

IN THE COURT OF COMMON PLEAS

SUMMIT COUNTY, OHIO

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RICHARD A. HARBOUR,)
 Plaintiff,)
 vs.) Case No. 2014-03-1254
THOMAS J. FISCHER,)
et al.,)
 Defendants.

- - -

Deposition of RICHARD HARBOUR, a Plaintiff
herein, called by the Defendants for cross-examination
pursuant to the Ohio Rules of Civil Procedure, taken
before me, the undersigned, Heidi Tsimpiris, an RPR and
Notary Public in and for the State of Ohio, at the
offices of Kisling, Nestico & Redick, 3412 West Market
Street, Akron, Ohio, on Thursday, the 12th day of
March, 2015, at 11:04 a.m.

Trisha Beban Yost, RPR
1940 Crystal Drive
Akron, Ohio 44312
(330) 699-6152
Fax: (330) 699-4089
e-mail: trisha.yost@gmail.com

APPEARANCES:

On Behalf of the Plaintiff:

Kisling, Nestico & Redick

By: Kristen M. Lewis, Attorney at Law
3412 West Market Street
Akron, Ohio 44333
(330) 869-9007

On Behalf of the Defendants:

Hanna, Campbell & Powell

By: R. Brian Borla, Attorney at Law
3737 Embassy Parkway
Akron, Ohio 44333
(330) 670-7300

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I N D E X

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1 WHEREUPON,

2 **RICHARD HARBOUR**

3 who, after being first duly sworn,

4 testified as follows:

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8 **CROSS-EXAMINATION**

9 BY MR. BORLA:

10 Q. Good morning, Mr. Harbour. My name is
11 Brian Borla. I represent Tom Fischer with respect
12 to this case that's been filed in Summit County
13 arising out of a motor vehicle accident of
14 May 10th, 2012.

15 Are you familiar with the accident I'm
16 talking about?

17 A. Yes, sir, I am.

18 Q. Have you ever had your deposition taken before?

19 A. No, sir, I have not.

20 Q. Ms. Lewis, your lawyer, went over some ground
21 rules with my client. They apply to you. So
22 verbal answers to my questions. Let's not
23 interrupt each other. If I ask you a question you
24 didn't understand or didn't hear me, please ask me
25 to rephrase it or repeat it, okay?

1 A. Yes, sir.

2 Q. If you answer my questions, I'm going to presume
3 two things. I'll presume, first, that you
4 understood my question; and, second, that you
5 answered it truthfully. Is that fair?

6 A. Yes, sir.

7 Q. If you need to take a break, we can do that at any
8 time just so long as a question is not pending,
9 all right?

10 A. Yes, sir.

11 Q. If at any time during this questioning you feel
12 that I'm being unfair with you or tricking you or
13 trying to trick you, I want you to stop the
14 deposition and you tell me that, okay?

15 A. Yes, sir.

16 Q. My goal is not to do any of those things but to
17 try to ask you direct questions to get direct
18 answers. Fair enough?

19 A. Yes, sir.

20 Q. Would you, please, state your full name for the
21 record?

22 A. Richard Alan, A-l-a-n, Harbour, H-a-r-b- as in boy
23 -o-u-r.

24 Q. I have your date of birth as January 20th, 1981?

25 A. Yes, sir.

1 MR. BORLA: Let's go off the record.

2 (Discussion was had off the record.)

3 BY MR. BORLA:

4 Q. Other than the Social Security number ending in
5 4689, any other Social Security numbers?

6 A. No, sir.

7 Q. Have you gone by any another names other than
8 Richard Alan Harbour?

9 A. I've gone by Richie A. Harbour, R-i-c-h-i-e.

10 Q. No other legal names?

11 A. No, sir.

12 Q. Where do you currently live?

13 A. 13133 Kevin, K-e-v-i-n, Drive, Doylestown, Ohio
14 44230.

15 Q. How long have you lived there?

16 A. Approximately 15 years.

17 Q. Is that a single-family house?

18 A. Yes.

19 Q. And who resides there with you?

20 A. My father, Dennis A. Harbour, and my stepmother,
21 Susan R. Harbour.

22 Q. Anybody else residing with you at that address in
23 May of 2012, when this accident happened?

24 A. No, just the two that I've already stated.

25 Q. Have you ever been married?

1 A. No.

2 Q. Have any children?

3 A. No.

4 Q. Are you active in social media? Facebook?

5 Twitter? Snapchat? Instagram? I can't keep up
6 with them. Any of those?

7 A. Yes.

8 Q. Which social media are you most active in?

9 MS. LEWIS: Objection.

10 Go ahead.

11 A. Facebook.

12 Q. Other than a Facebook account, any other social
13 media?

14 A. No, sir.

15 Q. Did you graduate from high school?

16 A. Yes, sir.

17 Q. From where?

18 A. Norton High School.

19 Q. What year?

20 A. 2000.

21 Q. After graduating from high school, any further
22 education?

23 A. Yes.

24 Q. Where at?

25 A. Stark State College of Technology.

1 Q. Did you receive a degree?

2 A. I was two classes away from my associate's degree
3 in computer forensics investigation.

4 Q. So no? No degree yet?

5 A. Yes, sir.

6 Q. Are you planning to go back and finish those
7 classes and get that degree?

8 A. Yes, sir.

9 Q. Have you re-enrolled?

10 A. No, sir.

11 Q. What's your plan other than generally go back and
12 get it? Any timetable?

13 A. No, sir.

14 Q. And you don't have to be that formal with me,
15 calling me yes, sir or no, sir. I appreciate it,
16 but you don't have to be that formal, okay?

17 A. Okay, sir.

18 Q. Just an old habit of yours, right?

19 A. Yes, sir.

20 Q. Was your dad in the military?

21 A. No, sir.

22 Q. Did you ever serve in the military?

23 A. No, sir.

24 Q. Other than Stark State, any other formal
25 education?

1 A. Yes, sir.

2 Q. Where at?

3 A. Went through the Ohio Peace Officer Training
4 Academy in Private Security Investigations.

5 Q. When did you do the Ohio Peace Officer Training?

6 A. 2003.

7 Q. Did you complete that?

8 A. Yes, sir.

9 Q. And what was the other one? Security?

10 A. Well, that's -- the whole course is Private
11 Security Investigations.

12 Q. Oh. Okay. Is that different than going through
13 the academy to be a police officer?

14 A. Yes. It is the equivalent of that but in a
15 private sector.

16 Q. How long is that course?

17 A. To the best of my knowledge from 2003, it was
18 approximately six months.

19 Q. And is it something that is held locally or do you
20 live on campus somewhere to go through that?

21 A. You just attend locally every day.

22 Q. Okay.

23 A. You commute to and from.

24 Q. Where was that held at?

25 A. It was held at Akron City Hospital School of

1 Nursing, in their auditorium.

2 Q. So that's where you reported to class basically
3 for six months?

4 A. Yes, sir.

5 Q. In addition to class work, were there physical
6 tests or training?

7 A. Part of the course did require a course in what
8 they called DT, Defensive Tactics.

9 Q. And did you participate in that course?

10 A. Yes, sir.

11 Q. Then do you get a certificate of completion?

12 A. You then must go to -- at the time that I did it,
13 you had to go to London, Ohio to OPOTA's
14 headquarters and take an actual commission test.
15 It was approximately 300 questions based on what
16 you learned the previous six months in the
17 academy.

18 Q. And did you take that test?

19 A. Yes, sir.

20 Q. Once you pass that test, are you certified then?

21 A. Yes, sir.

22 Q. And it's certified as what? As private security?

23 A. Yes, sir, and investigations.

24 Q. Any other certifications?

25 A. No, sir.

1 Q. Any other formal education that we haven't talked
2 about?

3 A. No, sir.

4 Q. Do you have a valid driver's license?

5 A. Yes, sir.

6 Q. Is that with the State of Ohio?

7 A. Yes, sir.

8 Q. Any restrictions on your license?

9 A. I believe it's considered a C2, C4 restriction,
10 which states that I must have hand controls and a
11 spinner knob.

12 Q. Slow down for me a little bit, okay?

13 A. Sorry, sir.

14 Q. That's okay. You say a C2 and C4?

15 A. Yes, sir.

16 Q. So C2 relates to hand controls?

17 A. I believe so.

18 Q. And C4 relates to a spinner knob?

19 A. Yes, sir.

20 Q. Okay.

21 A. Or it could be the other way around.

22 Q. I understand. I'm not holding you to specifics.
23 Hand controls is brake and throttle?

24 A. Yes, sir.

25 Q. A spinner knob is on the steering wheel to turn

1 the wheel --

2 A. Yes, sir.

3 Q. -- one-handed, right?

4 A. Yes, sir.

5 Q. How long have you had those restrictions on your
6 license?

7 A. Since I received my license on September 9th of
8 1999.

9 Q. And what's the medical reason for having those
10 restrictions?

11 A. Cerebral palsy.

12 Q. When were you diagnosed with that?

13 A. From what I was told by my parents, at the age of
14 two.

15 Q. And are you currently treating with any doctors
16 for your -- can I call it CP?

17 A. Yes, sir. The answer to your question is no.

18 Q. Have you ever had a specialist to treat your CP?

19 A. Yes, sir.

20 Q. Who was that?

21 A. To the best of my knowledge, when I was younger,
22 it was Dr. Dennis Weiner of Akron Children's
23 Hospital. He was an orthopaedic surgeon. I've
24 had other surgeons as well.

25 Q. That was the specialist for mostly when you were a

1 younger boy?

2 A. Yes, sir.

3 Q. Since you've been an adult, any specialists that
4 you've seen for CP?

5 A. No, sir.

6 Q. Any other restrictions on your license other than
7 C2 and C4 that we talked about?

8 A. No, sir.

9 Q. Has your license ever been suspended for any
10 reason?

11 A. No, sir.

12 MS. LEWIS: Objection.

13 Go ahead. You have to slow down a
14 little bit, okay?

15 THE WITNESS: Sorry.

16 MS. LEWIS: It's okay.

17 BY MR. BORLA:

18 Q. Mr. Harbour, do you belong to any churches or
19 social groups?

20 A. I belong to a church, yes.

21 Q. Where do you belong?

22 A. I'm between churches. I was going to Grace Church
23 in Medina. We're now moving to Family Faith in
24 North Canton.

25 Q. That Grace Church, is that the one on 18, the new

1 one they built?

2 A. There are several campuses of Grace. The one I
3 went to was there on 18 in Medina just past --
4 there in Granger Township.

5 Q. That's the one I'm familiar with because that's
6 near my home.

7 Have you held any employment positions or
8 volunteer positions at church?

9 A. No, sir.

10 Q. Are you currently employed?

11 A. Yes, sir.

12 Q. Who do you work for?

13 A. The legal name of the company is
14 The Carswell Group.

15 Q. Say that again. The what?

16 A. The Carswell Group.

17 Q. How do you spell that?

18 A. It's C-a-r-s-w-e-l-l. The DBA is Independent
19 Management Services.

20 Q. What do you do for them?

21 A. My official title is resident coordinator.

22 Q. What is the business?

23 A. They are a property management company.

24 Q. And they manage condominiums?

25 A. The one that I work at is a Section 8 property.

1 Q. So your job as a resident coordinator means what?

2 A. It means a multi facet of things.

3 Q. Yeah.

4 A. Primarily my job is in charge of our security
5 team. I monitor all of our surveillance systems.
6 Control access in and out of the buildings.
7 Assist the residents and management team with
8 resident issues.

9 Q. Which property are you at?

10 A. Spring Hill Apartments.

11 Q. Where is that?

12 A. 1180 Rentar, R-e-n-t-a-r, Lane, Akron, 44307.

13 Q. How long have you worked for The Carswell Group?

14 A. A total of combined years of almost five.

15 Q. Were you working for them at this time in 2012?

16 A. Yes, sir, I was.

17 Q. And were you at this location, Spring Hill
18 Apartments?

19 A. Yes, sir, I was.

20 Q. In the same job as resident coordinator?

21 A. That was not my title at that time.

22 Q. What was it at that time?

23 A. I was lead security at the time. We had an
24 in-house security team.

25 Q. Did you miss any work as a result of this

1 accident?

2 A. For doctors' appointments, yes.

3 Q. Have you kept track of how much time you missed
4 away from work?

5 A. Not that I have readily available to me, no.

6 Q. Are you going to be claiming to the jury that you
7 have incurred lost wages that you want to be paid
8 back for time missed from work?

9 A. Yes.

10 Q. You realize this is my only time to ask you these
11 questions, right?

12 A. Yes, sir.

13 Q. How much are you going to be claiming that you
14 missed from work as a result of this accident or
15 how much in dollars?

16 A. I don't know.

17 Q. Can you estimate for me? Is it less than \$1,000?
18 Less than \$500? Can you give me some sort of
19 ballpark as to what that claim is?

20 A. No, sir, I cannot.

21 Q. Do you have records somewhere that you're
22 maintaining that would contain that information?

23 A. Yes.

24 Q. What records do you have?

25 A. Pay stubs.

1 Q. And where are those records?

2 A. In my office at my residence.

3 Q. What period of time did you miss this work?

4 A. Can you --

5 Q. Sure. I'll rephrase it. That was a poorly worded
6 question. You did exactly right.

7 Did you miss any work other than for
8 attending doctors' appointments?

9 A. No, sir.

10 Q. Can I presume then that the time away from work
11 wasn't complete entire days; it would be portions
12 of days to allow you to attend doctors'
13 appointments? Is that fair?

14 A. Yes, sir, it is.

15 Q. At no time did you miss a block of time
16 encompassing more than a solid day, correct?

17 A. To the best of my knowledge, no, sir.

18 Q. You were able to do your job physically, but you
19 needed to take time away to attend appointments
20 that doctors had during normal business hours,
21 correct?

22 A. Yes, sir.

23 Q. Do you have all your pay stubs during this time
24 period?

25 A. Yes, sir.

1 Q. Was there any other reason, after May 10th of
2 2012, that you would have missed work other than
3 for a doctor's appointment?

4 A. To the best of my knowledge, I believe in June of
5 2012, I did have previous scheduled vacation time,
6 and that was used.

7 Q. You're not claiming vacation time as part of this,
8 right?

9 A. No, sir.

10 Q. So you would be able to go back and look at your
11 pay stubs and determine how many hours were missed
12 as a result of doctors' appointments, correct?

13 A. Yes, sir.

14 Q. What were your normal hours over there at the
15 Spring Hill Apartments?

16 A. 8 a.m. to 5 p.m.

17 Q. Is that just Monday through Friday?

18 A. Yes, sir.

19 Q. Was there overtime?

20 A. We are not permitted to have overtime, so the
21 answer to that question is no.

22 Q. And that's true today as it was at the time of the
23 accident?

24 A. Yes, sir.

25 Q. So you're going to look at your pay stubs and see

1 which weeks have reported less than 40 hours or
2 which two weeks have reported less than 80 hours,
3 right?

4 A. Yes, sir.

5 Q. Are you paid hourly?

6 A. Yes, sir.

7 Q. At that time, during the time that you missed work
8 to attend appointments, what was your hourly rate?

9 A. To the best of my knowledge, I believe at that
10 time it was somewhere around the hourly rate of
11 \$9.50 an hour.

12 Q. And that was as lead security?

13 A. Yes.

14 Q. When did you get the promotion to resident
15 coordinator?

16 A. In September of 2014, when I returned back.

17 Q. When you returned back?

18 A. Yes.

19 Q. Returned back from where?

20 A. I was gone from August of 2013 until September of
21 2014.

22 Q. For what reason?

23 A. Job change.

24 Q. Where did you go work during that time?

25 A. Victory Restoration LLC.

1 Q. What did you do for them?

2 A. I was office support and IT support.

3 Q. Why did you change jobs?

4 A. The owner of the company at that time was a
5 personal friend of mine, and he asked that I come
6 aboard and join his company. He offered me a
7 substantial pay increase.

8 Q. What happened in 2014?

9 A. Can you rephrase your question as to what you
10 mean by what happened in 2014?

11 Q. You left them in 2014, right?

12 A. Yes, sir.

13 Q. Why?

14 A. The company was failing.

15 Q. So let's talk about this lead security job at
16 Spring Hill Apartments, okay?

17 A. Okay.

18 Q. That's the job you had at the time of this
19 accident in May of 2012?

20 A. Yes, sir.

21 Q. What does it mean to be lead security?

22 A. What that means is -- I'm on day shift. I'm in
23 charge of all the cameras. I lead my team of
24 officers with situations, incidents. I was the
25 liaison between all local, state, and federal law

1 enforcement when they would come on the property.

2 I would answer, you know, after-hours calls from
3 my officers with questions on how to handle, you
4 know, a situation or a question.

5 Q. You're in charge of the cameras. Was there a
6 security room that had a feed of all the security
7 cameras?

8 A. The security cameras are in the main office, in a
9 portion of it. So when you walk in the front
10 door, there's a security window where I would sit
11 or somebody else would sit. You would check them
12 randomly. We've got cameras on the wall that you
13 can watch the entire property.

14 Q. How big is that property, Spring Hill Apartments?

15 A. It's approximately 12 acres with approximately
16 14 buildings and 351 apartments.

17 Q. When you say you would lead your team of security
18 officers, what did you mean by that?

19 A. I would, you know, give them -- as lead
20 dispatcher, you're watching the cameras and you're
21 reporting to them what's happening on the property
22 so they can go handle the issue. Answering
23 questions, making sure the reports are done
24 properly, things of that nature.

25 Q. So were you primarily in the security office?

1 A. Yes.

2 Q. And you would act, in some regards, as a
3 dispatcher to have your security go to certain
4 areas?

5 A. Yes, sir.

6 Q. Would you, yourself, perform independent
7 investigations of events occurring at the
8 property?

9 A. Yes.

10 Q. Would you respond, yourself, to events that
11 required you to be personally present at a certain
12 building or certain apartment?

13 A. Yes.

14 Q. I notice that you do have a walker with you here
15 today, right?

16 A. Yes.

17 Q. How long have you had that?

18 A. Since the age of two.

19 Q. And do you use that when you're at work as well?

20 A. Yes.

21 Q. Mr. Harbour, is it fair -- and please don't take
22 this as me picking on you because I'm not trying
23 to do that. I'm just trying to understand your
24 situation. You would rely on your officer team to
25 physically be first responders to certain

1 situations. Is that fair?

2 A. It depends on the situation, but primarily, yes.

3 Q. What do you mean by it depends on the situation?

4 A. If there was a call in the apartment building
5 where the officer was at and it was a minor issue,
6 I'd handle it myself.

7 Q. If it was another building or something that may
8 result in a physical altercation, is it fair to
9 say you would probably dispatch officers to those
10 situations?

11 A. Yes.

12 Q. So you've used a walker since the age of two?

13 A. Yes.

14 Q. Have you used any other assistive devices other
15 than in your car or a walker?

16 A. At one point, I did use forearm crutches. I've
17 also used a wheelchair for, you know, long
18 distances, things of that nature.

19 Q. At the time of this accident, May of 2012, you
20 were primarily just using the walker?

21 A. Yes, sir.

22 Q. When did you use forearm crutches?

23 A. To the best of my memory, it was my junior year of
24 high school and also between sixth and eighth
25 grade.

1 Q. Why did you then move on to the walker?

2 A. I moved back to the walker.

3 Q. Okay.

4 A. I moved back to it because it's a more stable
5 platform to be on.

6 Q. Your doctors' appointments that you would have to
7 go to that you missed work, were they always
8 during working hours?

9 A. Yes.

10 Q. In the last five years, any other employment other
11 than with The Carswell Group or with
12 Victory Restoration?

13 A. To the best of my memory, no, sir.

14 Q. What did you do before The Carswell Group?

15 A. I worked for GE Financial.

16 Q. What did you do for them?

17 A. I started out as a customer service representative
18 and then six months later switched to a fraud
19 investigator.

20 Q. How long did you work for GE?

21 A. From approximately 2007 to approximately 2009.

22 Q. What about before GE? Do you remember where you
23 worked?

24 A. I worked for United National Security also known
25 as UNS.

1 Q. How long did you work for them?

2 A. From approximately 2006 to 2007.

3 Q. Performing security functions?

4 A. No. I was office staff.

5 Q. Office staff. Let's keep going back. How far can
6 you remember?

7 A. What do you want to know?

8 Q. Let's go before United. Where did you work and
9 what years?

10 A. Before United was Sterling Jewelers from
11 approximately 2002 to 2004.

12 Q. What did you do for them?

13 A. I was a customer service representative.

14 Q. I've got a gap in my timeline. You left Sterling
15 in 2004 and then worked for UNS, United National
16 Security, in 2006?

17 A. Yes.

18 Q. Two years in between. Were you unemployed?

19 A. Yes.

20 Q. Just couldn't find work?

21 A. No, sir.

22 Q. You were capable of working but just couldn't find
23 a job?

24 A. That's not correct, sir.

25 Q. Tell me why you weren't working.

1 A. There was a Workers' Comp claim that I was dealing
2 with at the time.

3 Q. Where were you working at the time of the Workers'
4 Comp claim?

5 A. Sterling Jewelers.

6 Q. And what year did you injure yourself that
7 resulted in that claim?

8 MS. LEWIS: Hold on a second. I'm going
9 to give an objection to this. Just continue
10 on.

11 MR. BORLA: Sure. No problem. Thanks.

12 MS. LEWIS: Go ahead.

13 A. To the best of my memory, it was 2004.

14 Q. What happened in that claim?

15 A. I fell.

16 Q. Did you sustain injuries?

17 A. Yes, sir.

18 Q. What part of your body did you injure?

19 A. My head, neck, and low back, to the best of my
20 memory on that, sir.

21 Q. Were you unable to work physically as a result of
22 those injuries?

23 A. Yes.

24 Q. During that two-year period, were you unable to
25 work during that entire time?

1 A. Yes, sir.

2 Q. Were you then released by your doctor or physician
3 to return to work in some capacity in 2006?

4 A. It was -- I believe it was 2006 or late 2005, yes.

5 Q. And the Workers' Compensation claim with
6 Sterling Jewelers, did that matter ultimately get
7 closed?

8 A. Yes, sir.

9 Q. And do you remember what year that claim was
10 closed?

11 A. I believe 2007, sir.

12 Q. Who was your treating physician for that claim?

13 A. I had several at the time, sir.

14 Q. Who was the treating physician for your head
15 injury?

16 A. It started out as Dr. Timmons with Akron
17 Children's Hospital Neurology, and then I moved to
18 Dr. -- I believe his name was pronounced Gargiulo.
19 He left the practice he was at. I then went to
20 Dr. Cynthia Bamford.

21 Q. So those were the three doctors for the head
22 injury?

23 A. To the best of my knowledge, yes.

24 Q. What was the injury you sustained to your head?

25 A. I believe, to the best of my knowledge, it was a

1 closed head concussion injury is what they
2 documented it as.

3 Q. You also injured your neck and low back in that?

4 A. Yes, sir, to the best of my knowledge.

5 Q. Did you have different doctors that treated your
6 neck and low back?

7 A. To the best of my knowledge, yes, I believe so.

8 Q. Who were they?

9 A. I believe the doctor who took care of my low back
10 was my primary care physician at the time,
11 Dr. Brian Heim. To the best of my knowledge, the
12 low back area would have been chiropractic care
13 with Dr. Bill Neidert.

14 Q. Who was that? Dr. Who?

15 A. William Neidert.

16 Q. Do you know how to spell his last name?

17 A. Not off the top of my head.

18 Q. Is that at Vargo Chiropractic?

19 A. No, sir.

20 Q. What chiropractic office?

21 A. It was his own private practice, sir.

22 Q. Where was that practice?

23 A. In the North Canton area. On Portage.

24 Q. How do you think he spells the last name?

25 A. It's N-e-i-d-e-r-t, I believe.

1 Q. So Dr. Neidert treated your low back?

2 A. To the best of my knowledge, yes, sir, I believe
3 so.

4 Q. And did you tell me that Dr. Brian Heim treated
5 your neck?

6 A. To the best of my knowledge, I believe so, yes,
7 sir.

8 Q. Dr. Heim doesn't practice anymore, does he?

9 A. That's correct, sir.

10 Q. Was he your primary care physician till he no
11 longer practiced?

12 A. Yes, sir, he was.

13 Q. Who's your PCP now?

14 A. My primary care physician now is
15 Dr. Eugene Pogorelec.

16 Q. Is Dr. Pogorelec with Summa Physicians, Inc.?

17 A. I do not believe so, sir.

18 Q. Is he in a different office than Dr. Heim was?

19 A. Yes, sir.

20 Q. Dr. Pogorelec, do you know the name of his
21 practice?

22 A. He has two practices with different names at two
23 different locations. Initially I saw him at his
24 office in Massillon, and then he informed me he
25 had an office in the valley in Akron. So I've

1 been going to that office.

2 Q. What's the name of that one?

3 A. Couldn't tell you, sir.

4 Q. No problem. It's in the valley though?

5 A. Yes, sir.

6 Q. And when was it that you started seeing

7 Dr. Pogorelec?

8 A. Approximately March of this year.

9 Q. Of 2015?

10 A. Yes, sir.

11 Q. When did Dr. Heim stop practicing?

12 A. To the best of my knowledge, I believe it was

13 around late 2012, early 2013, I believe.

14 Q. And who did you see as a primary care physician
15 during that interim?

16 A. Dr. -- what the heck was his name? He's in
17 Barberton. Let me think here. I can tell you his
18 first name. I can't think of his last name. I
19 can't recall the name off the top of my head.

20 Q. If it comes to you while we're sitting here, just
21 interrupt me and tell me, okay?

22 A. Yes.

23 Q. If not, I'll have you give that to Ms. Lewis so we
24 can track that down, okay?

25 A. Yes, sir.

1 Q. So there was about a year-and-a-half, two-year
2 period between Dr. Heim and Dr. Pogorelec that you
3 saw this doctor we can't remember the name of,
4 right?

5 A. Yes, sir.

6 Q. As a primary care physician, correct?

7 A. Yes, sir.

8 Q. Now, getting back to your Worker's Compensation
9 claim in 2004, was it the result of the head
10 injury or the neck and low back that you were
11 unable to work or both or all of them?

12 A. To the best of my knowledge, it was a combination
13 of all three.

14 Q. And to the best of your recollection, was it a
15 combination of all three that prevented you from
16 working until you were released in late 2005,
17 early 2006?

18 A. To the best of my knowledge, the neck and low back
19 had healed substantially. It was more of the
20 closed head injury.

21 Q. Can you estimate for me, the best you can, as to
22 when the neck and low back complaints resolved as
23 a result of that 2004 fall?

24 A. Not that I recall. It's been almost 11 years now.

25 Q. Well, do you recall whether it was weeks before

1 you were cleared to go back to work or months
2 before you were cleared to go back to work?

3 A. I don't recall that, sir.

4 Q. Do you remember what injuries you were diagnosed
5 with to your neck?

6 A. No, sir, I cannot recall them.

7 Q. Do you recall what injuries you were diagnosed
8 with to your low back?

9 A. Not -- to the best of my knowledge, sir, I believe
10 it was, you know, a sprain or something of that
11 nature.

12 Q. And is it your testimony that at some point prior
13 to returning to work in 2006, your neck complaints
14 completely resolved as did your low back
15 complaints?

16 A. To the best of my knowledge, I won't say they
17 100 percent resolved, but they were, you know,
18 substantially reduced. I'm sure I had a flare-up
19 from time to time.

20 Q. Certainly by the time you returned to work,
21 whatever complaints you had to your neck and back
22 were manageable. Is that fair?

23 A. Yes, sir.

24 Q. You may have to take occasional pain medication or
25 aspirin or Advil to alleviate that discomfort.

1 Is that fair?

2 A. Yes, sir.

3 Q. Do you recall any other doctors that you treated
4 with from that Workers' Compensation injury other
5 than who we talked about, Dr. Timmons, Gargiulo,
6 and Bamford for your head, and Dr. Neidert and
7 Dr. Heim for your neck and low back?

8 A. To the best of my knowledge, those answers
9 previously are the same answers now.

10 Q. After you returned to work in 2006, your
11 Workers' Compensation claim from 2004 was still
12 open, correct?

13 A. Yes.

14 Q. And were you still receiving medical treatment
15 when you were working at United National Security?

16 A. To the best of my knowledge, yes. I was getting
17 an occasional adjustment from Dr. Neidert.

18 Q. So if we think about the time period you were
19 working for United National Security, was the only
20 treatment you were receiving from the prior
21 Workers' Comp claim the occasional adjustments by
22 Dr. Neidert?

23 A. To the best of my knowledge, yes.

24 Q. Does Dr. Neidert still practice?

25 A. Yes, he does.

1 Q. When was the last time you saw him related to that
2 Workers' Compensation claim?

3 A. To the best of my knowledge, around the 2006, 2007
4 time frame.

5 Q. After that last visit with Dr. Neidert, whenever
6 that was, 2006, 2007, had you been back to see him
7 for any reason?

8 A. To the best of my knowledge, no.

9 Q. When you returned to work in 2006, had you
10 completely recovered from your head injuries at
11 that time?

12 A. No, sir.

13 Q. What problems did you still have in 2006 when you
14 returned to work?

15 A. Sensitivity to light with my eyes and migraines.

16 Q. And at some point in time, did the light
17 sensitivity go away?

18 A. Yes, sir, it did.

19 Q. When was that, approximately?

20 A. I can't recall an exact time, sir.

21 Q. Was it while you were still working at
22 United National Security?

23 A. No, sir.

24 Q. Was it after that?

25 A. Yes, sir.

1 Q. Were you working at GE Financial at the time that
2 ultimately resolved?

3 A. Yes, sir.

4 Q. And what about the migraines? Did those
5 ultimately resolve while you were working at
6 United National Security?

7 A. To the best of my knowledge, yes. They weren't as
8 severe. I'm sure I had an occasional flare-up
9 from time to time.

10 Q. Have you ever treated with anyone for migraines
11 since that time?

12 A. To the best of my knowledge, Dr. Heim, you know,
13 gave me, you know, pain killers to deal with those
14 if they did flare up.

15 Q. Okay.

16 A. But nothing that was on an ongoing basis.

17 Q. And Dr. Pogorelec renewed that prescription for
18 you?

19 A. No, sir.

20 Q. When's the last time you had to take any of that
21 medication for migraines?

22 A. To the best of my knowledge, at least three to
23 four years maybe.

24 Q. So before this accident even, correct?

25 A. Yes, sir.

1 Q. The Workers' Compensation claim in 2004, were you
2 awarded any permanent partial disability award?

3 MS. LEWIS: Objection.

4 You can answer.

5 THE WITNESS: Did you say I can?

6 MS. LEWIS: You can, yeah.

7 A. I do believe so, yes.

8 Q. And do you remember what the award was, what the
9 percentage was, and what body parts were involved?

10 MS. LEWIS: Continuing.

11 Go ahead.

12 MR. BORLA: Sure.

13 A. To the best of my knowledge, I do not remember
14 what the award was or how much the percentage was.
15 The affected body parts, to the best of my
16 knowledge, were the body parts previously stated.

17 Q. So it was a combination of head, neck, and low
18 back?

19 A. Yes.

20 Q. Did you have an attorney represent you in that
21 Workers' Comp?

22 A. Yes, I did.

23 Q. Who represented you?

24 A. Attorney Kevin R. Sanislo.

25 Q. That, to the best of your recollection, would have

1 been resolved sometime maybe in 2007?

2 A. Yes.

3 Q. While we're talking about it, any other
4 Workers' Compensation claims other than that one
5 in 2004?

6 MS. LEWIS: Objection.

7 Go ahead.

8 A. There was one in 2001 that I can recall, I believe
9 a minor one in 2010, '11, and then one again in
10 2014.

11 Q. Let's take them chronologically. Let's start with
12 2001, okay?

13 A. Okay.

14 Q. Where were you working at the time?

15 A. ComDoc, Inc.

16 Q. What were you doing for them?

17 A. I was IT.

18 Q. And how did you injure yourself?

19 MS. LEWIS: Can I just have a continuing
20 through all of this?

21 MR. BORLA: Absolutely.

22 MS. LEWIS: Thank you.

23 Go ahead.

24 A. I needed to use the restroom. The restroom was
25 not ADA, Americans with Disability Act, compliant.

1 There were no handrails. The stall was not wide
2 enough to allow me to take my walker into the
3 stall with me. To the best of my knowledge, I
4 completed what I needed to do in there, went to
5 exit the stall, and slipped and fell.

6 Q. And what parts of your body did you hurt?

7 A. To the best of my knowledge, my right hip, my
8 head, my low back.

9 Q. Any other parts?

10 A. Not that I can recall, sir.

11 Q. Do you remember what the diagnosis was with
12 respect to your head?

13 A. Not that I can recall, sir.

14 Q. Do you remember who you treated with for your
15 head?

16 A. It was Dr. Timmons again with Akron Children's
17 Hospital.

18 Q. Anybody else that you treated with for your head
19 other than Dr. Timmons?

20 A. May have been my primary care physician doctor at
21 the time, Dr. Heim, but I'm not 100 percent on
22 that.

23 Q. How long had you been a patient of Dr. Heim?

24 A. To the best of my knowledge -- prior to that
25 accident? That's your question, correct?

1 Q. Yeah. Prior to 2001, how long had you been a
2 patient of Dr. Heim? Or what year did you start
3 seeing him?

4 A. To the best of my knowledge, I believe it was
5 2001.

6 Q. So Dr. Heim may have seen you for your head and
7 Dr. Timmons at Children's. Nobody else that you
8 can think of, right?

9 A. That is correct, sir.

10 Q. What about your right hip? What was wrong with
11 that? Or what was the diagnosis, if you remember?

12 A. I don't remember the diagnosis, sir.

13 Q. Who did you treat with?

14 A. I believe I saw Dr. Patrick Riley, who was my
15 orthopaedic surgeon prior to that. I followed up
16 with him to have a look at it.

17 Q. Is Dr. Riley at Children's?

18 A. Yes, sir. Sorry.

19 Q. That's who you had seen as your orthopaedic
20 surgeon when you were younger, correct?

21 A. The answer to your question is the orthopaedic
22 surgeon that I saw when I was younger was
23 Dr. Dennis Weiner and then switched to
24 Dr. Patrick Riley.

25 Q. Thank you. And what about your low back? Who did

1 you treat with for that?

2 A. That was Vargo Chiropractic, sir.

3 Q. And do you remember what the diagnosis was with
4 your low back?

5 A. Not offhand, sir, no.

6 Q. Did you miss work as a result of those injuries?

7 A. Yes, sir.

8 Q. How much time did you miss?

9 A. To the best of my recollection, it was a week.

10 Q. Did you completely recover from your right hip
11 injury from that accident?

12 A. Yes, sir.

13 Q. And how about your head? Did you completely
14 recover from any head injuries that you sustained
15 in that accident?

16 A. After a period of treatment time, yes.

17 Q. Approximately how long was it before you
18 completely recovered from that head injury?

19 A. To the best of my knowledge, it was approximately
20 a year.

21 Q. What about your low back? Did you completely
22 recover?

23 A. To, you know, substantial issues -- you know, with
24 no issues prior to the accident and the same
25 condition, yes.

1 Q. I don't understand what you just said. Tell me
2 again.

3 A. I'm sorry.

4 Q. That's okay.

5 A. I didn't clarify my answer correctly. Yes, I
6 healed to prior condition prior to the accident.
7 My back healed, you know.

8 Q. Prior to 2001, had you had low back problems?

9 A. No, sir.

10 Q. So when you said that you healed to the condition
11 you were before that fall, what did you mean by
12 that?

13 A. Meaning that I had no problems prior to the fall.
14 After the treatment of a year, I went back to that
15 same issue.

16 Q. So you completely recovered?

17 A. To the best of my ability, yes.

18 Q. To the best of your recollection, right?

19 A. Yes.

20 Q. That was about a year of treatment with
21 Vargo Chiropractic?

22 A. Yes.

23 Q. So sometime in 2002, you completely recovered from
24 your hip, your head, and your low back had no
25 problems at that point in 2002, right?

1 A. To the best of my knowledge, yes.

2 Q. That's all I'm asking for is to the best of your
3 recollection, okay?

4 Between 2002 and 2004, did you go back to
5 Chiropractor Vargo for any reason?

6 A. Yes.

7 Q. For what?

8 A. I had a flare-up in my low back.

9 Q. When was that, approximately?

10 A. To the best of my memory, I want to say around the
11 September or October time frame.

12 Q. Of 2002?

13 A. Yes.

14 Q. And how long did Dr. Vargo treat you once you
15 returned in September or October of '02?

16 A. I don't recall the exact months.

17 Q. Was it just a matter of weeks or more like months
18 or maybe years?

19 A. I don't recall, sir.

20 Q. Do you recall seeing him more than once?

21 A. Yes, sir.

22 Q. But you can't estimate for me whether or not that
23 treatment that then started in September or
24 October of 2002 extended into 2003? You don't
25 know that?

1 A. To the best of my knowledge, I cannot answer that
2 100 percent.

3 Q. What's your best understanding as to how long you
4 treated with Dr. Vargo?

5 A. For the flare-up or the entire --

6 Q. For the flare-up.

7 A. I can't recall that, sir.

8 Q. You can't even estimate for me whether it was
9 weeks or months or years?

10 A. I'm not going to guess, sir.

11 Q. Was it more than a year?

12 A. Again, sir, I'm not going to guess.

13 Q. I'm not asking you to guess. Can you estimate?
14 Do you have any recollection whatsoever?

15 A. Again, sir, that was almost 14 years ago, a little
16 over 14 years ago. To the best of my knowledge, I
17 cannot give you an answer on that.

18 Q. Well, I understand that, but you gave me a very
19 specific "I returned in September or October of
20 2002."

21 A. Right.

22 Q. Fourteen years ago you returned. You remember the
23 exact two months. All I'm trying to do is
24 understand whether or not it extended another year
25 or two years after that. If you can't even fathom

1 an estimate, then that's fine. I'll respect that.

2 A. To answer your question, the flare-up pain, I
3 remember that. Did it last two or three years?

4 It did not last two or three years. I can tell
5 you that as your estimate you're looking for.

6 Q. Was there a period of time that you stopped
7 treating with Dr. Vargo, you know, a year after
8 that fall in the bathroom and then you returned to
9 him in September or October for the flare-up or
10 did it just kind of continue through?

11 A. To the best my knowledge, it would -- he had
12 treated me, the treatment stopped, and then I went
13 back.

14 Q. And do you remember how long treatment had stopped
15 before you went back?

16 A. No, I do not, sir.

17 Q. Do you recall whether or not the flare-up and the
18 treatment associated with it were part of your
19 Workers' Compensation claim from 2001?

20 A. To the best of my knowledge, yes. That's why I
21 went back to him.

22 Q. Well, the reason I'm asking is because I asked for
23 your Workers' Compensation records and they end in
24 October of 2002. So you can see my dilemma of why
25 I'm trying to understand how long you were there,

1 right?

2 A. Okay.

3 Q. I'm just telling you what I have. And your lawyer
4 has them.

5 After the treatment for the flare-up with
6 Dr. Vargo, had you ever been back to see him for
7 any other reason?

8 A. Not that I can recall, sir.

9 Q. As part of that claim in 2001, the Workers'
10 Compensation claim, did you receive any settlement
11 for a disability, partial disability, permanent
12 partial disability, anything like that?

13 A. Not that I can remember, sir.

14 Q. So we talked about the one in 2001, the claim in
15 2004, and then you had one in 2010 or 2011?

16 A. Yes.

17 Q. And was that while you were working for Carswell?

18 A. Yes, sir, it was.

19 Q. What happened in that accident?

20 A. I had a different style walker at the time. There
21 was a large hole or part of missing concrete
22 toward the main entrance. I was walking in the
23 main entrance. The walker got stuck in the crack.
24 Because the walker stopped abruptly, it pulled out
25 from under me and I fell forward and hit my head

1 on the concrete.

2 Q. You injured your head?

3 A. Yes.

4 Q. Did you injure any other parts of your body other
5 than your head?

6 A. No, sir.

7 Q. Did you miss work as a result of that?

8 A. I missed that -- the rest of that day.

9 Q. Did you receive medical treatment?

10 A. Yes, I did.

11 Q. Where at?

12 A. Akron Children's Hospital.

13 Q. Through the emergency?

14 A. Yes, sir.

15 Q. Other than treatment at Akron Children's, any
16 other treatment?

17 A. No, sir.

18 Q. So just one day of treatment, one doctor's visit
19 or emergency room visit, and one day of missed
20 work. Is that fair?

21 A. That's correct, sir.

22 Q. And is that claim closed?

23 A. To the best my knowledge, sir, yes.

24 Q. Did you injure your neck or low back in that fall?

25 A. To the best of my knowledge, no, sir.

1 Q. And then you had one in 2014?

2 A. Yes, sir.

3 Q. Also at Carswell still, right?

4 A. No, sir.

5 Q. This was at Restorations?

6 A. Yes, sir.

7 Q. What happened then?

8 A. We had just moved into a new office. There was no
9 real furniture in it yet. I was standing in the
10 CEO's office assisting him with an issue. My legs
11 got tired from standing without having anything to
12 sit on. I fell and bit my -- my tooth went kind
13 of through my lip and caused it to bleed, which
14 required stitches in my lip.

15 Q. Did you pass out?

16 A. No, sir.

17 Q. Your legs just got tired?

18 A. Yes, sir.

19 Q. Where did you get medical treatment?

20 A. Initially I got medical treatment at
21 University Hospitals Urgent Care there on
22 Route 18. Then the next day, I got emergency ER
23 treatment at Summa Lake Medina.

24 Q. Who did the stitches?

25 A. University Hospitals Urgent Care.

1 Q. Why did you go back the following day to
2 Summa Lake Medina?

3 A. I was sitting in my office, the old office, and as
4 the day went on, I just wasn't feeling well. I
5 was real light-headed, just kind of queasy, didn't
6 feel good. I felt like I was going to pass out.
7 They called the squad. They took me to Summa Lake
8 Medina, and their ER determined that I possibly
9 might have had a small concussion from falling the
10 previous day on my face and hurting my lip.

11 Q. Any other follow-up treatment?

12 A. No, sir.

13 Q. Did you miss work other than --

14 A. The next day.

15 Q. You missed the day after the visit to Summa Lake
16 Medina?

17 A. Yes.

18 Q. Did you return to work after getting the stitches?

19 A. Yes.

20 Q. Did you injure your back or neck in that fall?

21 A. No, sir.

22 Q. Is that Workers' Compensation claim closed?

23 A. To the best of my knowledge, sir, yes.

24 Q. Any permanent partial disability settlement?

25 A. To the best of my knowledge, sir, no.

1 Q. So the only permanent partial disability
2 settlement that you recall is from the 2004
3 Workers' Compensation claim. Is that true?

4 A. And possibly the 2001, like I stated earlier.

5 Q. And possibly the 2001.

6 Other than this accident, have you ever
7 been a party to any other lawsuits?

8 A. Yes.

9 Q. How many others?

10 MS. LEWIS: Objection.

11 Go ahead.

12 A. To the best of my knowledge, there's this
13 accident, the previous accident, and then two
14 other issues.

15 Q. "This accident" being the accident from 2012,
16 correct?

17 A. Yes.

18 Q. What other accident are you referring to?

19 A. Let me clarify my statement. I apologize. 2011
20 was not a lawsuit. There's only -- there's no
21 other accident that I was involved in. It was
22 just two other issues that I was a party in a
23 civil matter.

24 Q. Okay.

25 A. I got confused. I apologize.

1 Q. That's okay. Well, now you've confused me. We'll
2 try to get myself unconfused. The 2011, are you
3 talking about the Workers' Compensation matter?

4 A. No, sir.

5 Q. What are you talking about?

6 A. An auto accident, sir.

7 Q. So let's do it this way. Other than the motor
8 vehicle accident of 2012, how many other motor
9 vehicle accidents have you been involved in as
10 either a driver, passenger, or a pedestrian?

11 MS. LEWIS: Objection.

12 You can answer.

13 A. To the best of my knowledge, three.

14 Q. What's the most recent?

15 A. The one in 2012 or are you asking me prior to
16 that?

17 Q. No, that's fine. How about prior to 2012?

18 A. There was one in 2011.

19 Q. Do you remember what month?

20 A. Approximately April, if my memory serves me
21 correct.

22 Q. Were you a driver, passenger, or pedestrian?

23 A. Driver.

24 Q. And the one before that?

25 A. Would have been approximately 2001.

1 Q. Driver, passenger, or pedestrian?

2 A. Driver.

3 Q. Any other motor vehicle accidents other than those
4 three that you recall?

5 A. There was one in 2000 where I was a driver.

6 Q. Let's talk about the one in 2011. Were you at
7 fault or was the other driver at fault?

8 A. The other driver.

9 Q. Where did the accident happen?

10 A. On Route 18 heading eastbound at the entrance of
11 Acme.

12 Q. The Acme there in Fairlawn, Montrose?

13 A. Yes. Right across from Montrose Ford.

14 Q. What kind of vehicle were you driving?

15 A. 2008 Ford Escape.

16 Q. Same one involved in this accident?

17 A. Yes, sir.

18 Q. Any passengers with you?

19 A. No, sir.

20 Q. What happened?

21 A. I was going eastbound on Route 18. I went to turn
22 on my signal to make a left-hand turn into Acme.
23 At the time of that accident, the entrance at Acme
24 is different than it is now. You had a left lane
25 that allowed to you go straight towards Acme or

1 turn left to go to, like, all the side shops
2 there, like Brubaker's and all that, and a right
3 lane with a right turn lane to turn into a parking
4 area.

5 I was in the left lane proceeding to go
6 toward Acme to pick up a few things. A vehicle
7 was in the right lane. They decided they wanted
8 to go left and turned into my truck.

9 Q. So this was actually not on Route 18 at all but
10 actually in the parking lot going into Acme,
11 correct?

12 A. Yes.

13 Q. Were police called?

14 A. Yes, sir.

15 Q. And which police department responded?

16 A. Bath Township.

17 Q. What was the name of the other driver? Do you
18 recall?

19 A. Raymond Kalamets.

20 Q. Do you know how to spell the last name?

21 A. I believe it's K-a-l-a-m-e-t-s. I believe that's
22 how it's pronounced.

23 Q. What kind of car was he driving? Do you remember?

24 A. I believe it was a Dodge pickup truck.

25 Q. So he made a left turn into you. He was coming up

1 the same drive and made a left turn into you as
2 you were trying to go straight ahead towards Acme?

3 A. Yes, sir.

4 Q. So was the impact to the passenger side of your
5 vehicle?

6 A. Yes, sir.

7 Q. And where specifically, if you recall?

8 A. From approximately the right rear fender of the
9 rear all the way up to the right front fender.

10 Q. So he got the whole side of your car?

11 A. Yes, sir.

12 Q. And did you sustain an injury in that accident?

13 A. Yes, sir.

14 Q. Were you represented by counsel as a result of
15 that accident?

16 MS. LEWIS: Objection.

17 You can answer.

18 A. Yes, sir.

19 Q. Who represented you?

20 A. KNR.

21 Q. Was a lawsuit ever filed as a result of that
22 accident, to your knowledge?

23 A. No, sir.

24 Q. Did you sustain injuries?

25 A. Yes, sir.

1 Q. What injuries did you sustain?

2 A. To the best of my knowledge, low back and neck
3 issues.

4 Q. Did you receive medical treatment?

5 A. Yes, sir, I did.

6 Q. With whom?

7 A. Akron General Health & Wellness, their ER there in
8 Montrose, Dr. Shawn Auck of Rolling Acres
9 Chiropractic, and Dr. -- I always butcher his
10 name -- Ghobrial.

11 Q. Treatment with anyone else?

12 A. Not that I can recall, sir.

13 Q. Did you have to give a statement or a deposition
14 of any kind as a result of that accident?

15 A. To who, sir?

16 Q. To anyone.

17 A. Are you asking about a statement to the police at
18 the time of the accident?

19 Q. Well, to anyone. To the police. Insurance.

20 Other party. Anybody. Did you have to give a
21 written or oral statement to anyone?

22 A. I believe I gave a written statement to
23 Bath Police at the time of the accident.

24 Q. Other than the Bath Police, any other written
25 statements?

1 A. Not that I can recall, sir.

2 Q. How about recorded statements?

3 MS. LEWIS: Objection.

4 Go ahead.

5 A. Not that I can recall, sir.

6 Q. How long did you treat with Dr. Auck as a result
7 of that?

8 A. To the best of my knowledge, approximately six
9 months.

10 Q. And during that six months, did he treat both your
11 neck and low back?

12 A. Yes.

13 Q. And at the end of that six months, had you
14 completely recovered back to your preaccident
15 condition?

16 A. Yes.

17 Q. And I'm using that term because you told me about
18 in 2004 that you might still have flare-ups,
19 right?

20 A. Yes.

21 Q. And was it true that you would have occasional
22 flare-ups in 2011 before that accident?

23 A. Yes.

24 Q. So after that six months, you returned back to
25 your preaccident condition with your neck and low

1 back. Do you remember what month that accident
2 occurred?

3 A. April.

4 Q. So by the end of 2011, was your treatment done
5 from that accident?

6 A. To the best of my knowledge, I believe so, yes.

7 Q. Let's say beginning of January of 2012, had you
8 needed to see Chiropractor Auck or Dr. Ghobrial
9 any further as a result of that accident?

10 A. As a result of the accident, no.

11 Q. For any other reason did you go back and see
12 Chiropractor Auck and Dr. Ghobrial before May of
13 2012?

14 A. I believe I saw Dr. Auck for an occasional
15 adjustment.

16 Q. Would that have been in the months leading up to
17 this accident in May?

18 A. I believe so, yes.

19 Q. And can you estimate for me how many times you may
20 have seen Chiropractor Auck for those occasional
21 adjustments?

22 A. No, I cannot, sir.

23 Q. Did you go back and see Dr. Ghobrial or any of his
24 associates as well?

25 A. Not that I can recall, sir.

1 Q. Did you have any treatment from that accident with
2 your primary care physician?

3 A. The accident in 2001 is what you're referring to,
4 correct?

5 Q. Yes, I am. Thank you.

6 A. Yes. Dr. Heim did, you know, see me. To the best
7 of my knowledge, I don't believe he did any actual
8 treatment because he did not like to get involved
9 with MVAs.

10 Q. He told you that?

11 A. Yes.

12 Q. Has that case been resolved?

13 A. 2011 case?

14 Q. Yes. Can you estimate approximately when that
15 matter was resolved with Mr. Kalamets?

16 A. Approximately a year after the accident.

17 Q. Then prior to that 2011 accident was 2001. You
18 were a driver?

19 A. Yes.

20 Q. Did you sustain any injuries in that accident?

21 A. Not that I can recall.

22 Q. How about the one in 2000?

23 A. No.

24 Q. Okay.

25 MS. LEWIS: No injuries?

1 Q. No injuries?

2 A. No injuries, yes.

3 MR. BORLA: Thank you.

4 BY MR. BORLA:

5 Q. And other than this lawsuit, you're not aware of
6 any other lawsuits having been filed regarding any
7 of the motor vehicle accidents or Workers'
8 Compensation claims, correct?

9 A. To the best of my knowledge, there was a lawsuit
10 filed by the employer for the case in 2004, the
11 Workers' Comp case in 2004. To the best of my
12 knowledge, that never went anywhere.

13 Q. Where was that case filed? Do you recall?

14 A. I do not recall.

15 Q. As we sit here today, do you have any open
16 Workers' Compensation claims?

17 A. Not that I'm aware of, no.

18 Q. Have you ever filed for bankruptcy?

19 A. Yes.

20 Q. When?

21 MS. LEWIS: Objection.

22 Go ahead.

23 A. Approximately 2007.

24 Q. And what year was it discharged?

25 MS. LEWIS: Continuing.

1 MR. BORLA: Sure.

2 A. I believe October 2008.

3 Q. And that bankruptcy, did it involve medical bills?

4 A. Yes.

5 Q. Was that the primary reason?

6 A. Yes.

7 Q. Those medical bills, were those incurred as a
8 result of any of the Workers' Compensation claims?

9 A. Yes.

10 Q. Which claim?

11 A. The 2004.

12 Q. So did Workers' Comp not pay for all of the
13 medical treatment from the 2004 accident?

14 MS. LEWIS: Objection.

15 Go ahead.

16 A. Not at first, no.

17 Q. Well, if you could, try to explain to me what they
18 didn't pay for that ultimately forced you to file
19 bankruptcy.

20 MS. LEWIS: Objection.

21 Answer to the best of your knowledge.

22 A. So you want to know, so I'm clear on your
23 question, what bills they didn't pay that forced
24 me to --

25 Q. Well, let me just tell you what I just understood

1 you to testify to, okay?

2 A. Okay.

3 Q. You filed bankruptcy in 2007 primarily because of
4 medical bills that were incurred as a result of
5 the Workers' Compensation claim in 2004. And then
6 when I asked you whether or not Workers' Comp paid
7 those bills, you said not at first.

8 A. Correct, because there were several hearings to
9 get those bills paid.

10 Q. After those several hearings, did they ultimately
11 pay the bills?

12 A. Yes.

13 Q. So then what bills were remaining that you filed
14 for bankruptcy on?

15 A. It wasn't bills entirely. It was the fact that I
16 was unemployed for an extended period of time --

17 Q. Okay.

18 A. -- due to the accident.

19 Q. As part of that bankruptcy, were there medical
20 bills that were included in the bankruptcy that
21 were caused by the 2004 Workers' Compensation
22 claim?

23 A. To the best of my knowledge, I believe so, yes.

24 Q. And were those bills that, after all the hearings,
25 the employer didn't have to pay for?

1 A. To the best of my knowledge, I believe so, yes.

2 Q. And do you know what was unique or different about
3 those bills that the employer ultimately didn't
4 have to pay for them?

5 A. Unfortunately, sir, I do not know.

6 Q. Do you recall whether it was related to a certain
7 type of treatment that was not approved?

8 A. To the best of my knowledge, I can't tell you
9 that.

10 Q. Have you ever been convicted of any crimes other
11 than traffic citations?

12 A. No, sir.

13 Q. Have you ever been treated for alcohol or
14 substance abuse?

15 A. No, sir.

16 Q. Have you ever been diagnosed with any
17 psychological or psychiatric injuries or illnesses
18 other than with respect to your concussion?

19 A. No, sir.

20 Q. You've told me about the times that you've fallen
21 that resulted in a Workers' Compensation claim.
22 Other than those times, have you ever injured
23 yourself in any trip and falls or falling
24 accidents?

25 MS. LEWIS: Objection.

1 Go ahead and answer.

2 Q. We can just focus, for purposes right now, on the
3 last five years.

4 MS. LEWIS: Objection.

5 A. No, sir.

6 MS. LEWIS: Go ahead.

7 Q. How about in the last 10 years other than the
8 Workers' Compensation claims?

9 MS. LEWIS: Objection.

10 Go ahead.

11 A. I believe there was one back in the mid 2000s of a
12 trip at an auto dealership.

13 Q. Did you injure yourself?

14 A. Yes.

15 Q. Did you receive medical treatment?

16 A. Yes.

17 Q. Do you remember what parts of your body you
18 injured?

19 A. My shoulder.

20 Q. And do you remember where you received treatment?

21 A. That would have been Dr. Neidert, and they took me
22 to I believe it was Akron Children's Hospital by
23 squad.

24 Q. Did that result in a claim being brought against
25 the auto dealer?

1 A. No, sir.

2 Q. Other than treatments with Dr. Neidert and
3 Children's, any other treatment for that?

4 A. No, sir.

5 Q. Dr. Pogorelec is your current family physician,
6 right?

7 A. Yes, sir, as previously stated.

8 Q. We talked about your orthopaedic surgeons at
9 Children's, right?

10 A. Yes, sir.

11 Q. Have you had to undergo multiple surgeries?

12 A. Yes, sir.

13 Q. Primarily on what parts of your body?

14 MS. LEWIS: Objection.

15 A. My legs.

16 Q. And can you give me a general description of what
17 they've done to your legs?

18 MS. LEWIS: Continuing.

19 MR. BORLA: Sure.

20 A. They've had to cut my heel cords in my foot so
21 that my foot would flex and I could walk. They
22 had to cut my hamstrings so I could straighten my
23 leg. My groin muscles for the legs. Also, it
24 allowed me to walk. They also had to do my right
25 hip twice because it was dislocated when I was

1 born. So, again, to allow me to walk.

2 Q. And when was the last time you had any surgery?

3 A. To the best of my knowledge, it was my freshman
4 year of high school. So that would have been the
5 2006 -- I'm sorry -- 1996 time frame.

6 Q. And as you sit here today, is there any planned
7 surgeries?

8 A. No, sir.

9 Q. You don't need anything?

10 A. No, sir.

11 Q. Good for you.

12 Have you broken any bones?

13 A. No, sir.

14 Q. Growing up or even through high school or even as
15 a young adult, has your CP and the difficulties
16 you've had with walking, has that caused you any
17 back problems?

18 A. No, sir.

19 Q. Other than when you may have fallen, right?

20 A. Correct, sir.

21 Q. To your perception, it otherwise hasn't placed any
22 greater stress or discomfort on your neck or lower
23 back. Is that fair?

24 A. No, sir. That's fair.

25 Q. Other than Dr. Neidert, Dr. Auck, and Dr. Vargo,

1 have you treated with any other chiropractors in
2 your life?

3 A. Yes, sir.

4 Q. Who else?

5 A. Dr. Kenneth Parker.

6 Q. Who's Dr. Parker?

7 A. A chiropractor.

8 Q. Where at?

9 A. The last known location of his office that I can
10 recall was on Main Street. The best way I can
11 tell you -- I'm sorry. Not Main Street. It's the
12 street right off of Main. If you're going 76 east
13 and get off at Main, at that light right there, go
14 straight. His office was off to the right.

15 Q. Okay.

16 A. I don't know. I don't recall what road that was.

17 Q. When was the last time you saw him?

18 A. I do not recall, sir.

19 Q. Was it within the last 10 years?

20 A. No, sir.

21 Q. Were you in high school when you saw Dr. Parker?

22 A. When I started to see him or the last time I saw
23 him?

24 Q. The last time you saw him.

25 A. To the best of my knowledge, yes.

1 Q. And what did you see him for?

2 A. Just general chiropractic.

3 Q. Did he just provide general treatment to your neck
4 and back and shoulders and hips?

5 A. Right. Just a standard adjustment.

6 Q. How long were you a patient of Dr. Parker's?

7 A. From the age of two until probably, you know, high
8 school.

9 Q. So 17, 18?

10 A. Something like that, yeah.

11 Q. Okay.

12 A. On and off. It wasn't -- you know.

13 Q. Any other chiropractors?

14 A. Not that I recall, sir.

15 MR. BORLA: Why don't we take a quick
16 break?

17 (A short recess was taken.)

18 BY MR. BORLA:

19 Q. Mr. Harbour, I'll remind you that you're still
20 under oath, okay?

21 A. Yes, sir.

22 Q. The same rules apply.

23 Let's talk about the accident.

24 May 10th, 2012, we know that's the date, right?

25 A. Yes, sir.

1 Q. And this happened about 5:30 on a Thursday
2 evening, correct?

3 A. Yes, sir.

4 Q. Where were you going?

5 A. Home.

6 Q. From where?

7 A. I had got off work at 5 p.m. and went to the
8 Chase Bank by Summit Mall to withdraw some funds.
9 I then went to the Huntington Bank on 18 next to
10 Malley's Chocolates to put money in a different
11 account and then was heading home.

12 Q. Was your plan to get on 77 south?

13 A. My plan was to get onto 77 south and head onto
14 21 south.

15 Q. You and my client were going the same place?

16 A. Right.

17 Q. Essentially.

18 A. The same area.

19 Q. Same route?

20 A. Yes.

21 Q. You both wanted to get out of that middle lane.
22 Ultimately you had to get to the right lane to get
23 to the entrance ramp, right?

24 A. Correct.

25 Q. You heard him testify that it was stop-and-go

1 traffic?

2 A. Yes.

3 Q. You agree with that?

4 A. Yes.

5 Q. You've driven through that area multiple times at
6 5:30 in the evening?

7 A. Yes.

8 Q. It's a congested area at that time, isn't it?

9 A. Yes, sir, it is.

10 Q. So stop-and-go wasn't unusual for that day and
11 that time, right?

12 A. Correct, sir.

13 Q. Now, this accident happened just west of the light
14 where there is the Shell gas station on the north
15 side of 18, right, Springside Drive?

16 A. Yes, sir.

17 Q. You guys were west of that?

18 A. Yes, sir.

19 Q. In the middle lane?

20 A. Well, 18 has two lanes, a left and right lane, and
21 then there's a lane to get onto 77 north that's an
22 exit ramp. So there's only two lanes. We were in
23 the right lane.

24 Q. There's two through lanes?

25 A. Yes.

1 Q. But if you're counting lanes from curb to curb,
2 there's three lanes?

3 A. Yes, sir.

4 Q. The right lane doesn't go all the way through?

5 A. Correct, sir.

6 Q. So you were in the right lane of the two through
7 lanes?

8 A. Correct, sir.

9 Q. Or the middle lane if you count all three?

10 A. Correct, sir.

11 Q. And did you recognize or notice that my client had
12 been behind you for some period of time?

13 A. No, sir.

14 Q. Ever even take notice of that?

15 A. No, sir.

16 Q. In this stop-and-go traffic, do you recall whether
17 you had to stop for the light at Springside?

18 A. No, sir, I do not.

19 Q. At the time of this accident, were there vehicles
20 in front of you that were stopping and going?

21 A. Yes, sir.

22 Q. What also complicates that area is the exit ramp
23 coming off of 77 and everyone trying to merge in
24 right under the viaduct, right?

25 A. Correct, sir.

1 Q. Had you made it to the bridge?

2 A. No, sir.

3 Q. Can you estimate for me how far west of Springside
4 the accident occurred in car lengths or feet?

5 A. It was in front of the Holiday Inn. I'm not one
6 to measure feet. I mean, you know, I would say,
7 you know, 10 seconds, you know, of normal driving
8 speed. Probably a minute or more in stop-and-go
9 traffic.

10 Q. Well, if you're traveling at 35 miles an hour and
11 you leave the light at Springside, in 10 seconds
12 you're going to get well past 77, aren't you? I
13 mean, I'm not trying to be difficult with you, but
14 it's probably within a football field of
15 Springside where this accident happened, right?

16 A. It would be within a football field, yes.

17 Q. Fair enough. Did you see my client's vehicle
18 before the accident?

19 A. No, sir.

20 Q. Did you hear anything before the accident?

21 A. No, sir.

22 Q. Did you have any passengers in your vehicle?

23 A. No, sir.

24 Q. Were you wearing your seat belt?

25 A. Yes, sir.

1 Q. What kind of vehicle were you driving?

2 A. A 2008 blue Ford Escape.

3 Q. That's a compact SUV? I think they call it a CUV,
4 right?

5 A. Well, it's considered an SUV as far as Ford is
6 considered.

7 Q. Any preexisting damage on that vehicle?

8 A. No.

9 Q. The damage from the accident in 2011 had all been
10 repaired?

11 A. Yes, sir.

12 Q. Were you moving or stopped at the time?

13 A. I was at a complete stop.

14 Q. Do you know how fast my client's car was going?

15 A. No, sir. I was not driving his car.

16 Q. And you never saw it before impact, correct?

17 A. No, sir.

18 Q. So were you totally surprised?

19 A. Yes, sir.

20 Q. Did you strike the vehicle that was in front of
21 you?

22 A. No, sir.

23 Q. Was it also stopped?

24 A. Yes, sir, it was.

25 MR. BORLA: Kristen, I think you guys

1 have all of these pictures.

2 MS. LEWIS: Uh-huh.

3 (Defendants' Exhibit A, Photographs, was
4 marked for identification.)

5 MS. LEWIS: Can we go through them real
6 quick?

7 MR. BORLA: Yeah, go ahead.

8 MS. LEWIS: Ten of them.

9 BY MR. BORLA:

10 Q. Ten pictures marked as Defendants' Exhibit A. Did
11 you have a chance to look through those?

12 A. Yes, sir, I did.

13 Q. Do you recognize the vehicle?

14 A. Yes, I do.

15 Q. Whose is it?

16 A. Mine. Or my old vehicle, actually.

17 Q. You don't have it anymore?

18 A. No, sir.

19 Q. Why did you get rid of it?

20 A. I was offered a better deal with it by the
21 dealership for a newer model, so I took it.

22 Q. Did you get a new Escape?

23 A. Yes.

24 Q. Other than the hand controls and the knob, was
25 that vehicle specially equipped any other way?

1 A. I had an aftermarket hands-free phone system in it
2 in case I needed to use my phone.

3 Q. Other than that, any other --

4 A. No, sir.

5 Q. -- special equipment?

6 That's the vehicle you were driving at
7 the time of the accident?

8 A. Yes, sir, it was.

9 Q. I noticed in the picture -- do you know where the
10 picture was taken?

11 A. It was taken at -- it appears at Holiday Inn.

12 Q. Do you know who took the pictures?

13 A. I do not know who took them.

14 Q. It's parked in a handicap spot. Do you have a
15 handicap placard?

16 A. I have handicap license plates.

17 Q. As a result of the collision, your vehicle did not
18 strike the vehicle in front of you, correct?

19 A. Correct.

20 Q. Your foot was still on the brake at the time of
21 impact?

22 A. My hand was.

23 Q. Your hand. You were using hand controls.

24 A. Yes.

25 Q. Do you ever use foot controls?

1 A. No, sir.

2 Q. And so tell me how that works. Is it a squeeze
3 for hand controls? I know nothing about them.

4 A. I will explain them to you.

5 Q. Okay.

6 A. There's multiple types of controls you have. The
7 type of controls that I have, they're hooked to
8 the gas and brake. You can get in my car and
9 drive it normally. In order to brake in the
10 vehicle, you just simply take the lever and push
11 it, just as you would the gas pedal, toward the
12 dashboard. And just like you would with your
13 foot, if you push it fast, it stops fast. If you
14 push it slow, it stops slow.

15 Q. Then is there a different lever for the throttle?

16 A. It's all on the same lever. The throttle on my
17 type of controls is just like a motorcycle. You
18 just twist it and it pushes on the gas pedal and
19 you accelerate.

20 Q. So you could twist it to accelerate or push it in
21 to apply the brake?

22 A. Correct.

23 Q. So at the time of this accident, you had the lever
24 pushed in to brake, right?

25 A. Correct.

1 Q. And did you tell me -- if you did, I didn't
2 remember it. How far behind the vehicle are you
3 stopped?

4 A. You didn't ask --

5 Q. Okay.

6 A. -- but I was stopped far enough back that I could
7 see the vehicle's back tires in front of me touch
8 the ground.

9 Q. And as a result of the impact, was your vehicle
10 pushed forward?

11 A. Not that I recall, sir.

12 Q. Did any part of your body strike any part of the
13 interior of the vehicle as a result of the impact?

14 A. Yes, sir.

15 Q. Tell me what parts of your body hit what part of
16 the interior of your vehicle.

17 A. At the time of impact, I went forward a bit. The
18 seat belt engaged and pulled me back. Of course
19 my back and my head struck the back of the
20 headrest. At that time, I also went to the left.
21 My body moved to the left. The left side of my
22 head struck the driver's window.

23 Q. Were you hit directly from behind?

24 A. Yes, sir.

25 Q. Do you have any explanation as to why you went to

1 the left and hit the side window?

2 A. Being that I go back -- the left side of my body
3 is my stronger side of my body, so it pulled me
4 that direction.

5 Q. Any broken glass?

6 A. No, sir.

7 Q. Were you bleeding?

8 A. Not that I recall, sir.

9 Q. Did you lose consciousness?

10 A. Not that I recall, sir.

11 Q. And your vehicle remained stopped where it had
12 been stopped before the accident?

13 A. To the best of my knowledge, yes.

14 Q. Then what happened?

15 A. Once I realized what had happened, I put the car
16 in park to secure it so it didn't move. I got my
17 phone out of the center console and dialed 911.

18 Q. Did you talk to the 911 operator?

19 A. Yes, I did.

20 Q. What did you tell her --

21 A. That I was --

22 Q. -- or him?

23 A. That I was just involved in a motor vehicle
24 accident. I gave them my location on 18 westbound
25 in front of the Holiday Inn.

1 Q. Did the dispatcher ask whether anyone was injured?

2 A. Yes, she did.

3 Q. And what was your response?

4 A. My response was my back was bothering me.

5 Q. Was that the first thing you did after the
6 accident was get your phone and call 911?

7 A. Yes.

8 Q. So was that call made within 30 seconds of the
9 accident?

10 A. Probably, yes.

11 Q. How long before emergency personnel arrived?

12 A. To the best of my knowledge, a few moments.

13 Q. And during that time, do you recall having any
14 conversations with my client?

15 A. Yes, I do.

16 Q. Tell me what you remember.

17 A. Your client came up to my vehicle and asked if we
18 should move the vehicles off to the right side of
19 the road to which I replied to him that 911
20 advised me to keep the vehicles where they were.

21 Q. Did he say anything else to you?

22 A. Not that I recall, sir.

23 Q. Did you say anything else to him?

24 A. Not that I recall, sir.

25 Q. Have you ever said anything else to him, other

1 than what you just told me, since the accident?

2 A. No, sir.

3 Q. Has he ever contacted you or spoken to you since
4 the accident?

5 A. No, sir.

6 Q. Did you overhear anything that my client said to
7 anybody at the scene of the accident?

8 A. No, sir.

9 Q. So the sum and substance of any words you ever
10 heard come out of my client's mouth were to ask
11 you about whether you should move the vehicles?

12 A. Correct, sir.

13 MS. LEWIS: Other than today.

14 MR. BORLA: What's that?

15 MS. LEWIS: Other than today.

16 MR. BORLA: Other than today. Fair
17 enough.

18 BY MR. BORLA:

19 Q. When you told my client that the vehicles should
20 remain where they were, did he go back to his
21 vehicle?

22 A. To the best of my knowledge, yes.

23 Q. I mean, did you look? Did you look in your
24 mirrors?

25 A. From what I could see without looking directly in

1 the mirror, just glancing at the mirror, he walked
2 away from my vehicle.

3 Q. Did you yell at him?

4 A. No, sir.

5 Q. Were you mad?

6 A. No, sir.

7 Q. Other than telling the 911 operator that your back
8 hurt, did you make any other complaints to the 911
9 operator when you made the call?

10 A. Not that I recall, sir.

11 Q. Who arrived first, which emergency personnel?

12 A. I believe it was fire --

13 Q. Okay.

14 A. -- or EMS, you know.

15 Q. Did they come up to your vehicle?

16 A. Yes, they did.

17 Q. When they arrived, did you have any physical
18 complaints?

19 A. They asked me. I explained to them my back was
20 bothering me.

21 Q. When you say your back -- and we might as well get
22 this out of the way now. Different people mean
23 different things when they say "My back hurt,"
24 okay? Some people talk about their back being
25 anything from the base of their head all the way

1 down to their tailbone.

2 A. Okay.

3 Q. So I want you to be specific with me, okay? Have
4 you heard the term lumbar spine?

5 A. Yes.

6 Q. You know that's the area down by your belt, right?

7 A. Yes.

8 Q. Have you heard the term thoracic spine?

9 A. I've heard the term, yes.

10 Q. That's kind of your mid back. If you were a
11 woman, it's by your bra line. How about your
12 cervical spine? Have you ever heard that term?

13 A. I've heard the term.

14 Q. Can we agree that's your neck, kind of between
15 your head and your shoulders?

16 A. I'm not a medical expert, so I don't know exactly
17 where it is.

18 Q. Well, let me ask you this. As a result of this
19 accident, did you injure your neck?

20 A. To the best of my knowledge, yeah. When my head
21 went to the side, that would be part of the neck
22 injury.

23 Q. To the best of your knowledge, did you injure your
24 mid back, the middle part of your back?

25 A. Yes.

1 Q. And to the best of your knowledge, did you injure
2 your low back in this accident down by your belt
3 line?

4 A. Yes.

5 Q. So you hurt from the base of your head all the way
6 down to your tailbone. Fair?

7 A. When you say tailbone, where are you referring to?

8 Q. Down to your butt, all right? Do you know where
9 your tailbone is?

10 A. My butt did not hurt, but it was, you know --

11 Q. Did it kind of stop at your belt line?

12 A. Down in that area, yes.

13 Q. Fair enough.

14 A. I'm not trying to be smart with you. I'm trying
15 to make sure I understand your questions.

16 Q. I understand. I told you to do that. So you get
17 clarification anytime you need it, okay?

18 A. Thank you.

19 Q. So when paramedics arrived or fire arrived, what
20 part of your back was hurting that you complained
21 to them about?

22 A. The lower part towards my belt area.

23 Q. And did any other part of your back hurt at the
24 scene of the accident other than that lower part
25 of your back by your belt area?

1 A. Not that I recall.

2 Q. Other than preparing you for transport to the
3 hospital, did they give you any treatment at the
4 scene?

5 A. Well, they had. Before they could remove me from
6 the vehicle, they had to have a law enforcement
7 officer remove my firearm and secure that and my
8 taser and stuff I had on from work.

9 Q. You had those on your waist?

10 A. Yes.

11 Q. Do you have a carry and conceal license?

12 A. Yes, I do.

13 Q. Okay.

14 A. But as part of my education, as I said earlier,
15 OPOTA does license me to carry a firearm.

16 Q. Are you carrying one today?

17 A. No, sir, I am not. Didn't think I needed it here.

18 Q. What's that?

19 A. I don't think I need it here.

20 Q. So once they secured your weapon and those types
21 of things, paramedics prepared you to transport,
22 right?

23 A. Correct.

24 Q. And it was your low back down by your belt line
25 hurting you at that time, correct?

1 A. Correct.

2 Q. Where did they take you?

3 A. To Akron General -- 24-hour emergency there at
4 Akron General Health & Wellness. Right up the
5 road.

6 Q. Right up the road. Crystal Lake Road, right?

7 A. Yes.

8 Q. And when you arrived there, still complaining of
9 low back pain?

10 A. Uh-huh.

11 Q. Down by your belt line?

12 A. Correct.

13 Q. Any other complaints in the emergency room other
14 than your low back down by your belt line?

15 A. My head was hurting a little bit, but they had
16 told me in the ambulance that my blood pressure
17 was elevated, so I, you know, assumed it to be
18 that.

19 Q. How long were you at the emergency room
20 altogether?

21 A. I don't recall exactly. I would say in between an
22 hour to two hours.

23 Q. How did you get home?

24 A. My parents.

25 Q. By the time you left the emergency room, had your

1 slight headache gone away? I think that's how you
2 described it, right?

3 A. Correct.

4 Q. Okay.

5 A. Not 100 percent.

6 Q. Was it improving?

7 A. Yes.

8 Q. And how about your low back pain? Was it
9 improving? Remain the same? Getting worse?

10 A. It was about the same.

11 Q. Do you remember what treatment they gave you at
12 the emergency room?

13 A. I believe they did a CAT scan and some x-rays.

14 Q. A CAT scan of what?

15 A. My head and possibly my low back, if my memory
16 serves me correctly.

17 Q. And do you remember what the results of those
18 tests were?

19 A. No, sir. I was never given the results.

20 Q. Let me challenge your memory a little bit, okay?

21 A. Yes, sir.

22 Q. At the emergency room on that first visit,
23 May 10th, 2012, I don't see that they did a CT of
24 your head at that time.

25 A. Okay.

1 Q. I see that you returned in June, June 27th, 2012,
2 where they did a head CT at that time, about a
3 month-and-a-half after this accident. Does that
4 sound accurate to you?

5 A. Yes, sir, it does.

6 Q. So what were the doctor's discharge instructions
7 to you from the emergency room? What did he tell
8 you to do?

9 A. To take it easy and follow up with my family care
10 physician.

11 Q. And did you, at that time, follow up with a family
12 care physician?

13 A. I called him on the Monday after the accident to
14 make an appointment, but they could not get me in
15 till later in the month.

16 Q. So did you ever go see your family care --

17 A. Yes, I did.

18 Q. And was that for this accident?

19 A. Yes, it was.

20 Q. When did you see your family care physician for
21 this accident?

22 A. Towards the end of May.

23 Q. Excluding the treatment you had on the date of the
24 accident at the emergency room, was your family
25 care practitioner the next person you had any

1 treatment from for this accident?

2 A. No.

3 Q. Who was?

4 A. Dr. Shawn Auck.

5 Q. Your family care physician was still Dr. Heim?

6 A. Yes, it was.

7 Q. And how many times did you see him as a result of
8 this accident?

9 A. Approximately six times.

10 Q. The reason I'm asking is I don't have any records
11 from Dr. Heim for this accident, so I need you to
12 fill me in as to what happened there and what your
13 complaints were.

14 A. Okay.

15 Q. What treatment did Dr. Heim give you?

16 A. The treatment at the time of Dr. Heim was they
17 discovered my blood pressure was elevated more so
18 than ever before and I was having headaches, so
19 they, you know, treated me for that. They figured
20 it was just stress related to the accident. It
21 was right after -- towards the end of May is when
22 I went to see him for what his first diagnosis
23 was. He said we'll just monitor it and see what
24 happens.

25 Q. So were the follow-up visits part of that

1 monitoring process?

2 A. Yes.

3 Q. Did he medicate you?

4 A. Yes.

5 Q. Was the medication just for headaches?

6 A. The medication was for blood pressure.

7 Q. Are you still taking that medication?

8 A. No, sir.

9 Q. When did you stop taking the medication?

10 A. Dr. Pogorelec, when I saw him, said that I should
11 not be on it right now because my blood pressure
12 had sustained.

13 Q. Did Dr. Heim treat any other parts of your body
14 other than your headaches?

15 A. Not that I recall.

16 Q. Did Dr. Heim perform any injections of any kind?

17 A. Other than a standard allergy shot.

18 Q. Was that in one of the six visits after this
19 accident that he did that?

20 A. Possibly, yes.

21 Q. Is it your testimony that the five or six visits,
22 and I'm not trying to pin you down on the exact
23 number, but that those visits with Dr. Heim,
24 beginning at the end of May of 2012, were the
25 result of this accident?

1 A. Yes.

2 Q. Do you remember the name of the medication?

3 A. He changed it numerous times to try to get my
4 blood pressure under control, so I don't recall
5 what those were at the time.

6 Q. Did Dr. Heim give you any other opinions as to the
7 cause of the high blood pressure?

8 A. No.

9 Q. And other than medication, did he give you any
10 other treatment for the high blood pressure?

11 A. Not that I can recall.

12 Q. When you saw Dr. Heim, were you still experiencing
13 headaches?

14 A. Yes.

15 Q. How frequently?

16 A. They were quite frequent.

17 Q. What's that mean?

18 A. Are you looking for how many a day? A week?

19 Q. Frequently to me and frequently to you may be
20 different things.

21 A. Okay.

22 Q. So give me a sense of what very frequently means
23 to you.

24 A. At least two a week.

25 Q. And prior to this accident, had you ever -- were

1 these migraines or just common headaches?

2 A. They were not headaches. In my opinion, they were
3 more of a, you know -- not even a common headache.
4 I could tell something was different about my
5 body.

6 Q. Was it head pain at all?

7 A. What do you mean by head pain?

8 Q. Well, you said they weren't headaches.

9 A. Okay. If I can clarify that --

10 Q. Please.

11 A. When you say headaches -- when I say to me they're
12 not headaches, I'm referring to headaches I've had
13 in the past, okay? These were not of that nature
14 as far as the pain and where the pain was
15 radiating from and the region of the pain. This
16 pain that I had was more I could tell that my
17 body -- I didn't feel well. It was more of a type
18 pain up in the front area of my head.

19 Q. Okay.

20 A. Does that help clarify?

21 Q. It does. It does. I mean, would you still call
22 it a headache?

23 A. Yeah. I mean, you could call it a headache, yes.
24 If your head hurts, therefore it aches.

25 Q. But it wasn't the migraines that you had suffered

1 from in the past?

2 A. Correct.

3 Q. It wasn't to that severity?

4 A. Correct.

5 Q. And you were having those headaches a couple times
6 a week from the date of the accident until when?

7 A. Until approximately July of 2014.

8 Q. And Dr. Heim, or the doctor that was in the
9 interim -- do you remember his name yet?

10 A. I'm trying to think. Hang on. I know his first
11 name.

12 Q. What's his first name?

13 A. Henry. He's in Barberton. Cook, Pamphilie & --
14 it will come to me. Give me some time.

15 MR. BORLA: Do you need to go?

16 MS. LEWIS: Yeah, I need to go.

17 MR. BORLA: Okay.

18 (A short recess was taken.)

19 BY MR. BORLA:

20 Q. Mr. Harbour, I'll remind you that you're still
21 under oath.

22 We were trying to remember the name of
23 that doctor, that interim doctor, Henry. Did it
24 come to you yet?

25 A. I was thinking about it a minute ago. I think

1 it's -- hang on. Pluskota.

2 Q. Pluskota?

3 A. Pluskota.

4 Q. P-l --

5 A. P-l-u-s-k-o-t-a, I think.

6 Q. And I think you were giving, like, the name of his
7 practice. It's, like, the name of three --

8 A. Yeah. It's -- the name of the practice is
9 Austin Primary Care.

10 Q. Austin?

11 A. Yeah, Primary Care. I was trying to name all the
12 doctors in the practice hoping it would come to
13 me.

14 Q. So let's get back to these headaches. These
15 headaches that you were having after this accident
16 that I think you described as very frequently,
17 meaning one to two times a week, you were seeing
18 Dr. Heim for that. Would you have seen
19 Dr. Pluskota for those headaches as well?

20 A. Yes.

21 Q. And you most recently seen Dr. Pogorelec, but was
22 that for headaches or he just took you off the
23 high blood pressure?

24 A. I switched. I wasn't, you know, happy with the
25 care I was getting at Austin Primary Care with

1 Dr. Pluskota, so I, you know, found a new doctor
2 and went to Dr. Pogorelec. He determined -- I
3 said, you know, "I'm going to need a refill on
4 this medication." He goes, "Right now your blood
5 pressure is okay." He's got me monitoring it. I
6 see him later this month.

7 Q. How long after this accident did you have these
8 very frequent headaches?

9 A. For at least a year.

10 Q. After approximately a year, they seemed to
11 resolve?

12 A. They didn't 100 percent resolve. I was still
13 having the blood pressure issue.

14 Q. Well, I want to talk about the headaches, not the
15 blood pressure.

16 A. I'm sorry.

17 Q. Did the headaches resolve but you still had high
18 blood pressure?

19 A. The headaches did not 100 percent resolve.

20 Q. As we sit here today, have they resolved?

21 A. Not 100 percent.

22 Q. You still get them occasionally?

23 A. Occasionally, yes.

24 Q. How frequently?

25 A. Maybe once a month.

1 Q. And has any doctor given you an explanation for
2 those?

3 A. No, not a concrete explanation.

4 Q. Has any doctor told you that those headaches are
5 the result of the motor vehicle accident?

6 A. Not with 100 percent certainty.

7 Q. Has anyone told you that they weren't from the
8 motor vehicle accident?

9 A. Not with 100 percent certainty.

10 Q. So that's still an issue that is unresolved from
11 both a causation and cure. Is that fair?

12 A. What do you mean when you say causation? You
13 mean --

14 Q. The cause of the headaches. What's causing the
15 headaches.

16 A. Yes.

17 Q. That's unclear at this point. Is that fair?

18 A. Correct.

19 Q. And how to cure them is also unclear?

20 A. Correct.

21 Q. Dr. Heim, Dr. Pluskota, or Dr. Pogorelec, did any
22 of them treat your low back or your neck
23 complaints?

24 A. No.

25 Q. With respect to your headaches, do you have any

1 appointments, as you sit here today, with anyone
2 for those occasional headaches?

3 A. I have a follow-up visit with Dr. Pogorelec later
4 this month to, you know, check my blood pressure
5 again to see what it's doing.

6 Q. Have you been referred to any specialists for
7 those headaches?

8 A. No.

9 Q. And other than those three doctors, Heim,
10 Pluskota, and Pogorelec, nobody else has treated
11 your headaches?

12 A. That is correct.

13 Q. And none of those doctors treated your neck or low
14 back?

15 A. That is correct.

16 Q. Your neck and low back was treated by the
17 chiropractor and Dr. Ghobrial?

18 A. Correct.

19 Q. Now, when did you first go to the chiropractor's
20 office?

21 A. Approximately the week after the accident was when
22 Dr. Auck could get me in.

23 Q. Did you contact Dr. Auck right after the accident
24 to schedule an appointment?

25 A. Yes, I did. The accident happened on Thursday. I

1 contacted him that next Monday when some things
2 were not resolving themselves.

3 Q. And do you remember how many times you saw
4 Chiropractor Auck?

5 A. You want an exact number or estimate?

6 Q. Estimate. I mean, if you know the exact, you can
7 give me the exact.

8 A. I don't know the exact.

9 Q. Go ahead and give me an estimate.

10 A. A dozen or more times.

11 Q. When was the last time you saw him?

12 A. For the accident?

13 Q. Yes.

14 A. To the best of my memory, I want to say
15 approximately six, seven months after the
16 accident.

17 Q. If I have it in my records being in October of
18 2012, does it sound right to you that that would
19 have been the last time?

20 A. That's approximately, yes.

21 Q. And since that time, have you been back to see him
22 for other reasons?

23 A. Yes.

24 Q. For what?

25 A. Just general adjustments.

1 Q. Is that similar to what you were having done
2 before?

3 A. Yes.

4 Q. And how many times have you seen Dr. Auck for
5 these general adjustments since the treatment
6 concluded with the motor vehicle accident?

7 A. To the best of my knowledge, approximately five or
8 six times.

9 Q. Do you remember any of the treatment
10 Chiropractor Auck gave you as a result of the
11 accident?

12 A. Yes, I do.

13 Q. What did he do?

14 A. I'd come in for an appointment and he would start
15 with muscle stim, when they put kind of, like,
16 little electrodes on your back with heat to relax
17 it. Then we'd go to what's called a massage bed
18 or roller bed, where you lie on your back and this
19 ball kind of massages and loosens things up. Then
20 he would do a manual adjustment.

21 (There's a knock at the door.)

22 (A short recess was taken.)

23 BY MR. BORLA:

24 Q. You were talking about the treatment you would
25 receive with Chiropractor Auck. I think you were

1 talking about these roller beds to loosen you up.

2 Then what did he do?

3 A. Then he would do his physical adjustment on me.

4 Q. And when you saw Chiropractor Auck for the first
5 time, do you remember that first visit following
6 the accident?

7 A. Yes, I do.

8 Q. Do you remember what was hurting you?

9 A. My back region, my neck, and shoulder area, you
10 know, my trap, which is part of your neck.

11 Q. So this area from your neck down to your belt
12 line, was that all hurting?

13 A. Correct.

14 Q. And did he treat all of those areas?

15 A. Yes, he did.

16 Q. And did he treat all of those areas on all of your
17 visits through October or November, whenever you
18 completed it?

19 A. He adjusted, under his examination, what he felt
20 needed to be adjusted at that time.

21 Q. Well, did any of those parts of your body, your
22 neck, your mid back, your low back, your trap, or
23 your shoulder, did any of those parts of your body
24 recover before another part?

25 A. So you're asking me did another part heal before

1 another part of the body?

2 Q. Sure. Like, for example, did your neck heal
3 before your low back or did your low back heal
4 before your neck?

5 A. I just wanted to clarify your question. That's
6 all.

7 Q. Sure. That's okay.

8 A. The trap area did resolve itself sooner than the
9 back area did.

10 Q. Sooner meaning -- did that resolve within a few
11 weeks after the accident or a few weeks after the
12 treatment with Chiropractor Auck?

13 A. To the best of my knowledge, yes.

14 Q. And the trap area, was it one side versus the
15 other?

16 A. Yes.

17 Q. Which side?

18 A. My left side.

19 Q. Left side trap?

20 A. Uh-huh.

21 Q. And the trap, you're talking about this area
22 between your neck and your shoulder, right
23 (indicating)?

24 A. Yes.

25 Q. So that resolved within a few weeks of treatment

1 with Chiropractor Auck. How about your low back?

2 Did he treat that through the entire course?

3 A. Yes, he did.

4 Q. And did he treat your mid back through the entire
5 course?

6 A. Yes, he did.

7 Q. And did he treat your neck through the entire
8 course?

9 A. Yes.

10 Q. So none of those resolved before the others. They
11 all kind of had the same resolution. Is that
12 fair?

13 A. Correct. They -- I would assume -- I would say,
14 correction, that they all came into alignment at
15 around the same time.

16 Q. And when you last saw Chiropractor Auck at that
17 last visit -- let's say it's October. Let's say
18 our records are correct and it's October 25th of
19 2012. Had you returned back to the way you were
20 before the accident?

21 A. What do you mean by the way -- meaning that the
22 pain in my back and everything prior to the
23 accident, was it back to normal?

24 Q. Yeah. Were you back to your baseline as to how
25 you were, you know, one day before this accident

1 occurred?

2 A. Yes.

3 Q. And you were back to your occasional adjustments
4 with Chiropractor Auck like you were before this
5 accident?

6 A. Correct.

7 Q. Was he the last doctor you saw for any injuries
8 from this accident, Chiropractor Auck?

9 A. To the best of my knowledge, as far as the
10 adjustments, yes. But after that, I did have
11 other medical care.

12 Q. So let's do it this way. With respect to your
13 neck, your back, your trap, your low back, was
14 Chiropractor Auck the last person you saw for
15 injuries from this accident?

16 A. Yes, he was.

17 Q. And have you been back to see any other doctor for
18 those parts of your body since this accident?

19 A. No, sir.

20 Q. Now, you talk about other injuries. Are you
21 talking about your headaches?

22 A. Correct, sir.

23 Q. And that would have been through those three
24 doctors, primary care physicians, correct?

25 A. As well as two ER visits to Barberton Citizens

1 Hospital.

2 Q. We'll get to those in one second.

3 A. Okay.

4 Q. Now, who referred you to Dr. Ghobrial?

5 A. Dr. Auck did.

6 Q. Why?

7 A. Because I was having, you know, pain, he felt pain
8 management would also be appropriate care to go
9 along with his care.

10 Q. Pain management meaning give you medications?

11 A. If need be, yes.

12 Q. Did you tell him you had a primary care physician
13 that could do that?

14 A. Yes, I did, but I also told him my primary care
15 physician had verbalized to me that he did not
16 like to get involved with motor vehicle accidents.

17 Q. But, I mean, in all fairness, Dr. Heim was
18 involved in this case already for your headaches,
19 wasn't he?

20 A. Correct.

21 Q. So what did Dr. Ghobrial do for you?

22 A. He examined me, determined that I did have some
23 tenderness and pain in my low back area, and that
24 my neck was, you know, stiff, I believe. I can't
25 recall his exact words at the time of, you know,

1 his first examination. He prescribed a muscle
2 relaxer, Flexril, to take as needed. He then also
3 would give me, I believe, cortisone shots in my
4 low back area.

5 Q. And did that treatment provide you relief?

6 A. The cortisone shots did, yes.

7 Q. How many times did you see Dr. Ghobrial?

8 A. To the best of my knowledge, half a dozen times.

9 Q. Where did you go?

10 A. His office on Brown Street is, I believe, where he
11 is located at.

12 Q. Well, he's got one in Wadsworth. You didn't go
13 out to Wadsworth, did you?

14 A. No, sir. I was in the city of Akron.

15 Q. Again, our records reflect that you saw
16 Dr. Ghobrial three times, okay, with the last
17 visit being June 20th of 2012.

18 A. Okay.

19 Q. Do you think you saw him more than that?

20 A. I can't recall, but I gave you an estimate to the
21 best of my --

22 Q. And I understand that. What I'm trying to figure
23 out is what we're missing, what records we don't
24 have, okay? So if you think that you may have
25 seen him since June 20th of 2012, we need to go

1 back to him and say "There's still more records
2 you didn't send us." So that's why I'm asking the
3 question. Do you think you saw him after
4 June 20th of 2012? I mean, that's only a
5 month-and-a-half after the accident.

6 A. It's possible, yes.

7 Q. Then we'll do that. Did he give you injections at
8 each visit?

9 A. To the best of my recollection, yes, I do believe
10 so.

11 Q. So with respect to your neck and your back, it was
12 Dr. Auck and Ghobrial that treated you in those
13 body parts, right?

14 A. Correct.

15 Q. Now, we talked earlier about your ER visit where
16 they did a CT scan. Do you remember that?

17 A. Yes, I do.

18 Q. Okay.

19 A. Back in June.

20 Q. That was June of 2012 at Akron General, correct?

21 A. Correct.

22 Q. Why did you go to the ER?

23 A. I was having severe head pain that I could not
24 manage. It was after normal office hours for
25 Dr. Heim, if I do -- if I'm correct in that, so I

1 went there because they had treated me for the
2 initial accident.

3 Q. And as part of that, they took a CT scan?

4 A. Correct.

5 Q. And what was the result of that scan?

6 A. To the best of my memory, the results were they
7 found some kind of object or small mass on my
8 brain area and suggested that I go have an MRI.

9 Q. Has anyone told you that that small mass is
10 related to this accident?

11 A. Nobody has told me directly. I mean, in other
12 previous CT scans, from what I understand, it was
13 not there.

14 Q. Do you believe that this small mass that was
15 identified in the CT was caused by this accident?

16 A. I'm not a medical doctor. I couldn't tell you.

17 Q. So you don't know as you sit here today?

18 A. No.

19 Q. No one has told you one way or the other?

20 A. Correct.

21 Q. Did you have an MRI done then?

22 A. Yes, I did.

23 Q. Who ordered that?

24 A. Dr. Auck.

25 Q. Well, if you know, why would your chiropractor be

1 ordering an MRI for a mass found on your brain?

2 A. I don't know.

3 Q. Did you find that that was unusual?

4 A. No. I mean --

5 MS. LEWIS: Objection.

6 Go ahead.

7 A. Again, sir, I'm not a medical doctor. I don't --
8 it was obviously something he felt concerned about
9 and wanted to have it looked at, so he ordered the
10 MRI.

11 Q. Did you ever talk to Dr. Heim about it?

12 A. Yes, I did.

13 Q. What did he tell you?

14 A. He felt that I needed an MRI, but he didn't feel
15 it was urgent or I needed to have it done right
16 away.

17 Q. Was that before or after you had talked to
18 Dr. Auck about it?

19 A. It was around the same time.

20 Q. Had Dr. Auck already ordered the MRI?

21 A. Not before I talked to Dr. Heim, no.

22 Q. What were the results of the MRI?

23 A. As far as I understood it, the mass was not
24 something to be concerned about.

25 Q. Did anyone tell you at that point what the mass

1 was?

2 A. No.

3 Q. And at that point, if I understand you correctly,
4 nobody gave you any opinions as to the cause of
5 the mass?

6 A. No.

7 Q. That's true? Nobody gave you an opinion, right?

8 A. Correct.

9 Q. Okay.

10 A. I apologize if I didn't answer that correctly.

11 Q. That's okay. It's sometimes the way the question
12 is worded.

13 MS. LEWIS: That happens a lot. Don't
14 worry.

15 BY MR. BORLA:

16 Q. Now, you mentioned earlier that you went to
17 another emergency room on two more occasions?

18 A. Correct.

19 Q. When were those? I don't have any of those
20 records. When were those?

21 A. Not positive on exact dates on those.

22 MS. LEWIS: Just give him an idea.

23 Q. Approximately.

24 A. It was springtime. I want to say 2012.

25 Q. Was it before this accident or after?

1 A. It was after the accident.

2 Q. Well, this accident happened in May of 2012,
3 right?

4 A. Right.

5 Q. Had you already been under the care of
6 Chiropractor Auck?

7 A. No.

8 Q. So was this between the accident and your first
9 visit to Chiropractor Auck?

10 A. No.

11 Q. When was this?

12 A. It was -- the weather was nice out. To me, I
13 would believe it's spring. Obviously looking at,
14 you know, months and dates, that would not be
15 accurate. But it was still warm enough out that I
16 didn't need a jacket.

17 Q. Was this after you had already completed your
18 treatment with Chiropractor Auck?

19 A. No. It was during the treatment.

20 Q. It was during the treatment?

21 A. Yes.

22 Q. It was Barberton?

23 A. Yes.

24 Q. Both times?

25 A. Yes.

1 Q. What did you go there for?

2 A. I was at Dr. Auck's office getting my normal
3 adjustment. As far as his standard treatment, he
4 would check my blood pressure. It was severely
5 elevated, so I called Dr. Heim's office and I
6 asked what I should do on this because obviously
7 the medicine I was on wasn't working and it was
8 quite elevated. He advised me to go seek
9 emergency medical treatment.

10 Q. So both of those visits were upon treatment with
11 Chiropractor Auck where your blood pressure was
12 elevated?

13 A. Just the first one.

14 Q. Okay.

15 A. The second one was I -- my stepmother used be a
16 nurse, so she checked my blood pressure. I wasn't
17 feeling well, you know, at another time. It was
18 elevated, so she also advised that I go seek
19 treatment at the doctor's office. I called
20 Dr. Heim and that's what they advised.

21 Q. So both visits were for high blood pressure?

22 A. Correct.

23 Q. When you went to the emergency room, did you have
24 any other complaints other than high blood
25 pressure?

1 A. And a headache.

2 Q. Other than a headache and high blood pressure, did
3 you make any other complaints to those doctors at
4 Barberton's emergency room?

5 A. Not that I recall, sir.

6 Q. And was the treatment the same on both visits by
7 the emergency department?

8 A. They treated the headache, yes. They put an IV in
9 and gave me medicine to lower my blood pressure.

10 Q. They did that on both occasions?

11 A. Yes.

12 Q. And then discharged you?

13 A. Yes.

14 Q. And then, I presume, told you to follow up with
15 Dr. Heim?

16 A. Correct.

17 Q. And did you?

18 A. Yes, I did.

19 Q. Those two visits to the emergency department of
20 Barberton Citizens Hospital, or whatever it's
21 called now, Summa Barberton --

22 A. Yeah, same thing.

23 Q. Those two visits, were they within a couple weeks
24 of each other or days?

25 A. They weren't days.

1 Q. Okay.

2 A. To the best of my ability, I would say between a
3 couple weeks to maybe a month, you know, which is
4 still a couple weeks.

5 Q. And you were already treating with
6 Chiropractor Auck during this same time obviously?

7 A. Correct.

8 Q. Do you know whether you had seen Dr. Ghobrial on
9 any visits when you had the first episode here?

10 A. When I first went to the hospital?

11 Q. Yeah.

12 A. No.

13 Q. You don't know if you had seen him or you had
14 not?

15 A. To the best of my knowledge, I had not seen him.

16 Q. That helps us narrow a timeline because we know
17 when you saw Dr. Ghobrial. Well, it may not help
18 us. There's only two days in between. We'll see
19 what the records say.

20 Your car, the Ford Escape, did you have
21 it repaired?

22 A. Yes.

23 Q. Who did the repairs?

24 A. At the time, they were called Mullinax Ford in
25 North Canton. Now they're called AutoNation.

1 Q. What was the damage?

2 A. The rear bumper underneath was damaged.

3 Q. Could you see the damage --

4 A. It was --

5 Q. -- from looking at the car?

6 A. To the best of my knowledge, no.

7 Q. Was there any visible damage to the car?

8 A. Other than scrapes on the bumper.

9 Q. And look at the pictures. Were there any scrapes
10 on the bumper before this accident?

11 A. To the best of my knowledge, there might have been
12 one or two.

13 Q. Well, look at the pictures. Tell me if you can
14 see any of the scrapes that were caused by the
15 accident. We'll identify that photograph one way
16 or another. There's some close-ups. Look through
17 all of them.

18 MS. LEWIS: Let's look at all of them and
19 then we'll make a decision.

20 THE WITNESS: Okay.

21 BY MR. BORLA:

22 Q. Did we find a picture that shows what appears to
23 be the scrapes from the accident?

24 A. Yes.

25 MR. BORLA: Let's go ahead and mark that

1 one as A1.

2 (Defendants' Exhibit A1, Photograph,
3 was marked for identification.)

4 Q. Showing you what's been marked as A1, is that a
5 picture of your rear bumper?

6 A. It is.

7 Q. And in that picture, can you see the scrapes that
8 were caused to the bumper from this accident?

9 A. What I believe to be a scrape, yes.

10 Q. And is that kind of the white marks down there in
11 the center of the photograph?

12 A. I believe those were there previously. What I
13 believe to be the scratch is this area right there
14 (indicating).

15 Q. Why don't you do me a favor and circle that.

16 A. (Complying.)

17 Q. Good. There wasn't any damage to the front of the
18 car, right?

19 A. No, sir.

20 Q. And no damage to the interior, correct?

21 A. No.

22 MS. LEWIS: That is correct?

23 Q. That is correct?

24 A. Yes.

25 Q. I saw in the medical records that at the time of

1 this accident, you had health insurance through
2 Blue Cross Blue Shield?

3 MS. LEWIS: Objection to all insurance.

4 MR. BORLA: Sure.

5 THE WITNESS: Sorry.

6 MS. LEWIS: That's okay. You can answer.

7 BY MR. BORLA:

8 Q. Were any of the bills from the hospitals or
9 anything like that submitted through Blue Cross?
10 Did you see any explanation of benefits or
11 anything like that?

12 A. I believe they were.

13 Q. Have you seen any statements that summarize the
14 Blue Cross Blue Shield payments in this case?

15 A. I've seen explanation of benefit papers.

16 Q. Do you know whether any of the medical bills,
17 whether it be Chiropractor Auck, Dr. Ghobrial,
18 Akron General, Barberton, do you know whether any
19 of those were not submitted to Blue Cross?

20 A. The only ones that I've seen come through were for
21 Akron General and Summa.

22 Q. Do you know why bills were not submitted by
23 Dr. Ghobrial or Chiropractor Auck --

24 MS. LEWIS: Objection.

25 Q. -- to your health insurance? Do you know?

1 A. I can't speak for them.

2 Q. Did you have any conversations with anyone at
3 their offices about health insurance or submitting
4 the bills to your health insurance carrier?

5 A. They were given a copy of my health insurance.

6 Q. So you gave them a copy of the card. Did you have
7 any conversations about them not submitting them
8 through health insurance?

9 A. No, I did not.

10 Q. I saw some records regarding questions submitted
11 on behalf of Congressman Renacci?

12 A. Yes.

13 Q. Tell me about that. What was going on?

14 A. That was a previous accident claim.

15 Q. What was the issue that you got
16 Congressman Renacci involved in it?

17 A. At the time, I was advised that in order to settle
18 the accident in 2011, that my Social Security
19 number had been run --

20 Q. That what?

21 A. That my Social Security number had been run by the
22 at fault party's insurance company. They came
23 across that I either had -- I believe it was
24 Medicare or Medicaid, whichever one of those it
25 was, and that I needed proof that I was not

1 receiving hospitalization benefits or that
2 Medicare or Medicare had not paid any of those
3 bills prior to any settlement funds being
4 released.

5 So I went to the Social Security Office.
6 They couldn't give me what I needed. I was told
7 it was going to take several months to try to get
8 through the red tape through I believe it was
9 Medicare or Medicaid, whichever one it was. At
10 that point, I decided to contact my congressman
11 and ask for assistance in that matter, if he could
12 speed that process up.

13 Q. So that was with respect to the 2011 accident?

14 A. Correct.

15 Q. Do you have Medicare or Medicaid benefits?

16 MS. LEWIS: Objection.

17 Go ahead.

18 A. I did when I was younger.

19 Q. But you haven't had those benefits for how long?

20 A. Probably a decade or more.

21 Q. So Medicare or Medicaid, they wouldn't have been
22 involved in paying any medical bills in this
23 accident either, correct?

24 A. Correct.

25 Q. Now, I also saw some records about some FMLA

1 leave. Do you remember that, Family Medical
2 Leave? Do you know what that was about?

3 A. For which --

4 Q. Well, that's what I was going to ask you. Did you
5 go on FMLA leave as a result of this accident?

6 A. No.

7 MS. LEWIS: Objection.

8 Q. Did you go on FMLA leave as a result of the 2011
9 accident?

10 A. No. My employer does not permit FMLA.

11 Q. Have you ever taken FMLA leave?

12 A. Yes, I have.

13 Q. From where?

14 A. From, I believe, Sterling Jewelers and
15 GE Financial.

16 Q. And from Sterling, was that in conjunction with
17 the Workers' Comp?

18 A. Correct.

19 Q. What was the FMLA from GE for?

20 A. Issues relating to my disability.

21 Q. How long were you off in 2009?

22 A. It was --

23 Q. Was that in 2009 with GE?

24 A. Correct. It was intermittent. It was, like, a
25 day here and a day there.

1 Q. That was for treatment for CP?

2 A. Correct.

3 Q. Do you receive any disability benefits currently?

4 A. No.

5 Q. Any benefits you would have received was when you
6 were a child and you qualified for Medicare?

7 A. I got some after I turned 18. I got some
8 Social Security.

9 Q. Say that again.

10 A. After I turned 18, I did receive some
11 Social Security benefits.

12 Q. For what period of time?

13 A. A few months at a time. It would all depend on
14 how much in wages I was making at that time.

15 Q. So it was a wage supplementation?

16 A. Correct.

17 Q. But you make enough now that you don't get any
18 supplementation, right?

19 A. That is correct.

20 Q. As a result of the injuries in this case, did you
21 have any numbness or tingling into your arms or
22 hands or fingers?

23 A. I had, I believe, some burning at the onset or in
24 the beginning in my low back, but nothing in my
25 hands or arms.

1 Q. You had some burning pain in the low back, right?

2 A. Yes.

3 Q. How about pain into your legs as a result of this
4 accident?

5 A. Not that I can recall.

6 Q. Okay.

7 A. No.

8 Q. Since this accident in 2012, have you been out of
9 the state of Ohio for any reason?

10 A. I've gone to Pennsylvania to visit a friend that
11 is going to medical school up there.

12 Q. Other than visiting a friend in Pennsylvania, any
13 vacations, trips, things like that?

14 A. Last year, my fiancée and I went to Florida for a
15 week.

16 Q. When was that?

17 A. July.

18 Q. July of '14?

19 A. Correct.

20 Q. Did you drive or fly down?

21 A. We drove.

22 Q. How about in 2013? Any trips outside the state of
23 Ohio for vacations, anything like that?

24 A. Possibly would have went to Pennsylvania as well
25 to visit my friend for a day.

1 Q. And from May of 2012 to the end of the year, any
2 trips in 2012?

3 A. No.

4 Q. Have you had to pay anything out-of-pocket for
5 medical treatment as we sit here today?

6 A. Related to the accident?

7 Q. Yes.

8 A. Yeah. I've paid co-pays and stuff.

9 Q. Have you kept track of what those co-pays have
10 been, the amounts?

11 A. Yes.

12 Q. Can you estimate for me or do you know the exact
13 number of what you paid in co-pays?

14 A. My co-pay at the time was -- this is just an
15 estimate. To the best my knowledge, it was \$40
16 per visit. I think with Dr. Heim, like I said
17 previously, I might have had about, you know, half
18 a dozen visits. So that would have been
19 approximately a couple hundred dollars.

20 Q. Did you have any co-pays with Dr. Ghobrial or
21 Chiropractor Auck?

22 A. No.

23 Q. So just co-pays with Dr. Heim, correct?

24 A. Correct.

25 Q. Other than those co-pays, any other out-of-pocket

1 expenses that you've paid for your medical
2 treatment?

3 A. Not that I can recall.

4 Q. You're getting married in May?

5 A. Yes.

6 Q. To your fiancée down in Columbus, right?

7 A. Yes.

8 Q. Do you guys have a honeymoon planned?

9 A. Not at this time.

10 Q. Are you going to take one or undecided?

11 A. Undecided at this point.

12 Q. When you are not working, do you have any hobbies,
13 things you like to do?

14 A. Yes.

15 Q. What do you like to do?

16 A. Target shoot.

17 Q. Can you do that on your property?

18 A. No.

19 Q. Are you shooting .22s? .45s? What?

20 A. Nine millimeter.

21 Q. Is that the gun you had? A 9 millimeter?

22 A. Those are the guns I have, yes.

23 Q. Where do you like to shoot?

24 A. Local indoor ranges.

25 Q. Do you have a membership somewhere?

1 A. No. They're open to public.

2 Q. Other than target shooting, any other hobbies?

3 A. I like to swim when the weather is nice.

4 Q. What else?

5 A. That's about it.

6 Q. You've been able to do those hobbies since the
7 accident?

8 A. Yes.

9 MR. BORLA: Mr. Harbour, I don't have any
10 more questions for you.

11 Kristen, I guess, I don't want to
12 necessarily adjourn. There's quite a few
13 records we still need to get. You've kept a
14 list. That's good. I'm just going to
15 reserve the right.

16 If there's some reason I need to come
17 back and talk to you, I reserve the right to
18 do that. You've given me information about
19 those visits, so hopefully it won't be
20 necessary.

21 I'll reserve the right to do that,
22 okay?

23 MS. LEWIS: That's fine. Whenever this
24 does get typed up, either pending this or a
25 future deposition, we'll go ahead and read.

1 I, Richard Harbour, do verify that I
2 have read this transcript consisting of 120
3 pages and that the questions and answers
4 herein are true and correct with corrections
5 as noted on the errata sheet.

6

7

8

Richard Harbour

9 Sworn to before me a Notary Public in and for
10 the State of _____, this _____day of_____2015.

11

12

13

Notary Public in and for the
State of _____.

14

15

My commission expires _____.

16

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RICHARD HARBOUR

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C E R T I F I C A T E

STATE OF OHIO,)
) SS:
SUMMIT COUNTY.)

I, Heidi Tsimpiris, an RPR and Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, RICHARD HARBOUR, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the witness was by me reduced to Stenotypy in the presence of said witness, afterwards transcribed upon a computer; and that the foregoing is a true and correct transcription of the testimony so given by the witness as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified, and was completed without adjournment.

I do further certify that I am not a relative, employee of or attorney for any of the parties in the above-captioned action; I am not financially interested in the action; and I am not under a contract as defined in Civil Rule 28(D).

IN WITNESS HEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio on this 18th day of March, 2015.

Heidi Tsimpiris, an RPR and Notary
Public in and for the State of Ohio.

My Commission expires December 28, 2019.

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