Rainville in the Arizona Superior Court of Maricopa County			
Fuciarelli, Kevin	CV2014-01078-PHX-GMX	5/19/15	Deposition
Kevin Fuciarelli v. Aaron B. Good and City of Scottsdale, in the United States District Court District of Arizona			
Mahurin, Katherin	CV-2012-03411	8/18/15	Testimony
Katherin Mahurin v. Edward Fry, et al, in the State of New Mexico, County of Sante Fe, First Judicial District Court			
Feurer, Mark	CV 2013-00787	8/19/15	Deposition
Mark Feuer v. Fort Mohave, Inc, Chase Dennis Emergency Medical Group, Inc., Emergency Physicians Medial Group, Emergency Medicine Physicians of Mohave County, Bullhead City Hospital Corporation, Western Arizona Regional Medical Center, Abhilasha Singh Jones, MD, Advanced Care Emergency Services, Gregory Peistrup, CFNP, Waheed Zehri, MD, and Desert Oasis Medical Center			
Cunningham, Timothy	CV2013-011856	9/10/15	Deposition
Timothy Cunningham v. Beth Anne Purdy, MD in the Superior Court of the State of Arizona in and for the County of Maricopa			
McConnell, Tyler	C20135540	12/1/15	Deposition
Tyler McConnell vs. Christopher Nanos, Laura Ruben, Conmed, Inc. in the Arizona Superior Court Pima County			

Pipes, Shaun	C20145786	12/2/15	Deposition
Michael Shaun Pipes v. Radiology Limited; David T. Jeck, MD; Northwest Hospital in the Superior Court of the State of Arizona in and for the County of Pima.			
Cerreta, Barbara	CV2014-011156	12/15/15	Deposition
Barbara Cerreta and Carl Cerreta vs. Strategic Asset Acquisition dba Classic Car Spa, Larry Shuler in the Superior Court of the State of Arizona in the County of Maricopa			
Belote, Jordan	CV2013-053026	1/18/16	Deposition
Jordan Belote and Sierra Belot vs. TEP and Robert Padilla in the Superior Court of the State of Arizona in the County of Maricopa			
Swanson, Anne	CV2011-00987	1/27/16	Testimony
Anne Swanson vs. City of Flagstaff in the Superior Court of Coconino County, Arizona			
Douangdara, Khamsean "Tiger"	2:13-CV-00196	3/3/16	Deposition
Khamseang Douangdara v United States of American and IHC in the United States District Court District of Utah, Central Division			
McConnell, Tyler	C20135540	3/15/16	Testimony
Tyler McConnell v. Clarence Dupnik, Pima County Sheriff, Arizona Superior Court Pima County			
McCrowsky, Tawni	C13-TRT000281	3/17/16	Testimony
Tawni McCrosky v. Carson Tahoe Regional Medical in the First Judicial District Court of the State of Nevada in and for Carson City			
Pfaff, Bria	CV2014-053602	4/15/16	Deposition
Bria Pfaff v. Brenda Williams; Dalton Williams in the Superior Court of the State of Arizona County of Maricopa			
Mackey, David	SCBC S076519	5/11/16	Testimony
David Raymond Mackey v. Provincial Capital Commission and Her Majesty the Queen in Right of the Province of British Columbia et al			
Feurer, Mark	CV 2013-00787	5/16/16	Testimony
Mark and Lisa Feuer v. Fort Mohave, Inc. dba Valley View Medical Center; Kenneth Locke; Chase Dennis Emergency Medical Group, Inc. in the Superior Court of the State of Arizona in and for the County of Mohave			
Arnold, Gina	CV 020800066	5/17/16	Deposition
Gina M. Arnold v. Gary B. White; Uintah Basin Medical Center and David Grigsby, MD in the Eighth Judicial District Court Duchesne County, State of Utah			
Rotunda, Joseph	CV2015-05128	5/18/16	Deposition
Joseph Rotunda v. 4A Equipment; Robert Thomas Kornegay in the Superior Court of the State of Arizona in and for the County of Maricopa			
Lewis, Richard	CV 2014-012663	6/29/16	Deposition
Richard Lewis v. Jun T. Dao; Cornea and Cataract Consultants of Arizona in the Superior Court of the State of Arizona in and for the County of Maricopa			
Doi, Kiyoma	CV130906235	8/16/16	Deposition
Kiyomi Doi vs. State of Utah and University of Utah Hospital and Clinics In the Third Judicial District Court Salt Lake County, State of Utah			

Burt, Tammy Lynn	CV2014-011757	8/18/16	Deposition
Tammy Burt v. Wal-Mart in the Superior Court of the State of Arizona in and for the County of Maricopa			
Conrad, Susan Todd	37-2011-00097985 CU-PA-CTL	10/6/16	Arbitration
Conrad v. Myriam Zuleth Pulido in the Superior Court of the State of California of San Diego, Central District			
Anaya, Arturo Martinez	C20146479	10/7/16	Deposition
Robert B. Fleming v. Albertson's in the Superior Court of the State of Arizona in and for the County of Pima			
Dhyani, Avi	C 2007 5140	12/13/16	Deposition
Robert B. Fleming, Esq. Court Appointed Conservator for Avi Dhyani, and minor, and Anil Kumar Kalicharan and Rashmi Singh v. Tucson Medical Center in the Superior Court of the State of Arizona in and for the County of Pima			
Gorkies, Hermis	CV2015-052942	12/20/16	Deposition
Hermis Gorkies vs. Bowie Investment Group, Inc, dba MD Home Health in the Superior Court of the State of Arizona in and for the County of Maricopa			
Muniz, Valerie	A-12-655566-C	1/31/17	Deposition
Valery Muniz, Martha Acosta-Cochran and Miguel Muniz vs. Tracy Nielson; Centennial Hills OB/GYN; Nader Yousef Abdelsayed, MD; North Vista Hospital; Roe Carver, RN; Annette Mayes, MD in the District Court Clark County, Nevada			
Munday, Delton	CV2016-001167	3/7/17	Deposition
Delton Munday vs. Nextcare Arizona, LLC in the Superior Court of the State of Arizona in and for the County of Maricopa			
Arnold, Gina	CV 020800066	3/22/17	Testimony
Gina M. Arnold v. Gary B. White; Uintah Basin Medical Center and David Grigsby, MD in the Eighth Judicial District Court Duchesne County, State of Utah			
Fuciarelli, Kevin	CV2014-01078-PHX-GMX	3/28/17	Testimony
Kevin Fuciarelli v. Aaron B. Good and City of Scottsdale, in the United States District Court District of Arizona			
Lowder, Audrey		4/13/17	Deposition
Audrey and Michael Lowder vs. IHC Health Services, Inc. Before the Arbitration Panel In Salt Lake City, Utah			
Beti, Samuel Ndjedanem	CV2014-011009	5/25/17	Deposition
Samuel Ndjedanem Beti v. Strength Training, Inc dba STI in the Superior Court of the State of Arizona County of Maricopa			
Piper, Daniel	Civil No. 140700678	6/1/17	Deposition
Daniel Piper vs. Wade Larson and Tanner Memorial Clinic in the Second Judicial District Court in and for Davis County, State of Utah			
Mijatovic, Zdenko	CV2015-090383	6/5/17	Deposition
Zdenko Mijatovic vs. Danny Salem, DDS in the Superior Court of the State of Arizona in and for the County of Maricopa			

McBroom, Norma	C20164328	6/7/17	Deposition
Norma McBroom vs. Radiology Ltd. PLC in the Superior Court of the State of Arizona in and for the County of Pima			
Lewis, Dillon	CV2016-007791	6/8/17	Deposition
Dillon and Cristina Lewis vs. Walker and Carolina Butler in the Superior Court of the Arizona County of Maricopa			
Mesquita, Edmundo	C20151979	6/23/17	Deposition
Edmundo Mesquita and Adrienne Valenzuela vs. Tucson Medical Center in the Superior Court of the State of Arizona in and for the County of Pima			
Sibilsky, Erin	CV2013-009939	6/30/17	Deposition
Erin Sibilsky v. Phoenix Children's Hospital in the Superior Court of the State of Arizona in and for the County of Maricopa			
Wing, Joshua	CV2016-050917	7/19/17	Deposition
Joshua Wing vs. U-Haul International, Inc. in the Superior Court of the State of Arizona in and for the County of Maricopa			
Bard IVC Filters Products Liability Litigation No. MD-15-026410Phx-DGC 8/16/17 Deposition			
Bard IVC Filters Products Liability in and for the United States District Court for the District of Arizona			
Humeniuk, Julie	CV2014-012222	8/18/17	Deposition
Julie Humeniuk vs. Tenet Healthcare, Abrazo Medial Group, Paradise Valley Hospital, Phoenix Baptist Hospital, Medical Neurology Limited, Team Health, Arizona Center for Neurosurgery, Spine Institute of Arizona, Arizona Oncology Associates in the Superior Court of the State of Arizona in the County of Maricopa			
Cotton, James	CC20152131	8/22/17	Deposition
James Cotton v. VIP Paratransit, LLC; Jerry Elliott in the Superior Court of the State of Arizona in and for the County of Pima			
Cacao, John	CV2015-005766	8/29/17	Deposition
John Cacao v. Double AA Builders, in the Superior Court of the State of Arizona in the County of Maricopa			
Collins, Theresa	CV-15-344	9/26/17	Testimony
Theresa Collins and Raner Collins vs. Tubac Management Company, LLC in the Superior Court of the State of Arizona in and for the County of Santa Cruz			
Bryant, Nancy	CV2014-00509	9/27/17	Deposition
Nancy Bryant and Dale Bryant vs. Northern Arizona Healthcare Corporation, Flagstaff Surgical Associates, Andrew Aldridge, MD in the Superior Court of the State of Arizona in the County of Coconino			
Cotton, James	C20152131	11/15/17	Deposition
James Cotton v. VIP Paratransit, LLC; Jerry Elliott and Jane Doe Elliott in the Superior Court of the State of Arizona in and for the County of Pima			
Merck, Lydia	CV01103ROS	11/30/17	Deposition
Lydia Merck vs. Swift Transportation Company in the United States District Court for the District of Arizona			
Craten, James and Amanda	CV02587-Phx-Dur	1/4/18	Deposition

James Craten and Amanda Craten v. Foster Poultry Farms, Inc. United States District Court District of Arizona

Cobbin, Clyde	CV2017-000230	3/14/18	Deposition
Alvin Cobbin on behalf of Clyde Cobbin v. Ramiro Cuellar; Sunbelt in the Superior Court of the State of Arizona in and for the County of Maricopa			
Booker, Sheri	2:16-cv-00474-DGC	3/20/18	Testimony
1st Bellwether, Bard IVC Filters Products Liability Litigation, Sheri Booker; United States District Court, District of Arizona			
McMcMahill v. C.R. Bard, Inc.	CV1027-000927	3/29/18	Deposition
Concerning 2016-010131 Romero C. R. Bard, Inc., et al., CV-2014-008738, Moore V. C.R. Bard, Inc., et al., CV 2013-054323, Benzing v. C.R. Bard, Inc., et al., CV 2012-006013, Stesney v. C.R. Bard, Inc., et al.			
Baumann, Angie	C20142027	4/5/18	Testimony
Angie Baumann and Andrew Baumann v. Jess A. Haymore and Timothy G. Wilson, in the Superior Court for the State of Arizona in and for the County of Pima			
Valdez, Yasmin	140903592	4/10/18	Testimony
Yasmin Valdez v. Columbia Ogden Medical Center in the Second Judicial District Court Weber County, State of Utah			
Escobar, Patricia	CV2016-00248	5/1/18	Deposition
Patricia Escobar v. Rodney Engle; Renee Altrogge, RN; Northern Arizona Gastroenterology; Forest Canyon Endoscopy and Surgery Center in the Superior Court of the State of Arizona in and for the County of Coconino			
Johnson, Jessica	CV2016-096598	5/9/18	Testimony
Jessica Johnson vs. David Franecki in the Superior Court in the State of Arizona in and for the County of Maricopa			
Jones, Doris	2:16-cv00782-DGC	5/23/18	Testimony
2 nd Bellwether Jones v. Bard IVC Filter Products Liability, Doris Jones, United States District Court, District of Arizona			
Ortega, Aaron	CV2017-004776	6/14/18	Deposition
Aaron Garcia Ortega through Claudia Ortega v. Hetalkumar Shah, MD, Arizona Women's Specialists, Abrazo Arrowhead Campus in the Superior Court of Arizona County of Maricopa			
Twal, Elias Hani	CV2016-094343	6/28/18	Trial
Elias Twal v. Jothi Nadarajah Ramanathan in the Superior Court of the State of Arizona in the County of Maricopa			
Dillon, Grady		7/3/18	Deposition
Dillon, Grady v. Progressive Casualty Insurance Company First Party Motorist Arbitration/American Arbitration Association			
Carrillo, Frank	S1400CV2016-00120	7/6/18	Deposition
Frank Carrillo and Nancy Ngai Carrillo v. Hernan Uriel Rojas Sanchez; G.C. Harvesting in the Superior Court of the State of Arizona in and for the County of Yuma			
Pechac, Christopher	CV2016-002917; CV2016-002829	8/1/18	Deposition
Christopher Pechac v. Goodyear Tire and Rubber Company in the Superior Court of the			

State of Arizona in and for the County of Maricopa

Musial, Jon	2:14-CV 01999-PHX-JJT	8/24/18	Testimony
Jon Musial vs. Telesteps, Inc.; Dial Industrial Sales, Inc.; Regal Aluminum Products, Inc.; Costco Wholesale Membership, Inc. in the United States District Court District of Arizona			
Wing, Joshua	CV2016-050917	8/28/18	Testimony
Joshua Wing vs. U-Haul International, Inc. in teh Superior Court of the State of Arizona in and for the County of Maricopa			
Alsadi, Ahmad	2:16-CV-16-03738-PHX-DJH	9/12/18	Deposition
Ahmad Alsadi and Youssra Lahlou v. Intel Corporation in the United States District Court, District of Arizona			
Santa Cruz, Michael	Case No. 13L12101	9/17/18	Deposition
Erwin, et al, Johnson, et al., Garcia, et al., Ledeaux, et al., Santa Cruz, et al., Ayala, et al. v. Motorola Solutions, Inc., f/k/a Motorola Inc. In the Circuit Court of Cook County, Illinois County Department, Law Division			
Dehart, Marilyn	No. S1400CV201700718	9/19/18	Deposition
Marilyn Dehart and Norman Dehart v. Yuma Regional Medical Center in the Superior Court of the State of Arizona in and for the County of Yuma			
Hyde, Lisa	CV-16-00893-Phx-DGC	9/26/18	Testimony
Lisa Hyde vs. Bard 3 rd Bellwether Jones v. Bard IVC Filter Products Liability, Lisa Hyde, United States District Court, District of Arizona			
Smith, C., , Erm, A., Kotter, A.	CV2017-000927	10/11/18	Deposition
Danny McMahill v. C.R. Bard and bard Peripheral Vascular Inc. in the Superior Court of the State of Arizona County of Maricopa			
Schuck, Kevin	CV2016-090601	10/26/18	Deposition
Kevin Schuck and Kim Schuck v. Dignity Health dba Chandler Regional Medical Center; David Suber, MD; Desert Neurology; Marc Tobler, MD; Chandler Radiology; Chandler Radiology Associates in the Superior Court of the State of Arizona in and for the County of Maricopa			
Wilke, Samuel	No. 2:16-cv-04055-JJT	11/13/18	Deposition
Samuel Wilke v. Transportation Insurance Company, United States District Court, District of Arizona			
Puckett, Jimmy	S1400CV2016-00532 Div V	11/20/18	Deposition
Jimmy Puckett v. Alberto Mejia, MD, Yuma Cardiology, Yuma Cardiac Center, YRMC in Superior Court State of Arizona, County of Yuma			
Torres, Jose	3:17-CV-08217-PCT-JAT	1/4/19	Deposition
Arturo Contreras; Jose Torres v. Chester David Browqn; Legacy, Inc. in the United States Court District of Arizona			
Carrillo, Frank	S1400CV2016-00120	1/8/19	Testimony
Frank Carrillo and Nancy Ngai Carrillo v. Hernan Uriel Rojas Sanchez; G.C. Harvesting in the Superior Court of the State of Arizona in and for the County of Yuma			
Tinlin, Debra	MD-15-026412-PHX-DGC	1/14/19	Deposition
Bard IVC Filters Products Liability Litigation in The United States Districe Court for the District of Arizona			

Andresen, Shelly Case 130902904 3/1/19 Deposition
Shelly Andresen v. Salt Lake Regional Medical Center in the Third Judicial District Court,
Salt Lake County, State of Utah

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J. MATTHEW SIMS, MC, MS
Vocational Economist

CURRICULUM VITAE

Contact Information

SIMS & WHITE, PLLC	<i>phone:</i> (602) 253-2033
Rehabilitation & Economic Consulting	<i>fax:</i> (602) 253-2133
389 East Palm Lane, Suite 1	<i>email:</i> sims@simsandwhite.com
Phoenix, Arizona 85004	

Education

Master of Science: Economics
Arizona State University, Tempe, Arizona, 2005

Master of Counseling: Community Counseling
University of Phoenix, Phoenix, Arizona, 1999

Bachelor of Arts in Social Ecology: Psychology & Social Behavior
University of California at Irvine, California, 1992

Experience

Sims & White, PLLC

Partner/Member: Vocational Economist, January 2008 – *Present*

- Vocational evaluations and expert witness testimony
- Economic evaluations and expert witness testimony, including hedonic rebuttals
- Small business valuations and expert witness testimony (2005-2016)
- Strategy support for litigation matters

Broadspire, a Crawford Company

Vocational Consultant & Economist, March 2000 – January 2008

- Vocational evaluations and expert witness testimony
- Economic evaluations and expert witness testimony
- Strategy support for litigation matters
- Vocational rehabilitation services to clients (2000-2005)

Correctional Health Services, Madison Street Jail Psychiatric Unit

Inpatient Psychiatric Counselor/Social Worker II from June 1998 - Feb 2000

- Individual and group psychoeducational counseling and discharge planning
- Educate criminal justice system on SMI and community services

ComCare / Value Options, SMI Adult Services

Case Manager from Aug 1993 - Nov 1994, Forensic Case Manager from Feb 1996 - June 1998

- Forensic Specialty (96-98): Case management services for disabled criminal SMI adults
- Lead group counseling sessions and monitored members in the Jail Diversion program
- Case Manager (93-94): Manage overall rehabilitation and maintenance service planning for SMI adults

J. Matthew Sims
Page 2 of 2

Professional Affiliations

International Psychometric Evaluation Certification (IPEC) #20204, American Board of Vocational Experts (ABVE), since 2017.
Vocational Expert for the U.S. Social Security Administration, since 2016.
Member of the American Academy of Economic and Financial Experts (AAEFE), since 2012.
Member of the American Board of Vocational Experts (ABVE), since 2012.
Forensic Vocational Expert #F0019. American Rehabilitation Economics Association, since 2009.
Registered Forensic Economist #R0009. American Rehabilitation Economics Association, since 2009.
Member of the International Association of Rehabilitation Professionals (IARP), since 2009.
Certified Vocational Rehabilitation Counselor #9731, State of Washington Department of Labor and Industries, 2006-2008.
Member of the National Association of Forensic Economics (NAFE), since 2002.
National Certified Counselor #56930, National Board for Certified Counselors, since 2000.

Teaching & Publications

Presentation for the 19th Annual NAFE Winter Meeting, January 2019, "Proper versus Improper Occupational Choices When Valuing Lost Advice and Counsel and Household Services: There's Skill Involved."
Faculty CLE lecturer for Wood, Smith, Henning & Berman LLP, "Overview of Economic Damages," March 2009.
Faculty lecturer for the American Rehabilitation Economics Association, "Arizona Industrial Case Law on the Earning Capacity of the Self-Employed," May 2007.
Published article "The Role of Vocational Consultants in Small Business Valuations," *The Earnings Analyst*, Vol. IX, 2007, pp. 62-79.
Faculty CLE lecturer for the Maricopa County Bar Association, "Economic Loss Issues in Personal Injury," April 2006.
Adjunct Professor at Estrella Mountain Community College, ECN 111 Macroeconomic Principles, Fall 2005.
Published letter "A counselor's oath?" *Counseling Today*, January 2000.
Lecturer for various courses on mental illness, suicide assessment and intervention, and substance abuse for the Maricopa County Sheriff's Office, 1998-1999.

Other Qualifications & Experience

- Other past employment includes working with developmentally disabled adults, traumatically head injured adults and emotionally disabled adolescents.
- ROTC at California State University in Fullerton, with commission in 1992. Engineer in the U.S. Army Reserves, mostly inactive status, rank O-1. Honorably discharged. U.S. Army Reserves, Military Police, port security, rank E1-E3.
- Private pilot's license.
- Past volunteer for Special Olympics and special education activities.

J. MATTHEW SIMS, MC, MS
Vocational Economist

Testimony Experience

The following list does not include disability hearings as a Vocational Expert for the U.S. Social Security Administration.

- 03/05/19 A-17-755718-C. Victoria Lee vs. Marsha Decker-Collins. Deposition testimony in the Eighth Judicial District Court, Clark County, Nevada.
- 03/04/19 A-17-759505-C. Darryl Fuller vs. Kesia Crawford. Deposition testimony in the District Court, Clark County, Nevada.
- 02/25/19 CV2017-090229. Martha Schellenberg v. New Vision Health. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 02/22/19 2:18-cv-00099-DGC. Dawn McGinnis vs. Paul Revere Life Insurance Company. Deposition testimony in the United States District Court, District of Arizona.
- 01/18/18 A-17-756346-C. Carmine Riga vs. Shaiya McNabb. Deposition testimony in the District Court, Clark County, Nevada.
- 12/04/18 CV2016-008280. Bryce Nance vs. County of Pinal. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 11/08/18 3:17-cv-00709-MMD-CBC. Devon Isbell v. Party City. Deposition testimony in the United States District Court, District of Nevada.
- 11/05/18 2:16-cv-04055-JJT. Samuel Wilke v. Transportation Insurance Company. Deposition testimony in the United States District Court, District of Arizona.
- 10/31/18 CV2016-090601. Kevin Schuck v. Dignity Health. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 09/28/18 A-17-756077-C. Hamilton Diep v. Paris Las Vegas Operating Company. Deposition testimony in the District Court, Clark County, Nevada.
- 09/26/18 2:16-cv-00893-DGC. 3rd Bellwether, Bard IVC Filters Products Liability Litigation, Lisa Hyde. Trial testimony in the United States District Court, District of Arizona.
- 09/18/18 11 L 7612. Joseph Erwin v. Motorola Solutions. Deposition testimony in the Circuit Court of Cook County, Illinois.
- 09/12/18 CV-16-03738-PHX-DJH. Ahmad Alsadi v. Intel Corporation. Deposition testimony in the United States District Court, District of Arizona.
- 09/11/18 A-17-752450-C. Michael Bailey vs. Greenwood Motor Lines. Deposition testimony in the District Court, Clark County, Nevada.
- 08/29/18 A-16-748425-C. Jennifer Livesey vs. Michael Skidds. Deposition testimony in the District Court, Clark County, Nevada.
- 08/27/18 CV2016-050917. Joshua Wing vs. U-Haul International. Trial testimony in the Superior Court of Maricopa County, Arizona.
- 07/27/18 Kali Luna v. Nationwide Insurance. Private arbitration testimony in Pima County, Arizona.
- 07/23/18 CV2013-01828. Sandra Sorenson v. Pinal County. Trial testimony in the Superior Court of Pinal County, Arizona.
- 07/19/18 CV2016-005086. Michael Grosso v. Glock. Deposition testimony in the Superior

J. Matthew Sims
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- Court of Maricopa County, Arizona.
- 05/23/18 2:16-cv-00782-DGC. 2nd Bellwether, IVC Filters Products Liability Litigation, Doris Jones. Trial testimony in the United States District Court, District of Arizona.
- 04/10/18 140903592. Yasmin Valdez vs. Robert Simmonds, MD. Trial testimony in the Second Judicial District Court of Weber County, Utah.
- 04/06/18 C20142027. Angie Baumann vs. Jess A. Haymore, DDS. Trial testimony in the Superior Court of Pima County, Arizona.
- 03/20/18 2:16-cv-00474-DGC. 1st Bellwether, Bard IVC Filters Products Liability Litigation, Sheri Booker. Trial testimony in the United States District Court, District of Arizona.
- 03/08/18 CV2015-04103. Deanna Laster vs. Richard Benedict, MD. Deposition testimony in the Superior Court of Mohave County, Arizona.
- 01/31/18 CV2015-007492. Kevin Nguyen vs. Phoenix Baptist Hospital. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 01/22/18 CV2013-016283. Jerry Jaramillo vs. State of Arizona. Trial testimony in the Superior Court of Maricopa County, Arizona.
- 12/15/17 2:15-cv-02587-PHX-DLR. James Craten v. Foster Poultry Farms. Deposition testimony in the United States District Court, Arizona.
- 12/05/17 D-1314-CV-2016-00673. Martin Martinez vs. Priority Plumbing and Heating. Deposition testimony in the State of New Mexico, County of Valencia, Thirteenth Judicial District Court.
- 11/15/17 C20152131. James Cotton vs. VIP Paratransit. Trial testimony in the Superior Court of Pima County, Arizona.
- 10/20/17 2:16-cv-02581-SPL. Bruce Luna vs. Shaw Industries Group. Deposition testimony in the United States District Court, Arizona.
- 09/26/17 CV-15-344. Theresa Collins vs. Tubac Management Company. Trial testimony in the Superior Court of the State of Arizona, County of Santa Cruz.
- 09/20/17 CV2016-053774. Raul Hernandez vs. Duy Phuoc Tran, MD. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 08/18/17 CV2014-012222. Julie Humeniuk vs. Tenet Healthcare Corporation. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 07/31/17 CV2016-050917. Joshua Wing vs. U-Haul International. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 07/26/17 MD-15-02641-PHX-DGC. Sheri Booker, Lisa Hyde, Doris Jones, Carol Kruse and Debra Mulkey vs. Bard IVC Filters. Deposition testimony in the United States District Court, Arizona.
- 07/24/17 CV2015-005766. John Cacao vs. Double AA Builders. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 07/13/17 CV2015-002365. Troy Haberl vs. Michael McAllister. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 07/06/17 CV2015-004062. Lauren Thomas v. Maria Galindo. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 06/30/17 CV2014-003961. Erin Sibilsky v. Phoenix Children's Hospital. Deposition testimony

- in the Superior Court of Maricopa County, Arizona.
- 06/14/17 CV2014-011757. Tammy Burt vs. Wal-Mart Stores. Trial testimony in the Superior Court of Maricopa County, Arizona.
- 05/30/17 CV2013-016283. Jerry Jaramillo vs. State of Arizona. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 05/25/17 CV2014-011009. Samuel Ndjedanem Beti v. Strength Training. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 05/19/17 CV2015-013479. Jeffrey Kleinman vs. Banner Health. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 04/24/17 CV2016-001167. Delton Munday v. Nextcare Arizona, LLC. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 03/28/17 CV2014-01078-PHX-GMS. Kevin Fuciarelli vs. City of Scottsdale. Trial testimony in the United States District Court, Arizona.
- 03/06/17 C20152409. Celia Martinez vs. URS Corporation. Deposition testimony in the Superior Court of Pima County, Arizona.
- 03/02/17 CV2014-051169. David Stewart vs. Clifford Deane. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 02/17/17 Raymond Nagy v. United States Automobile Association. Private arbitration testimony in Maricopa County, Arizona.
- 02/09/17 CV2014-00060. Jamall Dale vs. Pilot Travel Centers. Trial testimony in Arizona Superior Court Coconino County.
- 02/03/17 FC2016-007328. Sheridan Vingelli and John Vingelli. Hearing testimony in the Superior Court of Maricopa County, Arizona.
- 01/31/17 A-12-655566-C. Valery Muniz vs. Nader Yousef Abdelsayed, MD. Deposition testimony in the District Court, Clark County, Nevada.
- 12/19/16 CV2015-000327. Rebecca Listiak v. Mayo Clinic Arizona. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 12/15/16 CV2014-005463. Amy Lofgren v. Richard Goodell, MD. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 11/14/16 CV2013-001576. Denis Penaloza v. City of Phoenix. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 11/04/16 CV2013-012847. Manuel Martinez vs. Gary Purcell, MD. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 09/12/16 CV2014-00060. Jamall Dale vs. Pilot Travel Centers. Deposition testimony in Arizona Superior Court Coconino County.
- 08/18/16 CV2014-011757. Tammy Burt vs. Wal-Mart Stores. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 08/05/16 CR2013-106318. State of Arizona vs. Iam MacDonald. Hearing testimony in the Superior Court of Maricopa County, Arizona.
- 06/21/16 CV2013-009410. Magdalena Gomez vs. Road Machinery. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 05/25/16 CV2015-002876. Joseph Rotunda vs. Otto Trucking. Deposition testimony in the

- Superior Court of Maricopa County, Arizona.
- 05/09/16 S076519. David Mackey v. The Provincial Capital Commission. Trial testimony in the Supreme Court of British Columbia.
- 04/28/16 CV2014-011973. Josue Munoz v. Toll Brothers AZ Construction Company. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 04/26/16 CV2014-053602. Bria Pfaff vs. Brenda Williams. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 04/18/16 CV2013-052332. Cynthia Erickson vs. Virginia Scott Hale. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 04/04/16 CV2014-096361. Aubrey Mitchell v. Lighthouse Management. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 03/17/16 13TRT000281B. Tawni McCrosky vs. Carson Tahoe Regional Medical Center. Trial testimony in the First Judicial District Court of the State of Nevada.
- 03/01/16 CV2014-004042. Loretta Randall vs. Walgreens. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 01/27/16 CV2011-00987. Anne Swanson v. The City of Flagstaff. Trial testimony in the Superior Court of Coconino County, Arizona.
- 01/18/16 CV2013-053026. Jordan Belote v. Tucson Electric Power Company. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 10/13/15 CV2013-01828. Sandra Sorenson v. Pinal County. Deposition testimony in the Superior Court of Pinal County, Arizona.
- 10/12/15 CV2013-00108. Denny Finch v. Ronney Ferguson, MD. Trial testimony in the Superior Court of Navajo County, Arizona.
- 09/29/15 FC2012-094832. Jason Tani and Donna Carter-Tani. Hearing testimony in the Superior Court of Maricopa County, Arizona.
- 09/18/15 CV2013-011856. Timothy Cunningham v. Beth Purdy, MD. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 09/03/15 A-13-692834-C. Oscar Salcido vs. Dr. Patrick Flores. Deposition testimony in the District Court, Clark County, Nevada.
- 08/21/15 13TRT000281B. Tawni McCrosky vs. Carson Tahoe Regional Medical Center. Deposition testimony in the First Judicial District Court of the State of Nevada.
- 08/18/15 D-101-CV-2012-03411. Katherine Mahurin vs. Edward Fry. Trial testimony in the State of New Mexico, County of Santa Fe, First Judicial District Court.
- 07/16/15 CV2011-001525. Jana Rozenman vs. Dimitri Rozenman. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 06/08/15 CV2013-093067. Belinda Valenzuela vs. Marriott International. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 05/19/15 CV2014-01078-PHX-GMS. Kevin Fuciarelli vs. City of Scottsdale. Deposition testimony in the United States District Court, Arizona.
- 04/22/15 CV2011-055755. Ida Romero vs. Brian Steinke, MD. Deposition testimony in the Superior Court of Maricopa County, Arizona.

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SIMS & WHITE, PLLC

Rehabilitation & Economic Consulting

FEE SCHEDULE & RETAINER AGREEMENT

Sims & White, PLLC has been retained to perform an independent evaluation / service with regards to:

Evaluee Name: _____ DOI: _____ Deadline: _____

Please mark "X" below for requested service(s). If no expert or service is marked "X" below, you accept that both Lora and Matt have been jointly hired to provide all services perceived relevant.

_____	<input type="checkbox"/>	Deposition testimony and/or file reproduction
_____ Matt Sims	<input type="checkbox"/>	Vocational Earning Capacity & Household Services
	<input type="checkbox"/>	Forensic Economics
	<input type="checkbox"/>	Hedonics Rebuttal
_____ Lora White	<input type="checkbox"/>	Life Care Plan
	<input type="checkbox"/>	Medical Cost Review

Current fee agreement, retainer and conflict check required prior to retaining consisting of plaintiff's name. All retaining attorneys/law firms need to read and sign an agreement, and return it with the retainer and a retention letter noting any specific requests. It is our normal policy to be retained by the attorney/law firm, or else full payment will be requested in advance. We will apply the non-refundable retainer against the first hours of work. Please request a current bill prior to any potential termination of the matter. Testimony fees are to be paid prior to the day of, per ARS 12-2211 D; cancellation with three business days required for full refund. All other payments are due upon receipt, and are not contingent upon the results of the litigation. Any other fee agreement must be written and signed by Sims/White. Work will cease upon nonpayment. Work product is no guarantee of litigation results. In event of a Frye/Daubert challenge, retaining counsel will defend Sims/White diligently at no cost. Pay disputes will be resolved per collection agency, and applicable fees will be added to the balance. All medical work product and information received will be confidential per ARS 12-2294.01 and Federal HIPAA Regulation. Fees may increase over time, and are currently at:

\$2,000 v \$4,000	Retainer fee each per Expert (Lora / Matt) required before start of work
\$500/hour	Testimony prepay (2 hours minimum) portal to portal except interstate
\$320/hour	All other work / evaluations performed, travel time, subcontracted work
\$0.60/mile	Mileage
Actual / \$5.00	Document Reproduction requires "special process" copying compliant with ARS 12-351 due to lack of copying capacity. CD/DVDs are \$5.00 each
Actual	Travel expenses (air, luggage, parking, vehicle, hotel, other)
\$100	To complete Notarized Affidavit of Custodian of Records

Attorney Signature

Printed Name

Date

Attorney email address: _____

Federal Tax ID Number
26-1336369

Revised 12/01/18

389 East Palm Lane, Suite 1
Phoenix, Arizona 85004
Phone (602) 253-2033 ■ Fax (602) 253-2133
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SIMS & WHITE, PLLC

Rehabilitation & Economic Consulting

October 27, 2019

The702Firm
Michael Kane, Esquire
400 S. 7th Street, Suite 400
Las Vegas, NV 89101

Regarding	Evaluatee Name	: Perez Acosta, Maikel
	Date of Birth	: May 12, 1982
	Date of Incident	: July 12, 2016

Preliminary Life Care Plan and Evaluation of Vocational Economic Damages

Dear Mr. Kane,

Thank you for referring the matter of Mr. Maikel Perez Acosta to develop a life care plan and evaluate vocational economic damages subsequent to an incident that occurred on 7/12/16. Mr. Perez Acosta was interviewed in person and over the telephone with an interpreter, for the purpose of this evaluation. File materials reviewed and standard methodologies used for evaluations are listed in the Appendix section, and detailed economic calculations are provided as Attachments to this report (*print Attachments in Landscape format*).

The estimated present day value of:

Future medical care costs	: \$393,758
Lost earnings/capacity	: \$371,772
Lost household service capacity	: <u>\$30,129</u>
Economic damages	: \$795,660

Sincerely,



J. Matthew Sims, MC, MS
Vocational Economist



Lora K. White, RNBC, BSN, CCM, CNLCP
Medical Services Consultant & Life Care Planner

Re: Perez Acosta
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Background

Social

Born in Cuba, Mr. Perez Acosta was 34 years old at the time of this incident. He moved from Cuba to Las Vegas in October 2015. He is married with two children ages two and seven. Mr. Perez Acosta reported that he had a work visa and he was legally able to work here in the United States. He lives with his wife and two children in a house that they rent from her family.

Educational

Mr. Perez Acosta finished his first year of high school in Cuba. He has had a driver's license since 9/25/17 (post-incident).

Medical Summary

Prior Medical

Mr. Perez-Acosta is a smoker of two packs per day since age of 10 years and he utilizes alcohol.

Mr. Perez-Acosta underwent a laminectomy following a motor vehicle accident in 2003. He was wheelchair bound for three years after this surgery. He also underwent a urinary and bowel resection at some time in the past and suffered from arthritis.

Current Medical

He was seen by Dr. Andrew Mitchell, a chiropractor, from July 12, 2016 to July 29, 2016. He received cryotherapy and electrical muscle stimulation to lumbar spine on July 12, 2016 and July 13, 2016. Per Dr. Mitchell's notes, Mr. Perez-Acosta mentions partial loss of bladder control on July 13, 2016.

He received care at University Medical Center (UMC) on July 13, 2016, at the recommendation of Dr. Mitchell. An MRI on July 13, 2016 showed cauda equina syndrome with compression at L1. Dr. Capanna, a neurosurgeon, recommended steroids and possible surgery. Mr. Perez-Acosta left the UMC emergency department against medical advice (AMA) due to frustrations related to nothing by mouth (NPO) status. He was readmitted on July 15, 2016 by Dr. Wadwani at UMC for cauda equina syndrome, right lower extremity weakness and numbness, acute lower back pain, leukocytosis, urinary and bowel incontinence. MRI dated July 13, 2016, showed epidural fluid collection T12-L1 laminectomy expanding to the level of T3, suspected to be due to chronic issues related to the laminectomy thirteen years prior. An MRI also indicating suspected subluxation of the T12/L1 facet joints was performed and a CT scan was normal. Per Dr. Capanna, surgery was not indicated at this time, therefore he was discharged to home with Norco and Decadron, and instructed to follow up with PCP in outpatient setting. He received a walker from Southwest Medical on July 16, 2019.

He was in the care of Yee Advanced Orthopedics & Sports Medicine care from August 1, 2016, to September 2, 2016. On August 1, 2016, Dr. Bady documented significant weakness in the right lower extremity, stating that prior to the July 12, 2016 accident he had no weakness in right leg. Dr. Bady also notes, he stated 'he has done fine since that (2003) surgery, 13 years ago.' An MRI was ordered August 30, 2016. On September 2, 2016, he went to Dr. Bady and the more recent

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MRI was reviewed, in which Dr. Bady stated surgery may or may not help him overall. Physical therapy was recommended.

He was in Dr. Holper's care for pain management from August 22, 2016 to September, 27, 2016. At his initial visit on August 22, 2016, Dr. Holper's physical exam revealed absent reflexes in Achilles and patellar indicating lower motor neuron damage that 'is likely permanent.' He was referred to Dr. Kim, spinal surgery, for possible T8 involvement, although Dr. Holper stated that he did not believe he would benefit from surgical intervention at that time. Dr. Holper recommends that he no longer went to the chiropractor for care. His Norco was refilled. At a follow-up visit on September 7, 2016, Dr. Holper stated that Mr. Perez-Acosta was complaining of residual neurological issues including urinary incontinence and erectile dysfunction. On this day, Dr. Holper also stated that 'due to the fact that he cannot control his urine he maintains his fluid intake to a minimum,' commenting that this is 'inappropriate' and Mr. Perez-Acosta needed an appropriate catheter device and/or diapers. Dr. Holper reviewed the MRI from August 30, 2016, that showed lumbar spine compression at the L1 cerebral body, some offset at T12 on L1 by 5mm, and anterior displacement of the conus and cauda equina nerve roots at T12-L2 related to an intradural posterior cystic structure. This was thought likely a post traumatic arachnoid cyst. A CT scan was recommended. On September 27, 2016, six weeks post injury, he returned to Dr. Holper after not following up with spinal surgeon like Dr. Holper had recommended. After examination, Dr. Holper found neurological symptoms resulting from injury which were determined to be likely permanent.

On October 27, 2016, Dr. Chopra initially saw Mr. Perez-Acosta for a neurology consult. He was in Dr. Chopra's care until June 22, 2017. During his initial visit, Dr. Chopra noted that Mr. Perez-Acosta was 'doing fairly well and walking without assistive devices until the accident on July 12, [2016].' Since the accident, he had experienced weakness and inability to walk without a walker. He was prescribed prednisone and an MRI of LS spine with and without contrast was ordered. Dr. Chopra also ordered neurosurgery spine consult and EMG/nerve conduction velocities of bilateral lower extremities. On December 14, 2016 and December 15, 2016, he follows up with Dr. Chopra on EMG and nerve conduction studies which shows evidence of active denervation in both lower extremities and severe polyneuropathy in right lower extremity. A neurosurgery consult was recommended again. It was also recommended that he continue using a walker and to follow up with physical therapy and pain management. He returns to Dr. Chopra for routine follow up between December 21, 2016 and June 22, 2017.

An MRI without contrast of L-spine and T-Spine, performed February 24, 2017, revealed a compression deformity of L1, which was deemed to be likely congenital, with loss of anterior stature approximately 50%, a 1mm bulge L5-S1, congenital nonunion post elements T12 and L1, and a mildly prominent conus without discrete mass. An MRI with contrast recommended.

He was seen between January 18, 2017, and February 28, 2018, by Western Regional Center for Brain and Spine, where Dr. Stuart Kaplan assumes care referred by Dr. Chopra. At an initial visit on January 18, 2017, Dr. Kaplan recommended pain management and diagnostic imaging. Mr. Perez-Acosta returned to Dr. Kaplan on March 15, 2017, in which he was referred to pain management for selective nerve root block. He was seen again by Dr. Kaplan between May 22,

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2017, and September 22, 2017, with no significant changes in care until the preoperative appointment on October 16, 2017.

Mr. Perez-Acosta was referred to Interventional Pain and Spine Institute from January 25, 2017, to September 25, 2018. On April 3, 2017, he had a bilateral L5 selective nerve root block performed without complication by Dr. Jorg Rosler. Again, on July 17, 2017, he sees Dr. Rosler for provocation discography with disc stimulation and fluoroscopy without complication. A CT of lumbar spine without contrast performed July 17, 2017, revealed stable old compression fracture of L1 and evidence of posterior decompression without central spinal canal stenosis. Retropulsion of L1 compression fracture contributed to mild neural foraminal stenosis at T12-L1.

From October 17, 2017, to October 18, 2017, he was admitted to Valley Hospital Medical Center for anterior lumbar interbody fusion of L5-S1 with anterior plate surgery. X-rays of the lumbosacral spine, abdomen and chest were completed. Surgery was performed on October 17, 2017 without complication by Dr. Kaplan. He was discharged to home the following day with Norco 5mg-325mg tablets and Ibuprofen 600mg tablets and advised to follow up in office in two weeks. He followed up postoperatively November 1, 2017, and informed Dr. Kaplan that pain in leg was better and he could tell a difference in regard to his lumbar back discomfort. X-rays of lumbar spine were ordered. He was advised to use a lumbar brace as needed and follow up in one month. On November 27, 2017, he returned to discuss x-ray results which Dr. Kaplan found 'looks good.' He was advised to repeat lumbar x-rays and to follow up in three months and continue with narcotic pain management. He returned for a final post-operative follow up appointment on February 28, 2018. X-ray images indicated proper lumbar hardware placement. Kaplan notes that he believed the surgery helped and is therefore advised to follow up as needed.

On July 24, 2018, a lumbar spinal cord stimulation trial for post laminectomy syndrome was recommended by Ray Troche, PA-C from the aforementioned Interventional Pain and Spine Institute. On both August 21, 2018, and September 25, 2018, medication refills were recommended by both Troche PA-C and Gomez, PA-C respectively. No notes indicated that a SCS trial was provided.

On October 29, 2018, he was seen by Dr. Rogelio Machuca at Machuca Family Medicine. He was referred to a pain specialist, behavioral health, and a prescription for Norco 10-325mg was given.

He began going to Innovative Pain Care Center January 8, 2019, until August 5, 2019, for monthly pain management. He received consistent prescriptions for Norco 10mg-325mg and duloxetine 60mg during the dates listed above.

Preliminary Life Care Plan

Mr. Perez-Acosta was interviewed at his attorney's office on October 22, 2019, for the purpose of this report. Mr. Perez-Acosta has been recommended to have a spinal cord stimulator trial to determine whether or not he would get pain relief from this procedure. Once this trial is performed, it could be determined that he would require a permanent placement, which would necessitate additional costs not included in this report, but cannot be deemed likely absent a successful trial. However, given his ongoing needs, his future medical care is included as currently being provided

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and as standard of practice for pain management with narcotics being provided. However, this should be considered preliminary, pending the spinal cord stimulator trial being performed. Mr. Perez-Acosta not only reports incontinence, but has been well reported to limit his oral intake to prevent episodes of bowel and bladder incontinence, resulting in symptoms that are concerning and should be evaluated by a qualified urologist. He reports that he did not suffer from incontinence or erectile dysfunction prior to the July 12, 2016, injury. Given the information available at this time, a preliminary life care plan has been prepared. Please refer to **Attachment A** for details.

Professional Evaluations

There has been a spinal cord stimulator recommended, but according to the medical records, not yet placed. Additionally, due to Mr. Perez-Acosta's incontinence and reports of urinary dysfunction, a urological evaluation has been included and this has also been recommended by his treating physicians. The trial has also been included, along with a psychological evaluation to determine any additional psychological needs given his ongoing deficits.

Physician Services

Due to his ongoing need for narcotic pain medication, monthly evaluations have been included as is currently ordered by his treating physician and is sometimes required depending on the pain management physician's practice.

Diagnostic/Laboratory Studies

Urodynamics have been included for the urological evaluation as well as an x-ray to determine appropriate spinal cord stimulator placement.

Medications

Although his current medications may change, they have been included as representative of those medications that will continue to be required on an ongoing basis. The oxycodone and the Viagra, which he cannot afford, are currently ordered by his treating physician.

Assistive Devices

Home safety equipment is included to facilitate his functional independence and to prevent further injury. Further architectural modifications may be necessary that cannot be identified at this time since his home has not been evaluated.

Wheelchair, Accessories & Maintenance

Due to his difficulty with ambulation and need for a cane, a scooter with appropriate replacement and maintenance is included in an effort to prevent fall injury and to ensure his ability to participate in community activities.

Potential Complications

Several complications have been identified for which treatment cannot be included given the information available at this time. Should additional information become available that would warrant the inclusion of treatment for these or any other complications identified, an addendum to this life care plan may be necessary.

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Cost of Future Medical Care

Based on the life care plan, the present value cost of future medical care through his statistical life expectancy is estimated at **\$393,758** (Attachment B).

Work & Earnings

Work History

From 2000 to 2015, Mr. Perez Acosta stated he was worked as a self-employed shrimp fisherman. This was in Cuba. He owned his own boat and had one crew member. Leading up to his move to the United States, he worked year-round and would work a schedule of 24-hours fishing then 24-hours off. He also performed his own mechanic work on the boat's engine.

According to Dr. Oliveri's report, while in Cuba Mr. Perez Acosta was digging for some dirt under a tunnel or a bridge when it collapsed on his torso. They put him in the boat and took him to the hospital. His lower extremities were numb but he states he could move them. He was told he had a fracture in his thoracolumbar region. He underwent what sounds to be a fusion surgery initially. He states that 11 months later, they removed the hardware in a second operation. He remembers using a walking stick after the surgery for a couple of months. He eventually was able to return back to fishing.

After moving to the United States, leading to his injury, Mr. Perez Acosta worked for an individual performing mechanic work on large 18-wheeler trucks. He stated his knowledge and experience working on boat engines helped him in working on truck engines. He stated he worked for cash in this position, and has no official earnings records. He stated he worked a full schedule, every day of the week.

Post-incident, Mr. Perez Acosta has not worked. On March 5, 2018, he was determined to be medically disabled by the Social Security Administration. This document did not show a date-of-onset nor a diagnosis/cause of disability.

Earnings History

None provided.

Specific Research

According to the Dictionary of Occupational Titles, a publication of the U.S. Department of Labor, there are 97 occupations that only require: Sedentary physical demands, Unskilled, and Language Level 1 (0-3 Grade Level).

The following is from the journal article, "The Valuation of Earning Capacity Definition, Measurement and Evidence," by Stephen M. Horner and Frank Slesnick, *Journal Of Forensic Economics*, 12(1), 1999, pp. 13-32:

Minimum capacity

Every unimpaired person is capable of earning at least minimum wage, 40 hours per week, 52 weeks per year. Guideline 5 notwithstanding, unless significant impairments can be identified, then a full-time minimum wage job should provide a floor to the estimation of earning capacity. Significant impairments may be legal, physical, psychological or behavioral, but in order for one or more of such impairments to have an effect on estimated earning capacity, there should be evidence that they exist in such a degree

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that they would reduce earnings. Thus, this guideline might be considered a "null hypothesis" to be rejected only by consideration of evidence.

Summary Considerations

Pre-incident, I have been advised that Mr. Perez Acosta was legally able to work here in the United States. Mr. Perez Acosta claims he was employed as a full-time self-employed shrimp fisherman in Cuba, and then as a full-time freelance mechanic here in the United States. No earnings or other records have been provided, and I would not expect to see any from Cuba. Dr. Oliveri was unable to determine a level of pre-incident functioning due to his preexisting medical condition.

Without objective earnings and employment records or verification of his vocational capacity, and without a pre-incident functioning opinion related to his preexisting medical condition, I am left with preliminarily estimating sedentary **minimum-wage earning capacity**, consistent with the 97 unskilled sedentary occupations where the language barrier would not be an issue. This would be considered a minimum earning capacity opinion.

Post-incident, Mr. Perez Acosta has been determined medically disabled from all substantial gainful employment activity. I will presume the disability determination is related to this incident, because there did not appear to be any subsequent injury or illness that would give cause for a disability determination. A total loss of earning capacity is estimated.

The present value loss of earning capacity throughout the remainder of his career is estimated at **\$371,772** (Attachment C).

Value of Household Services

Work and services that are performed around the house contain value. This household service value is often studied by economists as being in competition with paid labor. The classic example is a person who must decide on being a full-time homemaker caring for children versus working and paying for child care services. The do-it-yourself market (versus hiring someone) is another example of this value. If a loss in ability to perform household services is severe enough, some of this value may be accounted for separately as a future medical care cost. Otherwise, to the extent that these services must now be provided by others or simply do not get done, there exists a loss. The household service value can be estimated by using the Market Alternative Cost method as described in the studies *The Dollar Value of a Day by Expectancy Data* and *The Dollar Value of Household Work* by the College of Human Ecology at Cornell University. The statistics show what a "normal" value is, and any loss in capacity to perform household duties is considered a loss in household service value.

Pre-incident, Dr. Oliveri was unable to determine a level of pre-incident functioning due to Mr. Perez Acosta's preexisting medical condition. Mr. Perez Acosta claims he was working, but no other information has been provided to determine at what level. He has since been determined medically totally disabled. At this time, even if his pre-incident level of functioning was at a part-time sedentary level, then a Mild 10% loss in household services would not be unreasonable to estimate. This is a preliminary minimum loss estimate.

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Mr. Perez is assumed to have suffered an overall 10% loss in capacity to perform household services. The present value loss of household services through the end of his statistical life expectancy is estimated at **\$30,129** (Attachment D).

Conclusions

The total present value of economic damages is estimated at **\$795,660**.

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Appendix

Standard Methodology

Vocational economic methodology employed is described in the book, *Determining Economic Damages*, 24th Revision, by Gerald Martin and Mark Weinstein. From an economic standpoint, methodology is consistent with the article “The Valuation of Earning Capacity Definition, Measurement and Evidence,” by Stephen M. Horner and Frank Slesnick, *Journal of Forensic Economics* 12(1), 1999, pp. 13-32. From a vocational standpoint, methodology consistent with Field’s Practical Approach, “Estimating Earning Capacity: A Historical Review,” *The Rehabilitation Professional* 20(2), 2012, Timothy Field, “Estimating Earning Capacity: Venues, Factors and Methods,” *Estimating Earning Capacity* 1(1), 2008, and “Content Analysis of Factors Identified in Vocational Evaluation Analysis Reports,” by Rick Robinson, Mary Ellen Young, and Jamie Pomeranz, *The Rehabilitation Professional*, 17(4), pp. 163-174. As needed, job analysis contains factors/methodology based on *The Revised Handbook for Analyzing Jobs*, U.S. Department of Labor, and newer resources. Transferrable Skills Analysis is performed using the Materials-Products-Subject Matter-Services (MPSMS) and Work-Field methodologies, consistent with the U.S. Social Security Administration’s vocational disability evaluation procedures.

A projection method was used to determine the short-term future medical growth rates used in this report. The Nominal Rates Method used. The source used to determine growth rates is the U.S. Bureau of Labor Statistics reports on the Consumer Price Index (CPI). The average over the past 10 years of this data was used to determine the short-term future medical growth rates. With all future medical care costs beyond 10 years, growth is estimated based on the weighted differential of the Medical CPI and the overall CPI-U over the past 10, 20 & 30 years, adding this differential onto the long-term forecast of the overall CPI-U. Forecasted rates for earnings, household services, and pensions are published by the U.S. Congressional Budget Office, as this is the only recognized forecast source that contains short and long-term forecasts of the overall CPI-U, ECI as well as 10-year Treasury Notes.

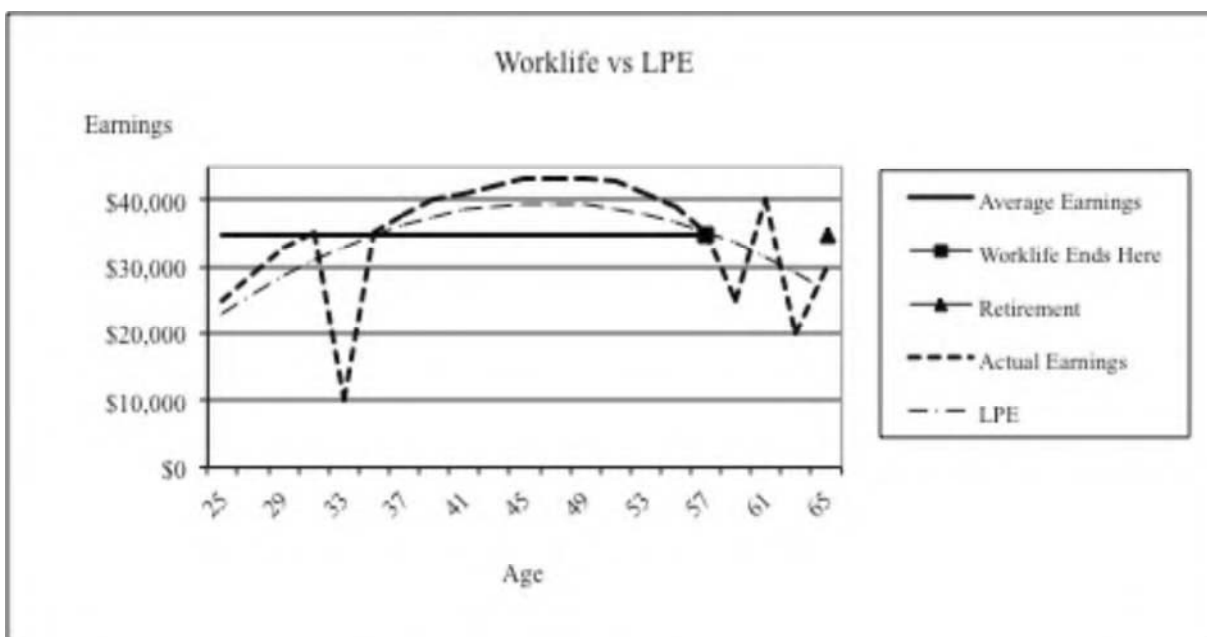
Employer benefit contributions were estimated by using several sources. When possible, actual benefits amounts were used. Social Security plan contributions were estimated for amounts up to the maximum allowed per the SSA. Retirement plan contributions were estimated by using the study *Employer Costs for Employee Compensation* by the U.S. Bureau of Labor Statistics, converted into a percentage amount. Health benefits were estimated by using the *National Compensation Survey: Employee Benefits in the United States, Civilian*, by the U.S. BLS, as this study differentiates between Single coverage from Family coverage. Kinds of benefits included were based on *Beyond the Numbers*, September 2012, 1(13), U.S. Bureau of Labor Statistics.

Adjustments to earnings for age and experience are typical throughout a person’s career for most non-union and non-government type employment. Earnings typically start at entry-level early in the career, increase through the average and continue on up to that of an experienced worker, and then top off towards the end of a career. Then, only cost-of-living changes are typical. Union and government worker earnings, however, are determined by union contract or length of service, rather than productivity. Age-experience adjustments were estimated by a regression analysis of the relevant data from the Person Income statistics, PINC-03 tables from the Current Population

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Survey, Annual Social and Economic Supplement, U.S. Census Bureau. Three years of this data was averaged together in order to formulate representative adjustments used in this report.

Statistically, workers experience gaps in their full-time year-round employment or earnings due to a variety of reasons, such as family medical leave or disability, termination from employment and death. Full-time year-round earnings every year through a retirement age may not always be an accurate method for estimating a wage loss, as there is no guarantee in life that this will happen, whereas a statistical worklife accounts for statistically average gaps, and is therefore shorter in duration. By taking the proportional difference between the worklife and retirement, a uniform-loaded worklife (pseudo labor force participation rate) can be estimated over the remaining length of a career. This is then age-scaled using a regression on detailed unpublished BLS statistics on labor force participation rates and employment rates, and mortality statistics; an LPE loading of the worklife. Worklife, YFS and many BLS studies typically classify people according to educational level rather than an occupation because of sample size, convenience and theory; people typically work in an occupation consistent with their educational attainment. Therefore, if a job change is significant, the worklife and retirement expectancies may also change. The statistical worklife was estimated by using "A Markov Process Model of Labor Force Activity: Extended Tables of Central Tendency, Shape, Percentile Points, and Bootstrap Standard Errors," by Gary R. Skoog, James E. Ciecka and Kurt V. Krueger, *Journal of Forensic Economics* 22(2), 2011, pp. 165-229. Uniform loading of the worklife is per Gary Skoog and James Ciecka, "Allocation of Expectancy and the Analysis of Front and Uniform Loading with Nomograms," *Journal of Forensic Economics*, 19(3), pp. 261-296, 2006. The duration to retirement is derived by using "Probability Mass Functions for Years to Final Separation from the Labor Force Induced by the Markov Model." Source: Drs. Gary Skoog and James Ciecka, *Journal for Forensic Economics*, Vol. XVI, No. 1, 2003. The estimated duration to retirement should be regarded as a "rough" retirement estimate. The following chart shows the difference in how the worklife and LPE models work:



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Household service value was estimated by using a market alternative cost method as described in the studies the Dollar Value of a Day: A Time Diary Analysis by Expectancy Data, 2005, and the Dollar Value of Household Work by the College of Human Ecology, Cornell University, Revised Edition 9/93. This is a capacity approach. Loss of value is estimated based on medical opinions, subjective descriptions, experience, and medically determined physical limitations which may relate to the physical demands of related service occupations consistent with the Functional Vocational Evaluation approach. Impairment loss estimates: 1-10% Mild, 11-24% Mild-Moderate, 25-75% Moderate, 76-89% Moderate-Severe, 90%-100% Severe. The hourly value used was based on the minimum wage, consistent with Lowen and Sicilian, 2015, "An Alternative Valuation Method for Household Production using American Time Use Survey Data," *Journal of Legal Economics*, 22(1): pp. 1–23. The value of employer-paid benefits is assumed to offset the effective tax rate. Current hours of service for each category were estimated by using data from the U.S. Bureau of Labor Statistics, American Time Use Survey, Tables 8A-8C. A reduction in value for a decline in abilities with late age is assumed at 50%, and this age is estimated by the study Expectancy Data Healthy Life Expectancy: 2015 Tables. Shawnee Mission, Kansas, 2018. Related occupations for physical demands were based on housekeepers, food preparation workers, landscapers, bookkeeping clerks, cashiers, personal care service workers, child care workers, and personal care aides, from the Occupational Employment Quarterly: The United States, U.S. Publishing.

Statistical life expectancy was estimated per The National Center for Health Statistics, United States Life Tables, National Vital Statistics Report.

If collateral source information is requested, it will be evaluated.

The present valuing future dollar amounts is a method of discounting future amounts down to what they would be worth today, assuming that one would invest it and earn interest. If next year's needed amount is \$110, then one only needs \$100 today to invest assuming you have a 10% interest rate. Economic damages are typically discounted using interest rates available on U.S. Treasury Securities. These securities are preferred over others as they are considered the safest and most risk-free form of investment. If a person has already been "damaged," then one would not want to place them at any additional risk of further damage by investing in a more risky form of investment. The short-term forecasted rate for the 10-year U.S. Treasury Note was used to determine the discount rate over the first 10 years, as this would be the expected rate available. A long-term forecasted rate is used thereafter. Discounting was calculated twice a year at half the annual rate.

In preparing a life care plan, a nurse life care planner relies on the methodology utilized by registered nurses, a methodology that is scientific, peer-reviewed, generally accepted, and supported by sufficient foundation. This methodology has been clearly outlined by the American Nurses Association (ANA) in their Scope and Standards of Practice, the American Nurses Association (ANA) is a professional organization whose purpose it is to protect and advance the profession of nursing, started in 1896 and renamed in 1911. The methodology and original Scope and Standards of Practice of the nursing profession was adopted in the 1960s and defines what a nurse can and cannot do, legally. The registered nurse is a licensed professional who must follow these standards of practice, including an assessment, diagnosis, outcomes identification, planning, implementation, coordination of care, health teaching and promotion, evaluation, ethics, culturally

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congruent practice, communication, collaboration with other professionals, leadership, education, evidenced based practice and research, quality of practice, professional practice evaluation, and resource utilization. Additionally, the tenets of the nursing process, as established by the ANA include, but are not limited to:

1. Basing all nursing practice on a caring, health centered practice, individualized to the patient to meet the unique needs of the person being assessed. Nurses use theoretical and evidence-based knowledge of human experiences and response to collaborate with other professionals and healthcare consumers to assess, diagnose, identify outcomes, plan, implement, and evaluate individualized care to reach the best outcomes. Critical thinking underlies each step of the nursing process, problem-solving, and decision making.
2. Planning and providing individualized care and coordinating care by establishing partnerships with persons, families, groups, support systems, and providers to reach a shared goal of safe, quality healthcare.

The ANA has further determined that nursing is both an art and a science, using qualitative and quantitative evidence to guide policies, procedure, and nursing practice (American Nurses Association. (2015), *Nursing Scope and Standards of Practice* (3rd ed.), Silver Spring, MD: ANA).

Furthermore, the American Association of Nurse Life Care Planners has determined that a life care plan utilizes the nursing process on the collection and analysis of comprehensive, client specific data. A life care plan has been defined by the certifying body, the AANLCP, as a living document, subject to change, should the foundation surrounding the life care plan change. These methods are peer reviewed and scientifically reliable (American Association of Nurse Life Care Planners. (2004). AANLCP Standards of Practice. Salt Lake City, Utah, AANLCP, 2004).

Most calculations were made using Microsoft Excel and are accurate to ten decimal places. The sum of individual items displayed may not equal the totals due to rounding.

Unless otherwise indicated, the information, estimates and opinions in this report were obtained from sources considered valid and reliable; however, no liability for such sources was assumed. Objective information provided was assumed to be complete and accurate without further verification made. Estimates rendered assume causality.

Opinions expressed in this report are as of the date of this report. Should new or additional information become available, the expressed opinions may change and warrant future reports. It is understood that the ultimate purpose of this evaluation is to provide an independent evaluation for an ongoing legal process and not as an aspect of a clinical relationship. Opinions rendered are to a reasonable degree of certainty in that area, unless otherwise explicitly specified. I declare that the information contained within this document was prepared and is the work product of the undersigned, and is true to the best of my knowledge and information.

Ms. White authored the Medical Summary and Life Care Plan sections of the report, and the Life Care Plan table. Mr. Sims authored the Background, Work & Earnings, Household Service Capacity sections of this report, and the economic tables.

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The following is a list of file material provided

Report by Dr. David Oliveri, dated September 29, 2016

Records from Meadows Chiropractic

Records from UMC

Records from Albert Capanna, MD

Records from Advanced Orthopedics and Sports Medicine

Records from Dr. Steven Holper

Records from Steinberg Diagnostics

Records from Dr. Gobinder Chopra

Records from Western Regional Center for Brain and Spine Surgery

Records from Interventional Pain and Spine Institute

Records from Pueblo Medical Imaging

Records from West Valley Imaging

Records from Machuca Family Medicine

Records from Innovative Pain Care Center

Name: Maikel Perez-Acosta

Attachment A

PROFESSIONAL EVALUATIONS						
EVALUATION	SOURCE	AGE/YEAR INITIATED	AGE/YEAR SUSPENDED	PER YEAR FREQUENCY	BASE COST	ANNUAL COST
Surgeon for SCS Replacement	Dr. Jason Garber	2020	2020	0.222	\$ 725.00	\$ 161.11
Urological Evaluation	Urology Specialists of Nevada	2020	2020	1.000	\$ 379.00	\$ 379.00
Spinal Cord Stimulator Trial	Dr. Jason Garber	2020	2020	1.000	\$ 12,000.00	\$ 12,000.00
Psychological Evaluation	Oasis Counseling	2020	2020	1.000	\$ 350.00	\$ 350.00
PHYSICIAN SERVICES						
PHYSICIAN SERVICES	SOURCE	AGE/YEAR INITIATED	AGE/YEAR SUSPENDED	PER YEAR FREQUENCY	BASE COST	ANNUAL COST
Pain Management	Innovative Pain Care Center	2020	LE	12.000	\$ 275.00	\$ 3,300.00
DIAGNOSTIC/LABORATORY STUDIES						
DIAGNOSTIC/LABORATORY STUDIES	SOURCE	AGE/YEAR INITIATED	AGE/YEAR SUSPENDED	PER YEAR FREQUENCY	BASE COST	ANNUAL COST
Urodynamics	Urology Specialists of Nevada	2020	2020	1.000	\$ 1,295.00	\$ 1,295.00
X-rays for SCS Placement	Pueblo Medical Imaging	2020	2020	1.000	\$ 150.00	\$ 150.00
MEDICATIONS						
MEDICATIONS	SOURCE	AGE/YEAR INITIATED	AGE/YEAR SUSPENDED	PER YEAR FREQUENCY	BASE COST	ANNUAL COST
Oxycodone 30 mg every 12 hours	Walgreens	2020	LE	12.000	\$ 44.99	\$ 539.88
Viagra as needed	Walgreens	2020	LE	12.000	\$ 279.00	\$ 3,348.00
ASSISTIVE DEVICES						
ASSISTIVE DEVICES	SOURCE	AGE/YEAR INITIATED	AGE/YEAR SUSPENDED	REPLACE / YEAR	BASE COST	ANNUAL COST
Shower Chair	Walgreens	2020	LE	0.200	\$ 60.00	\$ 12.00
Incontinence Briefs	www.lowcostmedicalsupply.com	2020	LE	2.000	\$ 63.00	\$ 126.00
Self Catheterization - Catheters	www.lowcostmedicalsupply.com	2020	LE	5.000	\$ 171.00	\$ 855.00
Hand Held Shower Head	Home Depot	2020	LE	0.200	\$ 50.00	\$ 10.00
Cane	Walgreens	2020	LE	0.100	\$ 20.00	\$ 2.00
Grab Bars	Home Depot	2020	LE	0.100	\$ 150.00	\$ 15.00
Front Wheeled Walker	Walgreens	2020	LE	0.200	\$ 71.00	\$ 14.20
WHEELCHAIR/ACCESSORIES and MAINTENANCE						
TYPE	SOURCE	AGE/YEAR INITIATED	AGE/YEAR SUSPENDED	PER YEAR FREQUENCY	BASE COST	ANNUAL COST

Scooter	www.pridemobility.com	2020	LE	0.200	\$	1,829.00	\$	365.80
Scooter Maintenance	Adapt Mobility	2021	LE	0.800	\$	250.00	\$	200.00
POTENTIAL COMPLICATIONS								
COMPLICATION	SOURCE	AGE/YEAR INITIATED	AGE/YEAR SUSPENDED	BASE COST				
Kidney Complications	Unable to Annualize			\$	-	-	-	-
Skin Complications	Unable to Annualize			\$	-	-	-	-
Spinal Cord Stimulator	Unable to Annualize			\$	-	-	-	-
Further Spinal Surgery	Unable to Annualize			\$	-	-	-	-
Side Effects of Medications	Unable to Annualize			\$	-	-	-	-
Fall Injury	Unable to Annualize			\$	-	-	-	-
Additional Medication Needs	Unable to Annualize			\$	-	-	-	-
Referral / Additional Interventions	Unable to Annualize			\$	-	-	-	-
Psychosocial Care	Unable to Annualize			\$	-	-	-	-

FUTURE MEDICAL CARE COST ECONOMIC ESTIMATE

(print in Landscape format)

Name: Mr. Maikel Perez Acosta

Attachment B

YEAR	AGE	PROFESSIONAL CARE SERVICES	GROWTH RATE FACTOR ¹	HOSPITAL & RELATED SERVICES	GROWTH RATE FACTOR ²	MEDICAL CARE COMMODITIES	GROWTH RATE FACTOR ³	DISCOUNT RATE / YEAR ⁴	NET PRESENT VALUE
2020.00	38	\$16,190	1.01981	\$1,445	1.04966	\$5,288	1.02566	0.97836	\$22,944
2021	39	\$3,300	1.04001	\$0	1.10179	\$5,488	1.05199	0.95718	\$8,811
2022	40	\$3,300	1.06061	\$0	1.15650	\$5,488	1.07899	0.93647	\$8,823
2023	41	\$3,300	1.08162	\$0	1.21393	\$5,488	1.10668	0.91620	\$8,835
2024	42	\$3,300	1.10305	\$0	1.27422	\$5,488	1.13508	0.89637	\$8,847
2025	43	\$3,300	1.12490	\$0	1.33750	\$5,488	1.16421	0.87697	\$8,858
2026	44	\$3,300	1.14718	\$0	1.40392	\$5,488	1.19409	0.85799	\$8,871
2027	45	\$3,300	1.16991	\$0	1.47363	\$5,488	1.22474	0.83942	\$8,883
2028	46	\$3,300	1.19308	\$0	1.54681	\$5,488	1.25617	0.82126	\$8,895
2029	47	\$3,300	1.21671	\$0	1.62363	\$5,488	1.28841	0.80348	\$8,907
2030	48	\$3,300	1.24082	\$0	1.70426	\$5,488	1.32148	0.77838	\$8,832
2031	49	\$3,300	1.28722	\$0	1.76800	\$5,488	1.37090	0.75405	\$8,876
2032	50	\$3,300	1.33537	\$0	1.83413	\$5,488	1.42218	0.73049	\$8,920
2033	51	\$3,300	1.38531	\$0	1.90273	\$5,488	1.47537	0.70766	\$8,965
2034	52	\$3,300	1.43713	\$0	1.97389	\$5,488	1.53055	0.68555	\$9,010
2035	53	\$3,300	1.49088	\$0	2.04772	\$5,488	1.58779	0.66413	\$9,054
2036	54	\$3,300	1.54664	\$0	2.12431	\$5,488	1.64718	0.64338	\$9,100
2037	55	\$3,300	1.60449	\$0	2.20376	\$5,488	1.70879	0.62327	\$9,145
2038	56	\$3,300	1.66450	\$0	2.28619	\$5,488	1.77270	0.60380	\$9,191
2039	57	\$3,300	1.72675	\$0	2.37170	\$5,488	1.83900	0.58493	\$9,236
2040	58	\$3,300	1.79134	\$0	2.46040	\$5,488	1.90778	0.56665	\$9,282
2041	59	\$3,300	1.85834	\$0	2.55243	\$5,488	1.97914	0.54894	\$9,329
2042	60	\$3,300	1.92784	\$0	2.64789	\$5,488	2.05316	0.53179	\$9,375
2043	61	\$3,300	1.99995	\$0	2.74693	\$5,488	2.12996	0.51517	\$9,422
2044	62	\$3,300	2.07475	\$0	2.84967	\$5,488	2.20962	0.49907	\$9,469
2045	63	\$3,300	2.15235	\$0	2.95625	\$5,488	2.29226	0.48348	\$9,516
2046	64	\$3,300	2.23285	\$0	3.06682	\$5,488	2.37800	0.46837	\$9,563
2047	65	\$3,300	2.31636	\$0	3.18152	\$5,488	2.46694	0.45374	\$9,611
2048	66	\$3,300	2.40300	\$0	3.30052	\$5,488	2.55921	0.43956	\$9,659
2049	67	\$3,300	2.49288	\$0	3.42396	\$5,488	2.65493	0.42582	\$9,707
2050	68	\$3,300	2.58611	\$0	3.55203	\$5,488	2.75423	0.41252	\$9,756
2051	69	\$3,300	2.68284	\$0	3.68488	\$5,488	2.85724	0.39963	\$9,804

2052	70	\$3,300	2.78318	\$0	3.82270	\$5,488	2.96411	0.38714	\$9,853
2053	71	\$3,300	2.88728	\$0	3.96568	\$5,488	3.07497	0.37504	\$9,902
2054	72	\$3,300	2.99527	\$0	4.11400	\$5,488	3.18998	0.36332	\$9,952
2055	73	\$3,300	3.10730	\$0	4.26787	\$5,488	3.30929	0.35197	\$10,001
2056	74	\$3,300	3.22352	\$0	4.42750	\$5,488	3.43306	0.34097	\$10,051
2057	75	\$3,300	3.34408	\$0	4.59310	\$5,488	3.56147	0.33032	\$10,101
2058	76	\$3,300	3.46916	\$0	4.76489	\$5,488	3.69467	0.31999	\$10,152
2059	77	\$3,300	3.59891	\$0	4.94310	\$5,488	3.83286	0.30999	\$10,202
2060.59	78	\$1,947	3.73352	\$0	5.12798	\$3,238	3.97622	0.30031	\$6,049
TOTAL NET PRESENT VALUE:									
<i>(the sum of individual items may not equal the totals due to rounding)</i>									
\$393,758									

(1) Future medical care costs increase per the Consumer Price Index, Detailed Report, Index of **Professional Care Services**, which reported annual costs increased at: **1.98%**

Service/Item	Cost	Annual Use	Start	Stop	Annual Cost
Surgeon for SCS Replacement	\$725.00	0.222	2020	2020	\$161
Urological Evaluation	\$379.00	1.000	2020	2020	\$379
Spinal Cord Stimulator Trial	\$12,000.00	1.000	2020	2020	\$12,000
Psychological Evaluation	\$350.00	1.000	2020	2020	\$350
Pain Management	\$275.00	12.000	2020	LE	\$3,300

(2) Future medical care costs increase per the Consumer Price Index, Detailed Report, Index of **Hospital & Related Services**, which reported annual costs increased at: **4.97%**

Service/Item	Cost	Annual Use	Start	Stop	Annual Cost
Urodynamics	\$1,295.00	1.000	2020	2020	\$1,295
X-rays for SCS Placement	\$150.00	1.000	2020	2020	\$150

(3) Future medical care costs increase per the Consumer Price Index, Detailed Report, Index of **Medical Care Commodities**, which reported annual costs increased at: **2.57%**

Service/Item	Cost	Annual Use	Start	Stop	Annual Cost
Oxycodone 30 mg every 12 hours	\$44.99	12.000	2020	LE	\$540
Viagra as needed	\$279.00	12.000	2020	LE	\$3,348
Shower Chair	\$60.00	0.200	2020	LE	\$12
Incontinence Briefs	\$63.00	2.000	2020	LE	\$126
Self Catheterization - Catheters	\$171.00	5.000	2020	LE	\$855
Hand Held Shower Head	\$50.00	0.200	2020	LE	\$10
Cane	\$20.00	0.100	2020	LE	\$2
Grab Bars	\$150.00	0.100	2020	LE	\$15
Front Wheeled Walker	\$71.00	0.200	2020	LE	\$14

Scooter	\$1,829.00	0.200	2020	LE	\$366
Scooter Maintenance	\$250.00	0.800	2021	LE	\$200

Note: All future medical care cost growth rates after 10+ years are estimated at: **3.74%** based on a weighted 1.41% differential between All CPI-U and All Medical Care over the past 10, 20 and 30 years. This was then added onto the CBO's long term CPI-U forecast a 2.33%

Year	CPI-U	All Medical Care	Differential	Weighted Differential
1988-2018	2.54%	4.26%	1.72%	
1998-2018	2.18%	3.53%	1.35%	
2008-2018	1.55%	2.90%	1.35%	1.41%

(4) Annual present value discount rate at: **2.20%** based on current rates of 10-year U.S. Treasury Notes; forecasted at **3.20%** in 10 years. Discounting is calculated twice a year at half the rate to reflect U.S. Treasury interest payments.

* Life expectancy projected to the year: **2060.59** Figure reflects portion of the year.

VOCATIONAL ECONOMIC ESTIMATE

PRE-INCIDENT

(print in Landscape format)

Name: Mr. Maikel Perez Acosta
Title: Minimum Wage

Attachment C

YEAR	AGE	PRE-INCIDENT EARNINGS ESTIMATE ¹	AGE/ EXPERIENCE FACTOR ²	EMPLOYMENT BENEFITS ³	WAGE GROWTH FACTOR ⁴	SCALED LABOR FORCE PARTICIPATION ⁵	DISCOUNT RATE / YEAR ⁶	NET PRESENT VALUE
2016.53	34	\$8,065	1.00000	\$500	1.00000	85.3%	1.00000	\$7,308
2017	35	\$17,160	1.00000	\$1,064	1.00000	86.2%	1.00000	\$15,710
2018	36	\$17,160	1.00000	\$1,064	1.00000	86.9%	1.00000	\$15,841
2019	37	\$17,160	1.00000	\$1,064	1.00000	87.5%	1.00000	\$15,943
2020	38	\$17,160	1.00000	\$1,064	1.00000	87.9%	0.97836	\$15,667
2021	39	\$17,160	1.00000	\$1,064	1.00000	88.1%	0.95718	\$15,368
2022	40	\$17,160	1.00000	\$1,064	1.02479	88.2%	0.93647	\$15,418
2023	41	\$17,160	1.00000	\$1,064	1.04979	88.1%	0.91620	\$15,435
2024	42	\$17,160	1.00000	\$1,064	1.07468	87.8%	0.89637	\$15,411
2025	43	\$17,160	1.00000	\$1,064	1.09971	87.3%	0.87697	\$15,352
2026	44	\$17,160	1.00000	\$1,064	1.12529	86.7%	0.85799	\$15,263
2027	45	\$17,160	1.00000	\$1,064	1.15146	86.0%	0.83942	\$15,144
2028	46	\$17,160	1.00000	\$1,064	1.17823	85.0%	0.82126	\$14,995
2029	47	\$17,160	1.00000	\$1,064	1.20567	83.9%	0.80348	\$14,816
2030	48	\$17,160	1.00000	\$1,064	1.23375	82.6%	0.77838	\$14,462
2031	49	\$17,160	1.00000	\$1,064	1.26248	81.2%	0.75405	\$14,083
2032	50	\$17,160	1.00000	\$1,064	1.29189	79.5%	0.73049	\$13,680
2033	51	\$17,160	1.00000	\$1,064	1.32198	77.7%	0.70766	\$13,253
2034	52	\$17,160	1.00000	\$1,064	1.35276	75.8%	0.68555	\$12,805
2035	53	\$17,160	1.00000	\$1,064	1.38427	73.6%	0.66413	\$12,337
2036	54	\$17,160	1.00000	\$1,064	1.41651	71.3%	0.64338	\$11,849
2037	55	\$17,160	1.00000	\$1,064	1.44950	68.9%	0.62327	\$11,343
2038	56	\$17,160	1.00000	\$1,064	1.48326	66.3%	0.60380	\$10,821
2039	57	\$17,160	1.00000	\$1,064	1.51780	63.6%	0.58493	\$10,285
2040	58	\$17,160	1.00000	\$1,064	1.55315	60.7%	0.56665	\$9,735
2041	59	\$17,160	1.00000	\$1,064	1.58933	57.7%	0.54894	\$9,174
2042	60	\$17,160	1.00000	\$1,064	1.62634	54.6%	0.53179	\$8,604
2043	61	\$17,160	1.00000	\$1,064	1.66422	51.4%	0.51517	\$8,025
2044.49	62	\$8,408	1.00000	\$521	1.70298	48.0%	0.49907	\$3,645
Totals:						(the sum of individual items may not equal the totals due to rounding)		\$371,772

(1) Pre-incident earnings estimate of: **\$17,160** a year based on the minimum wage.

(2) Age-experience adjustment estimated for most non-union/non-government workers by using data from the U.S. Census Bureau, Current

Population Survey, Annual Social and Economic Supplement, PINC-03 tables. N/A.

(3) Value of employer's contribution to fringe benefits estimated as:

Social Security Retirement: **6.20%** of earnings

(4) Wage inflationary growth estimated at:

2016	0.00%
2017	0.00%
2018	0.00%
2019	0.00%
2020	0.00%
2021	0.00%
2022	2.48%
2023	2.44%
2024	2.37%
2025	2.33%
2026	2.33%
2027	2.33%
2028	2.33%
2029	2.33%

Source: Assuming CBO forecasts for the CPI.

(5) Worklife duration is estimated in:

YFS is estimated in:

The labor force participation rate is therefore estimated at:
statistics. WLE and YFS begin at DOI.

22.28 years, with a standard deviation of + or -
27.96 years, with YFS standard deviation of + or -
79.69% This is then age-scaled according to LPE
8.29 years.
9.81 years.

(6) Annual present value discount rate based on 10-year U.S. Treasury Note currently

Forecasted in 10 years at:

3.20%
2.20%

HOUSEHOLD SERVICE ECONOMIC DAMAGE ESTIMATE

(print in Landscape format)

Name: Mr. Maikel Perez Acosta

Attachment D

YEAR	AGE	HOURLY VALUE OF HOUSEHOLD SERVICES ¹	ESTIMATED WEEKLY HOURS ²	WEEKS PER YEAR ³	DAMAGE ESTIMATE ⁴	GROWTH RATE FACTOR ⁵	DISCOUNT RATE / YEAR ⁶	NET PRESENT VALUE
2016.53	34	\$8.25	23.0	24.4	10%	1.00000	1.00000	\$464
2017	35	\$8.25	23.0	52.0	10%	1.00000	1.00000	\$987
2018	36	\$8.25	23.0	52.0	10%	1.00000	1.00000	\$987
2019	37	\$8.25	23.0	52.0	10%	1.00000	1.00000	\$987
2020	38	\$8.25	23.0	52.0	10%	1.00000	0.97836	\$965
2021	39	\$8.25	23.0	52.0	10%	1.00000	0.95718	\$944
2022	40	\$8.25	23.0	52.0	10%	1.02479	0.93647	\$947
2023	41	\$8.25	16.9	52.0	10%	1.04979	0.91620	\$697
2024	42	\$8.25	16.9	52.0	10%	1.07468	0.89637	\$698
2025	43	\$8.25	16.9	52.0	10%	1.09971	0.87697	\$699
2026	44	\$8.25	16.9	52.0	10%	1.12529	0.85799	\$700
2027	45	\$8.25	16.9	52.0	10%	1.15146	0.83942	\$701
2028	46	\$8.25	16.9	52.0	10%	1.17823	0.82126	\$702
2029	47	\$8.25	16.9	52.0	10%	1.20567	0.80348	\$702
2030	48	\$8.25	16.9	52.0	10%	1.23375	0.77838	\$696
2031	49	\$8.25	16.9	52.0	10%	1.26248	0.75405	\$690
2032	50	\$8.25	16.9	52.0	10%	1.29189	0.73049	\$684
2033	51	\$8.25	16.9	52.0	10%	1.32198	0.70766	\$678
2034	52	\$8.25	16.9	52.0	10%	1.35276	0.68555	\$672
2035	53	\$8.25	13.9	52.0	10%	1.38427	0.66413	\$548
2036	54	\$8.25	13.9	52.0	10%	1.41651	0.64338	\$543
2037	55	\$8.25	13.9	52.0	10%	1.44950	0.62327	\$539
2038	56	\$8.25	13.9	52.0	10%	1.48326	0.60380	\$534
2039	57	\$8.25	13.9	52.0	10%	1.51780	0.58493	\$529
2040	58	\$8.25	13.9	52.0	10%	1.55315	0.56665	\$525
2041	59	\$8.25	13.9	52.0	10%	1.58933	0.54894	\$520
2042	60	\$8.25	13.9	52.0	10%	1.62634	0.53179	\$516
2043	61	\$8.25	13.9	52.0	10%	1.66422	0.51517	\$511
2044	62	\$8.25	21.9	52.0	10%	1.70298	0.49907	\$799
2045	63	\$8.25	21.9	52.0	10%	1.74264	0.48348	\$792
2046	64	\$8.25	21.9	52.0	10%	1.78323	0.46837	\$785
2047	65	\$8.25	21.9	52.0	10%	1.82476	0.45374	\$778
2048	66	\$8.25	21.9	52.0	10%	1.86726	0.43956	\$771
2049	67	\$8.25	21.9	52.0	10%	1.91075	0.42582	\$764
2050	68	\$8.25	21.9	52.0	10%	1.95525	0.41252	\$758
2051	69	\$8.25	21.9	52.0	10%	2.00078	0.39963	\$751
2052	70	\$8.25	21.9	52.0	10%	2.04738	0.38714	\$745
2053	71	\$8.25	21.9	52.0	10%	2.09507	0.37504	\$738
2054	72	\$8.25	21.9	52.0	10%	2.14386	0.36332	\$732

2055	73	\$8.25	21.9	52.0	10%	2.19379	0.35197	\$725
2056	74	\$4.13	21.9	52.0	10%	2.24488	0.34097	\$360
2057	75	\$4.13	21.9	52.0	10%	2.29717	0.33032	\$356
2058	76	\$4.13	21.9	52.0	10%	2.35067	0.31999	\$353
2059	77	\$4.13	21.9	52.0	10%	2.40542	0.30999	\$350
2060.59	78	\$4.13	21.9	30.7	10%	2.46144	0.30031	\$205
PRESENT VALUE OF HOUSEHOLD SERVICES LOSS ESTIMATED AT:								
<i>(the sum of individual items may not equal the totals due to rounding)</i>								
\$30.129								

(1) Household service value estimated at: **\$8.25**, is based on the minimum wage in **2016 Nevada** and a total offset of benefits and taxes is assumed.
Value of services reduced by **50%** due to diminished full-function life expectancy estimated at age: **74**

(2) Average hours/week performing household services for:

Gender	Work	Children	Age	Year	Hours/Week
Male	FT	<6		2016	23.0
Male	FT	6-17		2023	16.9
Male	FT	N		2035	13.9
Male	N	N		2044	21.9

(3) Number of weeks per year. Figure reflects portion of the year as indicated.

(4) Demographic changes to damage estimate made per ATUS at:

Gender	Year	Damage Percentage
Male	2016	10%

(5) Wage inflationary changes estimated at:

2016	0.00%
2017	0.00%
2018	0.00%
2019	0.00%
2020	0.00%
2021	0.00%
2022	2.48%
2023	2.44%
2024	2.37%
2025	2.33%
2026	2.33%
2027	2.33%
2029	2.33%

Source: Assuming CBO forecasts for the CPI.

(6) Annual present value discount rate based on 10-year U.S. Treasury Note currently at: **2.20%**; forecasted in 10 years at: **3.20%**

* Life expectancy projected to the year: **2060.59**

Figure reflects portion of the year.

SIMS & WHITE, PLLC

Rehabilitation & Economic Consulting

FEE SCHEDULE & RETAINER AGREEMENT

Sims & White, PLLC has been retained to perform an independent evaluation / service with regards to:

Evaluee Name: _____ DOI: _____ Deadline: _____

Please mark "X" below for requested service(s). If no expert or service is marked "X" below, you accept that both Lora and Matt have been jointly hired to provide all services perceived relevant.

_____	<input type="checkbox"/>	Deposition testimony and/or file reproduction
_____ Matt Sims	<input type="checkbox"/>	Vocational Earning Capacity & Household Services
	<input type="checkbox"/>	Forensic Economics
	<input type="checkbox"/>	Hedonics Rebuttal
_____ Lora White	<input type="checkbox"/>	Life Care Plan
	<input type="checkbox"/>	Medical Cost Review (2 hours minimum)

Current fee agreement, retainer and conflict check required prior to retaining consisting of plaintiff's name. All retaining attorneys/law firms need to read and sign an agreement, and return it with the retainer and a retention letter noting any specific requests. It is our normal policy to be retained by the attorney/law firm, or else full payment will be requested in advance. We will apply the non-refundable retainer against the first hours of work. Please request a current bill prior to any potential termination of the matter. Testimony fees are to be paid prior to the day of, per ARS 12-2211 D; cancellation with three business days required for full refund. All other payments are due upon receipt, and are not contingent upon the results of the litigation. Any other fee agreement must be written and signed by Sims/White. Work will cease upon nonpayment. Work product is no guarantee of litigation results. In event of a Frye/Daubert challenge, retaining counsel will defend Sims/White diligently at no cost, and will request we be present at any hearing. Pay disputes will be resolved per collection agency, and applicable fees will be added to the balance. All medical work product and information received will be confidential per ARS 12-2294.01 and Federal HIPAA Regulation. Fees may increase over time, and are at:

\$2,000 v \$4,000	Retainer fee each per Expert (Lora / Matt) required before start of work
\$500/hour	Testimony prepay (2 hours minimum) portal to portal except interstate
\$320/hour	All other work / evaluations performed, travel time, subcontracted work
\$0.60/mile	Mileage
Actual / \$5.00	Document Reproduction requires "special process" copying compliant with ARS 12-351 due to lack of copying capacity. CD/DVDs are \$5.00 each
Actual	Travel expenses (air, luggage, parking, vehicle, hotel, other)
\$100	To complete Notarized Affidavit of Custodian of Records

Attorney Signature

Printed Name

Date

Attorney email address: _____

Federal Tax ID Number
26-1336369

Revised 08/09/19

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LORA WHITE, RN-BC, BSN, CCM, CNLCP, LNCP-C

Medical Services Consultant/Life Care Planner

Cost Analyst

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white@simsandwhite.com

EDUCATION

- B.S.N. - University of Utah 1993
- Continuous education updates of nursing issues, trends and skills by attending State Board approved conferences and classes
- Certification Course by American Association of Nurse Life Care Planners
- Currently enrolled in FNP Program at University of Cincinnati with anticipated graduation date of May 2020

LICENSES/PROFESSIONAL RECOGNITION

- Registered Nurse in Arizona
- Certified Nurse Life Care Planner
- Certified Case Manager
- Medicare Set Aside Consultant Certified from 2008-2014
- RN-Board Certified
- Medical Billing Analyst
- Faculty CLE lecturer on "Economic Loss Issues in Personal Injury," Maricopa County Bar Association, April 2006
- Faculty CLE lecturer for Wood, Smith, Henning & Berman LLP, "Overview of Economic Damages," March 2009.
- Participation in Executive Forum of Nurse Life Care Planners, May 2009 to Present
- President's Honor Roll and Dean's List, University of Utah
- CLE lecturer for "Medicare Set Asides in Personal Injury Litigation", NBI Inc., December 2010
- CLE lecturer for "Calculating Brain Injury Damages and Life Care Plans", NBI Inc., March 2013
- CLE lecturer for "Life Care Plans and Rebuttals", Tucson Defense Bar, May 23, 2016

EXPERIENCE

- Physical, mental, emotional and social assessment of the home/community based and workers' compensation patient population
- Development of appropriate and detailed plan of care for the home care patient
- Coordinate and oversee physical, occupational, and speech therapists, social workers, and home health aides
- Evaluate patient progress, compliance, communicate patient status with other disciplines and physician, and adjust treatment plan as appropriate
- Patient and family teaching regarding health maintenance needs
- Technical nursing procedures as ordered by physician

Lora K. White

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- Hospital based case management and utilization review utilizing Interqual criteria
- Long Term Care Case Management
- Case management of worker's compensation claims, including coordination of care, monitoring progress of recovery, and facilitating early return to work status as well as cost savings and price negotiations
- Medical record review and chronological summaries for use in various legal settings
- Legal Nurse Consulting
- Development of Life Care Plans and Rebuttals
- Expert Witness Testimony

MEMBERSHIPS

- American Association of Nurse Life Care Planners, since 2004
- International Association of Rehab Professionals, 2009-Present
- Brain Injury Association of Arizona, since 2010
- Member of the Daughters of the American Revolution, since 2011
- Past Board Member, Humane Society of Southern Arizona, since 2012-2018
- American Nurse Association, since 2015

EMPLOYMENT HISTORY

- | | |
|--|-----------------|
| • Sims and White, PLLC | 2008 to Present |
| • Interim Home Care | 1999 to 2010 |
| • Broadspire, formerly a Crawford Company | 2002 to 2008 |
| • Tucson Medical Center – Tucson, AZ | 1999 to 2001 |
| • Integrated Health Services (Home Care Division) – Tucson, AZ | 1995 to 1999 |
| • University of Utah Medical Center, Salt Lake City, UT | 1993 to 1995 |

**LORA K. WHITE
TESTIMONY/DEPOSITION
LIST**

Patient	File No.	Case No.	Date	Description
McConnell, Tyler Tyler McConnell vs. Christopher Nanos, Laura Ruben, Conmed, Inc. in the Arizona Superior Court Pima County		C20135540	12/1/15	Deposition
Pipes, Shaun Michael Shaun Pipes v. Radiology Limited; David T. Jeck, MD; Northwest Hospital in the Superior Court of the State of Arizona in and for the County of Pima.		C20145786	12/2/15	Deposition
Cerreta, Barbara Barbara Cerreta and Carl Cerreta vs. Strategic Asset Acquisition dba Classic Car Spa, Larry Shuler in the Superior Court of the State of Arizona in the County of Maricopa		CV2014-011156	12/15/15	Deposition
Belote, Jordan Jordan Belote and Sierra Belote vs. TEP and Robert Padilla in the Superior Court of the State of Arizona in the County of Maricopa		CV2013-053026	1/18/16	Deposition
Swanson, Anne Anne Swanson vs. City of Flagstaff in the Superior Court of Coconino County, Arizona		CV2011-00987	1/27/16	Testimony
Douangdara, Khamsean "Tiger" Khamseang Douangdara v United States of American and IHC in the United States District Court District of Utah, Central Division		2:13-CV-00196	3/3/16	Deposition
McConnell, Tyler Tyler McConnell v. Clarence Dupnik, Pima County Sheriff, Arizona Superior Court Pima County		C20135540	3/15/16	Testimony
McCrowsky, Tawni Tawni McCrosky v. Carson Tahoe Regional Medical in the First Judicial District Court of the State of Nevada in and for Carson City		C13-TRT000281	3/17/16	Testimony
Pfaff, Bria Bria Pfaff v. Brenda Williams; Dalton Williams in the Superior Court of the State of Arizona County of Maricopa		CV2014-053602	4/15/16	Deposition
Mackey, David David Raymond Mackey v. Provincial Capital Commission and Her Majesty the Queen in Right of the Province of British Columbia et al		SCBC S076519	5/11/16	Testimony
Feurer, Mark Mark and Lisa Feuer v. Fort Mohave, Inc. dba Valley View Medical Center; Kenneth Locke; Chase Dennis Emergency Medical Group, Inc. in the Superior Court of the State of Arizona in and for the County of Mohave		CV 2013-00787	5/16/16	Testimony
Arnold, Gina Gina M. Arnold v. Gary B. White; Uintah Basin Medical Center and David Grigsby, MD in the Eighth Judicial District Court Duchesne County, State of Utah		CV 020800066	5/17/16	Deposition
Rotunda, Joseph Joseph Rotunda v. 4A Equipment; Robert Thomas Kornegay in the Superior Court of the		CV2015-05128	5/18/16	Deposition

State of Arizona in and for the County of Maricopa

Lewis, Richard	CV 2014-012663	6/29/16	Deposition
Richard Lewis v. Jun T. Dao; Cornea and Cataract Consultants of Arizona in the Superior Court of the State of Arizona in and for the County of Maricopa			
Doi, Kiyoma	CV130906235	8/16/16	Deposition
Kiyomi Doi vs. State of Utah and University of Utah Hospital and Clinics In the Third Judicial District Court Salt Lake County, State of Utah			
Burt, Tammy Lynn	CV2014-011757	8/18/16	Deposition
Tammy Burt v. Wal-Mart in the Superior Court of the State of Arizona in and for the County of Maricopa			
Conrad, Susan Todd	37-2011-00097985 CU-PA-CTL	10/6/16	Arbitration
Conrad v. Myriam Zuleth Pulido in the Superior Court of the State of California of San Diego, Central District			
Anaya, Arturo Martinez	C20146479	10/7/16	Deposition
Robert B. Fleming v. Albertson's in the Superior Court of the State of Arizona in and for the County of Pima			
Dhyani, Avi	C 2007 5140	12/13/16	Deposition
Robert B. Fleming, Esq. Court Appointed Conservator for Avi Dhyani, and minor, and Anil Kumar Kalicharan and Rashmi Singh v. Tucson Medical Center in the Superior Court of the State of Arizona in and for the County of Pima			
Gorkies, Hermis	CV2015-052942	12/20/16	Deposition
Hermis Gorkies vs. Bowie Investment Group, Inc, dba MD Home Health in the Superior Court of the State of Arizona in and for the County of Maricopa			
Muniz, Valerie	A-12-655566-C	1/31/17	Deposition
Valery Muniz, Martha Acosta-Cochran and Miguel Muniz vs. Tracy Nielson; Centennial Hills OB/GYN; Nader Yousef Abdelsayed, MD; North Vista Hospital; Roe Carver, RN; Annette Mayes, MD in the District Court Clark County, Nevada			
Munday, Delton	CV2016-001167	3/7/17	Deposition
Delton Munday vs. Nextcare Arizona, LLC in the Superior Court of the State of Arizona in and for the County of Maricopa			
Arnold, Gina	CV 020800066	3/22/17	Testimony
Gina M. Arnold v. Gary B. White; Uintah Basin Medical Center and David Grigsby, MD in the Eighth Judicial District Court Duchesne County, State of Utah			
Fuciarelli, Kevin	CV2014-01078-PHX-GMX	3/28/17	Testimony
Kevin Fuciarelli v. Aaron B. Good and City of Scottsdale, in the United States District Court District of Arizona			
Lowder, Audrey		4/13/17	Deposition
Audrey and Michael Lowder vs. IHC Health Services, Inc. Before the Arbitration Panel In Salt Lake City, Utah			
Beti, Samuel Ndjedanem	CV2014-011009	5/25/17	Deposition
Samuel Ndjedanem Beti v. Strength Training, Inc dba STI in the Superior Court of the State of Arizona County of Maricopa			

Piper, Daniel	Civil No. 140700678	6/1/17	Deposition
Daniel Piper vs. Wade Larson and Tanner Memorial Clinic in the Second Judicial District Court in and for Davis County, State of Utah			
Mijatovic, Zdenko	CV2015-090383	6/5/17	Deposition
Zdenko Mijatovic vs. Danny Salem, DDS in the Superior Court of the State of Arizona in and for the County of Maricopa			
McBroom, Norma	C20164328	6/7/17	Deposition
Norma McBroom vs. Radiology Ltd. PLC in the Superior Court of the State of Arizona in and for the County of Pima			
Lewis, Dillon	CV2016-007791	6/8/17	Deposition
Dillon and Cristina Lewis vs. Walker and Carolina Butler in the Superior Court of the Arizona County of Maricopa			
Mesquita, Edmundo	C20151979	6/23/17	Deposition
Edmundo Mesquita and Adrienne Valenzuela vs. Tucson Medical Center in the Superior Court of the State of Arizona in and for the County of Pima			
Sibilsky, Erin	CV2013-009939	6/30/17	Deposition
Erin Sibilsky v. Phoenix Children's Hospital in the Superior Court of the State of Arizona in and for the County of Maricopa			
Wing, Joshua	CV2016-050917	7/19/17	Deposition
Joshua Wing vs. U-Haul International, Inc. in teh Superior Court of the State of Arizona in and for the County of Maricopa			
Bard IVC Filters Products Liability Litigation No. MD-15-026410Phx-DGC 8/16/17 Deposition			
Bard IVC Filters Products Liability in and for the United States District Court for the District of Arizona			
Humeniuk, Julie	CV2014-012222	8/18/17	Deposition
Julie Humeniuk vs. Tenet Healthcare, Abrazo Medial Group, Paradise Valley Hospital, Phoenix Baptist Hospital, Medical Neurology Limited, Team Health, Arizona Center for Neurosurgery, Spine Institute of Arizona, Arizona Oncology Associates in the Superior Court of the State of Arizona in the County of Maricopa			
Cotton, James	CC20152131	8/22/17	Deposition
James Cotton v. VIP Paratransit, LLC; Jerry Elliott in the Superior Court of the State of Arizona in and for the County of Pima			
Cacao, John	CV2015-005766	8/29/17	Deposition
John Cacao v. Double AA Builders, in the Superior Court of the State of Arizona in the County of Maricopa			
Collins, Theresa	CV-15-344	9/26/17	Testimony
Theresa Collins and Raner Collins vs. Tubac Management Company, LLC in the Superior Court of the State of Arizona in and for the County of Santa Cruz			
Bryant, Nancy	CV2014-00509	9/27/17	Deposition
Nancy Bryant and Dale Bryant vs. Northern Arizona Healthcare Corporation, Flagstaff Surgical Associates, Andrew Aldridge, MD in the Superior Court of the State of Arizona in the County of Coconino			

Cotton, James	C20152131	11/15/17	Deposition
James Cotton v. VIP Paratransit, LLC; Jerry Elliott and Jane Doe Elliott in the Superior Court of the State of Arizona in and for the County of Pima			
Merck, Lydia	CV01103ROS	11/30/17	Deposition
Lydia Merck vs. Swift Transportation Company in the United States District Court for the District of Arizona			
Craten, James and Amanda	CV02587-Phx-Dur	1/4/18	Deposition
James Craten and Amanda Craten v. Foster Poultry Farms, Inc. United States District Court District of Arizona			
Cobbin, Clyde	CV2017-000230	3/14/18	Deposition
Alvin Cobbin on behalf of Clyde Cobbin v. Ramiro Cuellar; Sunbelt in the Superior Court of the State of Arizona in and for the County of Maricopa			
Booker, Sheri	2:16-cv-00474-DGC	3/20/18	Testimony
1st Bellwether, Bard IVC Filters Products Liability Litigation, Sheri Booker; United States District Court, District of Arizona			
McMcMahill v. C.R. Bard, Inc.	CV1027-000927	3/29/18	Deposition
Concerning 2016-010131 Romero C. R. Bard, Inc., et al., CV-2014-008738, Moore V. C.R. Bard, Inc., et al., CV 2013-054323, Benzing v. C.R. Bard, Inc., et al., CV 2012-006013, Stesney v. C.R. Bard, Inc., et al.			
Baumann, Angie	C20142027	4/5/18	Testimony
Angie Baumann and Andrew Baumann v. Jess A. Haymore and Timothy G. Wilson, in the Superior Court for the State of Arizona in and for the County of Pima			
Valdez, Yasmin	140903592	4/10/18	Testimony
Yasmin Valdez v. Columbia Ogden Medical Center in the Second Judicial District Court Weber County, State of Utah			
Escobar, Patricia	CV2016-00248	5/1/18	Deposition
Patricia Escobar v. Rodney Engle; Renee Altrogge, RN; Northern Arizona Gastroenterology; Forest Canyon Endoscopy and Surgery Center in the Superior Court of the State of Arizona in and for the County of Coconino			
Johnson, Jessica	CV2016-096598	5/9/18	Testimony
Jessica Johnson vs. David Franecki in the Superior Court in the State of Arizona in and for the County of Maricopa			
Jones, Doris	2:16-cv00782-DGC	5/23/18	Testimony
2 nd Bellwether Jones v. Bard IVC Filter Products Liability, Doris Jones, United States District Court, District of Arizona			
Ortega, Aaron	CV2017-004776	6/14/18	Deposition
Aaron Garcia Ortega through Claudia Ortega v. Hetalkumar Shah, MD, Arizona Women's Specialists, Abrazo Arrowhead Campus in the Superior Court of Arizona County of Maricopa			
Twal, Elias Hani	CV2016-094343	6/28/18	Trial
Elias Twal v. Jothi Nadarajah Ramanathan in the Superior Court of the State of Arizona in the County of Maricopa			
Dillon, Grady		7/3/18	Deposition

Dillon, Grady v. Progressive Casualty Insurance Company First Party Motorist
Arbitration/American Arbitration Association

Carrillo, Frank	S1400CV2016-00120	7/6/18	Deposition
Frank Carrillo and Nancy Ngai Carrillo v. Hernan Uriel Rojas Sanchez; G.C. Harvesting in the Superior Court of the State of Arizona in and for the County of Yuma			
Pechac, Christopher	CV2016-002917; CV2016-002829	8/1/18	Deposition
Christopher Pechac v. Goodyear Tire and Rubber Company in the Superior Court of the State of Arizona in and for the County of Maricopa			
Musial, Jon	2:14-CV 01999-PHX-JJT	8/24/18	Testimony
Jon Musial vs. Telesteps, Inc.; Dial Industrial Sales, Inc.; Regal Aluminum Products, Inc.; Costco Wholesale Membership, Inc. in the United States District Court District of Arizona			
Wing, Joshua	CV2016-050917	8/28/18	Testimony
Joshua Wing vs. U-Haul International, Inc. in the Superior Court of the State of Arizona in and for the County of Maricopa			
Alsadi, Ahmad	2:16-CV-16-03738-PHX-DJH	9/12/18	Deposition
Ahmad Alsadi and Youssra Lahlou v. Intel Corporation in the United States District Court, District of Arizona			
Santa Cruz, Michael	Case No. 13L12101	9/17/18	Deposition
Erwin, et al, Johnson, et al., Garcia, et al., Ledeaux, et al., Santa Cruz, et al., Ayala, et al. v. Motorola Solutions, Inc., f/k/a Motorola Inc. In the Circuit Court of Cook County, Illinois County Department, Law Division			
Dehart, Marilyn	No. S1400CV201700718	9/19/18	Deposition
Marilyn Dehart and Norman Dehart v. Yuma Regional Medical Center in the Superior Court of the State of Arizona in and for the County of Yuma			
Hyde, Lisa	CV-16-00893-Phx-DGC	9/26/18	Testimony
Lisa Hyde vs. Bard 3 rd Bellwether Jones v. Bard IVC Filter Products Liability, Lisa Hyde, United States District Court, District of Arizona			
Smith, C., , Erm, A., Kotter, A.	CV2017-000927	10/11/18	Deposition
Danny McMahon v. C.R. Bard and Bard Peripheral Vascular Inc. in the Superior Court of the State of Arizona County of Maricopa			
Schuck, Kevin	CV2016-090601	10/26/18	Deposition
Kevin Schuck and Kim Schuck v. Dignity Health dba Chandler Regional Medical Center; David Suber, MD; Desert Neurology; Marc Tobler, MD; Chandler Radiology; Chandler Radiology Associates in the Superior Court of the State of Arizona in and for the County of Maricopa			
Wilke, Samuel	No. 2:16-cv-04055-JJT	11/13/18	Deposition
Samuel Wilke v. Transportation Insurance Company, United States District Court, District of Arizona			
Puckett, Jimmy	S1400CV2016-00532 Div V	11/20/18	Deposition
Jimmy Puckett v. Alberto Mejia, MD, Yuma Cardiology, Yuma Cardiac Center, YRMC in Superior Court State of Arizona, County of Yuma			
Torres, Jose	3:17-CV-08217-PCT-JAT	1/4/19	Deposition
Arturo Contreras; Jose Torres v. Chester David Brown; Legacy, Inc. in the United States			

Court District of Arizona

Carrillo, Frank	S1400CV2016-00120	1/8/19	Testimony
Frank Carrillo and Nancy Ngai Carrillo v. Hernan Uriel Rojas Sanchez; G.C. Harvesting in the Superior Court of the State of Arizona in and for the County of Yuma			
Tinlin, Debra	MD-15-026412-PHX-DGC	1/14/19	Deposition
Bard IVC Filters Products Liability Litigation in The United States District Court for the District of Arizona			
Cordon, Gail	A-17-751773-C Dept. No. XXVII	2/6/19	Deposition
Gail Cordon v. April Dell Walkup and Roe Corp. in the District Court of Clark County, Nevada			
Andresen, Shelly	Case 130902904	3/1/19	Deposition
Shelly Andresen v. Salt Lake Regional Medical Center in the Third Judicial District Court, Salt Lake County, State of Utah			
Hendrickson, Seth	Case 160700444	4/9/19	Deposition
Seth Hendrickson v. Hospital Corporation of Utah; Kevin Duke, DO; Scott Roundy, MD; Carl Rasmussen, MD; Providence Family Medicine in the Second Judicial District Court Davis County, State of Utah			
Collins, Theresa	CV-15-344	4/17/19	Testimony
Theresa Collins and Raner Collins vs. Tubac Management Company, LLC in the Superior Court of the State of Arizona in and for the County of Santa Cruz			
Davidson, Stephanie	A-17-758697-C	5/1/19	Deposition
Stephanie Davidson, DO v. Clark County in the District Court, Clark County, Nevada			
Erly, Andrew	C20175637	5/10/19	Deposition
Andrew Erly v. Banner University Medical Group, in the Superior Court of the State of Arizona in and for the County of Pima			
Colosimo, Vincent	C20171711	5/30/19	Deposition
Vincent Colosimo v. Heartland Dental, LLC in the Superior Court of the State of Arizona in and for the County of Pima			
James, Sherrilyn	CV2017-011284	6/3/19	Deposition
Sherrilyn James v. Unique, Inc. in the Superior Court of the State of Arizona in and for the County of Maricopa			
Collard, Larry	Case No. 160907849	6/11/19	Deposition
Larry Collard v. IHC Health Service, Inc, University of Utah Hospitals and Clinics in the Third Judicial District Court Salt Lake County, State of Utah			
Cosentino, Frank	CV2017-056341	6/17/19	Deposition
Frank Cosentino v. George Washington Acritelli and Maricopa County Sheriff's Office in the Superior Court of the State of Arizona in and for the County of Maricopa			
Hoff, Stephanie	CV2016-052071	7/10/19	Testimony
Stephanie Hoff v. Discount Enterprises in the Superior Court of Maricopa County, Arizona			
Beti, Samuel Ndjedanem	CV2017-012355	7/11/19	Testimony
Samuel Ndjedanem Beti v Arizona Therapy Source Sales and Service in the Superior Court of the State of Arizona in the County of Maricopa, Arizona			

Tobias, Gloria No.S1400CV2018-00175 8/12/19 Deposition
Gloria Tobias v. Helping Hands of Yuma in the Superior Court of the State of Arizona
County of Yuma

Lusk, Nicole CV2018-005425 9/19/19 Deposition
Nicole Lusk v. State of Arizona; County of Maricopa in the Superior Court of the State of
Arizona in and for the County of Maricopa

J. MATTHEW SIMS, MC, MS
Vocational Economist

CURRICULUM VITAE

Contact Information

SIMS & WHITE, PLLC	<i>phone:</i> (602) 253-2033
Rehabilitation & Economic Consulting	<i>fax:</i> (602) 253-2133
389 East Palm Lane, Suite 1	<i>email:</i> sims@simsandwhite.com
Phoenix, Arizona 85004	

Education

Master of Science: Economics
Arizona State University, Tempe, Arizona, 2005

Master of Counseling: Community Counseling
University of Phoenix, Phoenix, Arizona, 1999

Bachelor of Arts in Social Ecology: Psychology & Social Behavior
University of California at Irvine, California, 1992

Experience

Sims & White, PLLC

Partner/Member: Vocational Economist, January 2008 – *Present*

- Vocational evaluations and expert witness testimony
- Economic evaluations and expert witness testimony, including hedonic rebuttals
- Small business valuations and expert witness testimony (2005-2016)
- Strategy support for litigation matters

Broadspire, a Crawford Company

Vocational Consultant & Economist, March 2000 – January 2008

- Vocational evaluations and expert witness testimony
- Economic evaluations and expert witness testimony
- Strategy support for litigation matters
- Vocational rehabilitation services to clients (2000-2005)

Correctional Health Services, Madison Street Jail Psychiatric Unit

Inpatient Psychiatric Counselor/Social Worker II from June 1998 - Feb 2000

- Individual and group psychoeducational counseling and discharge planning
- Educate criminal justice system on SMI and community services

ComCare / Value Options, SMI Adult Services

Case Manager from Aug 1993 - Nov 1994, Forensic Case Manager from Feb 1996 - June 1998

- Forensic Specialty (96-98): Case management services for disabled criminal SMI adults
- Lead group counseling sessions and monitored members in the Jail Diversion program
- Case Manager (93-94): Manage overall rehabilitation and maintenance service planning for SMI adults

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Professional Affiliations

International Psychometric Evaluation Certification (IPEC) #20204, American Board of Vocational Experts (ABVE), since 2017.
 Vocational Expert for the U.S. Social Security Administration, since 2016.
 Member of the American Academy of Economic and Financial Experts (AAEFE), since 2012.
 Member of the American Board of Vocational Experts (ABVE), since 2012.
 Forensic Vocational Expert #F0019. American Rehabilitation Economics Association, since 2009.
 Registered Forensic Economist #R0009. American Rehabilitation Economics Association, since 2009.
 Member of the International Association of Rehabilitation Professionals (IARP), since 2009.
 Certified Vocational Rehabilitation Counselor #9731, State of Washington Department of Labor and Industries, 2006-2008.
 Member of the National Association of Forensic Economics (NAFE), since 2002.
 National Certified Counselor #56930, National Board for Certified Counselors, since 2000.

Teaching & Publications

Presentation for the 19th Annual NAFE Winter Meeting, January 2019, "Proper versus Improper Occupational Choices When Valuing Lost Advice and Counsel and Household Services: There's Skill Involved."
 Faculty CLE lecturer for Wood, Smith, Henning & Berman LLP, "Overview of Economic Damages," March 2009.
 Faculty lecturer for the American Rehabilitation Economics Association, "Arizona Industrial Case Law on the Earning Capacity of the Self-Employed," May 2007.
 Published article "The Role of Vocational Consultants in Small Business Valuations," *The Earnings Analyst*, Vol. IX, 2007, pp. 62-79.
 Faculty CLE lecturer for the Maricopa County Bar Association, "Economic Loss Issues in Personal Injury," April 2006.
 Adjunct Professor at Estrella Mountain Community College, ECN 111 Macroeconomic Principles, Fall 2005.
 Published letter "A counselor's oath?" *Counseling Today*, January 2000.
 Lecturer for various courses on mental illness, suicide assessment and intervention, and substance abuse for the Maricopa County Sheriff's Office, 1998-1999.

Other Qualifications & Experience

- Other past employment includes working with developmentally disabled adults, traumatically head injured adults and emotionally disabled adolescents.
- ROTC at California State University in Fullerton, with commission in 1992. Engineer in the U.S. Army Reserves, mostly inactive status, rank O-1. Honorably discharged. U.S. Army Reserves, Military Police, port security, rank E1-E3.
- Private pilot's license.
- Past volunteer for Special Olympics and special education activities.

J. MATTHEW SIMS, MC, MS
Vocational Economist

Testimony Experience

The following list does not include disability hearings as a Vocational Expert for the U.S. Social Security Administration.

- 10/23/19 CV2017-010074. Thomas Mancuso v. Commonwealth Royal Palms Holding Company. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 10/17/19 A-16-748425-C. Jennifer Livesey vs. Michael Skidds. Trial testimony in the District Court, Clark County, Nevada.
- 09/12/19 CV2016-000420. Johnnie Lohmeyer vs. Vanguard Health Systems. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 08/29/19 A-15-714139-C. Chantel Giacalone vs. Medicwest Ambulance. Deposition testimony in the District Court, Clark County, Nevada.
- 08/12/19 A-18-774448-C. Josephine Cimino v. Safelite Group. Deposition testimony in the District Court, Clark County, Nevada.
- 08/06/19 A-17-754451-C. Irma Aceves v. Aria Resort & Casino Holdings. Deposition testimony in the District Court, Clark County, Nevada.
- 07/15/19 CV2017-012355. Samuel Ndjedanem Beti v. Arizona Therapy Source Sales and Service. Trial testimony in the Superior Court of Maricopa County, Arizona.
- 07/10/19 CV2016-052071. Stephanie Hoff vs. Discount Enterprises. Trial testimony in the Superior Court of Maricopa County, Arizona.
- 06/30/19 CV2017-011284. Sherrilyn James vs. Unique. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 05/30/19 C20171711. Vincent Colosimo vs. Heartland Dental. Deposition testimony in the Superior Court of the State of Arizona, County of Pima.
- 05/16/19 2:17-CV-01876-PHX-JJT. Saly Martinez v. United States of America. Deposition testimony in the United States District Court, District of Arizona.
- 05/13/19 C20175637. Andrew Erly vs. Banner-University Medical Group. Deposition testimony in the Superior Court of the State of Arizona, County of Pima.
- 05/07/19 2:18-cv-00811-JAD-VCF. Michael Longi vs. Troy Mangum. Deposition testimony in the United States District Court, District of Nevada.
- 05/01/19 A-17-758697-C. Stephanie Davidson vs. Clark County. Deposition testimony in the District Court, Clark County, Nevada.
- 04/16/19 CV-2015-344. Theresa Collins vs. Tubac Management Company. Trial testimony in the Superior Court of the State of Arizona, County of Santa Cruz.
- 04/12/19 Micheline Lackman vs. Edward Grazier. Private arbitration in Maricopa County, Arizona.
- 03/18/19 CV2015-013479. Jeffrey Kleinman vs. Banner Health. Trial testimony in the Superior Court of Maricopa County, Arizona.
- 03/05/19 A-17-755718-C. Victoria Lee vs. Marsha Decker-Collins. Deposition testimony in the

J. Matthew Sims

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Eighth Judicial District Court, Clark County, Nevada.

- 03/04/19 A-17-759505-C. Darryl Fuller vs. Kesia Crawford. Deposition testimony in the District Court, Clark County, Nevada.
- 02/25/19 CV2017-090229. Martha Schellenberg v. New Vision Health. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 02/22/19 2:18-cv-00099-DGC. Dawn McGinnis vs. Paul Revere Life Insurance Company. Deposition testimony in the United States District Court, District of Arizona.
- 01/18/19 A-17-756346-C. Carmine Riga vs. Shaiya McNabb. Deposition testimony in the District Court, Clark County, Nevada.
- 12/04/18 CV2016-008280. Bryce Nance vs. County of Pinal. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 11/08/18 3:17-cv-00709-MMD-CBC. Devon Isbell v. Party City. Deposition testimony in the United States District Court, District of Nevada.
- 11/05/18 2:16-cv-04055-JJT. Samuel Wilke v. Transportation Insurance Company. Deposition testimony in the United States District Court, District of Arizona.
- 10/31/18 CV2016-090601. Kevin Schuck v. Dignity Health. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 09/28/18 A-17-756077-C. Hamilton Diep v. Paris Las Vegas Operating Company. Deposition testimony in the District Court, Clark County, Nevada.
- 09/26/18 2:16-cv-00893-DGC. 3rd Bellwether, Bard IVC Filters Products Liability Litigation, Lisa Hyde. Trial testimony in the United States District Court, District of Arizona.
- 09/18/18 11 L 7612. Joseph Erwin v. Motorola Solutions. Deposition testimony in the Circuit Court of Cook County, Illinois.
- 09/12/18 CV-16-03738-PHX-DJH. Ahmad Alsadi v. Intel Corporation. Deposition testimony in the United States District Court, District of Arizona.
- 09/11/18 A-17-752450-C. Michael Bailey vs. Greenwood Motor Lines. Deposition testimony in the District Court, Clark County, Nevada.
- 08/29/18 A-16-748425-C. Jennifer Livesey vs. Michael Skidds. Deposition testimony in the District Court, Clark County, Nevada.
- 08/27/18 CV2016-050917. Joshua Wing vs. U-Haul International. Trial testimony in the Superior Court of Maricopa County, Arizona.
- 07/27/18 Kali Luna v. Nationwide Insurance. Private arbitration testimony in Pima County, Arizona.
- 07/23/18 CV2013-01828. Sandra Sorenson v. Pinal County. Trial testimony in the Superior Court of Pinal County, Arizona.
- 07/19/18 CV2016-005086. Michael Grosso v. Glock. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 05/23/18 2:16-cv-00782-DGC. 2nd Bellwether, IVC Filters Products Liability Litigation, Doris Jones. Trial testimony in the United States District Court, District of Arizona.
- 04/10/18 140903592. Yasmin Valdez vs. Robert Simmonds, MD. Trial testimony in the

- Second Judicial District Court of Weber County, Utah.
- 04/06/18 C20142027. Angie Baumann vs. Jess A. Haymore, DDS. Trial testimony in the Superior Court of Pima County, Arizona.
- 03/20/18 2:16-cv-00474-DGC. 1st Bellwether, Bard IVC Filters Products Liability Litigation, Sheri Booker. Trial testimony in the United States District Court, District of Arizona.
- 03/08/18 CV2015-04103. Deanna Laster vs. Richard Benedict, MD. Deposition testimony in the Superior Court of Mohave County, Arizona.
- 01/31/18 CV2015-007492. Kevin Nguyen vs. Phoenix Baptist Hospital. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 01/22/18 CV2013-016283. Jerry Jaramillo vs. State of Arizona. Trial testimony in the Superior Court of Maricopa County, Arizona.
- 12/15/17 2:15-cv-02587-PHX-DLR. James Craten v. Foster Poultry Farms. Deposition testimony in the United States District Court, Arizona.
- 12/05/17 D-1314-CV-2016-00673. Martin Martinez vs. Priority Plumbing and Heating. Deposition testimony in the State of New Mexico, County of Valencia, Thirteenth Judicial District Court.
- 11/15/17 C20152131. James Cotton vs. VIP Paratransit. Trial testimony in the Superior Court of Pima County, Arizona.
- 10/20/17 2:16-cv-02581-SPL. Bruce Luna vs. Shaw Industries Group. Deposition testimony in the United States District Court, Arizona.
- 09/26/17 CV-15-344. Theresa Collins vs. Tubac Management Company. Trial testimony in the Superior Court of the State of Arizona, County of Santa Cruz.
- 09/20/17 CV2016-053774. Raul Hernandez vs. Duy Phuoc Tran, MD. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 08/18/17 CV2014-012222. Julie Humeniuk vs. Tenet Healthcare Corporation. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 07/31/17 CV2016-050917. Joshua Wing vs. U-Haul International. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 07/26/17 MD-15-02641-PHX-DGC. Sheri Booker, Lisa Hyde, Doris Jones, Carol Kruse and Debra Mulkey vs. Bard IVC Filters. Deposition testimony in the United States District Court, Arizona.
- 07/24/17 CV2015-005766. John Cacao vs. Double AA Builders. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 07/13/17 CV2015-002365. Troy Haberl vs. Michael McAllister. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 07/06/17 CV2015-004062. Lauren Thomas v. Maria Galindo. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 06/30/17 CV2014-003961. Erin Sibilsky v. Phoenix Children's Hospital. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 06/14/17 CV2014-011757. Tammy Burt vs. Wal-Mart Stores. Trial testimony in the Superior

J. Matthew Sims

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Court of Maricopa County, Arizona.

05/30/17 CV2013-016283. Jerry Jaramillo vs. State of Arizona. Deposition testimony in the Superior Court of Maricopa County, Arizona.

05/25/17 CV2014-011009. Samuel Ndjedanem Beti v. Strength Training. Deposition testimony in the Superior Court of Maricopa County, Arizona.

05/19/17 CV2015-013479. Jeffrey Kleinman vs. Banner Health. Deposition testimony in the Superior Court of Maricopa County, Arizona.

04/24/17 CV2016-001167. Delton Munday v. Nextcare Arizona, LLC. Deposition testimony in the Superior Court of Maricopa County, Arizona.

03/28/17 CV2014-01078-PHX-GMS. Kevin Fuciarelli vs. City of Scottsdale. Trial testimony in the United States District Court, Arizona.

03/06/17 C20152409. Celia Martinez vs. URS Corporation. Deposition testimony in the Superior Court of Pima County, Arizona.

03/02/17 CV2014-051169. David Stewart vs. Clifford Deane. Deposition testimony in the Superior Court of Maricopa County, Arizona.

02/17/17 Raymond Nagy v. United States Automobile Association. Private arbitration testimony in Maricopa County, Arizona.

02/09/17 CV2014-00060. Jamall Dale vs. Pilot Travel Centers. Trial testimony in Arizona Superior Court Coconino County.

02/03/17 FC2016-007328. Sheridan Vingelli and John Vingelli. Hearing testimony in the Superior Court of Maricopa County, Arizona.

01/31/17 A-12-655566-C. Valery Muniz vs. Nader Yousef Abdelsayed, MD. Deposition testimony in the District Court, Clark County, Nevada.

12/19/16 CV2015-000327. Rebecca Listiak v. Mayo Clinic Arizona. Deposition testimony in the Superior Court of Maricopa County, Arizona.

12/15/16 CV2014-005463. Amy Lofgren v. Richard Goodell, MD. Deposition testimony in the Superior Court of Maricopa County, Arizona.

11/14/16 CV2013-001576. Denis Penaloza v. City of Phoenix. Deposition testimony in the Superior Court of Maricopa County, Arizona.

11/04/16 CV2013-012847. Manuel Martinez vs. Gary Purcell, MD. Deposition testimony in the Superior Court of Maricopa County, Arizona.

09/12/16 CV2014-00060. Jamall Dale vs. Pilot Travel Centers. Deposition testimony in Arizona Superior Court Coconino County.

08/18/16 CV2014-011757. Tammy Burt vs. Wal-Mart Stores. Deposition testimony in the Superior Court of Maricopa County, Arizona.

08/05/16 CR2013-106318. State of Arizona vs. Iam MacDonald. Hearing testimony in the Superior Court of Maricopa County, Arizona.

06/21/16 CV2013-009410. Magdalena Gomez vs. Road Machinery. Deposition testimony in the Superior Court of Maricopa County, Arizona.

05/25/16 CV2015-002876. Joseph Rotunda vs. Otto Trucking. Deposition testimony in the

- Superior Court of Maricopa County, Arizona.
- 05/09/16 S076519. David Mackey v. The Provincial Capital Commission. Trial testimony in the Supreme Court of British Columbia.
- 04/28/16 CV2014-011973. Josue Munoz v. Toll Brothers AZ Construction Company. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 04/26/16 CV2014-053602. Bria Pfaff vs. Brenda Williams. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 04/18/16 CV2013-052332. Cynthia Erickson vs. Virginia Scott Hale. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 04/04/16 CV2014-096361. Aubrey Mitchell v. Lighthouse Management. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 03/17/16 13TRT000281B. Tawni McCrosky vs. Carson Tahoe Regional Medical Center. Trial testimony in the First Judicial District Court of the State of Nevada.
- 03/01/16 CV2014-004042. Loretta Randall vs. Walgreens. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 01/27/16 CV2011-00987. Anne Swanson v. The City of Flagstaff. Trial testimony in the Superior Court of Coconino County, Arizona.
- 01/18/16 CV2013-053026. Jordan Belote v. Tucson Electric Power Company. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 10/13/15 CV2013-01828. Sandra Sorenson v. Pinal County. Deposition testimony in the Superior Court of Pinal County, Arizona.
- 10/12/15 CV2013-00108. Denny Finch v. Ronney Ferguson, MD. Trial testimony in the Superior Court of Navajo County, Arizona.
- 09/29/15 FC2012-094832. Jason Tani and Donna Carter-Tani. Hearing testimony in the Superior Court of Maricopa County, Arizona.
- 09/18/15 CV2013-011856. Timothy Cunningham v. Beth Purdy, MD. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 09/03/15 A-13-692834-C. Oscar Salcido vs. Dr. Patrick Flores. Deposition testimony in the District Court, Clark County, Nevada.
- 08/21/15 13TRT000281B. Tawni McCrosky vs. Carson Tahoe Regional Medical Center. Deposition testimony in the First Judicial District Court of the State of Nevada.
- 08/18/15 D-101-CV-2012-03411. Katherine Mahurin vs. Edward Fry. Trial testimony in the State of New Mexico, County of Santa Fe, First Judicial District Court.
- 07/16/15 CV2011-001525. Jana Rozenman vs. Dimitri Rozenman. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 06/08/15 CV2013-093067. Belinda Valenzuela vs. Marriott International. Deposition testimony in the Superior Court of Maricopa County, Arizona.
- 05/19/15 CV2014-01078-PHX-GMS. Kevin Fuciarelli vs. City of Scottsdale. Deposition testimony in the United States District Court, Arizona.
- 04/22/15 CV2011-055755. Ida Romero vs. Brian Steinke, MD. Deposition testimony in the

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Superior Court of Maricopa County, Arizona.

EXHIBIT 4

CURRICULUM VITAE

Dr. Andrew J. Mitchell

Chiropractic Physician

3441 W. Sahara Avenue, Suite C-7

Las Vegas, NV 89102

(702) 220-9191

EDUCATION

- Graduated Cum Laude from Life Chiropractic College West in San Lorenzo, California, 8/1996
- Awarded Excellence In Care for Clinic Internship
- Clinical Rounds at Life West Chiropractic Clinic, Hayward, CA, 9/1995-8/1996
- Board Certified by the National Board of Chiropractic Examiners, 1996
- Attended University of Nevada, Reno, 8/1990-5/1993
- Attended Pasadena City College, Pasadena, CA, 9/1988-6/1989

PROFESSIONAL EXPERIENCE

- Doctor/Owner Meadows Chiropractic, 2/2000-Current
- Doctor at Milam Family Chiropractic, 8/1997-2/2000
- Doctor at Widenbaum Chiropractic, 10/1996-7/1997
- Chiropractic Assistant at Maguire Chiropractic, 1/1994-12/1994

PROFESSIONAL CERTIFICATIONS

- American Board of Independent Medical Examiners 6/2010
- Whiplash and Brain Injury Traumatology, 2006

PROFESSIONAL MEMBERSHIPS

- Nevada Chiropractic Association
- American Chiropractic Association

STATE LICENSURE

- Nevada - Active
- California - Inactive

CURRICULUM VITAE

Dr. Jason S. Chong

Chiropractic Physician

3441 W. Sahara Avenue, Suite C-7

Las Vegas, NV 89102

(702) 220-9191

EDUCATION

- Board Certified by the National Board of Chiropractic Examiners, 1997
- Graduated Cleveland Chiropractic Collage of Los Angeles, California, 1997
- Attended California State University Northridge, 1988-1993
 - BA in Cell and Molecular Biology
 - Minor in Asian Studies
- Extended studies in geriatric and golf injuries

PROFESSIONAL EXPERIENCE

- Doctor/Owner Meadows Chiropractic, 2001-Current
- Alpha Chiropractic, Los Angeles, 1998-2000
- Conducted Wellness Lectures
- Conducted Spinal Screenings
- Clinical Rounds at Los Angeles Union for the Homeless, Los Angeles 1992-1993
- Techniques Studied - Diversified, Gonstead, S.O.T., Thompson Drop Table, Cox

PROFESSIONAL MEMBERSHIPS

- Member American Chiropractic Association
- Member Nevada Chiropractic Association

*Meadows Chiropractic*

3441 W. Sahara, Suite C-7 Las Vegas, Nevada 89102 Phone: 702.220.9191 Facsimile: 702.220.9292

Deposition Fee Schedule for Andrew J. Mitchell, D.C.

RE: _____

Attorney or law firm: The 702 Firm

To Whom It May Concern,

Please be advised that the deposition fee for Dr. Mitchell is \$1,000.00 per hour in full hour increments. Payment must be received, at minimum, two weeks prior to the deposition date. Failure to remit timely payment will result in the deposition being considered cancelled.

We require notice of cancellation at least one week prior to the deposition. Deposition fees will not be refunded if cancellation occurs within one week of the deposition. Please be advised that Dr. Mitchell may bring his own counsel to depositions.

By scheduling Dr. Mitchell's deposition, you are accepting these policies. Should you have any questions or concerns, please contact our office.

Thank you,

Iliana S. Rodriguez
Office Manager

*Meadows Chiropractic*

3441 W. Sahara, Suite C-7 Las Vegas, Nevada 89102 Phone: 702.220.9191 Facsimile: 702.220.9292

Deposition Fee Schedule for Jason Chong, D.C.

RE: _____

Attorney or law firm: The 702 Firm

To Whom It May Concern,

Please be advised that the deposition fee for Dr. Chong is \$1,000.00 per hour in full hour increments. Payment must be received, at minimum, two weeks prior to the deposition date. Failure to remit timely payment will result in the deposition being considered cancelled.

We require notice of cancellation at least one week prior to the deposition. Deposition fees will not be refunded if cancellation occurs within one week of the deposition. Please be advised that Dr. Chong may bring his own counsel to depositions.

By scheduling Dr. Chong's deposition, you are accepting these policies. Should you have any questions or concerns, please contact our office.

Thank you,

Iliana S. Rodriguez
Office Manager

EXHIBIT 5

**JORG ROSLER, MD**Diplomate, American Board of Anesthesiology
Diplomate, American Board of Pain Medicine**STEVE OLENCHAK, PA-C****CURRICULUM VITAE****PERSONAL:**

Date of Birth: July 15, 1968
Place of Birth: Waiblingen, Germany
Citizenship: US Citizen

EDUCATION/STUDIES:

Preparation for ECFMG Certification and Immigration to U.S.

May 1997 – January 1999

Georg August University Medical School, Gottingen, Germany

Graduation May 1997

Exams: USMLE – Step 3

December 1999

ECFMG – Clinical Skills Assessment Test

July 1998

"3. Staatsexamen" (Third Board Exam/Graduation)

May 1997

ESMLE – Step 1

October 1996

EXFMG – English Test

August 1996

USMLE – Step 2

March 1996

"2. Staatsexamen" (Second Board Exam)

March 1996

"1. Staatsexamen" (First Board Exam)

August 1993

"Physicum" (Intermediate Examination in Medicine)

August 1992

CLINICAL CLERKSHIPS/ELECTIVES:

Military Hospital, Wildbad, Germany; Orthopedics

February – March 1993

University of Gottingen; Department of Anesthesiology

August 1994

University of Texas, Houston, TX; Department of Anesthesiology

March 1995

St Vincent Hospital, Indianapolis, IN; Surgery

September 1995

University of Texas, Houston, TX; Department of Anesthesiology

April – July 1996

Baylor College of Medicine, Houston, TX; Medicine

September – October 1996

University of Gottingen; Department of Surgery

December 1996 – March 1997

POST-GRADUATE TRAINING:

Multi-Cadaver CME Workshops

International Spine Intervention Society

Spine Intervention/Lumbar Discography

2004, 2005, 2006

Intensive Postgraduate Pain Management Study Program
 Indiana University School of Medicine
 Department of Anesthesiology

November 2004 – January 2006

RESIDENCY:

Indiana University
 Department of Anesthesiology

January 2000 – December 2002

INTERNSHIP:

Transitional Year at Spectrum Health
 East Campus
 Grand Rapids, Michigan

January 1999 – December 1999

LICENSURE:

Nevada State Board of Medical Examiners
 State of Michigan Board of Medicine
 State of Utah
 Medical Board of California

BOARD CERTIFICATIONS:

Diplomate of American Board of Anesthesiology
 Diplomate of American Board of Pain Medicine

AFFILIATIONS:

American Medical Association
 American Association of Anesthesiologists
 International Spine Intervention Society
 American Academy of Pain Medicine

HOSPITAL AFFILIATIONS:

St. Rose de Lima Hospital
 St. Rose Siena Hospital
 St. Rose San Martin Hospital
 Summerlin Hospital
 Valley Hospital

PROFESSIONAL:

Independent Contracting
 General/Trauma Anesthesia

February 2003 – March 2003

Independent Contracting

1P.App.215

Nevada Anesthesiology and Pain Specialist

April 2003 – October 2004

Intensive Postgraduate Pain Management Study Program

Indiana University School of Medicine

Department of Anesthesiology

November 2004 – January 2005

Independent Contracting

Nevada Spine Clinic

Anesthesiology, Pain Management

7140 Smoke Ranch Road Suite 150

Las Vegas, NV 89128-3157

February 2005 – July 2014

Interventional Pain & Spine Institute

Owner and Founder

851 South Rampart Blvd Suite 100

Las Vegas, NV 89145

PH: (702) 357-8004

FAX: (702) 357-8005

August 2014

ANDREW M. HALL, MD

11209 Ojai Ct.
Las Vegas, Nevada 89135

amh1004@gmail.com
Tel: 217.412.2778

Experience	Interventional Pain and Spine Institute Pain Management Physician Las Vegas, NV	04/10/17-present
	Nevada Comprehensive Pain Center Pain Management Physician Las Vegas, NV	9/1/16 – 3/24/17
Education	Fellowship, Pain Medicine University of California, San Francisco San Francisco, CA	2015-2016
	Residency, Anesthesiology The University of Chicago Chicago, IL	2012-2015
	Internship, Internal Medicine University of Illinois College of Medicine Peoria, IL	2011-2012
	M.D., University of Illinois College of Medicine Peoria, IL	2007-2011
	B.A., Biological Sciences, <i>magna cum laude</i> Illinois Wesleyan University Bloomington, IL	2003-2007
Specialty Certifications	Diplomate, American Board of Anesthesiology	2017
	Board Certified in Pain Medicine, ABA	2017
Licensure	California, Nevada	
Awards & Honors	The University of Chicago Medical Student Teacher of the Year	2015
	University of Illinois College of Medicine Internal Medicine Intern Student Teaching Award	2012
	Granville A. Bennett Award for Contributions to Medical Education	2011
Professional Organizations	American Academy of Pain Medicine American Pain Society American Society of Anesthesiologists American Society of Regional Anesthesia and Pain Medicine Nevada State Society of Anesthesiologists North American Neuromodulation Society North American Spine Society	
Publications	Hall Andrew M. "Clinical Vignette: A Case of Intrathecal Pump Failure." Contributor with Lawrence R. Poree. "Intrathecal Pump Malfunction: Flipped, Stalled, and Malfunctioned Valves and Rotors Leading to Under- and Over-Infusion." In: Anitescu M., Benzon H., Wallace M. (eds). <i>Challenging Cases and Complication Management in Pain Medicine</i> . Springer, New York, NY. 2018.	2018

ANDREW M. HALL, MD

11209 Ojai Ct.
Las Vegas, Nevada 89135

amh1004@gmail.com
Tel: 217.412.2778

Publications (cont'd)	Hall Andrew M. "Antispasmodics." In: Pope J., Deer T. (eds) <i>Treatment of Chronic Pain</i> Conditions. Springer, New York, NY. 2017.	2017
Presentations	Bridging the gap: bringing parenteral multimodal analgesia to the bedside. University of Chicago, Chicago, IL	2014
Abstracts and Posters	Hall Andrew M, Hopcian J, Waghela N, Anitescu M: A case of glossopharyngeal neuralgia. American Society of Regional Anesthesia annual meeting. San Francisco, CA.	2014
	Hall Andrew M, Satterly MV, Anitescu M: Bupivacaine-induced myonecrosis. What a headache! American Society of Regional Anesthesia annual meeting. Phoenix, AZ.	2014
	Hall Andrew M, Huettner F, Omman R, Mueller DK: Primary pleiomorphic liposarcoma of the diaphragm: a case report. University of Illinois College of Medicine, Peoria, IL.	2010
	Hall Andrew M, Alvi S: An uncommon case of rhabdomyolysis. American College of Physicians annual meeting. Urbana, IL	2009
	Cohen Marc C, Hall Andrew M, King SC: Complex regional pain syndrome. University of Illinois College of Medicine Annual Research Symposium. Urbana, IL.	2008

ANDREW M. HALL, MD

11209 Ojai Ct.
Las Vegas, Nevada 89135

amh1004@gmail.com
Tel: 217.412.2778

References:

Jaemi Keith, MD
2301 Aragon Canyon Street
Las Vegas, NV 89135
Cell: (612) 353-7354
vkeithmd@gmail.com

Darlyn Nonato, APN
2415 Blackcraig Street
Henderson, NV 89044
Cell: (702) 461-9016
dmnonato@gmail.com

Heidi Reetz, M.D.
895 31st Avenue, Apt #2
San Francisco, CA 94121
Cell: (218) 349-6943
heidireetz@yahoo.com

Program Information:**Fellowship, Pain Medicine 7/1/2015-6/30/2016**

University of California, San Francisco
2255 Post Street
San Francisco, CA 94143
Phone: (415) 885-7246
Fax: (415) 885-7575
Program Director: George Pasvankas, M.D.
Program Coordinator: Marie Hollero

Residency, Anesthesiology 6/29/2012*-6/30/2015

The University of Chicago
5841 South Maryland Avenue
MC 4028

Chicago, IL 60637

Phone: (773) 702-6842

Fax: (773) 834-0063

Program Director: Jennifer Hofer, M.D.

Program Coordinator: Theresa Cummings

*last week of intern year was vacation;
orientation for residency started 6/29

Internship, Internal Medicine 7/1/2011-6/30/2012*

University of Illinois College of Medicine
OSF St. Francis Medical Center
530 NE Glen Oak Avenue
Peoria, IL 61637

Phone: (309) 655-2730

Fax: (309) 655-7732

Program Director: Theresa Lynch, M.D.

Program Coordinator: Rose Ingolia



1P.App.220
JORG ROSLER, MD

Diplomate, American Board of Pain Medicine
Diplomate, American Board of Anesthesiology

ANDREW HALL, MD

Fellowship Trained in Pain Medicine
Diplomate, American Board of Anesthesiology

FEE SCHEDULE

Tax ID: 75-3095581

Pre-Deposition Meeting	\$500.00 per 15 minutes
Deposition	\$1,400.00 per hour
Video Deposition	\$2,400.00 per hour
Conference	\$1,400.00 per hour
Telephone Conference	\$500.00 per 15 minutes
Trial Prep	\$1,000.00 flat fee
Half Day Trial	\$5,000.00
Whole Day Trial	\$10,000.00
Out of Town Trial	Dependent on travel expenses

****All fees are to be received in our office on or before the close of business (7) seven days prior to the scheduled appointment date. Please see the deposition protocol for cancellation policies and time frames.**

Expert Witness Fee Retainer	\$5,000.00
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Fee is required for listing doctor as expert and possible testimony. (Additional charge for review of records as stated below)

Independent Medical Exam	\$2,500.00
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Review of Records	\$500.00 to \$5,000.00
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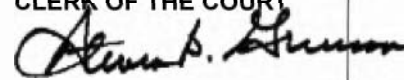
Depending on volume/complexity.
Standard fee is \$1,000.00 per inch.

Please make checks payable to: Dr. Hans Jorg Rosler, M.D.

Any questions please contact the office at 702-357-8004, ext. 108 or ext. 105

Thank You!

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Steven D. Grierson
CLERK OF THE COURT



MSTR

DRUMMOND LAW FIRM, P.C.
Craig W. Drummond, Esq.
Nevada Bar No. 11109
Liberty A. Ringor, Esq.
Nevada Bar No. 14417
810 S. Casino Center Blvd., Suite 101
Las Vegas, NV 89101
T: (702) 366-9966
F: (702) 508-9440
Craig@DrummondFirm.com
Liberty@DrummondFirm.com

Attorneys for Plaintiff Rolando Bessu Herrera

**DISTRICT COURT
CLARK COUNTY, NEVADA**

MAIKEL PEREZ-ACOSTA, an individual;
ROLANDO BESSU HERRERA, an individual;

Plaintiffs,

vs.

JAMIE SALAIS, an individual; TOM
MALLOY CORPORATION aka/dba
TRENCH SHORING COMPANY, a foreign
corporation; DOES I-V; and ROE
CORPORATIONS VI-X, inclusive,

Defendants.

Case No.: A-18-772273-C
Dept. No.: 28

HEARING REQUESTED

**PLAINTIFF ROLANDO BESSU HERRERA'S
MOTION TO STRIKE DEFENDANTS' ANSWER**

COMES NOW, Plaintiff, ROLANDO BESSU HERRERA (hereinafter "Bessu Herrera")
individually and by and through his attorneys, CRAIG W. DRUMMOND, ESQ., and LIBERTY
A. RINGOR, ESQ., of the DRUMMOND LAW FIRM, P.C., and hereby files his Motion to Strike
Defendants' Answer.

///

1 This Motion is based upon the pleadings, affidavits, and documents on file herein, the
2 points and authorities that follow, and oral argument allowed at the time of hearing of this matter.

3 DATED this 4th day of May, 2020.

4 DRUMMOND LAW FIRM, P.C.

5 By: 

6 Craig W. Drummond, Esq.

7 Nevada Bar No. 11109

8 Liberty A. Ringor, Esq.

9 Nevada Bar No. 14417

10 810 S. Casino Center Blvd., Suite 101

11 Las Vegas, NV 89101

12 *Attorneys for Plaintiff Rolando Bessu Herrera*

13 **AFFIDAVIT OF CRAIG W. DRUMMOND, ESQ. IN SUPPORT OF PLAINTIFF BESSU**
14 **HERRERA'S MOTION TO STRIKE DEFENDANTS' ANSWER**
15 **PURSUANT TO EDCR 2.34**

16 STATE OF NEVADA)
17) ss:
18 COUNTY OF CLARK)

19 CRAIG W. DRUMMOND, ESQ., being first duly sworn, deposes and says:

20 1) That I am a duly licensed practicing attorney in the State of Nevada, Clark County,
21 maintaining an office at 810 S. Casino Center Blvd., Ste. 101, Las Vegas, NV 89101 and am the
22 attorney of record for Plaintiff Rolando Bessu Herrera in the above-entitled matter.

23 2) That on April 22, 2020, the deposition of third-party witness, Nancy Espinoza
24 occurred. That during Ms. Espinoza's deposition, Defendants' counsel, asked the deponent
25 questions regarding an April 28, 2019 e-mail she sent to Defendants' counsel. *See Exhibit 4 –*
26 Deposition of Nancy Espinoza, 41:21-25, 42:1-25, 43:1-25, 44: 1-24. That at no point prior to
27 April 22, 2020, was this e-mail communication disclosed to the Plaintiffs.

28 3) That prior to discovery Plaintiff Bessu Herrera specifically asked Defendants for
any recorded and written statements regarding the subject incident on October 2, 2019. That on

1 November 8, 2019, Defendant Tom Malloy directed Plaintiff Bessu Herrera to previously
2 disclosed documents, which did not include Ms. Espinoza's e-mail. That Defendants' subsequent
3 16.1 disclosures also did not include Ms. Espinoza's e-mail statement until after Ms. Espinoza's
4 deposition. *See* Exhibits 2-3.

5 4) That Defendants did not even disclose that Ms. Espinoza had information related to
6 this case, or was a witness until April 23, 2020 – after the deposition where it was clear that
7 defense counsel had been emailing back and forth with Ms. Espinoza concerning facts about the
8 case from as far back as April 2019. *See* Exhibit 3.

9 5) EDCR 2.34 COMPLIANCE: That immediately after the deposition, all counsels
10 discussed the April 28, 2019 e-mail in an EDCR 2.34 meeting for which a transcript was prepared.
11 *See* Exhibit 5. During the meeting it was made clear that the Defendants had intentionally not
12 produced the statement by Ms. Espinoza and that this was not inadvertent or a slip up. As seen in
13 the transcript below, both Plaintiffs' counsels had no prior notice of the e-mail, and that no
14 disclosure of the e-mail from Ms. Espinoza was made in any 16.1 disclosures, or even prior to her
15 deposition on April 22, 2020. *Id.*

16 6) PREJUDICE TO THE PLAINTIFF: That between the email correspondence with
17 defense counsel alleging the collision was fake and requesting Defendants pay money for her to
18 help them defend their case back in April 2019, significant discovery and depositions have
19 occurred to include those of all parties. Further, experts were retained with initial and
20 supplemental reports, as well as many expert depositions occurring. This amounts to tens of
21 thousands in attorney's fees, as well as thousands in costs and experts that occurred from the
22 hiding of the witnesses and witness statement to present. As such, Plaintiff Bessu Herrera has
23 been severely prejudiced by the Defendants hiding a witness as well her factual written statements
24 to them for over a year.


25 7) That prior to the April 22, 2020 deposition, Affiant and his office attempted to
26 contact Ms. Espinoza regarding her deposition originally scheduled for March 26, 2020 but were
27 unable to contact her. *See* Exhibit 8. That Mr. Todd A. Jones, Esq., original counsel for
28 Defendants, stated that he had no contact with Ms. Espinoza and that she was evading service of

the deposition subpoena prior to the April 22, 2020 deposition. *Id.* That it was disingenuous for Mr. Jones to state that he had no contact with Ms. Espinoza as it is clear there was communication between the parties starting April 28, 2019, if not earlier. *See* Exhibits 3 and 6.

8) Plaintiff Bessu Herrera seeks to strike the Answer of Defendants Tom Malloy Corporation dba Trench Shoring Company and Jaime Roberto Salais for their willful and intentional nondisclosure of integral evidence in this case. It is evident that Defendants were hiding information and statements relevant to the case and should be sanctioned accordingly.

9) I sign this affidavit as a declaration in accordance with NRS 53.045 and under penalty of perjury.

DATED this 4th day of May, 2020



Craig W. Drummond, Esq.
Nevada Bar No. 11109

EXHIBIT LIST

- | | |
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| Exhibit 1 | Defendant Tom Malloy Corporation dba Trench Shoring Company's Responses to Plaintiff Rolando Bessu Herrera's First Set of Requests for Production of Documents e-served on November 8, 2019 |
| Exhibit 2 | Defendants' Seventh Supplement to Initial NRCP 16.1 List of Witnesses and Documents e-served on March 12, 2020 |
| Exhibit 3 | Defendants, Tom Malloy Corporation d/b/a Trench Shoring Company and Jaime Roberto Salais' Eighth Supplemental Early Case Conference List of Witnesses and Production of Documents Pursuant to NRCP 16.1(A)(1) e-served on April 23, 2020 |
| Exhibit 4 | Deposition of Nancy Espinoza taken on April 22, 2020 |
| Exhibit 5 | EDCR 2.34 Meeting Transcript on April 22, 2020 |
| Exhibit 6 | E-mail authored by Nancy Espinoza dated April 28, 2019 |
| Exhibit 7 | Plaintiff's Third Set of Requests for Production of Documents to Defendant Tom Malloy Corporation dba Trench Shoring Company e-served on April 24, 2019 |

1 **Exhibit 8 E-mail exchange between Drummond Law Firm and Mokri Vanis & Jones**
 2 **regarding Nancy Espinoza e-mail**

3 **Exhibit 9 "Practicing in Nevada's State and Federal Civil Court: What are the**
 4 **Differences?"**

5 **I.**

6 **POINTS AND AUTHORITIES**
 7 **FACTUAL OVERVIEW**

8 **BOTTOM LINE: Defendants engaged in written email communications with non-**
 9 **party, Nancy Espinoza in April, 2019. This email dealt with factual issues in the case**
 10 **concerning the subject collision and treatment of both Plaintiffs. During this exchange the**
 11 **request for payment of money from the Defendants to Ms. Espinoza was also discussed. The**
 12 **Defendants never produced the factual statements made by Ms. Espinoza, did not compose a**
 13 **16.1 disclosure with the information about Ms. Espinoza, and refused to provide the**
 14 **documents in a Request for Production concerning witness statements. Additionally,**
 15 **throughout the litigation process no privilege log with an assertion of work-product was ever**
 16 **provided. Instead, during a recent Zoom video deposition of Ms. Espinoza on April 22, 2020**
 17 **defense wholly ambushed Plaintiffs and began referencing and examining Ms. Espinoza**
 18 **about the email, refused to even then provide the Plaintiffs a copy, and to this day has never**
 19 **produced all of the factual email statements that Ms. Espinoza has made to the defense, and**
 20 **apparently others, in the April 2019 time-frame.**

21 **Since the defense has been aware of the factual statements by Ms. Espinoza and her**
 22 **contact information back in April of 2019, significant discovery and depositions have**
 23 **occurred to include those of all parties in this matter. Further, experts were retained with**
 24 **initial and supplemental reports disclosed, as well as many expert depositions occurring.**
 25 **This amounts to tens of thousands in attorney's fees, as well as thousands in costs and**
 26 **experts that occurred from the hiding of the witnesses and witness statement to present. As**
 27 **such, Plaintiff Bessu Herrera has been severely prejudiced by the Defendants hiding a**
 28 **witness as well her factual written statements to them for over a year.**

PROCEDURAL HISTORY: On October 2, 2019, Plaintiff Bessu Herrera e-served discovery requests to both Defendants. On November 8, 2019, Defendant Tom Malloy filed their Responses to Plaintiff's First Set of Requests for Production of Documents. As seen in Request No. 2, Plaintiff requested any and all recorded and written statements regarding the subject incident.

REQUEST NO. 2

Please produce a copy of your complete file for the incident, which is the subject of this lawsuit, whether in hard copy or electronic form, including but not limited to, the entire file, all photographs, all recorded and written statements, copies of checks for any payouts regarding this incident to anyone, printouts from the computer communications and electronic databases and logs, the electronically imaged documents, the reports and investigations, and the correspondence.

RESPONSE TO REQUEST NO. 2

Objection. This request is compound, overly broad, oppressive, remote, vague and ambiguous, which makes it difficult to determine which documents fall within the scope of this request. This request further assumes facts, improperly seeks information which is privileged and/or confidential and potentially violates the attorney client privilege and work product doctrines. Payment of damages by an insurer or insured does not constitute admission of liability or waiver of defenses and is not admissible. *See Proctor v. Castelleetti*, 911 P.2d 853, 854 (1996). This request is also objectionable on the grounds that it is calculated to annoy and harass Responding Party by seeking information that is not relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Responding Party responds as follows: See TMC000001-TM001155 and TMC001627-TM002666. Discovery is ongoing and Responding Party reserves the right to supplement this response.

See Exhibit 1, Defendant Tom Malloy's Responses to Plaintiff's First Set of Requests for Production, 3:21-28, 4:1-11.

Defendant Tom Malloy informed Plaintiff Bessu Herrera that all statements related to the incident were previously disclosed. On November 29, 2019 and January 29, 2020, Defendants e-served their fifth and sixth 16.1 supplements with no mention of Ms. Espinoza as a potential witness or an e-mail written by her to Defendants' counsel. On March 12, 2020, Defendants e-served their seventh supplement wherein they disclosed Ms. Espinoza as a witness. *See Exhibit 2, Defendants Seventh Supplement, 9:22-26.*

1 On April 22, 2020, non-party witness Nancy Espinoza, was deposed via Zoom. During
2 Ms. Espinoza's deposition, Defendants' counsel asked questions regarding an e-mail
3 correspondence she sent to Todd A. Jones, Esq., counsel for Defendants, on April 28, 2019
4 regarding the subject incident. The email contained factual information about the case as well as a
5 pseudo bribery attempt by Ms. Espinoza to defense counsel, Mr. Jones. At no point prior to Ms.
6 Espinoza's deposition had Defendants disclosed said e-mail. Further, as seen above, Defendants
7 should have disclosed the e-mail per Plaintiff's request for production of document, and more
8 importantly even without being requested as the information was required to be sua sponte
9 produced pursuant to NRCp 16.1(a)(3).

10 Defendants intentionally withheld to the Plaintiffs the e-mail allegedly authored by Nancy
11 Espinoza prior to April 22, 2020 even though the very nature of the e-mail is certainly
12 discoverable evidence in this case. Moreover, Defendants have provided subsequent 16.1
13 disclosures in this case and further continued to hide Ms. Espinoza's e-mail prior to April 22,
14 2020. *See* Exhibit 2. On April 23, 2020, Defendants disclosed a highly altered e-mail wherein
15 much of the correspondence between Ms. Espinoza and an unknown individual was redacted. *See*
16 Exhibit 3, Defendants Eighth Supplemental ECC List of Witnesses and Production of Documents,
17 TMC002804.

18 As seen in Exhibit 5, Defendants' counsel, Mr. Todd A. Jones, claimed during the EDCR
19 2.34 exchange that the e-mail was work product, yet produced said e-mail during the deposition of
20 Ms. Espinoza, essentially ambushing both Plaintiffs' counsel with this new information. To this
21 day, we do not have the entirety of the communications and because of this intentional
22 withholding, was unable to examine Ms. Espinoza about the email, its full contents, as well as the
23 other witnesses who have been deposed between April 2019 to present.

24 There has never been a privilege log as to the email statements discussed herein and
25 counsel for the Defendants did not assert some type of privilege over the information during the
26 main part of the deposition wherein they were apparently looking at the emails and asking
27 questions of Ms. Espinoza. As this e-mail is discoverable and admissible evidence pursuant to
28 NRCp 16.1(a)(3), it is clear that the Defendants purposely withheld this e-mail until Ms.

Espinoza's deposition, nearly one year after the alleged e-mail was sent, thus Defendants have clearly violated NRCP 16.1(a)(3). As such, pursuant to NRCP 37, Plaintiff Bessu Herrera is requesting that Defendants' Answer be stricken, and attorney fees be awarded for the time Plaintiff's counsel spent litigating this case post-April 28, 2019, the date the e-mail was sent. Defendants have purposely played games in this case, and intentionally hid critical evidence in this case.

II.

LAW

NRCP 16.1(a)(3) Required Disclosures. Initial Disclosures.

- (A) In General. Except as exempted by Rule 16.1(a)(1)(B) or as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:
- (i) the name and, if known, the address and telephone number of each individual likely to have information discoverable under Rule 26(b), including for impeachment or rebuttal, identifying the subjects of the information;
 - (ii) a copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, including for impeachment or rebuttal, and, unless privileged or protected from disclosure, any record, report, or witness statement, in any form, concerning the incident that gives rise to the lawsuit;

NRCP 16.1(a)(3) Pretrial Disclosures:

- (A) In General. In addition to the disclosures required by Rule 16.1(a)(1) and (2), a party must provide to the other parties and promptly file the following information about the evidence that it may present at trial, including impeachment and rebuttal evidence:
- (i) the name and, if not previously provided, the address and telephone number of each witness separately identifying those the party expects to present, those witnesses who have been subpoenaed for trial, and those it may call if the need arises;
 - (ii) the designation of those witnesses whose testimony the party expects to present by deposition and, if not taken stenographically, a transcript of the pertinent parts of the deposition; and

- (iii) an identification of each document or other exhibit, including summaries of other evidence, separately identifying those items the party expects to offer and those it may offer if the need arises.

NRCP 16.1(e)(3) Other Grounds for Sanctions.

If an attorney fails to reasonably comply with any provision of this rule, or if an attorney or a party fails to comply with an order entered under Rule 16.3, the court on motion or on its own should impose upon a party or a party's attorney, or both, appropriate sanctions in regard to the failure(s) as are just, including the following:

- (A) any of the sanctions available under Rules 37(b) and 37(f); or
 (B) an order prohibiting the use of any witness, document, or tangible thing that should have been disclosed, produced, exhibited, or exchanged under Rule 16.1(a).

NRCP 26(b)(1) Scope.

Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claims or defenses and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden of expense of the proposed discovery outweighs its likely benefit. Information within the scope of discovery need not be admissible in evidence to be discoverable.

NRCP 26(b)(3)(A) Trial Preparation: Materials. Documents and Tangible Things.

[A] party may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent). But subject to Rule 26(b)(4), those materials may be discovered if:

- (i) they are otherwise discoverable under Rule 26(b)(1); and
 (ii) the party shows that it has substantial need for the materials to prepare its case and cannot without undue hardship obtain their substantial equivalent by other means.

NRCP 26(b)(3)(C) Previous Statement.

Any party or other person may, on request and without the required showing, obtain the person's own previous statement about the action or its subject

1 matter. If the request is refused, the person may move for a court order, and Rule
2 37(a)(5) applies to the award of expenses. A previous statement is either:

- 3 (i) a written statement that the person has signed or otherwise adopted or
4 approved; or
5 (ii) a contemporaneous stenographic, mechanical, electrical, or other recording,
6 or a transcription of it – that recites substantially verbatim the person’s oral
7 statement.

8 **NRCP 37 (b)(1) Sanctions for Failure to Comply with a Court Order.**

9 For Not Obeying a Discovery Order. If a party or a party’s officer, director, or
10 managing agent – or a witness designated under Rule 30(b)(6) or 31(a)(4) – fails to obey
11 an order to provide or permit discovery, including an order under Rule 35 or 37(a), the
12 court may issue further just orders that may include the following:

- 13 (A) directing that the matters embraced in the order or other designated facts be taken
14 as established for purposes of the action, as the prevailing party claims;
15 (B) prohibiting the disobedient party from supporting or opposing designated claims or
16 defenses, or from introducing designated matters in evidence;
17 (C) striking pleadings in whole or part;
18 (D) staying further proceedings until the order is obeyed;
19 (E) dismissing the action or proceeding in whole or in part;
20 (F) rendering a default judgment against the disobedient party;
21 (G) treating as contempt of court the failure to obey any order except an order to submit
22 to a physical or mental examination.

23 **NRCP 37(c) Failure to Disclose, to Supplement an Earlier Response, or to Admit.**

24 (1) Failure to Disclose or Supplement. If a party fails to provide information or
25 identify a witness as required by Rule 16.1(a)(1), 16.2(d) or (e), or 26(e), the party
26 is not allowed to use that information or witness to supply evidence on a motion, at
27 a hearing, or at a trial, unless the failure was substantially justified or is harmless.
28 In addition to or instead of this sanction, the court, on motion and after giving an
opportunity to be heard:

- (A) may order payment of the reasonable expenses, including attorney fees,
caused by the failure;
(B) may inform the jury of the party’s failure;
(C) may impose other appropriate sanctions, including any of the orders listed
in Rule 37(b)(1).

NRCP 37(d)(1)(A)(ii) Motion; Grounds for Sanctions.

“The court may, on motion, order sanctions if: a party after being properly served with interrogatories under Rule 33 or a request for inspection under Rule 34, fails to serve its answer, objections, or written response.”

NRCP 37(d)(2) Unacceptable Excuse for Failing to Act.

A failure described in Rule 37(d)(1)(A) is not excused on the ground that the discovery sought was objectionable, unless the party failing to act has a pending motion for protective order under Rule 26(c).

NRCP 37(d)(3) Types of Sanctions.

Sanctions may include any of the orders listed in Rule 37(b)(1). Instead of or in addition to these sanctions, the court must require the party failing to act, the attorney advising that party, or both to pay the reasonable expenses, including attorney fees, caused by the failure, unless the failure was justified or other circumstances make an award of expenses unjust.

III.

ARGUMENT

A. Defendants’ have not complied with NRCP 16.1 and must be sanctioned pursuant to NRCP 37.

i. Ms. Espinoza’s e-mail is discoverable evidence under NRCP 16.1 and NRCP 26.

Nevada law and NRCP 16.1 requires parties to provide the name of each individual likely to have information discoverable under Rule 26(b), as well as **a copy of all documents that are in the possession, custody or control of the party which are discoverable under Rule 26(b).** This must be done without a formal request from an opposing party. Additionally, the scope of documents and witnesses to be disclosed includes information related to the claims and defenses of the parties.

Defendants had an affirmative duty to disclose Ms. Espinoza as a witness as well as her written statement to Defendants immediately after April 28, 2019 as the e-mail contained information relevant to the subject case. *See Exhibits 3 and 6.* First, under NRCP 16.1(a)(1), Defendants should have disclosed Ms. Espinoza immediately after April 28, 2019 as she was likely a witness for impeachment purposes at trial. *See Exhibit 9.* Second, the e-mail itself is discoverable under NRCP 16.1(a)(2), as it is a witness statement regarding the subject incident.

Defendants had nearly a year to disclose both Ms. Espinoza and her statement in their 16.1 supplements yet chose not to do so. *Id.* As a consequence, Plaintiffs are now at a significant disadvantage as discovery has closed, trial set for October, and Plaintiffs do not have the ability to rebut Ms. Espinoza's statements, nor do they have the ability to re-depose numerous witnesses, including the parties to the suit.

It is anticipated that the Defendants will respond and oppose this motion under federal caselaw from other jurisdictions to support their "work-product" argument. However, those cases are not relevant or persuasive as the Defendants never invoked a work product privilege in response to clear discovery requests. Further, as all counsel dealing with this case know, Nevada's very liberal discovery requirements under both NRCP 16.1(a)(3) and NRCP 26(b)(1) are different from the Federal rules. *See* Exhibit 9 (stating that "[t]here are major differences regarding discovery between the state and federal systems. NRCP 16.1's mandatory disclosure provision diverges from FRCP 26's requirements in 'key respects'.")

The evidence is clear: Defendants failed to produce an April 28, 2019 e-mail sent to a "Sarah Doring" from Plaintiff Bessu Herrera's former girlfriend, Nancy Espinoza, prior to Ms. Espinoza's deposition on April 22, 2020. *See* Exhibit 6. The e-mail was later used at length at the April 22, 2020 deposition:

Odou: Did you write an e-mail to Todd Jones, expressing concern about the incident?

Espinoza: Yes.

Odou: And what did you say in that e-mail, that you can recall?

Espinoza: I don't recall.

Odou: Why did you send an e-mail to Todd Jones?

Barron: Counsel, has that e-mail been produced, as required, into evidence prior to any discovery of that sort, and that's sub rosa?

Odou: You can answer the question.

Drummond: I also object. We actually, requested prior to this – prior to this, we requested all correspondence related to this deponent, so I'm really surprised that there is correspondence that's not been produced as a 16.1.

Odou: You can answer the question.

Barron: It also has to be produced to any deposition as to the sub rosa, so this is incompetent evidence subject to a motion in limine. Ms. Espinoza, you can

answer.

Espinoza: I don't recall.

Odou: You don't recall why you sent the e-mail?

Espinoza: No.

Odou: At the time you sent the e-mail, did you concern – did you have a concern that Mr. Herrera and Mr. Acosta-Perez had just come from Cuba and that they had planned to pick a truck and be in an accident?

Barron: Same objection. I'm also going to ask in good faith that an e-mail is present and be read into the record in light that it wasn't produced in discovery in contravention directly to Discovery Bulla's recommendations and the law in this state for producement [sic] of impeachment evidence. So I'm going to ask it be read into the record.

Drummond: And this is Attorney Craig Drummond. I also believe this is wholly improper, since we asked for the correspondence related to this. This would be a statement from a witness, which would be an immediately discoverable item under 16.1, so I'm surprised that we have now people playing games with this, and I'm stating this for the record. Thank you.

Barron: Join. We asked for the same thing on initial production. It is 16.1. It's required to be produced.

Odou: Counsel, you're making speaking objections, and I – That was Mr. Drummond first and Mr. Barron second. Counsel, you're making speaking objections that are influencing the witness. Certainly, you have your objections for the record, and certainly, we can have a meet-and-confer following the deposition as to where to go from here, but I would like to get the witness's answer.

Barron: And we were requesting you read into the record whatever you have. They're not objections. We're making a record for a subject – for a motion in limine, possible a motion for sanctions.

Drummond: It's not a speaking objection when we have evidence that's being discussed that's not been properly disclosed. That's not a speaking objection. That is counsel playing games, and this honestly should be continued –

Odou: There you go. That's the speaking part.

Drummond: -- until you produce all correspondence. And that is my request. My request is that you continue it until you produce what you are supposed to produce. That is my request for the record. Thank you.

Odou: That's fine. Ms. Espinoza, do you understand my question, or do you need me to rephrase it?

Espinoza: You can rephrase it.

Odou: At the time that you wrote the e-mail, did you have a concern, or belief, rather, that Rolando had planned to be in an accident with his friends?

Espinoza: I don't recall.

Odou: Okay. Let me read you the first part of your e-mail, because we're not all in the same room together, and I can't show it to you. The e-mail is dated April 28, 2019, and you state, "My name is Nancy Espinoza. I was in a

1 relationship with Rolando Bessu Herrera for the past 3 years and a friend of
2 Maikel Acosta-Perez. Both were fresh from Cuba and where in the same
3 condition they claim this accident caused or worsen.” And then there’s a
4 couple of dashes, and you put “wrong.” What did you mean by that, that
5 they were in the same condition when they came from Cuba?

6 Espinoza: They already had problems.

7 Odou: The e-mail continues. “First of all, the accident was planned, and they
8 picked that truck and intentionally slammed there brakes due to the rabbit in
9 front of them slamming their brakes and then fleeing the scene.” Why did
10 you believe that there was a rabbit?

11 Espinoza: I overheard a conversation, and that’s what they were talking about.

12 Odou: Mr. Herrera was talking to someone else?

13 Espinoza: Yes

14 Odou: Who was he talking to?

15 Espinoza: I don’t recall.

16 Odou: Was it on the phone, or was it in person?

17 Espinoza: on the phone.

18 Odou: The e-mail continues. “Second” – and there’s a misspelled word. It should
19 be “they” – “already had those conditions prior to the accident. I’m not sure
20 of Maikel seeing a doctor. However “prior. However Rolando Bessu had
21 just started seeing Doctor Serru.” S-e-r-r-u, on Eastern Avenue for the same
22 complaints and problems prior to the accident. Why am I giving you this
23 information? Because it’s wrong and these are why our costs of insurance
24 are so high in Nevada... “Rolando Bessu Herrera repeated this scam” – “this
25 scammed again” – sorry – “withi his own car and me as a passenger. I was
26 disgusted and appalled he made me part of a scam and didn’t want to be part
27 of it. He used Steven Parke Law with that, so” – “with that one. You can
28 see how similar the cases are... I am willing to be a witness and help in any
way for the finder’s fee, which will save your company a lot of money then
paying out those that don’t deserve it. Thank you for your time. I added a
case number so it’s easier to look them up.” Do you recall sending that e-
mail?

29 Espinoza: Yes.

30 Odou: And that was from you, correct?

31 Espinoza: Yes.

32 See Exhibit 4, Deposition of Nancy Espinoza, 38:7-25, 39:1-25, 40:1-25, 41:1-25, 42:1-25, 43:1-
33 20.

34 Generally, NRCP 26(b)(1) defines the scope and limit of discovery regarding any
35 nonprivileged matter that is relevant to any party’s claims or defenses and proportional to the
36 needs of the case. Defendants had an affirmative duty to disclose Ms. Espinoza’s April 28, 2019,
37 unredacted, prior to the April 22, 2020 deposition as the e-mail is evidence of Defendants’
38 comparative negligence defense. They did not do so. Both Plaintiffs’ counsels were only given

notice of Ms. Espinoza's e-mail at the time Mr. Odou started questioning her about the contents of the e-mail on the day of her deposition. *Id.* Furthermore, Plaintiffs' counsels could not verify the e-mail as the deposition was conducted through Zoom, and disclosure of the e-mail was not done prior to the deposition.

It is irrefutable that Ms. Espinoza's e-mail should have been produced as the e-mail was not a privileged communication. Ms. Espinoza is not represented by Defendants' counsel. Further, the e-mail produced today is highly redacted and Defendants should have disclosed the entire e-mail as the communication is not a privileged communication. *See* Exhibit 3, Defendants Eighth Supplemental ECC List of Witnesses and Production of Documents, TMC002804.

ii. The communications between Ms. Espinoza and Mokri Vanis & Jones is not work product or privileged communication.

Pursuant to NRCP 26(b)(3)(A),

[A] party may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent). But subject to Rule 26(b)(4), those materials may be discovered if:

- (i) they are otherwise discoverable under Rule 26(b)(1); and
- (ii) the party shows that it has substantial need for the materials to prepare its case and cannot without undue hardship obtain their substantial equivalent by other means.

Nevada caselaw is clear that NRCP 26(b)(3) only protects an attorney's mental impressions, conclusions or legal theories concerning the litigation, not documents already in existence or created in the regular course of business despite the injection of an attorney into the mix. *Mega Mfg., Inc. v. Eighth Judicial Dist. Court of State ex rel. Cnty. of Clark*, 2014 WL 2527226, at *2 (Nev. May 30, 2014). "Whether an attorney is involved or directs an investigation is not dispositive for deciding whether the fruit of that investigation is work product." *Id.*, citing *Wardleigh v. Second Judicial Dist. Court*, 111 Nev. 345, 357–58, 891 P.2d 1180, 1188 (1995). In *Wardleigh*, the Nevada Supreme Court held that an attorney's deposition may be taken "with the understanding that his mental impressions, conclusions, legal theories and opinions are not

discoverable.” 111 Nev. at 358. The *Wardleigh* Court recognized that **the facts known to the attorney are discoverable**. *Id.* (emphasis added.)

Immediately after Ms. Espinoza’s deposition, an EDCR 2.34 meeting occurred between all counsels regarding Ms. Espinoza’s e-mail. Plaintiff Bessu Herrera’s counsel pointedly asked Mr. Jones, Defendants main counsel prior to the substitution of counsel by Mr. Odou, whether or not the e-mail was intentional withheld or not. As seen below, Mr. Jones claimed the information was work product, but did not have a protective order or privilege log protecting the e-mail.

Jones: I concur with what Joel said, **but I also add that this was viewed as work product**, trying to get information from – by the attorney by an investigation by me. I got reached out, unsolicited. And it never even confirmed – it was not even ever confirmed, the identity of the witness. Never met her, was unclear who she was or where she was heading from.

See Exhibit 5- 8:17-24

Drummond: Let me ask this: This was an intentional withholding by defense; is this correct, defense?

Jones: Not intentional holding. I didn’t think this was something that would be produced normally, because it wasn’t done with an investigator. It wasn’t done outside the normal realms of discovery.

Drummond: **And are these documents listed in a privilege log?**

Jones: **I don’t know. I’d have to do back and check.**

Drummond: **Okay. And there is no protective order – ex parte motion for protective order. Was one ever applied for?**

Jones: Not that I’m aware of.

Drummond: Okay. And you agree that this was an exchange back and forth with a witness, right? It was a written exchange via e-mail, correct?

Jones: An e-mail, yes.

Drummond: Okay.

Jones: Well, a potential. Again, like I said before, I could never identify, confirm her identity.

Drummond: I didn’t understand what that means, but nonetheless, just so it’s clear, I mean, I don’t really know any resolution we can have other than to bring the matter before – my position is this was an intentional withholding in violation of the rules for which there are relief. None was requested.

Id. at 9:23-24, 10:1-25; 11:1-2.

Defendants cannot justifiably argue that the communications between them and Ms. Espinoza was work product as Ms. Espinoza is not their client and that the communications themselves could not be acquired without Defendants disclosure of the material.

Here, the facts are such: 1) Defendants's counsel, Mr. Jones, communicated with Ms. Espinoza prior to the April 22, 2020, and he admits as much at the 2.34 meeting; 2) the communication was made during the litigation process. Additionally, "voluntary disclosure of attorney work product to an adversary in the litigation defeats the policy underlying the privilege." *See Wynn Resorts, Ltd. v. Eighth Judicial Dist. Court of Nev.*, 399 P.3d 334 (Nev. 2017) citing *Meoli v. Am. Med. Serv. of San Diego*, 287 B.R. 808, 817 (S.D. Cal 2003). Defendants presented the e-mail as a formal exhibit during Ms. Espinoza's deposition. The moment the e-mail was presented to opposing counsels, the work product privilege was waived. As such, Ms. Espinoza's e-mail does not fall any under privilege and should be produced in its entirety.

iii. There are still unanswered questions regarding Ms. Espinoza's April 28, 2019 e-mail however discovery has closed in this case.

On April 23, 2020, Plaintiff Bessu Herrera immediately sent out requests for production to Defendant Tom Malloy regarding any communications made between Ms. Espinoza and Mr. Todd Jones, or representatives of Mokri Vanis & Jones. *See* Exhibit 7, Plaintiff Bessu Herrera's Third Request for Production of Documents to Defendant Tom Malloy, 3:21-28, 4:1-26, 5:1-18, and 6:1-4. Based on this new evidence, Defendant Tom Malloy, and their counsels should respond to Plaintiff's requests for production of documents prior to the hearing as it is clear that there were ongoing communications between Ms. Espinoza and Mr. Jones or a Mokri Vanis & Jones representative starting sometime on or after April 28, 2019. It is unknown whether or not communications between these parties started prior to or after April 28, 2019. Additionally, the e-mail exhibit in Ms. Espinoza's deposition lists a "Sarah Doring" as the recipient of Ms. Espinoza's e-mail. *See* Exhibit 6. It is unknown who this Ms. Doring is, whether she worked for Mokri

1 Vanis & Jones, or what communications she had with Ms. Espinoza prior to and after April 28,
2 2019.

3 **iv. Defendants should be sanctioned for their purposeful withholding of Ms.**
4 **Espinoza's email under NRCP 37.**

5
6 **NRCP 37(c) Failure to Disclose, to Supplement an Earlier Response, or to Admit.**

7 (1) Failure to Disclose or Supplement. If a party fails to provide information or
8 identify a witness as required by Rule 16.1(a)(1), 16.2(d) or (e), or 26(e), the party
9 is not allowed to use that information or witness to supply evidence on a motion, at
10 a hearing, or at a trial, unless the failure was substantially justified or is harmless.
In addition to or instead of this sanction, the court, on motion and after giving an
opportunity to be heard:

- 11 **(A) may order payment of the reasonable expenses, including attorney fees,**
12 **caused by the failure;**
13 **(B) may inform the jury of the party's failure;**
14 **(C) may impose other appropriate sanctions, including any of the orders**
15 **listed in Rule 37(b)(1). (Emphasis added).**

16 It is evident that Defendants purposely withheld important evidence in this case for an
entire year. Ms. Espinoza's e-mail has been discoverable under NRCP 16.1 and 26 and should
17 have been disclosed prior to April 23, 2020. Further, the e-mail is alleged to be a source of
18 impeachment evidence against the Plaintiffs. Discovery has recently closed in this case and
19 Plaintiffs do not have the ability to depose or propound additional discovery requests regarding
20 said e-mail. The depositions of both Plaintiffs, and Defendant driver Jamie Salais occurred with
21 no mention of this e-mail or questions to any party regarding Ms. Espinoza's allegations.

22 The Nevada Supreme Court has determined on numerous occasions that evasive or
23 incomplete discovery responses justify the dismissal sanction. *See Temora Trading Co., Ltd. v.*
24 *Perry*, 98 Nev. 229, 645 P.2d 436, cert. denied, 459 U.S. 1070 (1982) (Supreme Court upheld
25 default judgment entered against the defendant by trial court where defendant failed to appear for
26 deposition and willfully provided inadequate interrogatory responses); *Havas v. Bank of Nevada*,
27 96 Nev. 567, 613 P.2d 706 (1980) (the Supreme Court upheld trial courts striking of plaintiffs
28 complaint where a court found that plaintiff willfully failed to answer defendant's interrogatories);

1 *Kelly Broadcasting Co.*, 96 Nev. at 192, 606 P.2d at 1091-1092 (the Supreme Court upheld trial
2 courts striking of defendant's amended answer where defendant "intentionally and in bad faith"
3 failed to complete discovery).

4 Candor toward this Honorable Court and candor toward opposing counsel are not just
5 aspirations, they are requirements. The present situation and fact pattern are disturbing as the
6 Defendants in this case intentionally withheld a witness statement by Nancy Espinoza concerning
7 the present case for over a year. A witness statement would clearly be a 16.1 disclosure, as well as
8 being responsive to Request for Production #2, responded to on November 8, 2019. *See* Exhibit
9 1. Inspection reveals that they further hid this communication and statement by not disclosing that
10 Ms. Espinoza had potentially relevant information in the case until March 12, 2020 in their
11 Seventh Supplemental Disclosure of her name and address in #34. *See* Exhibit 2.

12 Thereafter, Defendants made another intentional, and disturbing, decision to further
13 prejudice the Plaintiffs and ambush both counsel for the Plaintiffs during the deposition of Ms.
14 Espinoza and engage in questions regarding the statement that had never been produced. *See*
15 Exhibit 4. As the deposition was via Zoom, counsel for Plaintiff could not examine this statement
16 during the deposition to cross-examine, or even clarify, any portions of the statement. Further,
17 defense counsel refused to delay or continue the proceedings to produce the statement. *Id.*

18 After the deposition, on April 23, 2020, Defendants produced an altered exhibit, which is
19 apparently part of the subject email exchange. *See* Exhibit 3, Defendants Eighth Supplemental
20 ECC List of Witnesses and Production of Documents, TMC002804. This was a curious act as the
21 very limited production of an altered statement and exchange raises more questions than answers.
22 As such, at the time of submission of this motion we know, with certainty, that Defendants
23 withheld a statement by a witness, ambushed both Plaintiffs attorneys during the deposition of Ms.
24 Nancy Espinoza, and then intentionally and fraudulently altered her witness statement before
25 production. The actions by the Defendants in this case are disappointing, reprehensible, and
26 directly attributable to their clients. Sadly, there is no other appropriate remedy than striking the
27 Defendants Answer in this case as they refuse to follow the rules and play fair. The Defendants'
28 games should end, and justice be served for the two fault-free passengers in this case.

IV.

CONCLUSION

As such, Plaintiff Bessu Herrera respectfully requests that Defendants' Answer be stricken, and rule on any other appropriate sanctions that should be levied against the Defendants, and their counsel, for this egregious violation of NRCP 16.1 and under NRCP 37.

DATED this 4th day of May, 2020.

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CERTIFICATE OF SERVICE

Pursuant to NEFCR 9 and Administrative Order 14-2, the undersigned does hereby certify that on this 4th day of May, 2020, service of a true and correct copy of the foregoing **PLAINTIFF ROLANDO BESSU HERRERA'S MOTION TO STRIKE DEFENDANTS' ANSWER** was duly made on all parties herein by causing a true copy thereof to be filed and/or served with the Clerk of Court using the Odyssey E-File & Serve system, which was served via electronic transmission per Service List.

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